



HUMANITARIAN VISAS

SUMMARY

In recent years, Europe has faced one of the most grave refugee crises in its history. In order to help a large number of people fleeing from countries devastated by war, many EU Member States started to issue Humanitarian visas.

This kind of VISA falls within the category of the so-called Protected Entry Procedures (PEPs), which allow a non-national to approach the potential host country **outside its territory**, and guarantee **a legal and safe travel** so the person can claim asylum (or another form of international protection). The VISA is granted through the Embassy or Consulate of the potential host country, but the evaluation of an applicant's application for asylum is still done once he/she reaches the host country.

The VISA granted on humanitarian grounds can be one of three types: National, Schengen or Limited Territorial Validity (LTV) VISA.

These provisions have been in place since 2009. However, following the massive and irregular movement of migrants towards Europe in the last few years, humanitarian VISAs are now also seen as a large-scale legal pathway for refugees, which could stop the death toll along migration routes.

At the time of drafting, a ruling from the European Court of Justice is due. It will outline whether a Member State must issue a VISA on humanitarian grounds, in cases where there are substantial grounds that a refusal would place persons seeking international protection at risk of torture or inhuman or degrading treatment.

A Court's Advocate General, in a non-binding announcement on 7 February, stated that the latter should be the case. Critics fear that this could open up a new route for refugees to come to Europe.

In either case, the ruling is expected to affect Migration policy across all EU Member States.

1. Types of EU VISAs

1.1 National visas ([Schengen Visa Type D](#))

The national visa is granted to individuals in order to study, work or permanently reside in one of the Schengen countries. It is a long-stay visa (i.e. for stays exceeding 90 days, also defined as long-sojourn) and it can be either single entry for people who need to reside in the Schengen country for a short period of time and for a sole purpose after which they shall return to their country, or multi-entry which is granted to certain individuals to allow them to travel in and out of the Schengen country where they reside and, in addition, to travel throughout the Schengen Area.

Need for special or international protection gives states the possibility of issuing national visas, also for humanitarian reasons. This mechanism has so far been deployed by nine EU Member States, eight within the Schengen Area, namely Belgium, Germany, France, Hungary, Italy, Latvia, Luxembourg and Poland, and one non-Schengen EU Member State, the United Kingdom.

1.2. Schengen short-stay visas ([Schengen Visa Type C](#))

The **short-stay visas** allow their holders to reside in any Schengen Country for a certain period of time (i.e. for 90 days in a period of 180 days, also defined as brief-sojourn) depending on the visa validity. It may only be issued when a third-country national meets the entry conditions laid down in art.5 of the [Schengen Convention](#) (possession of a valid document to cross the borders, documents stating the purpose of the visit, sufficient means of support). As in the case of National VISA, this can be single-entry, double-entry and multi-entry.

However, an application for a Schengen visa that does not meet the admissibility requirements set out in the [Visa Code](#) may still be considered admissible on humanitarian grounds.

1.3. Limited Territorial Validity visas

If a State considers it necessary to derogate from the principle laid down in art.5 of the Schengen Convention on humanitarian grounds, national interest or because of international obligation, it may issue a **Limited Territorial Validity** (LTV) VISA, according to art.16 of the Schengen Convention, as an **exception** to the common Uniform Schengen Visa System.

LTV visa is not a separate and independent type of visa that an individual can apply for.. It relies on the discretionary power of the State to grant it to applicants that have applied for an ordinary visa, in case protection needs or human rights issues are involved. The validity of LTV is 30 days.

The LTV VISA is released before the applicant reaches the host-state, in order to guarantee him/her a legal and safe way of travel. As soon as the applicant reaches the host-state, he/she is requested to apply for asylum and this grants the applicant the right to stay until the application is assessed.

However, even if individuals do not possess any legal document for travelling to the Schengen Area, they are still eligible for an LTV visa on humanitarian grounds, national interest or because of international obligation.

An LTV visa is valid only for the territory of one or more Member States, but not all Member States; specifically, it is valid for the first and final destination without the possibility to transit through any other country.

2. Application of provisions for Humanitarian VISA

A study from the LIBE Committee of the European Parliament from 2014¹ reveals that the debate on the issue had been initiated long before the current migration crisis started. Since 2004 the Commission had been encouraging Member States to develop common guidelines and procedures for the issuing of humanitarian visas as a way of ensuring the more orderly arrival of persons with well-founded protection needs.

According to the study, 16 Member States (Austria, Belgium, Denmark, Finland, France, Germany, Hungary, Italy, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Spain, UK) acknowledged at the time the need for some type of humanitarian visa scheme and have used a national scheme for issuing some form of humanitarian visa.

In this paper, a specific case from Italy is presented as a case study.

