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ORGANISATION OF MIGRATION AND ASYLUM SYSTEM IN ITALY OVERVIEW

LAST UPDATED ON JANUARY 2024



INTRODUCTION

This document provides an overview of how asylum and migration policies are organised in Italy, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on the information provided by Italy in January 2024.



OVERVIEW OF ORGANISATION OF LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

The management of migration and asylum matter is based on institutional cooperation and on multilevel governance.

Within the Presidency of the Council of Ministers, the **Department for Equal Opportunities** is the structure used by the President of the Council of Ministers or the delegated political authority to carry out the function of promoting and coordinating policies on personal rights, equal opportunities and equal treatment, as well as government action to prevent and remove all forms and causes of discrimination. In particular, the Department, by virtue of the provisions of Legislative Decree No. 24 of 4 March 2014, implementing Directive 2011/36/EU on preventing and combating

trafficking in human beings and protecting its victims, plays a central role in national policies in this area. Within the Department there is the *Office for equal opportunities policies*, which is divided into two services with the following specific functions:

“Service for Equality and Equal Opportunity Policies, the prevention and contrast of sexual violence, gender discrimination and persecution acts” with the task of managing initiatives for the promotion of equality and equal opportunity policies, contrasting sexual violence, gender discrimination and persecution acts, in application of the Istanbul Convention. The Service also deals with the development of proposals to combat gender discrimination in all its forms, also through specific training courses on the territory in conjunction with the central and local administrations responsible for the matter, as well as with associations and organisations in the sector; it also draws up the annual plan for the distribution of financial resources allocated to the regions for the operation of the structures responsible for assisting women victims of violence, the monitoring and supervision of the proper use of resources, and promotes the creation of an integrated information system on anti-violence services operating on the national territory.

“Service for preventing and combating trafficking and serious exploitation of human

beings, female genital mutilation and other harmful practices" with the task of implementing the National Plan and coordinating all the initiatives adopted by the competent central and local administrations on trafficking and serious exploitation of human beings, female genital mutilation and other harmful practices; with regard to the above-mentioned matters, it acquires and organises information, also by setting up databases, and promotes, coordinates and manages the consequent activities.

Furthermore, the **National Anti-Racial Discrimination Office (UNAR)** – Office for the promotion of equal treatment and the removal of discrimination based on race and ethnic origin is the national Equality body established in implementation of the EU directive 2000/43/EC (which implements the principle of equal treatment between people regardless of race and ethnic origin, implemented in the Italian legal system with the Legislative Decree n. 215 of 9 July 2003) "with functions of control and guarantee of equal treatment and the operation of the protection instruments, having the task of carrying out, independently and impartially, activities to promote equality and remove any form of discrimination based on race or ethnic origin".

In addition, UNAR has been identified as the Italian Equality Body responsible for dealing with discrimination against EU citizens in the workplace for the purpose of free circulation of the same, in application of the EU Directive 54/2014.

The **Ministry of the Interior**, through the **Department for Civil Liberties and Immigration**, contributes to the definition of the Government's migration policies by carrying out functions and tasks in the protection of civil rights, including those concerning immigration and asylum, citizenship and religious confessions. In particular:

The Central Directorate for Migration Policies – Asylum, Migration and Integration Fund Authority, carries out functions of analysis and planning of migration policies and of monitoring and promotion of integration policies for foreign citizens, also through a

constant action of enhancement and coordination of the Territorial Councils for Immigration at the Prefectures – Territorial Offices of the Government. It coordinates the planning, drafting and updating of the National Integration Plan for beneficiaries of international protection, contributes to the analysis for the determination of entry flows of foreign workers in the national territory and coordinates the Single Desks for Immigration. It coordinates and stipulates, in agreement with the Ministry of Labour and Social Policies, memoranda of understanding with associations, patronages and companies with the aim of cooperation between the parties for the implementation of procedures relating to the entry and stay of foreign citizens with specific professional profiles. It represents Italy in the following European networks: European Migration Network (EMN), European Integration Network (EIN), Contact Group on Legal Migration and EU Legislation on Legal Migration. Pursuant to art. 5,2 lett. b DPCM No. 78 of 11 June 2019 (entered into force on 24 August 2019), the Central Director is the Managing Authority for the Asylum, Migration and Integration Fund.

The Central Directorate of Civil Services for Immigration and Asylum provides first assistance to migrants who have arrived irregularly at crisis points (hotspots) and reception of those who express the will to seek asylum, holders of international protection and residence permits for other forms of protection. Liaison in matter of unaccompanied foreign minors. Guidance activities on the monitoring of the standards of reception services. In addition, the Directorate supervises the system of Centres of Permanence for Return – CPR. It verifies the Italian competence to examine asylum applications pursuant to the Dublin III Regulation and of the implementation of Assisted Voluntary Return projects.

