regulation & asylum in Italy

guide for asylum seekers

FONDS EUROPÉEN POUR LES RÉFUGIÉS

You are now in **Italy**. Its capital is Rome. Italy is in the extreme south of Europe. Italy has sixty million inhabitants and is a member of the European Union. From the administrative point of view, Italy has twenty regions. The official language is Italian.



This guide provides practical information about the Dublin II procedure, asylum seekers' rights, asylum proceedings and protection statuses.

It is written directly for asylum seekers under a Dublin process. It will also be useful for people working in the asylum sector.

The information guide is available in Arabic, English, Farsi, French, Russian and Somali.

The Dublin regulationeuropean union

You cannot choose the country in which you wish to apply for asylum.

According to the Dublin regulation, you can only apply for refugee status in one member state. Usually, this is the member state which you first reach. In practice this normally means that the country where you apply will return you to the appropriate state.



This might happen where:

- your fingerprints were taken in another country (and stored on a common European database called EURODAC)
- you admit that you have been to, or through, another country, even if you didn't give your fingerprints
- it can be shown by some other source of evidence that you have been to, or through another country
- it can be shown that you were previously issued a visa for an EU country
- you tell the authorities that you wish to join your spouse, who is an asylum seeker or a refugee in another country

Alternatively, if your husband, wife or child is an asylum seeker or a recognised refugee in another member state, that country should be responsible for your asylum application only if you so desire. If you are an unaccompanied minor, the member state where your parent or parents, reside is responsible for your asylum application.







■ Article 3.4 dublin regulation

The asylum seeker shall be informed in writing in a language that he or she may reasonably be expected to understand regarding the application of this Regulation, its time limits and its effects.

The Dublin Regulation applies in the following countries Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Norway, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and United Kingdom.

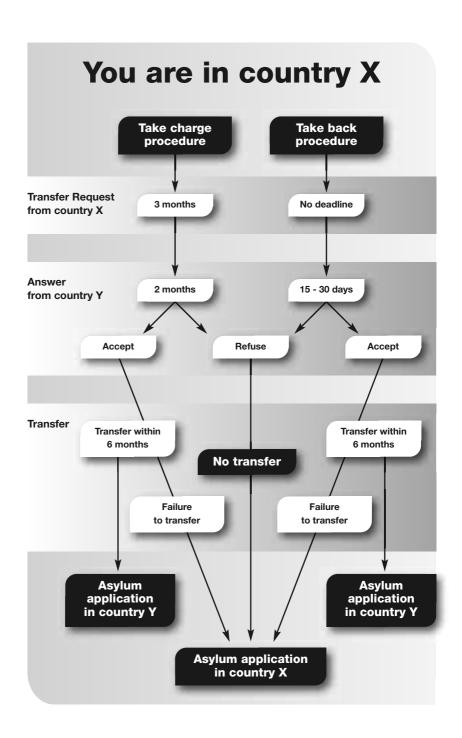
the Regulation in Operation

The Take Charge Procedure

Where another member state is designated responsible under the criteria in the Regulation, that state is approached to take charge of you and to examine your application.

The Take Back Procedure

Where a member state has already examined or begun to examine your application, it may be requested to take you back, if you have left that member state.

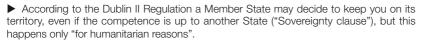


Implementation of the Dublin regulation in Italy

How Dublin II is applied in Hungary for outward transferees

What does the term "Dublin" imply for me?

Your fingerprints are taken by the competent Questura (Police Headquarters) who will give you a temporary permit of stay (*cedolino*). Then, the Police checks the system to verify that you have not been to and/or fingerprinted in another European country. If your fingerprints are found or you admit freely to have been to another country, you will be considered a "Dublin case", that is, someone who arrives on the Italian territory from another European country where the Dublin II Regulation is also applied. [For example, you are from country Z (your country of origin) and you arrive in country X where your fingerprints are taken, then you go to Italy (country Y) and the Police finds out that you have been in country X, this means that you will be sent back to country X]. **The competent authority for this matter is the Dublin Unit** (Department for Civil Liberties and Immigration of the Ministry of Internal Affairs).



