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A PRACTICAL NOTE

EXTRADITION TO IRAN

From Italy: no treaty, the Code alone, Italian and dual nationals, the death penalty, refugees, and arrests used as leverage

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When Iran asks Italy for a person, there is no treaty to apply. Italy and the Islamic Republic have never concluded one, and no European or multilateral instrument binds them in this field: the request is governed by the Italian Code of Criminal Procedure alone, case by case, and the Minister of Justice has the last word. That changes a great deal. Italian citizens cannot be surrendered at all. The court must find serious evidence of guilt, not merely check the documents. And the grounds of refusal weigh here with particular force: the death penalty for drug trafficking and for broad offences against the State and the economy, flogging, Revolutionary Courts, and torture in detention documented by United Nations bodies. Many of those Iran asks for are refugees, dissidents or dual nationals, wanted for fraud or corruption.

AT A GLANCE *from arrest to surrender*

TIME IS NOT TO SCALE

Day 0	≤ 96 h	≤ 5 days	10 days	40 days	Months	Months	45 days	15 + 20
ARREST	**VALIDATION**	**FIRST HEARING**	**MINISTER**	**IRANIAN REQUEST**	**COURT OF APPEAL**	**CASSATION**	**MINISTER**	**SURRENDER**
Interpol red notice; airport, border or hotel check-in	On paper, by the President of the Court of Appeal	Consent, speciality: with counsel	Must ask to keep custody, or it ends	Request, warrant and documents (art. 715 c.p.p.)	Serious evidence of guilt and grounds of refusal	Appeal on the merits as well as the law	Political decision; may refuse	Days from the date set; then release (art. 708 c.p.p.)

■ Peremptory: if missed, custody ends. ■ Not peremptory: nobody is released. Maximum custody pending extradition: 1 year without a favourable judgment, 1 year 6 months with a Cassation appeal pending, extendable once by up to 3 months.

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SEE ALSO **Arrested in Italy: the first hours** the general note, in seven languages · **About the author**

"Defendant" is used throughout for the person whose extradition is sought (in Italian, *estradando*). It is written to be read as a guide, not as a technical paper: case law is referred to by court and year only, and full references are available to counsel on request. This note describes professional activity and is not advice on any particular case, nor an offer of services in any particular matter. Law and case law as in force on 7 November 2026.

This note is for whoever takes the call first: a relative, an employer, or defence counsel in Iran or elsewhere. It sets out what happens after an arrest in Italy on an Iranian request, under which rules, in what order, and what can still be done while it happens, and closes with a short box on the reverse route, from Iran to Italy. It leaves aside Italian domestic investigations and European arrest warrants, which follow different rules and are covered in a separate note, Arrested in Italy: the first hours.

How to appoint a defence lawyer in Italy

The person arrested appoints counsel by a formal declaration (*nomina del difensore di fiducia*, appointment of counsel of choice): at the arrest, at the first hearing, or in prison at the registry office (*ufficio matricola*). Up to two lawyers may be appointed.

A close relative can appoint counsel on the person's behalf until the person does so personally: spouse or civil partner, parent, child, brother or sister, and other close relatives (*prossimi congiunti*). A friend, an employer, a company or an adviser cannot, whoever is paying. The relative signs a short appointment and must prove the family link.

Documents to have ready: the identity document of the person arrested (both sides) and full personal details as in the passport, including any Italian or other EU passport and the Italian residence permit; place and time of the arrest; the identity document of the relative who signs; proof of the relationship, with a translation if possible; any paper handed over at the arrest, photographed in full; any Iranian judgment, summons or decision already in the family's hands; and, above all, **any refugee or asylum decision and travel document issued by another State**. For house arrest, add the documents for an address in Italy (title or lease, the host's signed statement and identity document).

A signed scan sent by email to counsel is enough to start: counsel files it with the court and the prison. Keep the original. More detail in Arrested in Italy: the first hours.

1 THE RULES THAT APPLY

NO TREATY: THE CODE, CASE BY CASE

There is **no extradition treaty between Italy and Iran**, and no multilateral instrument links the two States in this field: no European arrest warrant, no Council of Europe Convention, no simplified procedure. When Iran asks, its request is handled under the Italian Code of Criminal Procedure alone (arts. 697 to 722 c.p.p.), on the basis of international comity and, where the Minister of Justice requires it, of an assurance of reciprocity. A United Nations convention to which both States are parties, such as the Convention against Corruption, may be cited in a request; it allows cooperation, but it does not oblige Italy to surrender anyone and it does not displace the Italian grounds of refusal.