The Central Directorate for Civil Rights, Citizenship and Minorities, aims to support the expansion of constitutionally protected rights of freedom, with particular regard to citizenship, historical linguistic minorities and measures of assistance for victims of terrorism and the Mafia. In addition, the Office manages, in several African countries

(Ivory Coast, Ethiopia, Niger, Nigeria, Mali, Tunisia), projects launched by the Ministry of the Interior in line with the need to address the migration and development nexus.

The Central Directorate for Religious Affairs and for the Administration of the Religious Buildings Fund monitors the concrete observance of the principles contained in Articles 3, 8 and 19 of the Italian Constitution and of the current ordinary and special regulations on religious freedom and the regulation of State-religious relations, in order to make the right to religious freedom effective.

The *International Relations Office (Office II, Central Direction for Planning and General Services, Department for Civil Liberties and Immigration)*, with the participation of a consortium of European Member States, manages the Protection component of the RDPP NA - Regional Development and Protection Programme for North Africa. The Office is responsible for managing the national resettlement programme. In order to manage the resettlement activities and coordinate the various actors involved, a special team, the Resettlement Unit, has been set up within the Office. Furthermore, the Office is responsible for managing other legal pathways. Among these, the program called Humanitarian Corridors is noteworthy. The Humanitarian Corridors are a safe and legal programme for transfer and integration in Italy.

The National Commission for the Right to Asylum is the reference authority of the Italian system of international protection, as it has the task of guiding and coordinating the Commissions and the Territorial Sections for the recognition of international protection, which are the authorities competent to recognise the various forms of international protection. Moreover, it is responsible for the preparation of Guidelines and the carrying out of training, updating and monitoring activities on the quality of procedures and activities, in order to maintain uniform standards of decision-making. It is also responsible for collecting statistics on asylum applications and subsequent decisions in our country and for compiling and updating information on the

countries of origin of asylum seekers (COI). Finally, it is the Italian contact point for international offices and organisations active in the field (in particular UNHCR and EUAA).

Moreover, within the **Ministry of the Interior**, the **Department of Public Security of the Ministry of the Interior** is responsible for the public security on the migration related matters and, in addition to the fight against other crimes and organized crime groups, the fight against the facilitation of irregular migration and trafficking in human beings and related crimes. Regarding this last point, the Department of Public Security acts in close contact with the countries of origin, transit and final destination and with the European Agencies involved in this issue.

Within the **Ministry of Foreign Affairs and International Cooperation**, *DGIT - Directorate General for Italians Abroad and Migration Policies*, the *Office V - Migration policies*, international protection, international adoptions is responsible for: migration policies; dialogue with third countries and agreements on migration, asylum and immigration policies; policies in favour of international refugees and relations with UNHCR and IOM; management and monitoring of funds for migration cooperation with third countries; protection of unaccompanied foreign minors in Italy; participation in inter-ministerial planning of the entry of foreigners into Italy; aspects relating to the implementation of international protection measures in Italy. Moreover, the *Office VI - Visas Unit* is Italy's central authority for the implementation of the Schengen Agreements and it's responsible for: the application of Italian and EU legislation on the issuance of entry visas to Italy and the Schengen area; visa policies within the EU; visa policies for the promotion of the Italian System; proposals for legislation on the subject, in liaison with the other Administrations concerned; international agreements and assistance to the diplomatic-consular network on visa matters; outsourcing of services ancillary to the management of visa applications; litigation concerning visa refusals; management of

printed matter of value relating to visas; travel documents for foreigners; innovation and digitalisation for visa applications.

The **Italian Agency for Development Cooperation (AICS)**, based on the provisions of Law 125/2014, is responsible for the identification, formulation, management, monitoring and financing of cooperation initiatives in the field of migration and development. The actions are managed by the *AICS Deputy Technical Directorate* which, through *Office III – Opportunities and Economic Development*, has included in its strategic programming a package of initiatives focused on: addressing the structural causes of migration, through social and economic development interventions and the fight against poverty in cooperation partner countries (access to basic services, including registry registration, creation of employment opportunities, gender equality and empowerment of youth and women); ensuring assistance and protection to people in vulnerable situations in cooperation partner countries, in compliance with humanitarian, do-no-harm and human rights principles, with special attention to victims of trafficking, stranded migrants, refugees and asylum seekers, displaced persons.

