

CODACONS



An other time an other place
**HANDBOOK FOR THE INTERNATIONAL
PROTECTION APPLICANTS**



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According to the research carried out by the International Organizations for Migration, millions of refugees and asylum applicants, considered as illegal migrants, live in Europe.

“Another time another place” project was born from the need to assure these “foreigners”, not only the welcome but also the accommodation, the medical assistance and all the supports provided by our system and avoid that these rights were precluded because of a lack of information.

From this viewpoint, it proves to be immediate to place in the centre of welcoming of the **System of protection for asylum applicants and refugees (SPRAR)** the same people, who are not only simple passive recipients of intervention made in their favour, but also active characters in their welcoming pathway.

That’s why we refer to an “integrated” welcome policy that is realized through territorial projects aimed to guarantee medical and social assistance, social, multicultural activities, minor academic inclusion, language and intercultural mediation, legal orientation and information accommodation service, job inclusion service and education service.

In such a context the operators cover a fundamental role as they lead and accompany the recipient in order to solve the everyday matters (on the basis of the services assured by the SPRAR projects, as above indicated) and they become a “bridge” for the knowledge of the local community and territory.

REFUGEE DEFINITION AND ACCESS TO THE PROCEDURE OF APPLICATION FOR INTERNATIONAL PROTECTION

The definition of refugee can be found in the 1st art. of The Geneva Convention of 1951 and it is defined as *“whoever has a justified fear of being persecuted for his race, religion, citizenship, social group or his political ideas and is out of the State whose he has the citizenship and either cannot or, for this fear, doesn't want the Protection of that State; otherwise whoever being stateless and being out of his State of residence after such events cannot or, for the fear above mentioned, doesn't want to go back.”*

In order to be recognized as refugee it is not necessary to have already been effectively victims of persecution. It can also be recognized as refugee whoever has the justified reasons to be afraid that, in case of repatriation, could be really in danger of persecution. The application for International protection is organized in several steps, is individual and has to be presented to:

- The Border Patrol at the arrival in Italy. Whether the entry has occurred irregularly there is, before the application procedure, an identification procedure followed by the Police;
- at the police Headquarter –the

Police Office for Immigration, whether already on the Italian territory.

It will be then made an appointment for the application formalization drawn up by a police officer and with the assistance, if necessary and required, of an interpreter.

The application form must be edited through the **“form for recognition of the refugee status in accordance with the Geneva Convention” (C/3 form)”**

The original form will be held by the police and a copy given to the applicant.

In the C/3 form it must be indicated as follows:

- **personal information** (name, surname, date and place of birth, nationality) and family (parents information, husband/wife, children and their place of residence) as well as the residence choice where all communication and dates will be sent;
- **description of the trip from the mother Country to Italy;**
- **reasons for leaving the mother Country.**

In addition to the provided form it is possible, but not compulsory, to enclose a written essay in the mother tongue and /or with a translation and where can

be presented, if available, further documents proving what claimed (as for instance newspaper articles, photos, official documents such as denunciation or medical reports) In the very next days following the application the Police Headquarter releases, within 30 days a name certificate, on hold of the residency permit for asylum application.

IMPORTANT INFORMATIONS

- *On the convocation date it is necessary to appear in person in front of the territorial Commission;*
- *It is possible to postpone the personal interview only for illness necessarily certified by the doctor,;*
- *At the application time it is advisable to ask for being personally listened by the Territorial Commission in charge of the concerned international protection recognition ;*
- *It is ever possible to ask for help, at any time of the application, to the main protection organizations for the International protection applicants.*
- *If the foreigner has the passport, he should give it to the Police, with four photos, the chosen residence (he should deliver the hospitality declaration and the related documents, rent contract or deed and the identity document of the*

- host) and will be submitted to the photo-dactyl-scope controls;*
- *whether the applicant doesn't have a passport, because it was dangerous for him to ask it to the mother State, it can be useful to present at the time of the application a registry office certificate and the identity card of the mother Country that can be useful registry office certificates to prove the identity;*
- *All the owned documents will be kept by the Police that will give a copy to the asylum applicant;*
- *Any information provided to the Police officer is personal and could not be passed to the mother State Authorities or other people.*
- *The protection applicant is authorized to remain on the State Territory till the decision of the territorial Commission about the demand.*
- *There are no end terms for the application presentation;*
- *In case of address change it is necessary to inform the Police;*
- *In case of lack of abode the prefect will establish a place where the asylum applicant could stay until the end of the exam procedure of the International protection application;*
- *The lack of proofs cannot be a good reason for being disqualified from the access procedure. The application cannot be rejected by the Headquarter Office.*

a. AUDITION PHASE

The audition takes place within 30 days from the presentation of the application and the Commission will decide in the following three days.