- ▶ For Art. 16 co. 1 (b) the country competent for the examination of an asylum application is obliged to permit you to finish your asylum procedure on its territory.
- ▶ You remain free on the whole national territory until the decision of the Dublin Unit.

How does the Dublin procedure work?

The Italian Dublin Unit (country Y) sends a formal request to the Dublin Unit of the other European country (country X) asking them to accept you back there to continue your asylum application. This request has to be presented by the Italian Dublin Unit within 3 months from the verbalization of your application for asylum → if Italy does not send this request within the 3 months' time, the Dublin II Regulation foresees that Italy has to accept you on its territory for the completion of your asylum procedure.

— The country Y has 2 months' time to give an answer:

If country Y does not answer within 2 months, the Dublin II Regulation states that the country Y is obliged to accept your case back and to let you continue your asylum procedure there. [In short, is valid the rule of the tacit consent ("silenzio = assenso")!]

When an agreement has been made with country Y, Italy has 6 months to organize your transfer back to the country Y, where your asylum procedure will continue.

In the practice, at this phase the Dublin Unit sends to the competent *Questura* the transfer decree ("decreto di trasferimento") and the Questura has to notify it to you in writing together with a subsequent appointment to report again for the Dublin transfer ("trasferimento Dublino"). This decree is notified to you in two languages (Italian and English).



What can I do if I do not agree with the transfer decree?

You can lodge an appeal against the transfer decree by 60 days to the Regional Administrative Court ("TAR.: Tribunale Amministrative Regionale").

As soon as you receive the transfer decree it is in your best interest to refer to an NGO or a lawyer to be helped, both for the appeal and for an immediate request of the suspension of the Dublin decision!

- ▶ The suspension is not automatically granted by the judge: it depends on your specific case and personal history!
- ▶ In some cases asylum seekers have been invited to report to the Police before the end of the 60 days' time useful for the appeal, have been detained and immediately accompanied to the airport and sent back to the country Y.
- ▶ In case you obtain the suspension of the Dublin decree by the judge, you have to bring it to the Questura and apply for a residence permit "for asylum application", which should then be renewed until the end of the appeal.

N.B.: If your verbalization was done at least 6 months before, on your new residence permit the Police should add the words "attività lavorativa" (= working activity). Such a permit will be valid also for work until the end of the appeal.

→ We advise you to go to the Questura accompanied by your lawyer or an operator of the NGO assisting you!



Will I be detained?

No, in Italy "Dublin cases" are exempt from detention.

N.B.: You might be detained only if you have already been given an expulsion order ("foglio di via") or if you have criminal records.

When will I be transferred?

Usually within 6 months after the Dublin Unit of the receiving country has accepted your case.

N.B.: In case your transfer is not fulfilled within 6 months, you are usually allowed to stay in Italy and go on with your asylum procedure.

What are my social rights during the Dublin procedure?

See p. 8 ("Social Rights of the Asylum Seekers").

What to do when transferred to Italy under Dublin II



What happens to me when I am transferred to Italy under the Dublin II Regulation?

The Italian Dublin Unit has accepted your case and the country Y organizes your transfer back to Italy, usually by airplane. You will arrive at either Malpensa International Airport in Milan or Fiumicino Airport in Rome where there might be an NGO to assist you. The Police will fingerprint you again, take your picture and will proceed to verify your identity in the European (Eurodac) and National Databases. Then, they will give you a letter of

invitation to go to the competent Questura so that you can continue the asylum procedure. A train ticket will be given to you to reach that destination and then you will be released from the airport.

- ▶ When you get this letter of invitation, pay attention to the maximum number of days written in which you have to report to the Questura.
- ▶ In some cases, the Border Police might personally accompany you to the local Questura.

 * In Italy a "Dublin case", like you are now, has the same social and legal rights as all the other asylum seekers do at that very step of the asylum procedure.

• If you have already applied for asylum in Italy, ...