The **Ministry of Justice**, through the **Department of Penitentiary Administration** carries out the tasks related to the execution of precautionary measures, penalties and detention security measures, as well as the tasks provided by the laws for the treatment of detainees and inmates with migratory background and is in charge of the Judgment System for appeals. concerning international protection. Through the **Department of Juvenile Justice**, it manages the interventions in favour of juveniles who have entered the penal circuit.

The National Guarantor for the Rights of Persons Deprived of Personal Liberty is an independent supervisory authority to which the law assigns the task of overseeing the respect for the rights of individuals deprived of personal liberty.

It has been established by Article 7 of the Legislative Decree of December 23, 2013, no. 146, converted with amendments by Law of

February 21, 2014, no. 10, and further modified by subsequent legislative acts. The Guarantor is also designated as National Preventive Mechanism (NPM) against torture within the framework of the Optional Protocol to the United Nations Convention against Torture (OPCAT). Moreover, the Guarantor is the national monitoring body for forced returns in accordance with the European Return Directive 115/2008.

Within the **Ministry of Labour and Social Policies (MLPS)**, the *General Directorate for Immigration and Integration Policies*, oversees the promotion and the multi-level coordination of policies for the social and labour integration of TCNs. The main responsibilities include: the management and the monitoring of the entry flows for working reasons, as well as the bilateral cooperation with the countries of origin; the technical support for the implementation of the National Plan to contrast labour exploitation and illegal employment in the agricultural sector; the design and the implementation of social and labour integration measures especially for vulnerable TCNs; tracking the presence and the protection as well as the level of integration of UAMs during the transition to adulthood procedure; the development and dissemination of tools of knowledge and communication on the integration of TCNs. The General Directorate is the Intermediate Body for the Asylum, Migration and Integration Fund (Legal Migration/Integration) and European Social Fund Plus - NP Inclusion.

Pursuant to Legislative Decree no. 149 of September 14, 2015, which established the entity, the **National Labour Inspectorate (INL)** is an agency with legal personality of public law and enjoys regulatory, administrative, organizational, and accounting autonomy under the supervision of the MLPS, for which it exercises and coordinates nationwide supervision in the areas of labor, contributions, mandatory insurance, as well as social legislation, including oversight related to the protection of health and safety in the workplace.

The **Ministry of Education and Merit**, through the Directorate-General for Students,

Inclusion, Guidance and Contrast to Early School Leaving, promotes specific actions to foster the inclusion and school integration of pupils with a migration background and unaccompanied foreign minors (MSNA).

The **Ministry of University and Research** carries out the functions and tasks pertaining to the State in the field of university education, scientific and technological research and high artistic, musical and dance training, also with reference to access to courses for students with migrant backgrounds.

The **Ministry of Health** promotes access to healthcare for foreigners and fosters the social and health inclusion of the most vulnerable, with a particular responsibility to set guidelines for applicants for international protection who are victims of torture, monitoring their physical and mental health following the violence they have suffered before and during their journey. In particular:

- Within the *General Directorate for Health Prevention*, Office 9 – Protecting the health of women, vulnerable persons and combating inequalities – is responsible, among other things, for the health protection of migrants, stateless persons, political refugees and foreigners.

- Within the *General Directorate for Health Planning*, Office 8 – State functions in the field of health care in the international sphere – is responsible, among other things, for the application of regulations on health care for non-EU foreign citizens and related relations with the Regions, including humanitarian interventions, as well as health care in Italy for emigrants in countries with no agreements.

Moreover, the Italian legislation on the health of migrants and refugees provides for the **National Institute for the Health Promotion of Migrant Populations and the Fight against Poverty-related Diseases (INMP)**, a public body supervised by the Ministry of Health (former Ministerial Decree no. 158 of September 13, 2012 converted, with amendments, by Law no. 189 of November 8, 2012 and Decree no. 56 of February 22, 2013 on the functioning and

organization of the Institute). The Institute's goal is to address, within the framework of the National Health Service, the health challenges of the most vulnerable populations, through an intercultural, holistic and person-oriented approach. The strategic objective is to develop innovative systems to combat health inequalities in Italy, to facilitate access to the National Health Service for the most disadvantaged social groups and to guarantee a high level of quality in the services provided.

Within the **National Association of Italian Municipalities (ANCI)**, the **Department for Integration and Reception, Immigration Management** carries out coordination activities, inter-institutional connections between central and regional administrations and municipalities and is responsible for representing and discussing, together with the other institutions in charge, the positions and needs of Italian municipalities with regard to policies and interventions concerning immigration and integration of foreign citizens. Law no. 189/2002 also entrusts ANCI with the management of the SAI – Reception and Integration System, with the task of rationalising and optimising the System and facilitating the coordination at national level of territorial reception services. The specific structure in charge of this task is the Central Service for information, promotion, advice, monitoring and technical support to Local Authorities providing reception services.