The absence of a treaty is not a gap: it is a regime of its own, and on several points a stricter one. **Italian citizens cannot be extradited**, because Article 26 of the Constitution allows it only where a convention expressly provides for it. The Court of Appeal must find **serious evidence of guilt** (*gravi indizi di colpevolezza*) or a final conviction (art. 705(1) c.p.p.). And the bars of arts. 698 and 705(2) c.p.p., on persecution, the death penalty, fair trial, cruel, inhuman or degrading punishment, health and age, apply in full, with nothing in a treaty to soften them.

Above the Code sit the Constitution, the European Convention on Human Rights, which binds Italy whoever the requesting State is, the 1951 Refugee Convention with its rule of non-refoulement, and the UN Convention against Torture. Iran is not a party to the Convention against Torture; Italy is, and the duty not to send a person to a risk of torture is Italy's own.

THREE TEXTS ON THE TABLE

THE SOURCES

1
THE CODE OF CRIMINAL PROCEDURE

The only procedural law that applies: custody and its limits (arts. 714–716), serious evidence of guilt (art. 705(1)), the grounds of refusal (arts. 698 and 705(2)), the Court of Appeal and the Court of Cassation (arts. 701–706), the Minister's decision (art. 708).

2
THE CONSTITUTION

No extradition of Italian citizens without a convention (art. 26); none for political offences (arts. 10 and 26); and the absolute bar on the death penalty, as read by the Constitutional Court in 1996.

3
INTERNATIONAL AND EU LAW

Article 3 ECHR on torture and prisons; non-refoulement under the 1951 Refugee Convention; INTERPOL's own rules on refugees; and, for citizens of the EU, the *Petruhhin* mechanism.

ITALY AND IRAN: THE FRAMEWORK, 1996–2026

1996	The Constitutional Court holds that the death penalty bar is absolute: no assurance by the requesting State can overcome it.
2016	An Iranian blogger recognised as a refugee in the United Kingdom is arrested at a hotel near Lake Como on an Iranian alert; the Court of Appeal of Milan releases him on the sixth day.
2017	INTERPOL adopts and publishes its Policy on Refugees.
2023	The Court of Cassation bars extradition where there is substantial evidence of political persecution.
2024	The Court of Cassation holds that an arrest for an offence punishable by death in the requesting State is not lawful, nor is custody pending extradition.
2025	An Iranian engineer arrested in Milan at the request of the United States is released on the Minister's request, days after an Italian journalist is freed in Tehran. The Court of Appeal of Sassari releases an Iranian-Dutch businessman arrested on an Iranian request for fraud.
2026	Amnesty International reports at least 2,159 executions in Iran in 2025, 998 of them for drug-related offences.

FURTHER READING

SITE **Political persecution bans extradition** Court of Cassation, 2023, in English.

SITE **Interpol: a weapon against human rights defenders?** in English.

2 ITALIAN AND DUAL NATIONALS

AN ABSOLUTE BAR, AND A PASSPORT IRAN DOES NOT SEE

Because there is no treaty, **an Italian citizen cannot be extradited to Iran**. Article 26 of the Constitution allows the extradition of citizens only where an international convention expressly provides for it, and none does. This is a bar for the court to apply, not an option left to the Minister. Where Iran prosecutes an Italian citizen, the alternatives are a trial in Italy, where the conditions of arts. 9 and 10 of the Criminal Code are met, or a trial in Iran in the person's absence.

Many of those Iran asks for hold a second nationality. Iran does not recognise the foreign nationality of its own citizens: for the Iranian authorities they are Iranian, and that is how they are treated if they are surrendered or travel there, as a rule without consular access for the other State. Before an Italian court, Italian citizenship decides the matter. Where the person is a citizen of another EU Member State,

Italy must first inform that State, which may ask for the person with a European arrest warrant; the Court of Cassation applies this mechanism even where no treaty mentions it (Court of Cassation, 2024 and 2025).

A second passport cuts both ways: it protects, and in the decision on custody it can be read as a means of flight. It should be addressed with documents, not ignored.

FURTHER READING

- SITE **Petruhhin requires consultation of the EU State of nationality** Court of Cassation, 2024 (in Italian).
- SITE **Petruhhin mechanism prevails over bilateral treaties** Court of Cassation, 2025.
- SITE **Dual nationality in extradition proceedings** in English.
- LINKEDIN **A second passport, and the extradition cell door stays shut** in English.

3 HOW IT STARTS, AND HOW FAST

A RED NOTICE, A HOTEL DESK, A FORTY-DAY CLOCK

Iranian cases almost always begin with a provisional arrest on an Interpol red notice or diffusion: at an airport, at a border, or after a hotel check-in, since Italian hotels transmit their guests' details to the police automatically. The alert may be many years old, and the person may be travelling on a refugee travel document issued by another State. That does not stop the arrest. The Court of Cassation has held that the police must execute the alert once the conditions of the Code are met, and that refugee status granted by another State is for the court to weigh, not for the officer at the desk (Court of Cassation, 2025, in a case argued by the author; the Court of Appeal had nonetheless refused any custody, because a refusal of extradition was foreseeable).