The authority in charge with the decision about the International protection application is the territorial Commission for the International protection recognition and is composed by:

- 2 members of the Ministry of the Interior

- 1 representative of the municipality (either the province or the region),

- 1 representative of the UNHCR.

At the audition there can be an interpreter in charge with the conversation translation.

IMPORTANT INFORMATIONS

- *the application is submitted to a priority exam when it is clearly well founded and the situation considered vulnerable;*

- *the Commission claims the application unacceptable, without any new examining, in case of former rejection and application re proposal without any new or upcoming events.*

- *In case of minor subject the audition will take place in front of a parent or a tutor;*

- *During the audition it is possible to be assisted not only by an interpreter but also by a lawyer;*

- *The declarations released in the audition are edited in a written form or in a memorandum signed by the asylum applicant who can ask it to be translated in the original language;*

- *If the protection applicant refuses to sign the memorandum, the reasons for his choice will be indicated, but anyway the Commission will be able, in any case, to make a decision about the application;*

- *It is always advisable to keep a copy of all documents presented to the police Headquarter, the Prefecture and Commission and the memorandum released by these Authorities.*

b. APPLICATION RESULT

Once the application has been examined, the Commission through a written decision can:

- recognize the refugee status;
- not recognize the refugee status and allow a subsidiary protection if considered the possible real danger of great damage in case of return to the mother Country;

- not recognize the refugee status but believe it to be founded serious humanitarian reasons and then ask to the police Headquarter to be given a residency permit for humanitarian reasons;

- not recognize the refugee status and reject the application;

- refuse the application because of evident groundlessness when believed obvious the non-existence of any possible requirement for the International protection recognition, that is when the application presentation has been done only to delay or prevent the execution of expulsion or banishment measure.

c. POSSIBLE STAY IN THE GOVERNMENTAL CENTRE

The foreign citizens illegally entered in Italy and the International protection applicants are welcomed in the Immigration centres where they receive assistance and are identified and held in view of the expulsion or due to the investigation procedures of the related requirements.

These structures are divided into: first aid and welcome centres (Cpsa), welcoming centres (Cda), welcome centres for the asylum applicants (Cara) and identification and expulsion centres (Cie).

The welcoming at the CARA is decided:

- 1) to verify or determine the nationality or identity of the applicant whether not possessing travel or identity documents or having, at the arrival in the State, presented false documents. The stay is limited to the necessary time to accomplish investigation and anyway cannot exceed 20 days;

- 2) when the application has been presented after having been stopped for having eluded or tried to elude the border inspection or soon after. The stay is arranged for the time necessary to the application investigation and anyway

not for over 35 days.

3) when the application has been presented after having been stopped for illegal stay. The stay is arranged for the time necessary to the application investigation and anyway not for over 35 days.

Whether the applicant is welcomed in a CARA he will be released a name certificate and being expired the time for stay, he will be released a three-months permit for asylum application.

IMPORTANT INFORMATIONS

•After the tests concerning the competent State for the application examination, if the applicant is not detained, he receives a name certificate and then the residency permit for the asylum application of a three months duration and renewable till the procedure end term. With this permit it can be asked the assignment of a provisional number fiscal code and the enrolment to the National Health Service must be done .

• The applicant cannot work;

•After two months from the first permit release, if the procedure hasn't finished yet it must be released a six months permit allowing him to work. This residency permit is named with "working activity";

•the applicant will be able to circulate in the place established by the prefect.

•the law allows the daytime exit from the centre.

•it is possible to ask the prefect a temporary departure permit from the centre for a different time period;

•it is possible to have a longer exit permit for serious personal reasons, illness, or family or for reasons concerning the International protection application;

•While waiting for the decision, also according to the European legislation (Dublin regulation) it is forbidden to leave Italy;

• For children or minor the location in appropriate age structures and the designation of an assistance tutor is compulsory also regarding the asylum or education application.

