



Inter-Agency Coordination
Platform for Refugees and
Migrants from Venezuela

FAQ

FREQUENTLY ASKED QUESTIONS

**EXPLAINER ON THE U.S. ANNOUNCEMENT
REGARDING THE NEW MIGRATION
PROCESS FOR VENEZUELANOS
("PROCESS FOR VENEZUELANOS")**

On 12 October 2022, the U.S. government announced a “New Migration Process for Venezuelans”, with an enforcement element and a ‘safe pathways’ element.¹ This announcement was followed by the pre-publication of a notice in the Federal Register on October 18 that provides more information on the ‘safe pathways’ element, namely a parole process for Venezuelans. Also on October 18, the U.S. Citizenship and Immigration Services (USCIS) website was updated, providing information, guidance and relevant forms associated with the parole application process (see here).

The purpose of this document is to explain what is known, and what is not yet known, about this new U.S. policy as it relates to the treatment of Venezuelans at the U.S.-Mexico border and in the region. The document will be updated on a regular basis.

The basic features of the new policy for Venezuelans are as follows:

Expulsion at the U.S.-Mexico border

As part of a new agreement between the governments of Mexico and the U.S., Venezuelans who attempt to cross the U.S. southern border between ports of entry will be expelled back into Mexico or otherwise subject to removal and they will be ineligible for the so-called “Process for Venezuelans”.

The U.S. border is effectively closed for Venezuelans, as it is closed to every other population who arrives at the border to seek asylum, including at port of entry, unless an individual qualifies for the discretionary humanitarian exceptions to the Title 42 Order; such exemptions allowed on a case-by-case basis only.

New lawful pathway for Venezuelans through Parole (“Process for Venezuelans”)

A new Humanitarian Parole Process (“Process for Venezuelans”)² will allow up to 24,000 eligible Venezuelans to enter the U.S. for a period of 2 years, with the ability to apply for work authorization.

The U.S. government has indicated that it will begin to receive online applications for the new Parole Process on October 18. Instructions and relevant forms for Venezuelan applicants and their U.S.-based “supporters” can be found at the USCIS website, here: [Process for Venezuelans | USCIS \(www.uscis.gov/Venezuela\)](https://www.uscis.gov/Venezuela).

[1] U.S. Department of Homeland Security: “DHS Announces New Migration Enforcement Process for Venezuelans”, 12 October 2022: <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans>

[2] Immigration parole is official permission to enter and remain temporarily in the United States. It provides lawful presence but is temporary in nature and does not lead to any direct opportunity to apply for permanent residency. The parole provision in the U.S. Immigration and Nationality Act (INA) gives the Secretary of the Department of Homeland Security (DHS) discretionary authority to “parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States.” A parolee is permitted to remain in the United States for the duration of the grant of parole and may be granted work authorization.

Eligibility criteria include³:

- The requirement of a “qualified supporter” in the U.S. to initiate the application, the supporter must demonstrate sufficient resources to provide financial support during the 2-year parole period; must have a lawful status⁴ in the U.S.; and must pass background checks;
- The completion of vaccinations and other public health requirements;
- Not having been ordered removed from the U.S. in the previous five years⁵;
- The possession of a valid Venezuelan passport to enable entry to a city in the interior of the U.S. by air, and willingness to pay for their own airfare to the United States;
- Any children under 18 must travel with a parent or legal guardian;

During the 2-year parole period, Venezuelans can apply for asylum or another permanent status if they are eligible, or they can opt to return home.

Ineligibility factor 1:

Venezuelans who enter Panama, Mexico, or the United States irregularly after October 19, 2022 will be ineligible for the Humanitarian Parole Process (“Process for Venezuelans”).

Ineligibility factor 2:

Venezuelans with dual citizenship, permanent residency, or refugee status in another country are ineligible for the Humanitarian Parole Process (“Process for Venezuelans”).

Please note that all statements in this document are a non-authoritative interpretation of the applicable legal and public issuances and are intended to provide the most up-to-date information on the situation. Given the ongoing efforts to clarify the applicable procedures this is a “living document”, subject to changes, and does not constitute any legally binding guidance. It is important for all interested parties to regularly consult the relevant US websites/sources to ensure information relayed is accurate.

[3] U.S. Citizenship and Immigration Service: Process for Venezuelans: <https://www.uscis.gov/venezuela>

[4] The supporter must be a U.S. citizen, national, or lawful permanent resident; hold a lawful migratory status in the United States; or be a parolee or recipient of deferred action or Deferred Enforced Departure.

[5] A Title 42 expulsion is understood as not being a removal under U.S. law so a prior expulsion under Title 42 will presumably not impact eligibility.