- ...and the decision on your asylum application has been taken before, the previous legal situation will be rendered: you will be invited to report to the competent Questura, where you have to show the letter of the border police received at the airport.
- 2 ...and you left Italy after having been interviewed by the competent Territorial Commission and its decision had been entirely negative, the competent Questura will notify you (again or for the first time) a rejection paper. You are entitled to make an appeal to the competent Civil Court. However, the appeal has to be lodged within 30 days from notification of the negative decision, otherwise, if you are still found in Italy, you can get an expulsion order ("foglio di via").
- 3 ...and your asylum procedure is still open: the competent Questura will reactivate it.
- 4 ...and, for one reason or another, you have "disappeared" or have not reported to the authorities: when you finally show up, you can be notified a "diniego per irreperibilità" (that is to say, the Territorial Commission can take a decision even during your absence).

N.B.: In this case you can obtain a new appointment with the competent Territorial Commission.

• If you have not applied for asylum in Italy as yet, ...

- 5 ... you have to report to the competent Questura and start an ordinary asylum procedure.
- ▶ There are no special rules for reception of "Dublin cases". Given the fact that asylum seekers transferred under the Dublin II Regulation enter the territory authorized and therefore legally, they are given equal treatment as other asylum seekers.

Where should I seek help?

You can contact an NGO providing free assistance (**see p. 14** "Support Organizations for asylum seekers, refugees and stateless persons": if you need an NGO in another city besides Rome, you can ask for further information from the contacts listed below).

The asylum procedure in Italy

Forms of protection that you can get in Italy

A Conventional Asylum (or Refugee Status):

The Geneva Convention of July 28th 1951 on refugee status applies to "Any person (...who has...) a wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country".

B Subsidiary Protection: (Extracted from the Qualifications Decree)

Subsidiary protection is granted to "Any person who does not fulfill the conditions for the granting of refugee status (...) and who establishes that he/she is exposed to one of the following serious threats in his/her country: a) death penalty; b) torture or inhuman or degrading sentences or treatments; c) serious, direct and individual threat to a civilian's life or person because of widespread violence resulting from a local or international armed conflict situation".

C Humanitarian Protection:

Humanitarian protection is granted to asylum seekers who have been denied one of the two forms of international protection [Conventional Asylum (or Refugee Status) and Subsidiary Protection] only if the Territorial Commission deems it necessary to grant temporary protection (for health reasons, family integration etc.).

Procedure for claiming asylum



Where and how to submit my asylum claim?

As soon as you arrive on the Italian territory, if you want to request asylum, you should go to the Border Police or to the local Questura (Police Headquarters). According to the Qualifications Decree (Dlgs. 251/2007), the concept of "asylum" has been replaced by that of "international protection".

You have to fill out an application form with your personal information and write a short account of your personal history (if preferable in your mother tongue). In case you have a national passport, you should give it to the Questura and they should give you a copy with their stamp, proving that the original has been withdrawn by the Police.

If you have other relevant documents (political party card, "wanted" papers, university card, medical certificate attesting tortures...), you should give copies of these documents to the Questura and keep the originals for showing them, if they are requested, on the day of the interview.

How is my application processed?

The procedure involves various steps: fingerprinting, verbalization, verification of the case (under Italian competence on the basis of Dublin II Regulation) and communication of the date for the interview with the competent Territorial Commission.



The decision is taken by the Territorial Commission where the asylum application was filed (actually, in Italy there are 10 Territorial Commissions, each of them is competent for different regions or districts). With the new law [Procedures (D.lgs 25/2008) and Qualifications (D.lgs 251/2007) Decrees] in Italy there is only one asylum procedure.

What to do if my asylum claim is rejected or if I do not agree with the status granted?

The appeal has to be presented by a lawyer at the Civil Court competent for the place [if you are unable to pay the legal fees due to insufficient money or lack of income, you have the option of getting "patrocinio gratuito" (free legal aid) by a lawyer who is paid by the state to assist you].