RECOGNITION OF THE REFUGEE STATUS AND RELATED RIGHTS

The Commission issues a measure allowing to pick up at the police Headquarter the above mentioned Asylum residency permit.

The asylum residency permit has the maximum duration of 5 years and is renewable at any expiration time. The refugee's children under 14 years are enrolled anyway in the refugee residency permit.

The refugee status title-holder legally living in Italy for at least 5 years, owning all the requirements provided by the law n.91 of the 5th February 1992, can ask the concession of the Italian citizenship.

The refugee has, as well, the right to have:

•A TRAVEL DOCUMENT suitable for identification and circulation among States. The application must be presented to the police Headquarter of the province whose municipality is the refugee residence or abode, by presenting the following documents:

- travel document application form;
- 2 passport photos;
- 1 revenue stamp;
- a tax stamp of governmental concession on passports use;
- a photocopy of the valid residency permit or of the renewal

application presentation receipt.

•CIRCULATION AND RESIDENCE IN OTHER COUNTRIES OF THE EUROPEAN UNION;

•SOCIAL ASSISTANCE;

•ADMINISTRATIVE ASSISTANCE;

•JOB ACCESS;

•FAMILY REUNIFICATION;

•MEDICAL ASSISTANCE BY THE NATIONAL MEDICAL SERVICE;

•PUBLIC EDUCATION;

•HOME ACCESS.

JUDICIAL COMPLAINT AGAINST THE NEGATIVE DECISION OF THE COMMISSION

It is possible to present against the decision of the territorial Commission a **court complaint within 30 days from the date of the decision communication**; for the asylum applicants hosted in a Governmental Centre (CIE or CARA), the end term for the complaint is reduced to **15 days** from the date of the decision communication.

The complaint presentation stops the commission decision and the claimant is given a residency permit for the international protection application. The measure stop is not automatic when:

- the commission measure has claimed the international protection application unacceptable;
- the complaint has been presented by an applicant having applied after receiving an expulsion or banishment measure;
- the complaint has been presented by an applicant belonging to the category of stay in the temporary residence centres.

In these cases the claimant has no right to stay in the Italian territory and can be always sent back to the mother coun-

try, but it is possible to present to the court an application for stop in case of serious and concrete reasons.

Therefore the court decides with a peremptory writ.

For the court phase it is necessary the legal assistance and if the lawyer is unaffordable, it is possible, according to the required conditions, to apply for free legal assistance (paid by the State).

IMPORTANT INFORMATIONS

- *A Court Cassation complaint can be submitted against the appeals court verdict.*
- *Before the complaint, if the claimant believes that all the application elements submitted haven't been appropriately judged he can ask to be listened again by the same Commission that has issued the measure. The application does not stop the complaint end terms.*

THE REVOCATION OF THE REFUGEE STATUS

The refugee status can be revoked when:

1. After its recognition it is proved that it has been recognized on wrongly presented facts and /or circumstances, that is the deliberate omission of other facts and/or circumstances, in other words based on documents discovered to be false then.

2. after its recognition there are exclusion reasons according to the Geneva Convention (commission for crimes against humanity, against peace either a war crime, or already under protection or assistance of an authority or of an Agency of the United Nations different from the U.N.H.C.R.);

3. There are serious reasons to think that the refugee is dangerous for the Italian State or for the order and public safety having been definitively condemned for the crimes provided by the art. 407, comma 2, letter (a) of the penal code.

The refugee status ends when the refugee:

1. avails himself of the mother Country protection;

2. has lost his Country citizenship and has then voluntarily regained it.

3. has gained the Italian citizenship or other citizenship and enjoys the protection of the gained citizenship Country.

4. has voluntarily got back to the mother Country.

5. the conditions for the refugee status recognition have been missed and the refugee can, easily, go back and have the protection of the mother country.

6. in stateless case and there are the circumstances for the refugee to go back to the mother country where he habitually lived, having missed the refugee status recognition conditions.

The change of conditions must be not temporary and such of erasing completely the real fear of persecutions and there mustn't be other serious humanitarian reasons to prevent the return to the mother country.

