

ITALY

This information sheet outlines key information for people seeking legal help who are impacted by the crisis in Afghanistan.

This includes people who are currently:

1. In Italy seeking asylum/protection;
2. In Afghanistan (or another country) and want to relocate to Italy

This information is collated by a collective of legal actors to support legal needs arising from the crises in Afghanistan. Should you have any updates or resources you would like included please contact: grfpledge@pilnet.org.

PILnet, APNOR, APRRN, and AMERA are unable to provide direct legal assistance or referrals, but if you are an asylum seeker, refugee or stateless person in need of legal assistance please see the list of local legal aid providers and their contact details [below](#). In addition to this contact information, you can find further details about local legal aid providers in the countries covered on the country pages of [UNHCR Help](#) or AMERA's [Rights in Exile](#) platform.

PEOPLE ALREADY IN ITALY

People who are in Italy and wish to apply for asylum can find information about their options here:

In Italy applications for international protection (refugee status and subsidiary protection) or so-called “special protection” are determined by a dedicated office of the Italian Interior Ministry and governed by Legislative Decree no. 25/2008.

- **Refugee status** is available to any person who fears persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group and who,
 - is not in their country of nationality and does not request that country's protection due to such fear; or
 - if the person is stateless, is outside her/his former habitual residence and cannot or, due to such fear, does not want to return.
- **Subsidiary protection status** is available to those who do not qualify as a refugee, but for whom there are substantial grounds for believing that she/he would face a real risk of suffering serious harm if sent back to:
 - their country of origin;
 - the country of habitual residence in the case of a stateless person

- **Special protection:** in case of rejection of the application for international protection, when the person risks being to be the object of persecution or where there are well-founded reasons to believe that the person is at risk of being subjected to torture or inhuman or degrading treatment or degrading treatment, or where there are constitutional or international obligations of the Italian State, the Territorial Commission transmits the acts to the local authority (*Questura*) for the issue of a residence permit for special protection.
 - The special protection permit can also be issued even if there are reasonable grounds to believe that the removal from the national territory would lead to a violation of the right to respect for his private and family life (unless there are national security reasons).

There are **seven steps** to the application process:

1. Declaration of intention. Applicants declare their intention to apply for international protection to the border police or asylum services.
2. Identification. Police to record the applicant's personal data, such as name, surname, place and date of birth, nationality, photo, and fingerprints.
3. Registration of application. Applicants fill out specific registration forms.
4. Dublin competence. Authorities verify whether they have competence to decide on the request for international protection according to the Dublin Regulation which requires asylum seekers to be processed in the first EU country that they arrive in. For more information on the Dublin process, please see [here](#).
5. Interview. Applicants are interviewed on the facts of their asylum claim by the Territorial Commission and are given the opportunity to submit evidence.
6. Decision. The Commission assesses the application and hands down a decision.
7. Appeal. Applicants are given an opportunity to appeal the decision of the Commission in Court.

For further information about the asylum process and help with the application process phase please see the official guide published on the Ministry of the Interior website [here](#).

For help with the application process please see the 'free legal help' section [below](#).

PEOPLE WISHING TO RELOCATE TO ITALY DUE TO **RISK OF HARM**

Afghan nationals who are currently at risk of harm can apply for or use the following pathways for asylum:

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Humanitarian Corridor

- A humanitarian corridor is a safe route via which endangered civilians are provided with aid and/or are evacuated. It has four general phases:
 1. Organizations send experts to the country in question who, in collaboration with local actors, draw up a list of potential beneficiaries.
 2. Each recommendation is checked by the heads of the organizations and then sent to the Italian Ministry of the Interior for further assessment.
 3. Once the checks are complete, lists of potential beneficiaries are sent to the Italian consular authorities of the relevant countries, who issue, if deemed appropriate, "humanitarian visas with limited territorial validity" for Italy.
 4. Upon arrival in Italy, the persons are welcomed by the project promoters who host them in facilities around the country and provide various measures to enhance integration. They may apply for international protection and are assisted in doing so.

Humanitarian Corridor for Afghanistan

- On 4 November 2021, the Italian Ministries of Interior and Foreign Affairs as well as several NGOs and international organizations signed a memorandum of understanding on humanitarian corridors for Afghanistan (available in Italian [here](#) - the participating organizations are also noted therein).
- Italian authorities have pledged to take in 1200 people eligible for international protection over two years.
- The programme will prioritize those who are particularly vulnerable due to their age, health, or personal situation.
- Additionally, authorities will also take into account: (i) any family links, (ii) past activities that result in heightened risk, (iii) collaboration with Italian organizations or missions in Afghanistan, (iv) vulnerability that cannot be addressed in a country of transit, (v) people who can best benefit from the support of NGO partners, and (vi) people who were included in the August evacuation but were unable to leave due to security reasons.

