

## Country factsheet Italy

Based on its 2010 Work Programme, the European Union Agency for Fundamental Rights (FRA) carried out a study on access to justice for asylum seekers. This study illustrates the perspective of asylum seekers on two specific issues relating to the asylum procedure, namely information on the procedure itself and access to remedies against a negative decision.

The FRA interviewed almost 900 asylum seekers throughout the European Union. The information received has been analysed taking into account the relevant national legal provisions and the responses to a questionnaire on information received from national asylum authorities. The research has resulted in two comparative reports, the first on the duty to inform and the second on access to effective remedies.

This factsheet complements these two comparative studies by providing some basic background information, including statistics and relevant domestic legal provisions relating to the issues covered in the two reports.

## 1. Statistics

Statistics on asylum applications (Total and top 10 nationalities)

2009 Top 10 Nationalities		2008 Top 10 Nationalities	
Total	17,670	Total	30,145
Nigeria	3,710	Nigeria	5,670
Unknown	1,975	Somalia	4,865
Somalia	1,490	Eritrea	2,935
Pakistan	1,250	Ghana	1,815
Bangladesh	1,195	Afghanistan	1,730
Eritrea	865	Bangladesh	1,685
Ghana	845	Ivory Coast	1,655
Afghanistan	615	Pakistan	1,145
Ivory Coast	575	Iraq	755
Turkey	500	Burkina Faso	645

Statistics on first instance asylum decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	2,250	5,335	1,480	13,950	23,015	9,065	39.4
Somalia	230	2,125	55	130	2,540	2,415	95.1
Eritrea	390	870	40	310	1,610	1,300	80.7
Afghanistan	195	470	25	80	775	695	89.7
Nigeria	50	170	425	4,925	5,565	640	11.5
Unknown	280	305	0	665	1,250	585	46.8

Statistics on final decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	45	0	n.a.	1,475	n.a.	n.a.	
Nigeria	15	0	n.a.	490	n.a.	n.a.	
Ivory Coast	10	0	n.a.	115	n.a.	n.a.	
Turkey	5	0	n.a.	20	n.a.	n.a.	
Togo	5	0	n.a.	50	n.a.	n.a.	
Bangladesh	5	0	n.a.	90	n.a.	n.a.	

Notes: These tables are based on categories used by Eurostat. The way Eurostat presents its data may not necessarily correspond to categories used at national level. This can particularly be the case with statistics provided under 'humanitarian status'. For a more detailed understanding of the data, the reader is invited to consult national statistics at

<http://www.interno.it/mininterno/export/sites/default/it/temi/asilo/sottotema009.html>.

Data has been rounded to the nearest 5. Due to the rounding, the sum of individuals may not necessarily match the given total. 0 means less than 3; n.a. = not available.

<sup>1</sup> Covering persons granted authorisation to stay for **humanitarian reasons** under national law by administrative or judicial bodies. It includes persons who are not eligible for international protection as currently defined in the first stage legal instruments but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments.

<sup>2</sup> The **recognition rate** corresponds to the proportion of positive first instance or final on appeal decisions out of the total number of decisions in 2009. Positive decisions include the provision of refugee status, subsidiary protection and humanitarian protection (where data is available).

Source: [Eurostat](#). Data extracted on 01 September 2010.

## 2. Background Information

### Asylum legislation<sup>1</sup>

[Law n. 189 \(2002\)](#) on immigration and asylum

[Legislative Decree \(\*decreto legislativo\*\) No. 25, 28 January 2008 \(implementing Directive 2005/85/CE\)](#) (in Italian)

Legislative Decree (*decreto legislativo*) No.159, 3 October 2008 (on the amendments of the *decreto legislativo* No. 25/2008)

Legislative Decree (*decreto legislativo*) No.251, 19 November 2007 (implementing Directive 2004/83/CE)

### Asylum authorities

#### First instance authority

10 Territorial Commissions for the recognition of international protection (*Commissioni territoriali per il riconoscimento della protezione internazionale*), coordinated by the National Commission for the Right of Asylum.

#### Second instance authority

Civil Courts - Single judge bench

## 3. Duty to inform asylum seekers

The Legislative Decree (LD) No. 25/2008 guarantees the asylum seeker's right to information, language and legal assistance as well as the opportunity to communicate with UNHCR or any other organisation dealing with asylum issues. An information leaflet is provided to the applicant in his/her native language or, if this is not possible, in English, French, Spanish or Arabic (Article 10(4)).

The National Commission in cooperation with UNHCR as well as other organisations and under the coordination of the Ministry of Interior produced an [information leaflet](#) describing the asylum procedure in Italian, which has been translated into 10 other languages.

In March 2010, the Ministry of Interior provided the following information to the FRA as regards written information materials.

<b>Written information materials</b>	Brochure translated into 10 languages.
<b>Provided when?</b>	At the time of lodging the application.
<b>Provided by whom?</b>	The competent police officer who receives the application provides information to the asylum seeker.
<b>Has an evaluation of information tools been carried out?</b>	No.