If you are free on the territory, the appeal must be presented **within 30 days**, but if you are staying in an accommodation centre for asylum seekers (C.A.R.A.), the appeal should be presented **within 15 days**.

▶ During the appeal you can have a permit of stay (except if you are held in a retention centre or hosted in a C.A.R.A. for some specific reasons).

Your rights as an asylum seeker

Legal Rights of the asylum seekers:

- During the interview you can receive the help of a **lawyer** (at your own expenses).
- You can receive the mediation of an **interpreter** during the interview (but you have to make a specific request when applying for asylum). If you don't ask for the interpreter, during the interview the language spoken will be the same as the one you seemed to understand well at the Questura for the previous steps you went through.
- Immediately after the interview, you will be given the interview account known as "verbale"
- If you wish to be interviewed by one person alone, you should state your reasons for doing so. (You can even ask to be interviewed by a female or a male member of the Commission).
- The law states that the interview should be conducted within 30 days after the asylum application has been accepted. **In the practice,** the process is much longer: on average it may take many months, sometimes a year or even more.



Social Rights of the asylum seekers:



- Temporary permit to stay: When you apply for asylum, the Police grants you a "cedolino" that is, a slip of paper in which the dates for the subsequent steps are written and which is also used as a temporary permit of stay. This document means that you can stay in Italy legally but you do not have the **right** to work.
- Working activity: If it so happens that the asylum procedure is still pending, six months after the verbalization of your application, the Police will grant you another temporary permit of stay but this time with the addition of "attività lavorativa" (asylum request-working activity) that is, the **right** to work.
- → Do not be mistaken, this is a permit valid for work but you will not get a permit with the only wording "work"! (The slip "cedolino" cannot be converted into a work permit).
- Healthcare: To access basic health care first you have to get a "codice fiscale" (taxpayer number) from the Agenzia delle Entrate (Internal Revenue Service). Once you get the health care card, you have to choose a family doctor to whom you can consult any time you need.



- Accommodation: You can access accommodation in the National Reception System. called SPRAR (Protection Service for Asylum Seekers and Refugees: "Servizio di Protezione per Richiedenti Asilo e Rifugiati"). You must apply for accommodation through a specific claim to the Questura. Later you will be sent sent to the local Prefecture. The availability of accommodation places is to be ascertained by the local Prefecture competent for the territory where you actually stay. In case of unavailability of places within the "System", you may be accommodated either in governmental "Centres for the reception of asylum seekers" (C.A.R.A.: "Centri di Accoglienza per Richiedenti Asilo"), centres normally hosting only asylum seekers who have been temporarily arrested for illegal entry or stayl, or in First Reception Centres.
- ▶ At present there are 138 small and medium-sized reception centres run by municipalities in cooperation with NGOs all over the territory. Usually, "ordinary" asylum seekers are entitled to such assistance for six months.

The Italian legislation guarantees – at least on paper – reception to all asylum seekers. But the main problem is that for the 2009/2010 period, approximately only 3,000 accommodation places are available in the "System".





Procedure outcomes and consequences

If asylum is granted, you can get two different forms of international protection.

A Conventional Asylum (or Refugee Status) → Permit of stay valid for 5 years.

- To obtain the permit **for the first time**, you have to go directly to the "Questura" (Police Headquarters).
- To renew the permit, you have to go to the post office and get a postal kit. In other words, when you make your request at the post office, your request will be sent directly to the competent Questura which is the actual decision-making body.
- ▶ The postal kit is not free and you have to pay a sum of money (about 60 euros).

Italian law states that the request for the renewal of the permit must be done between one month before the expiry date and a maximum of up to two months after. If you respect the above legal obligation, you keep the same rights given by your status also during the waiting period for the new permit of stay.

To keep your rights, you are only required to show the expired original permit attached to the original receipt from the post office).

■ Travel document

As a beneficiary of Conventional Asylum/Refugee Status, you can get a "documento di viaggio" (travel document with a grey cover) for 5 years. You will have to pay about 200 euros, and also when you want to renew it. (You are given the possibility to pay about 40 euros each year).