One exception matters for Iran above all. Where the offence is punishable by death under the law of the requesting State, the arrest itself is not lawful, and no custodial measure can be applied with a view to surrender (Court of Cassation, 2024). Drug trafficking above certain quantities, armed offences against the State and the broad offence of "corruption on earth" all carry the death penalty in Iran. The point must be raised at validation, not months later.

The arrest is validated on paper by the President of the Court of Appeal within four days, without hearing the defendant, and the Court of Appeal then decides on custody. No coercive measure may be ordered where there are reasons to believe that the conditions for a judgment in favour of extradition are lacking (art. 714(3) c.p.p.). In Iranian cases this is the first argument: a refugee decision issued by another State, the death penalty, or the political profile of the person can lead to release within days.

Within ten days of validation the Minister of Justice must ask that the measure be maintained, or it lapses. Under art. 715(6) c.p.p. the measure is revoked if the request and its documents do not reach the Ministry within forty days, and the documents must include the Iranian warrant or judgment itself (Court of Cassation, 2025). The case then moves to the Court of Appeal and to the Court of Cassation, which in extradition reviews the merits as well as the law; the appeal must be lodged within fifteen days. The Minister then has forty-five days to decide on surrender.

FURTHER READING

- SITE **Interpol arrest and custody unlawful where the death penalty is at stake** Court of Cassation, 2024, in English.
- SITE **Interpol red notice and refugee status** Court of Cassation, 2025, in English.
- SITE **Forty days: the foreign arrest warrant must arrive too** Court of Cassation, 2025 (in Italian).
- SITE **Interpol red notice in Italy** in English.

4 THE MINISTER OF JUSTICE

IN THE CASE FROM DAY ONE, AND THE LAST WORD AT THE END

In extradition the Minister of Justice is a second decision-maker, with political powers that run in parallel to the court's from the moment of the arrest. Without a treaty those powers are at their widest: there is no obligation to surrender, only the Code and the Minister's assessment. The defence can act on two fronts at once: before the Court of Appeal, and by written submissions to the Ministry on refugee status, persecution, the death penalty, family ties in Italy, health, or the possibility of trying the person in Italy.

EXTRADITION ONLY: THE MINISTER IS IN THE CASE FROM DAY ONE

- **Release at any time.** If the Minister asks the court to lift custody, the court must do so (art. 718 c.p.p.).
- **Let custody lapse.** Without the Minister's request to maintain it, custody ends ten days after validation.
- **Have the last word.** A favourable judgment, or even the defendant's consent, does not make extradition compulsory: the Minister decides, and may refuse (art. 708 c.p.p.). A judgment against extradition binds the Minister.
- **Be reviewed.** The Minister's decree is an administrative act that can be challenged before the administrative courts.

ARRESTS AS LEVERAGE: THE 2024–2025 PRECEDENT

- **The arrest.** On 16 December 2024 an Iranian engineer was arrested at Milan Malpensa airport at the request of the United States, which accused him of supplying drone technology in breach of US sanctions law.
- **The arrest in Tehran.** On 19 December 2024 an Italian journalist was detained in Tehran. Iran denied any link between the two cases. She was released on 8 January 2025.
- **The Minister.** On 12 January 2025 the Minister of Justice asked the Court of Appeal of Milan to revoke custody under art. 718 c.p.p., stating that double criminality was not met for the main charge. The court released the engineer the same day, and he flew to Tehran.
- **What it shows.** The Minister's power is real and fast, and Iranian cases are rarely only judicial. Detentions of foreign and dual nationals in Iran have been documented by human rights organisations as a means of pressure. Families should tell counsel at once of any contact or pressure from Iranian authorities.

The Minister's powers have limits too. Where surrender is postponed, custody cannot continue for an indefinite period at the Ministry's discretion: personal liberty prevails over the interests of international cooperation (Court of Cassation, 2004). Reservations about the harshness of the foreign penalty system, which do not always bar extradition before the courts, are precisely the kind of argument the Minister can weigh (Court of Cassation, 2019).

FURTHER READING

SITE **Personal liberty prevails over the needs of international cooperation** Court of Cassation, 2004 (in Italian).

SITE **Severe penalties are for the Minister to weigh** Court of Cassation, 2019 (in Italian).

LINKEDIN **The role of the Ministry of Justice in extradition** the second decision-maker.

5 THE FIRST HEARING

NOT A FORMALITY, AND NOT A HEARING TO SIT THROUGH

The first hearing before the Court of Appeal is short, and it is often treated as routine. It is not. Three things happen there.