THE REVOCATION OF THE SUBSIDIARY PROTECTION STATUS

The measure ordering the revocation of the subsidiary protection status is adopted on individual base by the National Commission for the asylum right. The decision is made when it is ensured:

- the existence of exclusion reasons: the change of conditions must have a significant and non-temporary nature, to make believe that the person is no more exposed to serious damage danger in case of return to the mother Country and other serious humanitarian reasons preventing the return must not exist;
- the status recognition has been determined only on the basis of facts wrongly presented or of facts omission or of given false documents.

The status could be revoked, as well, in case:

- 1) there are the exclusion reasons provided by the Geneva Convention (commission for crimes against humanity, against peace either a war crime or already under protection or assistance of an authority or an Agency of the United Nations different from the U.N.H.C.R.);
- 2) the refugee has committed

or been instigated to commit a serious crime in the Italian State territory or abroad,. The seriousness of the crime is evaluated bearing in mind the punishment, not lower than 4 years minimum and 10 years maximum, established by the Italian law for that crime;

- 3) occurring the conditions for which the refugee represents a danger for the order and public safety.

IMPORTANT INFORMATIONS

- *The revocation of the refugee status and of the subsidiary protection status are claimed by the Asylum right national commission based on an individual evaluation of the personal condition of the refugee;*
- *During the status revocation or end procedure the person concerned enjoys some guarantees such as:*
 - *written report about the new investigation about his position by the National Commission;*
 - *possibility to ask for a personal interview or to present a written memorandum.*

THE UNFAVOURABLE COMPLAINT TOWARDS THE DECISION OF REFUGEE STATUS REVOCATION

Against the decision revoking or ending the refugee status or the subsidiary protection status the person concerned can present a complaint at the Roman Court. The complaint is accepted even if the person concerned has applied for the refugee status recognition and the territorial Commission has been accepted only to the subsidiary protection.

The complaint must be strictly presented within 30 days from the decision communication date while for the asylum applicants hosted in a governmental centre(CIE or CARA), the deadline for the complaint is reduced to 15 days from the decision communication date. For the Court phase it is necessary the legal assistance and if the lawyer is unaffordable it is possible, according to the required conditions, to apply for a free legal assistance (paid by the State).

IMPORTANT INFORMATIONS

- *whether believed incorrect the Court decision, it is possible to make a complaint at the Court of appeal and ask, in case of serious and concrete reasons, the authorization to remain on the Italian territory.*
- *A Court of cassation complaint can be presented against the Court of appeal decision ;*
- *Before the complaint, if the claimant thinks not to have been appropriately evaluated the presented elements for the application presentation, it is possible to ask for being listened again by the same commission that has issued the measure. The application doesn't stop the complaint end.*

F.A.Q. - FREQUENTLY ASKED QUESTIONS



1) HOW MANY TERRITORIAL COMMISSIONS ARE THERE?

The territorial commissions are established to be maximum 10 and by the Ministry of Interior decree the offices and territorial districts where the commissions act are located, in detail:

- o Gorizia - Friuli-Venezia Giulia, Veneto and Trentino-Alto Adige regions;
- o Milano - Lombardia region;
- o Torino - Valle d'Aosta, Piemonte, Liguria and Emilia Romagna regions;
- o Roma - Lazio, Sardegna, Toscana and Umbria regions;
- o Caserta - Campania, Molise, Abruzzo and Marche regions;
- o Foggia - Foggia and Barletta-Andria-Trani provinces;
- o Bari -Bari, Brindisi, Lecce and Taranto provinces;
- o Crotona - Calabria and Basilicata regions;
- o Trapani -Agrigento, Trapani, Palermo, Messina and Enna provinces;
- o Siracusa - Siracusa, Ragusa, Caltanissetta and Catania provinces.

2) HOW ARE THE TERRITORIAL COMMISSIONS COMPOSED?

The territorial commissions are composed by a prefect career official, with presidential functions, by a Police official and by a representative of a territorial authority named by the State Conference- cities and local autonomies and by a representative of the ACNUR.

3) WHAT IS THE STRUCTURAL QUORUM AND THE DELIBERATIVE QUORUM ESTABLISHED BY THE LAW FOR THE TERRITORIAL COMMISSIONS ACTIVITY ?

The territorial commissions are valuably constituted with the presence of the majority of components and deliberate by the favourable vote of at least three components. In case of equality, the president vote prevails.