■ Family Reconjunction

Refugees may ask to bring their direct family members to Italy (only husband/wife, children under 18, elderly and helpless parents, etc.).

▶ Refugees are not required to prove a source of income and a place to stay.

■ Citizenship

Refugees may apply for citizenship after 5 years of official and constant residence on the Italian territory and they must also show proof of a legal income for the last 3 years.

B Subsidiary Protection → Permit of stay valid for 3 years.

As far as first permits and renewals are concerned, you must always apply to the competent "Questura" (Police Headquarters).

- ▶ The renewal is up to the competent Commission that decides without another interview whether to renew the permit or not.
- If you are not satisfied, you may appeal to the Civil Court (see below).

■ Travel document

As a beneficiary of Subsidiary Protection, you can get a "titolo di viaggio" (travel document with a green cover) for 3 years. You will have to pay about 120 euros, and also when you want to renew it. (You are given the possibility to pay about 40 euros each year).



■ Family Reconjunction

Beneficiaries of Subsidiary Protection may ask to bring their direct family members to Italy (only husband/wife, children under 18, elderly and helpless parents, etc.).

They are required to prove a source of income and a place to stay.

■ Citizenship

Beneficiaries of Subsidiary Protection may apply for citizenship after 10 years of official and constant residence on the Italian territory and they must also show proof of a legal income for the last 3 years.

* In the two cases above, anyway, the waiting period for obtaining the new permits of stay is very long (sometimes even more than 1 year).

N.B.:

In case neither the "Conventional Asylum" nor the "Subsidiary Protection" is granted, the T. C. can decide two different outcomes:

- a real rejection without granting any form of protection;
- a rejection with the recommendation to the Questura to provide you with a permit "for humanitarian reasons" (see below).
- In both cases, you can make an appeal.

Humanitarian Protection → Permit of stay valid for 1 year.

To renew your permit, you have to apply to the competent Questura.

N.B.: The competent T. C. decides without an interview whether to renew the permit or not.

It is extremely important to specify that - in case the renewal is authorized - there are two different options:

- if the decision was taken after the Decree 251/2007 was effectively implemented (January 19th 2008), the "Humanitarian Status" will be confirmed and consequently the permit will be renewed for only 1 year;
- if the decision was taken prior to the implementation of the above-mentioned Decree, when the notion of "Subsidiary Protection" had not yet been introduced into the Italian legislation, the Humanitarian Status will be automatically converted into "Subsidiary Protection" and consequently a 3 years' residence permit is issued.

■ Travel document

As a beneficiary of Humanitarian Protection, you can get a "titolo di viaggio" (travel document with a green cover) for 1 year. You will have to pay about 40 euros, and also when you want to renew it.

■ Family Reconjunction

Beneficiaries of Humanitarian Protection may ask to bring their direct family members to Italy (only husband/wife, children under 18, elderly and helpless parents, etc.).

They are required to prove a source of income and a place to stay.

■ Citizenship

Beneficiaries of Humanitarian Protection may apply for citizenship **after 10 years** of official and constant residence on the Italian territory and they must also show proof of a legal income for the last 3 years.

What happens if my request has been denied?

If your asylum application is definitively rejected, together with the negative decision/rejection of the refugee status the *Questura* gives another paper ("foglio di via") notifying you that you have 15 days to leave the Italian territory.

▶ In this case you have the right to lodge an appeal to the Administrative Regional Court (TAR) within 60 days.

Where can I find accommodation after I have been granted protection?