WHAT HAPPENS AT THE HEARING

FIRST HEARING

1

IDENTIFICATION

The judge checks that the person arrested is the person wanted. Persian names are transliterated in many ways (Mohammad, Mohammed, Mohamad; Hosseini, Hoseini), and Iranian documents use the solar calendar: the names, the date of birth converted to the Gregorian calendar and the passport or national ID number must match the request.

2

CONSENT OR REFUSAL

The defendant is asked whether they consent to extradition. Consenting to surrender to Iran can mean consenting to a Revolutionary Court, to corporal punishment or to the risk of a death sentence. It is never given at the first hearing, and never without counsel.

3

SPECIALITY: NEVER WAIVE IT

The person extradited may be tried or detained only for the facts for which extradition was granted (art. 699 c.p.p.). Italian law allows an express waiver of that protection. Waiving it gains nothing, and the answer is no.

Nothing about the facts, and no consulate unless wanted

The defendant should give name and identity documents and say nothing about the facts until counsel is present. Silence carries no penalty in Italy. Whatever is said about the facts at an Italian hearing is on the record of the case, and the record travels to the Iranian prosecutor.

Under the Vienna Convention on Consular Relations, the consulate is informed of the arrest only if the detained person asks. **A refugee or a dissident should say clearly that they do not want the Iranian consulate informed**, and should not meet Iranian officials without counsel.

How to choose a defence lawyer

Counsel is mandatory in Italy: if no lawyer is chosen, a court-appointed one is assigned at the arrest. That lawyer is not paid by the State but by the client, and court-appointed lawyers are rarely equipped for an extradition case, in procedure or in languages.

Look for specific experience in extradition, refugee law and international cooperation, the ability to work in English and with a trusted Persian interpreter, contacts with human rights organisations, and a clear written quotation before any work begins.

Never ask the Iranian consulate for a lawyer if the person is a refugee or fears persecution. A consulate's list of local lawyers is a courtesy, not a recommendation, and in these cases it may be worse than none.

Check who is asking for money. Verify the lawyer's name on the bar register, call back on a number you found yourself, and pay only by bank transfer into an account in the name of the lawyer or the firm, against an invoice. Refuse any request for cash or for a transfer to a company abroad.

What is seized, and where it goes

At the arrest the police usually seize what the person carries: telephones, laptops, notes and documents, wallets, cash and cards. The Court of Cassation has held that a seizure made by the police on a foreign request must be validated, with reasons, by the President of the Court of Appeal together with the arrest (Court of Cassation, 2025).

The items stay in Italy until the extradition is decided. If it is granted, they may be handed over with the person (art. 714 c.p.p.); if it is refused, they are returned. Telephones of dissidents hold the names of other people: the defence should oppose any transmission to Iran and ask for the devices back as soon as the request fails.

6 WHAT THE COURT CHECKS

SERIOUS EVIDENCE, THE FACTS, AND THE CHARGE BEHIND THE CHARGE

Families usually expect an Italian court to look at the strength of the case. Without a treaty, it must.

The evidence. The Court of Appeal must find serious evidence of guilt, or a final judgment (art. 705(1) c.p.p.). It cannot stop at the label on the Iranian warrant: the request must explain the facts and why, in the Iranian system, the person is believed to have committed them (Court of Cassation, 2023), and where the facts remain uncertain, even after the court has asked for more information, extradition must be refused (Court of Cassation, 2018). Iranian requests are often short, translated through several languages, and silent on the evidence.

Double criminality, on the facts. What matters is not how Iran classifies the offence, but whether the facts described would be an offence in Italy. Apostasy, blasphemy, insulting the Supreme Leader, consensual relationships, alcohol, dress codes and most offences of opinion are not offences under Italian law, and no request for them can succeed. Italian thresholds of punishability, such as those in tax offences, must be checked by the court of its own motion (Court of Cassation, 2023).

The charge behind the charge. Corruption, fraud, embezzlement, smuggling, terrorism and membership of a criminal organisation are genuine offences everywhere, so double criminality is met without argument; they are also defined broadly enough to cover almost any conduct. A State that wants a political opponent back rarely asks for him as an opponent: it asks for him as a fraudster. Where the courts of the requesting State are not independent and the charge falls within that group, disguised persecution is the first line of enquiry, not the last (arts. 698(1) and 705(2) c.p.p.).

Convictions in absentia. Many Iranian requests concern judgments given in the person's absence. The request must show that a new trial with full guarantees is available; a judgment containing provisions

contrary to the fundamental principles of the Italian legal order cannot be enforced through extradition (art. 705(2) c.p.p.).

FURTHER READING

SITE **Extradition for prosecution: the evidence must be checked** Court of Cassation, 2023 (in Italian).

SITE **Double criminality: thresholds checked of the court's own motion** Court of Cassation, 2023 (in Italian).