Humanitarian visa (art. 25 of the Visa Code - Regulation No 810/2009)

- The so-called humanitarian visa may constitute an instrument through which a citizen of a third country could legally access the territory of the EU. However, it is a mechanism to which Member States have so far applied a very limited and largely discretionary application.
- Recently, the Tribunal of Rome, with a decision of 21.12.221, acknowledging the existence of an imminent and current risk for the two applicants in Afghanistan, had recognised their right to the issuance of a humanitarian visa pursuant to art. 25 of the Visa Code, acknowledging the existence of an imminent and current risk for the two applicants in Afghanistan. But this decision by the Court of Rome was later refuted by the same Court in the subsequent appeal, affirming that the humanitarian visa does not exist in Italian law nor can it be imposed by European law and, therefore, "its issue

cannot be granted by the public administration, which is obliged to comply with the law, nor can it be imposed by a judicial authority.”

- **In practice, only a few of these visas have been authorized and only in cases where there was a sponsor available to guarantee for the applicants’ accommodation in Italy.**

Resettlement Programme

- Resettlement is the transfer of refugees from an asylum country to another that has agreed to admit them and ultimately grant them permanent residence. To date, however, such a programme has not been instituted.

For help with the application process please see the ‘free legal help’ section [below](#).

PEOPLE WISHING TO RELOCATE TO ITALY WITH FAMILY LINKS

People currently in Afghanistan (or other countries) who have family members in Italy and want to relocate:

Family reunification allows non-EU citizens legally residing in the Italian territory (sponsor) to request the entry of their family members (under the Consolidated Immigration Act), which provides for this possibility under several conditions as detailed below.

Eligibility

Family reunification is eligible for the:

- Spouses (or partners in a civil union) not legally separated and not less than eighteen years old;
- Minor children, including those of the spouse or born out of wedlock, not married, provided that the other parent, if any, has given his or her consent;
- Dependent adult children who are unable to provide for their own indispensable living needs due disability;
- Dependent parents, if they have no other children in the country of origin or provenance, or parents over sixty-five years old, if the other children are unable to support them serious health reasons; and
- Parents only if the unaccompanied minors obtained the refugee status or the subsidiary protection, without having to prove income and housing requirements.

For the purposes of reunification, children under eighteen years of age when the application for reunification is submitted are considered minors. Adopted or foster children or children under guardianship shall be treated as children. Furthermore, the entry for reunification with the minor child, already legally residing in Italy with the other parent, of the natural parent who demonstrates the possession of the requirements of availability of accommodation and income referred below is allowed.

Sponsor prerequisites

The sponsor must:

- Have an **EU long-term residence permit** (former *carta di soggiorno*); or
- Have a **residence permit** valid for at least one year, issued for subordinate or autonomous work reasons or for family, asylum/international protection/humanitarian or religious reasons¹; or
- Have an **entry visa** valid for at least one year, issued for subordinate or autonomous work reasons or for family, study or religious reasons or for the entry of an accompanying family member; or
- Be a beneficiary of international protection.

Furthermore, the sponsor must have a **minimum annual income** from lawful sources not less than to the annual amount of the social allowance and an **adequate housing**, provided with the hygienic and sanitary requisites certified. These requirements do not apply if the sponsor is a holder of international protection.

Procedure

- **The foreign citizen in Italy must apply for the authorisation for family reunification** (*nulla osta*) at the Single Desk (*Sportello Unico*) at the local government office (*Prefettura*) of his place of residence.
- **The request must contain a series of documents attesting to the above-mentioned requirements** (i.e. a photocopy of the residence permit, passports, marriage and family certificate of the applicant, documentation attesting to income etc.). The application for the *nulla osta* and all the required documentation, can only be submitted through the computerized procedure, by means of the dedicated [portal](#) of the Ministry of the Interior.
- **Once the request has been made, the applicant is summoned to the *Sportello Unico*** to verify the legal requirements and to present the originals of the required documentation.
- **In the meantime, the *Prefettura* is obliged to verify that there are no reasons for hindering access to Italian territory from the competent Police Headquarters (*Questura*).** The *Prefettura* decides on the *nulla osta* based on any potential reasons as well as the supporting evidence submitted. This can be appealed before the competent Court.
- **The authorisation for family reunification must be issued within 90 days of the application.** After this, in the absence of a decision, the family member residing abroad may submit an application for an entry visa for family reasons directly to the Diplomatic or Consular Representation, showing a copy of the documents sent to the Single Desk marked with the date on which the application was submitted.

¹ Please note that even the simple possession of the receipt for the renewal of the expired residence permit entitles the foreigner to apply for the *nulla osta* for family reunification. On the other hand, a citizen who is waiting for the first permit to be issued is not entitled to it until he/she is summoned for a photo identification.

- If the *nulla osta* is issued, **the Italian Embassy of the country of origin of the family member seeking to enter Italy verifies family ties**, in the absence of obstacles, **issues the visa within 30 days**.
- **Once the visa is issued, the family members must request an appointment through the CISI** (Immigration Information and Services Centre) **within 8 days of their arrival** to complete the entry procedure at the Single Desk for Immigration. At the end of such procedure, they obtain a residence permit for family reasons.