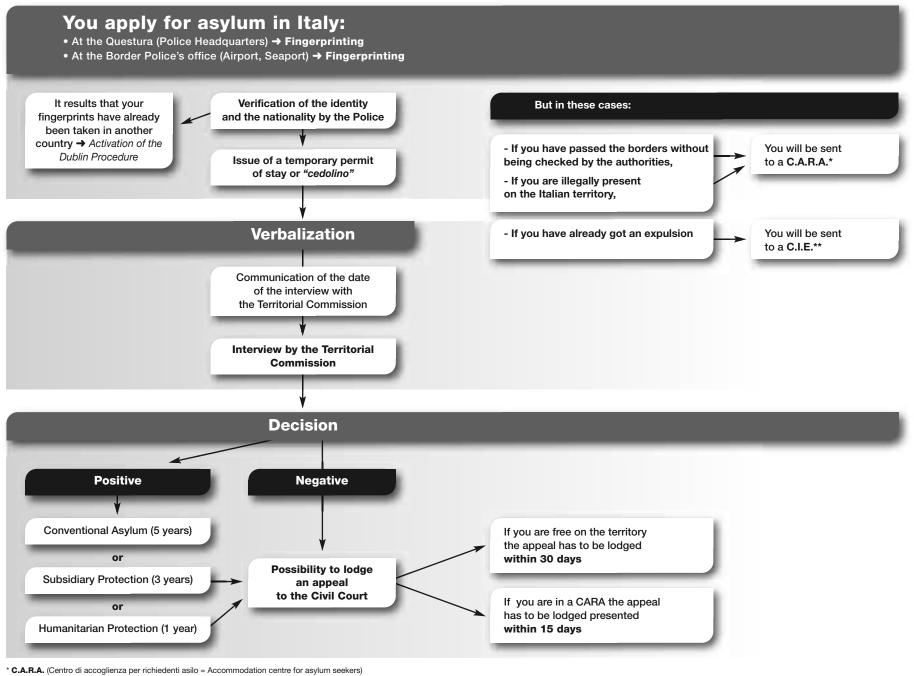
The above accommodation system SPRAR includes not only asylum seekers but also refugees and people entitled to Humanitarian or Subsidiary Protection. But once the status of the applicant has been determined by the Territorial Asylum Commission there is no quarantee whatsoever that reception and assistance are continued.

In practice, once the status is determined, the former asylum seekers may stay in the centres for a limited amount of time (6 months maximum) which can be extended to 1 year for particularly vulnerable cases. Some centres are equipped to facilitate vulnerable cases (approximately 450 places were assigned to this category in 2009).

Unfortunately, many people are unable to live independently after being dismissed from the centre.

Consequently, many foreigners entitled to International protection live in spontaneous gatherings, occupied buildings etc. and do not dispose of a regular income.

▶ If you find yourself in such a position, you can ask for assistance from the municipalities, charity organizations, NGOs (see p. 14 "Contact Information"). For instance, if you want a place to stay, you should go to the local Municipality (Ufficio Immigrazione), carry your permit of stay and make your request. Your name will be put on a waiting list until further notice.



^{**} C.I.E (Centro di identificazione ed espulsione = Centre of identification and expulsion)

Contact information

Support organizations for asylum seekers, refugees and stateless persons

■ CIR Onlus / Consiglio Italiano per i Rifugiati (Italian Council for Refugees):

Via del Velabro, 5/A - 00186 Roma

Phone: 0039/06/69200114 - Fax: 0039/06/69200116 E-mail: cir@cir-onlus.org - Website: www.cir-onlus.org

Activities: Legal and social counselling and support to asylum seekers, refugees, beneficiaries of humanitarian and subsidiary protection.

■ Centro Astalli:

Via degli Astalli,14/A - 00187 Roma

Phone: 0039/06/69700306 - Fax: 0039/06/69782898 E-mail: astalli@jrs.net - Website: http://www.centroastalli.it

Activities: Legal and social counselling, medical and psychological support to asylum seekers, refugees, beneficiaries of humanitarian and subsidiary protection.

■ Caritas Diocesana di Roma:

Via delle Zoccolette, 19 - 00186 Roma

Phone: 0039/06/6875228-6861554 Fax: 0039/06/6833295

E-mail: area.immigrati@caritasroma.it - Website: http://www.caritasroma.it

Activities: Legal and social counselling, medical and psychological support to asylum seekers, refugees, beneficiaries of humanitarian and subsidiary protection, and also to immigrants.