The Authority for the Rights of Children and Adolescents, established by Law no. 112 of July 12, 2011 and in line with the aim of protecting and promoting the rights of minors, as proclaimed internationally by the Convention on the Rights of the Child, encompasses various actions, including listening and participation, awareness-raising, and the development of proposals, opinions and recommendations. The Authority consistently collaborates with international networks of ombudspersons for minors, regional and autonomous province ombudspersons, as well as international organizations and institutes dedicated to the protection and promotion of the rights of minors. The exchange with diverse entities

enables the Authority to develop proposals that are in step with the times and the needs of young individuals. Every project or action promoted by the Authority is aimed at ensuring that all individuals under the age of majority, regardless of their legal status and social condition may benefit from them.

Other institutions that can provide guidance on migration policies – each for their respective areas of competence and with specific internal articulations - are the **Ministry of Economy and Finance**, the **Ministry of Defence**, **Ministry of Agriculture, Food Sovereignty and Forestry Policies**, the **Department for Cohesion Policies and for the South**, the **National Institute of Statistics (ISTAT)**, **Regional and Local Authorities**.

THE LEGAL SYSTEM

In the field of asylum and migration national law has to follow the principles of the Italian Constitution as well as those of relevant international and European union law.

The core law regulating the field of asylum and migration in Italy is the Consolidated Act on Immigration (legislative decree n. 286/1998). Many of its provisions were introduced and/or amended to ensure conformity with European Union law¹. The Consolidated Act is divided into six sections (Titles) respectively regulating: general principles; entry, stay and expulsion; economic/labour migration²; right to family unity and assistance of minors; health care assistance, education, accommodation;

¹ See, most recently, among others: Legislative Decree n. 203/2016 relating the conditions of entry and stay of foreigner seasonal workers; Legislative Decree n. 253/2016 transposing Directive 2014/66/EU and related to the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer; - Legislative Decree n. 71/2018 transposing directive 2016/801/EU- relating to the conditions of entry and residence of third-country nationals for the purposes of research, study, training, voluntary service, pupil exchange schemes or educational projects and au pairing.

² - Release/Update /Duplicate of residence permit for non eu family members of an eu citizen.; - Release/Update /Duplicate of permanent residence permit for non eu family members of an eu citizen.; -

participation and social integration; final provisions.

Article 3 of the Consolidated Act on Immigration, which regulates migration policies, outlines a system according to which the entry and residence for employed work (including seasonal) and self-employed work must take place within the quotas that are defined annually (the so-called "Decreto Flussi"), in the context of a three-year planning. Only specific categories of workers are allowed to enter Italy outside this quota system.

The entry procedures of Italy generally follow the regulations of the Schengen System. The foreigners usually need to obtain a visa, for which they need to obtain an entry clearance (*nulla osta*). Applications for obtaining the entry clearance are to be filled online at Portale Servizi – Ali Sportello Unico (interno.it). The "Sportello Unico presso le Prefetture – SUI" is the Office in charge for their evaluation. Applications for converting the residence permit, communicating the data of one's family unit, for the signature of the Integration Agreement, and requesting admission to the test of knowledge of the Italian language to issue the residence permit CE for long-term residents are to be filled out online through the same process.

Police Headquarters are responsible for receiving the applications for the release and renewal of various residence permits. They use a specifically dedicated online platform which is called "Prenotafacile" This platform covers an exhaustive list of services².

Release/Update /Duplicate of residence permit for medical reasons /pregnancy ; - Release/Update /Duplicate of residence permit for medical reasons - Release/Update /Duplicate of residence permit for minors assistance; - Release/ Duplicate of residence permit for international protection applicants ; - First release of electronic residence permit following a positive decision over the application for international protection of the competent authorities (Territorial Commission or Tribunal); - Renewal/duplicate of the electronic residence permit for beneficiaries of subsidiary /special protection - Conversion of the residence permit from subsidiary / humanitarian/special protection to subordinate / self-employed work; - Travel document for refugees / stateless persons and travel

In the field of **asylum**, the main rules at national level are the following:

- Legislative Decree n. 251/2007 (transposition of directive 2004/83/EC) and subsequent modifications, - regarding qualification of refugees or beneficiaries of subsidiary protection.