Enhanced protection for persons enjoying international protection

- Holders of refugee and subsidiary protection status have an enhanced protection in regard to the family reunification procedure. The holder of international protection has the right to family reunification for the same categories of family members provided by general discipline but without the requirements established for the availability of housing as well as minimum annual income.
- Where a refugee cannot provide official documents proving his or her family ties, because of his or her status, or because of the lack of a recognized recognised authority or the alleged unreliability of documents issued by the local authority, the diplomatic or consular representations shall issue the certifications or allow self-certification.
- This interpretation has also been confirmed by the Ministry of Foreign Affairs and International Cooperation, which in a note dated 07.09.2021 stated, in regard to the situation in Afghanistan, that *"where it is not possible to obtain documents to prove the family relationship, it is allowed the presentation of self-certification of the applicant already resident in Italy that confirming the relationship"*.

Challenges with the reunification procedure

- The massive volume of applications has lead to delays which do not take into account the emergency nature of the critical Afghan situation and the need to quickly receive feedback from authorities.
- In order to obtain the entry visa, the *nulla osta* must be issued by the Italian Embassy in Afghanistan. However, the Italian embassy in Kabul has been evacuated and is no longer operational.
- The long response times of the Italian Embassy can be a serious problem for the family reunification procedure, also because the expiration period of the *nulla osta* is intended to be six months.

Assistance with procedure

- The documentation to be attached to the application and the guidance on the process/form can be found [here](#).
- You can get help with this application by contacting: **Associazione NAGA ODV** (you can fill the format on this [page](#) or send an email to naga@naga.it)

For help with the application process please see the 'free legal help' section [below](#).

FREE LEGAL HELP

The following organisations or legal service providers can support with free legal help for those already in the UK:

1. People in Italy

For people wishing to remain in Italy you can contact the following organizations to seek support with your application:

CILD – Coalizione Italiana per le Libertà e i Diritti Civili

- Advocacy on immigrants' rights and collection of data on migration in Italy, legal aid to migrants requesting asylum, illegal detention, access to healthcare, education and justice, discrimination issues for specific groups.
- **Website:** www.cild.eu
- **Email:** info@cild.eu; cipbra@cild.eu;

International Rescue Committee

- Several projects running in Afghanistan regarding critical information on resettlements, cash assistance to families, health programs (particularly for women), education, resettlement schemes in the US. All these programs appear to be very US-centric. In Italy they focus on the most vulnerable migrants (children and women) mainly through refugee.info, an online platform giving information on migrants' rights.
- **Website:** www.rescue.org
- **Email:** elena.caracciolo@rescue.org

Refugees Welcome Italia Onlus

- Promotion of the social inclusion of refugees and young migrants who have arrived in Italy as unaccompanied minors through a series of activities that involve the direct involvement of citizens: welcoming families, mentoring, solidarity-based cohabitation.
- **Website:** <https://refugees-welcome.it/>; <https://refugees-welcome.it/cerca-aiuto/>

Community of Sant' Egidio Onlus

- Several projects to support and assist migrant people, including the implementation of the humanitarian corridors.
- **Website:** <https://www.santegidio.org/pageID/30100/langID/en/Migrants.html>
- **Email:** info@santegidio.org

2. People currently in Afghanistan (or other countries)

For people wishing to apply for a visa or help somebody else apply for a visa to Italy you can contact:

UNHCR (UN Refugee Agency) – Afghanistan

- Activities aimed at saving lives, protecting rights and building a better future for refugees, forcibly displaced communities and stateless people.
- **Website:** <https://www.unhcr.org/afghanistan.html>
- **Email:** afgka@unhcr.org

Fondazione Pangea Onlus

- Promotion of the economic and social development of women, their families and surrounding communities. The organization has worked in Kabul for over 19 years, starting in 2003. When the Taliban seized power in August 2021, Pangea's initial priority was to rescue Afghan staff who had worked with them over the years, to help those women and their children, but Pangea has since reorganized and resumed their work with the Afghan staff who remain in Kabul. Pangea does not provide direct legal assistance to Afghans more generally, as its primary mission is the provision of humanitarian aid. However, this humanitarian assistance includes Safe Houses for women, children and their families who are under threat from the Taliban and have been unable to flee the country. The Safe Houses provide accommodation, food and protection.
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- **Website:** <https://pangeaonlus.org/en/home/>
- **Email:** l.lopresti@pangeaonlus.org and s.lanzoni@pangeaonlus.org

OTHER USEFUL RESOURCES

ASGI – Association for Juridical Studies on Immigration ([Link](#))

- Membership-based association focusing on all legal aspects of immigration.
- As a pool of lawyers, academics, consultants and civil society representatives, ASGI's expertise relates to various areas of immigration and migrants' rights, including but not limited to antidiscrimination and xenophobia, children's and unaccompanied minors' rights, asylum and refugee seekers, statelessness and citizenship.
- It constantly monitors the Italian legislative updates to address the Afghan crisis.

DISCLAIMER

This information sheet outlines key information on Italian asylum and immigration law and does neither intend to provide a comprehensive overview nor replace legal advice in the individual case.

Please note the draft was prepared by DLA Piper on April 6, 2022 and reviewed by Coalizione Italiana Libertà e Diritti civili (CILD) on October 3, 2022.

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