SITE **Extradition refused where the facts are uncertain** Court of Cassation, 2018 (in Italian).

7 DEATH PENALTY, FLOGGING

WHAT IRANIAN LAW PROVIDES, AND WHAT ITALY CANNOT ACCEPT

Iranian law provides the death penalty for a wide range of offences: intentional homicide (*qisas*), drug trafficking above certain quantities, armed rebellion against the State (*moharebeh*, *baghi*), "corruption on earth" (*efsad-e fel-arz*), which can cover large-scale economic offences, and some sexual and religious offences. It is applied on a scale without parallel: Amnesty International recorded at least 2,159 executions in Iran in 2025, 998 of them for drug-related offences (Amnesty International, *Death Sentences and Executions 2025*, 2026).

Italian law does not look at practice or at promises. Where the offence is punishable by death under the law of the requesting State, extradition is barred, and no assurance can overcome the bar (art. 698(2) c.p.p., as read by the Constitutional Court in 1996; Court of Appeal of Milan, 2019). Since 2024 the Court of Cassation applies the same principle to the arrest and to custody. Counsel must check not only the Iranian provision cited in the request, but every provision the same facts could fall under: a fraud or embezzlement charge can become "corruption on earth" once the person is in Iran, and speciality is only as strong as the requesting State's respect for it.

The Iranian Penal Code also provides corporal punishments, including flogging and, for some offences, amputation. These are cruel, inhuman and degrading punishments, and a risk of them bars surrender (arts. 698(1) and 705(2) c.p.p.); penalties that violate fundamental rights, such as forced labour, have been held to bar extradition in their own right (Court of Cassation, 2011). Below that level the Italian courts do not compare sentences: a much heavier Iranian penalty is an argument for the Minister.

FURTHER READING

SITE **Risk of the death penalty always bars extradition for prosecution** Court of Appeal of Milan, 2019 (in Italian).

SITE **Interpol arrest and custody unlawful where the death penalty is at stake** Court of Cassation, 2024, in English.

SITE **Risk of forced labour bars extradition** Court of Cassation, 2011 (in Italian).

8 PRISONS AND TRIALS IN IRAN

TORTURE, REVOLUTIONARY COURTS, AND HOW TO PROVE THE RISK

Prison conditions

Article 3 of the European Convention on Human Rights binds Italy, and art. 705(2) c.p.p. bars extradition where there is reason to believe the person will be subjected to cruel, inhuman or degrading treatment. The test is the one set by the European courts: a general risk shown by objective, reliable, specific and current information, and then a check of the conditions in which this person will actually be held.

On Iran the general risk is documented by United Nations bodies. The Independent International Fact-Finding Mission on Iran, set up by the UN Human Rights Council, reported in 2024 that torture and other ill-treatment had been used against people detained in connection with the 2022 protests, including to extract confessions; the UN Special Rapporteur on Iran and Amnesty International report the same pattern in political and drug cases. The defendant must still allege objective elements (Court of Cassation, 2020), and must connect them to their own profile: a dissident, a member of a religious or ethnic minority, a person accused of offences against the State.

Assurances are the weak point of every Iranian request. Without a treaty and without any monitoring mechanism, no Italian authority can verify after surrender what Iran promised before it. A generic diplomatic assurance does not answer a structural risk (Court of Cassation, 2022), and an assurance that ignores the very points the court asked about is not an answer at all (Court of Cassation, 2017).

Trials

Security, political and drug cases are tried by the Revolutionary Courts, whose lack of independence has been reported by United Nations bodies and by Amnesty International. In security cases, during the investigation, the accused may be assisted only by a lawyer chosen from a list approved by the Head of the Judiciary. Confessions obtained under pressure, televised confessions and trials lasting minutes are recurrent findings. Each of these is part of the fair-trial check of art. 705(2) c.p.p., and should be documented with sources and, where possible, with the opinion of Iranian counsel or of an expert.

FURTHER READING

- SITE **The defendant must allege objective evidence of inhuman treatment** Court of Cassation, 2020 (in Italian).
- SITE **Structural prison deficit and generic diplomatic assurances** Court of Cassation, 2022 (in Italian).
- SITE **Extradition only if fundamental rights are respected** Court of Cassation, 2017 (in Italian).

9 REFUGEES AND POLITICAL CASES

NON-REFOULEMENT, PERSECUTION, AND A CASE FROM THE DESK

Refugees and asylum seekers

A person recognised by another State as a refugee from Iran cannot be returned to Iran. Article 33 of the 1951 Refugee Convention binds Italy whether or not Italy granted the status, and UNHCR's position is that recognition by one State party has effect in the others. INTERPOL's own Policy on Refugees, published in 2017, provides that notices against refugees requested by the country they fled should in general not be processed. A person who has applied for asylum, in Italy or elsewhere, is protected by the same principle while the application is pending.