Background:

As has been reported by the R4V Platform throughout the year, the numbers of Venezuelans engaging in onward movements northward towards the U.S. have been exponentially increasing⁶. These movements largely occurred via irregular routes, including through the perilous Darién Gap between Panama and Colombia, where September 2022 alone a record 48,204 irregular crossings registered (a 54% increase in only one month) – 28,399 of which were Venezuelan nationals⁷. So far in 2022, Venezuelans account for 71% of all arrivals in Panama, and 75% of the arrivals recorded in the month of October.

Monitoring activities of R4V partners along the Panama-Costa Rican border previously highlighted that some 77% of Venezuelan refugees and migrants in-transit had resided in Venezuela immediately before initiating their journeys north, and that some 97% were en route to the U.S.⁸; encouraged by the information and rumors about accessing the U.S. territory. Between Jan-Aug 2022, 96,543 apprehensions of Venezuelans crossing the U.S.-Mexico border irregularly have been reported (more than 200% increase over the previous year).⁹

Until the 12 October policy announcement, Venezuelans were not expelled by the U.S. under the Title 42¹⁰ Public Health Order because they could not be repatriated directly to Venezuela, nor had Mexico

agreed to allow them to be expelled back over the land border into Mexico. Accordingly, they were generally allowed to remain in the U.S. and seek asylum after crossing irregularly.

Venezuelans in Mexico

For Venezuelans who are ineligible for the U.S. Humanitarian Parole Process (“Process for Venezuelans”) (for example, don’t have a U.S. supporter or arrived to Mexico after 19 October) how can they seek access to territory or asylum in the United States?

Venezuelans are still eligible for Title 42 discretionary exemptions and could potentially enter and be processed through a U.S. point of entry and gain access to the U.S. asylum system. Title 42 exemptions are only available at the U.S.-Mexico land border for those in Mexico. A Title 42 exemption cannot be applied from any other country except from Mexico and requires the assistance of a U.S. NGO or lawyer, or certain Mexican entities. It should be noted that Title 42 exemptions are being granted in a limited fashion, they are discretionary, and are only allowed on a case-by-case basis and therefore are not guaranteed for anyone. Venezuelans who irregularly enter the United States, Mexico or Panama following the established cut-off date of October 19, 2022 will be ineligible for parole in the Humanitarian Parole Process (“Process for Venezuelans”).

[6] R4V Movement Report, Second Quarter 2022: <https://www.r4v.info/en/document/r4v-movements-report-second-quarter-2022>

[7] Migration Panama: https://www.migracion.gob.pa/images/img2021/pdf/IRREGULARES_POR_DARIEN_SEPTIEMBRE_2022.pdf

[8] R4V Central America, Mexico and Colombia: R4V Special Situation Report (June Update): <https://www.r4v.info/en/document/central-america-mexico-and-colombia-r4v-special-situation-report-june-update>

[9] U.S. Customs and Border Protection data (filtered for January – August 2022): <https://www.cbp.gov/newsroom/stats/nationwide-encounters>

[10] Since March 2020, most people seeking to apply for asylum at the U.S. southern border have been turned away at ports of entry, which are closed to undocumented persons, including asylum seekers, under a pandemic-era public health order known as Title 42. Under Title 42, the nationalities that Mexico had heretofore accepted to readmit (El Salvador, Guatemala and Honduras) had been expelled back over the border to Mexico. Title 42 does not involve a protection screening, it is an expulsion with no due process. Of the 200,632 Venezuelans encountered since the initial implementation of Title 42, all were admitted into the U.S. under regular immigration law (Title 8). The first Title 42 expulsions of Venezuelans took place immediately following the 12 October 2022 announcement.

What is the legal status of Venezuelans who are expelled under Title 42 after 12 October under this new arrangement between the U.S. and Mexico?

The Mexican government has not yet confirmed how it will treat the legal status question of those Venezuelans expelled back to Mexico, and practices vary in each port of entry. The most common practice that has been observed is the use of an “oficio de salida”: The INM issues an order to the expelled person to leave the country in a given time period which might vary from 7 days to 15 days, or in some cases up to 30 days. After this period, persons expelled under Title 42 would be in an irregular situation in Mexico and at risk of detention and deportation from Mexico. In the past 30 months that the Title 42 measure has been in place, Mexican authorities have implemented different measures to deal with expulsions at the Mexican border with the United States. In most cases the Mexican authorities have issued an “oficio de salida” (as explained above), however there have also been cases of detention and deportation. Another practice has been the transfer to southern Mexico, where persons are released. It should be noted that third-country nationals expelled back to Mexico under Title 42 can also opt to seek asylum in Mexico.