■ UNHCR - United Nations High Commissioner for Refugees

(ACNUR – Alto Commissariato delle Nazioni Unite per i Rifugiati)

Via Alberto Caroncini, 19 - 00197 Roma

Phone: 0039/06/802121 - Fax: 0039/06/80212324

Phone / Protection Section: 0039/06/80212.308 - .309 - .310

Fax / Press Agency: 0039/06/80212325

E-mail: itaro@unhcr.org - Website: itaropi@unhcr.org

■ OIM (International Organization for Migration)

Via Nomentana, 62 - 00161 Roma

Phone: 0039/06/44231428 – Fax: 0039/06/4402533 E-mail: mrfrome@iom.int – Website: www.iom.int

Activities: Established in 1951, OIM is the main intergovernmental organization dealing

with migration issues. Italy is one of its founding Countries.

Administrations

■ Questura / Roma (Police Headquarters):

Ufficio Immigrazione (Immigration Office) Via Teofilo Patini - 00155 Roma

Phone: 0039/06/46861

E-mail: urp.rm@poliziadistato.it

■ National Commission for the Right of Asylum:

(Department for Civil Liberties and Immigration / Ministry of the Interior)

c/o Caserma S. Marcello

Via SS. Apostoli, 16 - 00187 Roma

Phone: 0039/06/69767692 - Fax: 0039/06/69000122

Activities: It monitors and manages the 10 Italian Territorial Commissions for the Recognition of the International Protection (Roma, Bari, Caserta, Crotone, Foggia, Gorizia, Milano, Siracusa, Torino and Trapani); furthermore, it establishes organizational criteria and guarantees uniformity of orientation.

N.B.: Each **Territorial Commission** examines the applications for international protection lodged in its district of competence.

■ Territorial Commission for the Recognition of the International Protection / ROMA:

c/o Caserma S. Marcello

Via SS. Apostoli, 16

00187 Roma

Phone: 0039/06/69767617 - Fax: 0039/06/69767616

Activities: The Territorial Commission of Rome examines the applications for international protection lodged in the regions Lazio, Abruzzo, Sardegna, Toscana, Marche and Umbria.

■ Dublin Unit:

Department for Civil Liberties and Immigration / Ministry of the Interior

Palazzo Viminale – Piazza del Viminale - 00184 Roma F-mail: dublino@interno.it - Website: www.interno.it

Activities: It is competent mainly for the implementation of the Dublin II Regulation.

■ Ufficio Immigrazione (Immigration Office):

Comune di Roma (Municipality of Rome)

Via Assisi, 39 - 00181 Roma

Tel. 0039/06/7885.1535 - .1225; 06/7847792; 06/7850995 - Fax: 0039/06/78358763

http://www.comune.roma.it

Activities: It is competent for the network of the reception centres within the Municipality of Rome.

Transnational Dublin project

Transnational advisory and assistance network for asylum seekers under a Dublin process

In order to overcome the shortcomings of the Dublin II Regulation, the French association Forum réfugiés coordinates a 18-month project which aims to develop tools for comprehensive and reliable information on the procedure of the Dublin Regulation and the asylum national systems and monitoring tools for asylum seekers placed under the Dublin procedure.

The main objective of this project is to create a european network of associations providing follow-up and assistance to asylum seekers in their charge, finding themselves under the Dublin procedure.

Dublin II Regulation: Council Regulation No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member States responsible for examining an asylum application lodged in one of the Member States by a third-country national.

European partner organizations:

Asyl in not (Austria), Italian refugee Council (Italy), Comisión Española de Ayuda al Refugiado (Spain), Danish Refugee Council (Denmark), Dutch refugee council (Netherlands), Forum réfugiés (France), France Terre d'Asile (France), Helsińska Fundacja Praw Człowieka (Poland), Hungarian Helsinki Commitee (Hungary), Irish Refugee Council (Ireland), Jesuit refugee service (Romania), Organisation Suisse d'Aide aux Réfugiés (Switzerland), Vluchtelingenwerk Vlaanderen (Belgium).