2.1. Humanitarian Corridors in Italy

The provisions for granting a VISA on humanitarian grounds scheme have been extensively used in Italy, through a successful initiative called “**Humanitarian Corridors**”. The initiative was set up by three religious organisations, Sant’Egidio Community, Tavola Valdese and the Federation of Evangelical Churches, in collaboration with the Italian Government.

A summary of the initiative can be found on the next page:

¹ Study Humanitarian VISAs: Option or Obligation?

[http://www.europarl.europa.eu/RegData/etudes/STUD/2014/509986/IPOL_STU\(2014\)509986_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/509986/IPOL_STU(2014)509986_EN.pdf)

Humanitarian Corridors (Italy)

Humanitarian Corridors is an initiative set up by three religious organisations, Community of Sant'Egidio, the Federation of Evangelical Churches in Italy and Tavola Valdese (coordinators), in collaboration with the Ministry of Foreign Affairs and the Ministry of Internal Affairs of Italy.

The initiative is implemented in Lebanon, Morocco and Ethiopia, which are the gateways for large numbers of refugees who want to reach Europe. Italy, through its consulate based in these countries, provides refugees with a humanitarian VISA that allows them to enter the Italian territory and apply for asylum.

The potential beneficiaries are selected by NGOs or local organisations operating in those territories, which cooperate with the three Italian organisations. The information collected about the potential beneficiaries of humanitarian VISAs is given to the consulate which sends it to the Department for Civil Liberties and Immigration of the Internal Affairs Ministry, which is in charge of verifying whether the criteria for the status of "refugee" are met. If there are no legal obstacles, the Consulate will be authorised to grant a VISA on humanitarian grounds.

The three coordinators cover all refugees' costs to travel to Italy, without financial contribution by the Italian authorities.

More detailed information can be found [here](#).

2.2. Steps of the process

STEP 1- VISA PROCESS:

The procedure through which the humanitarian VISA is granted in the case of the Humanitarian Corridors initiative is the following:

1. The coordinators, through direct contacts or reports provided by local actors (local NGOs, associations, international organisations, churches and ecumenical organisations etc.) operating in the countries involved, prepare a list of potential beneficiaries. Each proposal is verified in advance by the local organisations, as well by the Italian authorities;
2. The lists of potential beneficiaries are sent to the Italian consulate in the respective country to allow monitoring by the Internal Affairs Ministry;
3. Finally, if all of the criteria are met, the Italian consulate in the countries concerned release VISAs with Limited Territorial Validity, according to **art. 25 of the Visa Regulation (EC)** which provides a Member State with the possibility of issuing visas for humanitarian reasons or national interest or because of international obligations.

All the costs (flight, accommodation, etc.) are covered by the coordinators, which receive donations and even organise fund raising events, such as [sports competitions](#), to finance the initiative.

However, it is the role of the Italian State to verify whether there are the legal conditions to grant a humanitarian VISA.

STEP 2 – ACCOMODATION OF THE REFUGEES

Once the refugees reach their final destination, they are welcomed by the FCEI-MH (Italian Federation of Evangelic Churches and Mediterranean Hope) and hosted in houses owned by (or at the disposal of) the churches, or in Evangelic and Catholic shelter centres.

The refugees' final destination has so far been the regions of Lazio, Emilia Romagna, Trentino and Piemonte. Those regions were chosen because the three religious organisations mostly operate in the centre and northern part of Italy. However, the regions have not so far been involved in the procedure; they do not provide any administrative or logistic service, nor contribute financially to the initiative of Humanitarian Corridors.

2.3. A recent case awaiting ruling by the European Court of Justice

On 12 October 2016, a Syrian family applied for visas with limited territorial validity, pursuant to the EU Visa Code, at the Belgian Embassy in Beirut, Lebanon, to allow them to leave the besieged city of Aleppo and apply for asylum in Belgium.

Their applications were refused by the Belgian Immigration Office. The Office justified the decision on the grounds that the Syrian family in question clearly intended to stay for more than 90 days in Belgium and by stating that “[m]ember States are not obliged to admit into their territory all persons finding themselves in a catastrophic situation.”

The decision was challenged by the family and was eventually brought to the European Court of Justice. A court's Advocate General advised that the situation of the Syrian family is governed by the Visa Code and, therefore, by EU law. This would require Member States to issue a visa on humanitarian grounds in a situation where there is a serious risk of torture and inhuman or degrading treatment or punishment in particular (prohibited by Art. 4 of the EU Charter of Fundamental Rights), irrespective of whether there are any links between the person concerned and the requested Member State.

The European Court of Justice's decision is pending and, at the time of writing, is expected in a few weeks.



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The Conference of Peripheral Maritime Regions (CPMR) brings together some 160 Regions from 25 States from the European Union and beyond.

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