- Legislative Decree n. 142/2015 (transposition of directive 33/2013/EU) and subsequent modifications, relating to the reception conditions.

- Legislative Decree n. 25/2008 (transposition of the directive 2005/85/CE) and subsequent modifications relating the procedure for granting and withdrawing international protection.

The national asylum system is further complemented by the relevant EU regulation (i.e., among others, the Dublin regulation).

Applications for asylum are generally to be submitted personally, at the border police office or within the territory at the provincial Immigration Office (*Ufficio immigrazione*) of the Police (*Questura*). The *Questura* carries out fingerprinting and identification activities and collects all the relevant information for establishing whether Italy is responsible for the examination of the asylum application.

The Territorial Commissions for the recognition of international protection are the administrative bodies in charge for the first instance examination of the application.

In case of a positive decision, the applicant will be recognised as entitled to a form of international protection (refugee status or subsidiary protection) or to a national form of protection, which is called "protezione speciale". The Commissions can also identify other grounds (such as health grounds) that pose an obstacle to the return of the applicant and notify them to the *Questura* for the release of an appropriate permit of stay.

In case of a negative/unsatisfactory decision, asylum applicants can file an appeal in front of a Civil Court (*Tribunale Civile*) and later on

an onward appeal to the Court of Cassation (*Corte di Cassazione*).

Decree Law 20/2023 later converted by Law 50/2023 modified several provision pertaining to the national asylum system.

The reform aimed at narrowing the grounds for the recognition of the so called "*protezione speciale*"; speeding up the procedure for examining international protection applications, especially through the use of the so called accelerated procedures and deflating the backlog of litigation in Courts.

With regard to reception, it is now prescribed that, pending the asylum application procedure, asylum applicants that lack sufficient resources are entitled to be hosted in governmental structures managed by the Prefectures (*Prefetture*), while holders of international protection and vulnerable asylum applicants are entitled to the SAI Reception System (Sistema di Accoglienza e Integrazione).

Unaccompanied minors

Law n. 47/2017 introduced a comprehensive regulation concerning the protection and treatment of unaccompanied minors, (who are asking for asylum or not) focused on the best interest of the child. *Inter alia*, it provided for the creation of a separated, target-specific reception system for UAMs, the appointment of volunteer guardians and the possibility to study or to start an apprenticeship. Decree Law 133/2023, later converted into law 176/23, introduced specific provisions in case of large and close arrivals, allowing to derogate – under specific conditions and for limited time periods - the ordinary provisions pertaining accommodation and age determination. In particular, it allows for temporarily accommodating UAMs in:

- temporary accommodation facilities exclusively for unaccompanied minors, with a maximum capacity of fifty places per facility.
- temporary accommodation facilities with a maximum capacity exceeding the limit of fifty places per facility up to fifty per cent of the available places -

document for foreigners; - Request / renewal / duplicate residence permit for the time of the pending of the appeal procedure.

- Issue / Renewal of the residence permit for statelessness request / obtainment.

exclusively for UAMs, that are above the age of fourteen.

- specific sections of adults' accommodation facilities- exclusively for UAMs that are above the age of sixteen; for a period not exceeding ninety days, extendable for a maximum of a further sixty days.

The same decree allows the public security authority (police) to order the carrying out of anthropometric surveys or other health checks, including radiographic ones, aimed at age determination.

Return

The Consolidated Act on Immigration contains the main provisions on the repatriation of foreign nationals. The document provides two categories of return: the so called *respingimento alla frontiera (refusal of entry at the border)*, carried out by the border police, and the *respingimento differito (deferred expulsion)*, adopted by the Police Commissioner against a foreigner apprehended at the time of crossing the border or immediately thereafter, or temporarily admitted to the territory for reasons of public assistance

The expulsion decisions can be of judicial or administrative nature, the latter being adopted by the Prefect or by the Ministry of Interior.

Recently the provisions on expulsions were modified by the followings:

Decree Law 20/2023, later converted by law 50/2023:

- repealed the provision that provides for the validation, by the Judge of the Peace, of the measures of accompaniment to the border ordered by the Criminal Court;
- repealed of the invitation to voluntary exodus before proceeding with expulsion, in all cases of rejection of applications for the issuance and renewal of residence permits.

Citizenship

Regulations on citizenship are contained in Law 91/1992. The Italian legislation currently

in force provides for various grounds for acquiring citizenship. Some of them are automatic (es. by birth) and others are subject to the fulfilment of certain conditions, a declaration of intent and a decision by the Authority.



INSTITUTIONAL CHART

The most up to date Institutional Chart will be added in as an Annex.