None of these rules operates by itself at the moment of arrest. The refugee document in the person's pocket becomes effective when someone files it, translated, before the court that decides on custody, with the decision of the State that granted the status and, where possible, a note from UNHCR. The hours between the arrest and the first hearing are where the case is won or lost.

A case from the desk: Milan, 2016

An Iranian dissident blogger, recognised as a refugee in the United Kingdom after torture in Iran, was arrested on holiday at a hotel near Lake Como on an Iranian alert: a conviction in absentia for "corruption". The night of the arrest ended in hospital.

The defence filed the British refugee documents and a note from UNHCR with the Court of Appeal of Milan, and argued that a status recognised by another State is a risk the Italian court must weigh, not a foreign formality. The court agreed: on the sixth day it ordered his release, with the favourable opinion of the Prosecutor General, on the ground of the refugee status recognised by the United Kingdom.

Italy then had to compensate him for unlawful detention. The Court of Cassation twice set aside awards that ignored the harm suffered by a torture survivor held at the request of the State that had tortured him, and the Court of Appeal of Milan made the final award in 2023. The full story is in The Italian Desk: Interpol Was Looking For A Torture Survivor.

Political offences and persecution

Extradition is refused for political offences, where the request is made in order to prosecute or punish on account of race, religion, sex, nationality, language or political opinion, and where there is reason to believe the person will face persecution or discrimination (arts. 698(1) and 705(2) c.p.p.). Iranian requests concern dissidents, journalists, members of religious minorities such as Baha'is and Christian converts, Kurdish, Baluch and Arab activists, and former insiders who left with information. The Court of Cassation bars extradition where there is substantial evidence of political persecution (Court of Cassation, 2023). In 2025 the Court of Appeal of Sassari released an Iranian-Dutch businessman, living in the Netherlands and saying he was persecuted as a Christian, who had been arrested in Sardinia on an Iranian request for fraud (press reports).

Double jeopardy, health, age and family

Extradition is refused where the person has been finally judged in Italy for the same facts and, under EU law, where a final judgment for the same acts has been given in any Schengen State; where criminal proceedings for the same facts are pending in Italy, extradition may be refused or postponed. The Code also bars extradition where, for reasons of health or age, surrender would risk consequences of exceptional gravity (art. 705(2) c.p.p.): for survivors of torture, medical and psychological records should be gathered at once. Children in Italy do not by themselves bar extradition (Court of Cassation, 2020); family life is, above all, an argument for the Minister.

FURTHER READING

- SITE — **Political persecution bans extradition** Court of Cassation, 2023, in English.
- LINKEDIN — **Interpol Was Looking For A Torture Survivor** The Italian Desk, No. 2, August 2026.
- SITE — **Ne bis in idem in international and EU law** Court of Cassation, 2020 (in Italian).
- SITE — **Young children do not prevent a father's extradition** Court of Cassation, 2020 (in Italian).

10 CUSTODY, AND THE OTHER WAY

RELEASE FIRST; AND WHAT HAPPENS WHEN ITALY ASKS IRAN

Italy has no bail. Release from prison usually means house arrest at a documented address in Italy, with or without an electronic tag, or lesser measures such as reporting to the police. In Iranian cases the first argument often comes before flight risk: where a refugee decision, the death penalty or a political profile makes a refusal of extradition foreseeable, no measure at all should be applied (art. 714(3)

c.p.p.). Where custody is in issue, the court gives weight to the gravity of the offence and to how firmly the person is rooted in Italy (Court of Cassation, 2019), but the risk of flight must be concrete and current, explained by reference to the person's life (Court of Cassation, 2025). Custody pending extradition has outer limits of one year without a favourable judgment and one year and six months with a Cassation appeal pending, extendable once by up to three months.

THE OTHER WAY: FROM IRAN TO ITALY

- **No treaty either way.** Italy may ask Iran for a person only under its own Code and on the basis of reciprocity. Such requests are rare.
- **Iranian citizens.** Iranian law does not allow the extradition of Iranian nationals. Where Iran will not surrender, Italy can try the person in absentia with the guarantees of Italian law.
- **On arrival in Italy.** Speciality protects the person; time in custody abroad is deducted from the Italian sentence (art. 722 c.p.p.); and a person convicted in absentia in Italy can ask for the remedies of Italian law. Counsel appointed while the person was abroad must be made known to the Italian judge at once (Court of Cassation, 2020).
- **A refusal in Italy is not a safe-conduct.** Each State decides for itself, and national police databases are not always updated after a red notice is deleted. A person wanted by Iran should take advice before travelling anywhere.

FURTHER READING

SITE **Avoiding flight is the requested State's duty** Court of Cassation, 2019 (in Italian).