<sup>1</sup> The legal information in this factsheets has been updated to reflect the situation on 1 September 2010.

## 4. Effective Remedy

### Type of procedures

The asylum seeker has to file the request for international protection to the border police - at the time of the arrival in Italy - or to the nearest Police Headquarters, if s/he is already in Italy.

The Dublin Unit within the Ministry of Interior is in charge of identifying if Italy is responsible for examining the applications.

All other decisions, including admissibility decisions for persons who have already been recognised as refugees in a country signatory to the 1951 Convention or who have submitted a subsequent application, are taken by one of the 10 Territorial Commissions composed of different authorities as well as a representative of the UNHCR. The Territorial Commission can in certain circumstances reject the application as manifestly unfounded if the application is abusive or evidently lacks any ground. Vulnerable persons and manifestly well-founded applications can be processed by the territorial commission on a priority basis.

### Duty to state reasons for rejection and procedure to appeal

The LD No. 25/2008 states the duty to motivate negative decisions and to provide information on the filing of an appeal (Article 9).

The decision has to be notified to the asylum seeker in a timely manner. The content of the decision will be provided in the language of the asylum seekers or, when this is not possible, either in English, French, Spanish, or Arabic. (Article 10(4), LD No. 25/2008)

### Time limits for appeal

The time limit does not depend on the type of the procedure, but rather on the grounds upon which an appellant was sent to a removal centre (Identification and Expulsion Centre - CIE) or a reception centre (Reception Centre for Asylum Seekers - CARA) (LD No. 25/2008, Article 35). A time limit of 30 days applies if the applicant was not sent to a reception or removal centre (Article 35(1), LD No. 25/2008), whereas a 15 days time limit applies if he/she was placed in one of such facilities (Article 35(1), LD No. 25/2008).

Type of procedure	Time limits	Right to remain
Applicant placed in a reception centres or removal centre	15 days	In general, automatic suspensive effect, except for inadmissibility (subsequent applications or applicants recognised as refugees in a country signatory to the 1951 Convention), manifestly unfounded applications, and persons sent to a CIE on the basis of Art. 21 of LD No. 25/2008, persons sent to a CARA on the basis of Art. 20.2(b) and (c) of LD No. 25/2008. In those cases, suspensive

Type of procedure	Time limits	Right to remain
		effect can be requested to the Court examining the case on appeal.
Applicant placed elsewhere	30 days	In general, automatic suspensive effect, except for inadmissibility and manifestly unfounded applications where suspensive effect can be requested in the individual case.
Dublin procedure	15 or 30 depending on type of accommodation	No automatic suspensive effect, but it can be requested in the individual case

## Right to remain in the country during appeal

As a general rule, the appeal against a first instance decision has a suspensive effect (Article 35(6) LD No. 25/2008). In the following cases, however the execution of the first instance decision is not automatically suspended (Article 35(7-8) LD No. 25/2008):

- manifestly unfounded applications;
- inadmissible repeat applications;
- decisions taken following the unjustified departure from the reception centre;
- persons sent to a reception or a removal centre (CARA or CIE) on the grounds provided by Article 20(2)(b) and (c) LD No. 25/2008 – when the applicant has applied for international protection after s/he was stopped by the police having evaded or attempted to evade border controls, or having been stopped by the police in conditions of irregular stay;
- persons sent to an removal centre (CIE) on the grounds provided by Article 21(1)(a), (b) and (c) – when Article 1F of the 1951 Geneva Convention applies, when the applicant was previously condemned in Italy for a serious crime, or the applicant had been issued with an expulsion order prior to the asylum application.

In these cases the applicant can request the appeals body to grant suspensive effect provided s/he can bring forward serious and well-founded reasons (Article 35(7) LD No. 25/2008). The appellant is in any case legally staying in Italy at least until the deadline to lodge an appeal has expired (Article 32(4) LD No. 25/2008).

## Legal Aid

In appeal procedures, free legal aid is granted only to those asylum seekers fulfilling the financial requirements set by the *decreto del Presidente della Repubblica* No. 115, 30 May 2002 (Article 16, LD No.25), i.e. having a taxable income not exceeding €9,269.22.

The asylum seeker and/or his/her legal representative or lawyer are given the opportunity to access all the information relating to the asylum procedure (Article 17, LD No. 25).

## Language assistance

Throughout the asylum procedure, language assistance is guaranteed. All communication regarding the procedures is given to the asylum seeker in his/her native language; if interpretation in the native language is not available, the asylum seeker may choose from one of the following languages: English, French, Spanish or Arabic. The assistance of an

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interpreter is guaranteed for all stages of the procedure (Article 10(4) LD No. 25, 28 January 2008). In practice, this does however not include assistance in translating the appeal submission.

### Hearing

Appellants are given the opportunity of a hearing during the appeals procedure. Article 35(10) of LD No. 25/2008 provides that the court shall decide on the appeal, after hearing the parties and after having obtained all necessary evidence.