4) WHAT'S THE JURISDICTION OF THE ASYLUM RIGHT NATIONAL COMMISSION?

The Asylum right National commission has the jurisdiction to revoke or end the recognized

National protection status in the cases considered by the law decree n. 251 of the 19th November 2007,

beyond to address and coordinate the territorial commissions, to form and update the components of the commissions themselves, to constitute and update a computer database containing the useful information for monitoring the asylum applications, to form and update a document centre on the social political and economical situation of the applicants mother countries, monitoring the asylum applicants flow also with the aim to propose the creation of new territorial commissions and provide, if necessary, information to the Prime Minister for the adoption of the measure in the art 20 of the law decree n.286 of the 25th July 1988.

5) WHAT IS THE MATTER JURISDICTION OF THE TERRITORIAL COMMISSION?

With regard to the matter jurisdiction, the territorial Commission is in charge with recognizing the International protection, whereas, concerning the territorial jurisdiction, the commission locally competent is the one of the place where the application has been made, excepting the case in which the stop and stay in the

CARA has been decided, whose jurisdiction is of the Commission where the centre is located.

6) HOW DOES THE FIRST DEGREE PROCEDURE IN FRONT OF THE TERRITORIAL COMMISSION TAKE PLACE?

The International protection investigation is carried out by the territorial Commissions according to the fundamental principles and the guarantees mentioned at point II of the Law decree 25/2008 modified by the law decree 159/2008, the law 94/2009 and by the law decree n.150 of the 1st September 2011. The territorial commission provides the interview with the applicant within 30 days from the application delivery and makes a decision within the following three work days.

7)WHAT KIND OF DECISIONS CAN BE MADE BY THE TERRITORIAL COMMISSION?

The territorial commission can:
a. recognize the refugee status or the subsidiary protection, according to what provided by the articles 11 and 17 of the law decree n.251 of the 19th November 2007;
b. reject the application whether there are no assumptions for the international protection recogni-

tion according to the law decree n.251 of the 19th November 2007, or one of the International protection stop and exclusion reasons provided by the same decree occurs, that is to say the applicant comes from a secure mother Country and has not provided the serious reasons whose at comma 2;

c. reject the application for evident groundlessness when there is the clear inexistence of the conditions established by the law decree n.251 of the 19th November 2007 or rather when the application has been presented with the only aim to delay or prevent the execution of an expulsion or banishment measure.

8) IS IT ADMITTED THE UNFAVOURABLE COMPLAINT TOWARDS THE TERRITORIAL COMMISSION DECISIONS?

Yes it is, it is admitted the complaint against the territorial commission decision at the Court located in the county town of the court of appeal district that issued the measure. The complaint can be made within the 30 days following the communication of the decision.

9) WHAT IS THE LEGAL PROCEDURE IN CASE OF COURT COMPLAINT?

Within 5 days from the complaint presentation at the Court, with a decree mentioned in the foot note of the complaint itself, schedules the hearing in the council chamber. The complaint and decree of hearing schedule are served to the person concerned and communicated to the Public prosecutor and to the National Commission that is the territorial commission concerned.

The “another time another place” project makes available a consultancy service to the users, provided by the expert operators of telephone and help desk, prepared in the legal and socio anthropological as well as cultural mediation areas.

Appointments can be made at the call centre number, or directly at the offices or by e mail to the dedicated mail address rifugiati@codacons.org.

For any further information on the services provided by the venture it is possible to refer to the dedicated section of the Association website www.codacons.it.

CONSULTANCY FRONT OFFICE DESKS:

Office hours:

- Rome:
from Monday to Thursday from 10,00 a.m to 4,00 p.m
and Friday from 10,00 a.m. to 1,00 p.m.
- Milan:
from Monday to Friday from 10,00 a.m to 4,00 p.m
- Catania:
on Monday, Wednesday and Friday from 10,00 a.m to 3,00 p.m.
- Bari:
on Wednesday Friday and Saturday from 10,00 a.m to 3,00 p.m

ON LINE CONSULTANCY

Legal consultancy can be asked to the mail address rifugiati@codacons.org

INFORMATION CALL CENTER

The number 800.582493 is available for information about office hours of help desks and receive a first phone assistance.