SITE **Flight risk in extradition requires concrete and current facts** Court of Cassation, 2025.

SITE **Appointment of counsel must be made known to the judge** Court of Cassation, 2020 (in Italian).

11 WHICH DEADLINES BIND

PEREMPTORY, AND NOT

Some deadlines are peremptory: if they pass, custody ends. Others only tell the court how fast to move. Compare an Italian investigation, where 24 + 48 + 48 hours for validation and 5 days for questioning are strict, and late means release.

PEREMPTORY

If missed, custody ends

EXT 10 DAYS	From validation, for the Minister to ask that custody be maintained.
EXT 40 DAYS	For the request, the Iranian warrant and the documents to reach the Ministry of Justice (art. 715(6) c.p.p.).
EXT 1 yr OR 1 YR 6 M	Without a judgment favourable to extradition, or with a Cassation appeal pending; extendable once, by up to three months.
EXT 45 DAYS	For the Minister's decision on surrender.
EXT 15 + 20 DAYS	For surrender from the date set, extendable by twenty days at Iran's reasoned request; then release (art. 708 c.p.p.).

NOT PEREMPTORY

If missed, nobody is released

EXT 5 DAYS	From validation to the first hearing with counsel; the Court of Cassation holds it carries no consequence.
EXT 6 MONTHS	For the Court of Appeal's judgment, and again for the Court of Cassation's; the Code attaches no consequence.

Iranian nationals wanted by other States

Iranian nationals are also arrested in Italy at the request of third States, most often the United States, for sanctions and export-control offences. The applicable treaty then governs, and the decisive argument is often double criminality: a breach of a foreign sanctions law may have no equivalent in Italian law, as the Ministry of Justice concluded in January 2025. The procedure, the Minister's role and the limits on custody described in this note apply in the same way, and so does the death penalty bar where the requesting State retains it.

NEWSLETTER

THE ITALIAN DESK

A monthly working notebook on extradition, the European arrest warrant and international criminal defence in Italy, written from the inside.

One real file per edition: what the request said, what the court did, what the Ministry did, and what the defence could still do. For lawyers abroad who have a client arrested in Italy, or who may have one tomorrow.

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On Iran: No. 2, August 2026, Interpol Was Looking For A Torture Survivor: a refugee arrested in an Italian holiday hotel on an Iranian alert, six days in custody, seven years to be compensated.

WHERE TO READ FURTHER

IN ITALIAN UNLESS INDICATED

FURTHER READING

SITE **Interpol red notice and refugee status** Court of Cassation, 2025, in English.

SITE **Forty days: the foreign arrest warrant must arrive too** Court of Cassation, 2025.

SITE **Petruhhin mechanism prevails over bilateral treaties** Court of Cassation, 2025, in English.

SITE **Flight risk in extradition requires concrete and current facts** Court of Cassation, 2025, in English.

SITE **Interpol arrest and custody unlawful where the death penalty is at stake** Court of Cassation, 2024, in English.

SITE **Petruhhin requires consultation of the EU State of nationality** Court of Cassation, 2024.

SITE **Political persecution bans extradition** Court of Cassation, 2023, in English.

SITE **Extradition for prosecution: the evidence must be checked** Court of Cassation, 2023.

SITE **Structural prison deficit and generic diplomatic assurances** Court of Cassation, 2022.

SITE **The defendant must allege objective evidence of inhuman treatment** Court of Cassation, 2020.

SITE **Risk of the death penalty always bars extradition for prosecution** Court of Appeal of Milan, 2019.

SITE **Severe penalties are for the Minister to weigh** Court of Cassation, 2019.

SITE **Extradition refused where the facts are uncertain** Court of Cassation, 2018.

SITE **Extradition only if fundamental rights are respected** Court of Cassation, 2017.

SITE **Risk of forced labour bars extradition** Court of Cassation, 2011.

SITE **Personal liberty prevails over the needs of international cooperation** Court of Cassation, 2004.

LINKEDIN **Interpol Was Looking For A Torture Survivor** The Italian Desk, No. 2, in English.

LINKEDIN **A second passport, and the extradition cell door stays shut** in English.

SITE **Interpol: a weapon against human rights defenders?** in English.

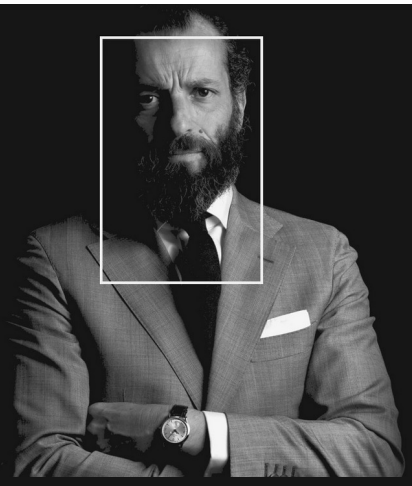
SITE **Arrested in Italy: a practical guide to the first hours** the general note, in seven languages.

Official texts and sources: Italian Constitution, arts. 10 and 26; Code of Criminal Procedure, arts. 696–722; Criminal Code, arts. 9–10; Convention relating to the Status of Refugees, Geneva, 1951, art. 33; European Convention on Human Rights, art. 3; INTERPOL, Policy on Refugees, 2017. No extradition treaty is in force between Italy and Iran. Amnesty International, *Death Sentences and Executions 2025* (2026); reports of the UN Independent International Fact-Finding Mission on the Islamic Republic of Iran (2024).

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ABOUT THE AUTHOR
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CRIMINAL DEFENCE LAWYER

Nicola Canestrini

About

I am a criminal defence lawyer: for more than 25 years I have defended my clients' rights in and outside criminal courtrooms. I lead the lawyers of canestriniLex – Studio legale Canestrini in Rovereto, Italy, continuing a family legal tradition dating back to 1870.

ADMISSIONS

Rights of audience before the Italian higher courts (avvocato cassazionista: Court of Cassation, Constitutional Court, Council of State); admitted to the List of Counsel of the International Criminal Court in The Hague.

LANGUAGES

Italian · German · English

EDUCATION

Law degree, University of Ferrara, 1999, summa cum laude, with a thesis in legal theory: "Legitimacy through legality. The link between law and democracy in Jürgen Habermas's discourse theory". Admitted to the Rovereto Bar since 2002.

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Experience

Criminal defence, including international	I practise criminal defence in and outside the courtroom, with extensive experience in international judicial cooperation in criminal matters (extradition, the European Arrest Warrant, the European Investigation Order, mutual legal assistance, transfer of sentences, EPPO proceedings) and in international police cooperation (INTERPOL, SIS). I have appeared before the Italian Constitutional Court and the Grand Chamber of the Court of Justice of the European Union (Case E.D.L., C-699/21). I have repeatedly been appointed as an expert witness on Italian criminal law and procedure before foreign courts.
Publications	Contributing author to Cassazione penale (Giuffrè), in particular its "Panorama internazionale" section, Diritto e Giustizia and Giurisprudenza Penale, on whose scientific board I sit; articles in Eucrim, the New Journal of European Criminal Law and edited volumes, most recently on international police cooperation in Mandato di arresto europeo e procedure di estradizione (European Arrest Warrant and extradition procedures, Lefebvre Giuffrè, 2026). Every month I publish **The Italian Desk**, a briefing in English on extradition, the EAW and international criminal defence in Italy for foreign colleagues whose cases touch Italy.
Conferences and teaching	Speaker at conferences and specialist courses for lawyers and judges in Italy and abroad, including Harvard Law School, the University of Cambridge, the University of Oxford, ERA – Academy of European Law, the Scuola Superiore della Magistratura (Italian School for the Judiciary, on whose faculty list I am registered), the Consiglio Nazionale Forense (Italian National Bar Council), the Ministry of Justice and training schools for court-appointed defence counsel. Long-standing lecturer at the Faculty of Law of the University of Trento; adjunct professor of human rights law and armed conflict at the University of Ferrara (2001/2002).
International roles	National expert of the Italian National Bar Council on the CCBE Criminal Law Committee (since 2022); national representative for Italy on Fair Trials' Legal Experts Advisory Panel (LEAP); member of the Board and of the Human Rights Committee of the European Criminal Bar Association (ECBA), for which in 2023 I drafted the amicus curiae brief seeking exclusion of the confession of Abd al-Rahim al-Nashiri, held at Guantánamo on capital charges; member of the Extradition Lawyers Association and the International Criminal Bar; founding member of Lawyers Against Transnational Repression (2024). International trial observer in proceedings abroad against lawyers and human rights defenders.
Roles in Italy	Founder of the "avvocati minacciati | endangered lawyers" project of the Unione delle Camere Penali Italiane, the national union of Italian criminal bar associations (2016), and head of its Endangered Lawyers Observatory since 2019. Member of the European and International Law Commission of the Italian National Bar Council. President of the Trento criminal bar association "Michele Pompermaier" from 2014 to 2016, previously vice-president (2010–2014).
Awards	CILD Award of the Italian Coalition for Civil Liberties and Rights (2018) for the promotion and protection of fundamental rights; Matumaini Award ("hope" in Swahili) of the Io, Noi association, on the proposal of the Italian Nonviolent Movement (2023), for international trial observation and the protection of conscientious objectors; Ehrenkranz des Südtiroler Schützenbundes (2024) for tireless commitment to civil and fundamental human rights.

FULL CV: ITALIANO · DEUTSCH · ENGLISH

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