Venezuelans everywhere

Can a U.S. Humanitarian Parole Process (“Process for Venezuelans”) application be initiated anywhere?

Any Venezuelan outside the United States (including Venezuelans still inside Venezuela) can apply for the U.S. Humanitarian Parole Process (“Process for Venezuelans”), provided that they have a qualifying supporter in the U.S. who initiates an application on their behalf. The application process is currently all online (here: <https://www.uscis.gov/venezuela>).

[gov/venezuela](https://www.uscis.gov/venezuela)). Applying at a U.S. consulate is not required, and individuals should not approach the U.S. border to apply.

When will the application process open?

The U.S. government began accepting applications initiated by “supporters” on 18 October 2022. There are no foreseen application fees associated with the submission of the Humanitarian Parole Process (“Process for Venezuelans”) application. Instructions to apply can be found at: www.uscis.gov/Venezuela.

How does a person in transit (in irregular situation) apply for the U.S. Humanitarian Parole Process (“Process for Venezuelans”)?

The U.S. Citizenship and Immigration Services (USCIS) will receive applications online. The application is submitted by the qualifying U.S.-based supporter. All available details, including application instructions and relevant forms, are accessible on this website: www.uscis.gov/venezuela.

It remains to be determined what documents a country will issue to a Venezuelan in a third country irregularly who is awaiting the outcome of a Humanitarian Parole Process (“Process for Venezuelans”) application. R4V will continue seeking more information on this point.

If a Venezuelan is irregularly in a third country and does not have a valid passport or other documents, how can they take a flight to the U.S. if they are granted the Humanitarian Parole?

Currently one of the eligibility requirements for this Humanitarian Parole Process (“Process for Venezuelans”) is the possession of a valid passport. It has not been determined if expired passports will be acceptable.

Since Venezuelans who have already been granted refugee status in a third country are ineligible for the U.S. Humanitarian Parole Process (“Process for Venezuelans”), could a refugee renounce their refugee status to be eligible for the process?

It is unlikely that the renunciation of one’s refugee status would make someone eligible for the Humanitarian Parole Process (“Process for Venezuelans”). The information that is so far available states that Venezuelans are ineligible for the process if they hold refugee status in any country. If a Venezuelan were to lose their refugee status or their permanent residency status in a third country by voluntarily leaving that country without the required permissions to do so, it is unclear how such a situation would be considered.

Are Venezuelans who have been granted temporary protection in a third country, or have applied for asylum but are still awaiting a decision, eligible for the U.S. Humanitarian Parole Process (“Process for Venezuelans”)?

According to information provided, asylum seekers with pending claims in another country and temporary protection beneficiaries will be eligible for the U.S. Humanitarian Parole Process (“Process for Venezuelans”).

Why would the U.S. consider a Venezuelan recognized refugee as ineligible but a Venezuelan with temporary protection as potentially eligible?

Under U.S. law, individuals who have been granted refugee status in another country may be barred from asylum under operation of the “firm resettlement” bar in the U.S. immigration statute. Since the U.S. government appears to have designed the Humanitarian Parole Process (“Process for Venezuelans”) for Venezuelans on the

assumption that process beneficiaries may need to regularize their stay in the U.S. by applying for asylum, they are seeking to ensure that approved process beneficiaries will not face a specific legal barriers in the asylum procedure.

How will the U.S. treat Venezuelans applying for the Humanitarian Parole Process (“Process for Venezuelans”) if they hold a second nationality?

Venezuelans who also hold another nationality, besides the Venezuelan nationality, will not be eligible for the Humanitarian Parole Process (“Process for Venezuelans”), as explicitly stated in the announcement.

How will the U.S. define family unity for the purposes of eligibility for the Humanitarian Parole Process (“Process for Venezuelans”)?

For the purposes of this Humanitarian Parole Process (“Process for Venezuelans”), a family is defined as including spouses and/or unmarried children under 21 years of age. As more information becomes available on family composition and dependency relationship requirements, this information will be updated.

How will the U.S. treat Venezuelan families who are otherwise eligible for the Humanitarian Parole Process (“Process for Venezuelans”), but are separated? For example, a Venezuelan father in Mexico who is eligible, and a Venezuelan mother and child who are in Venezuela?

While it is yet to be confirmed, we understand that the U.S. authorities intend to apply the principle of family unity to the Humanitarian Parole Process (“Process for Venezuelans”).

How will the U.S. treat Venezuelan applications for the Humanitarian Parole Process (“Process for Venezuelans”) that include a dependent (spouse or child) who holds another nationality? For example, a Venezuelan couple with a child who was born in Colombia and is a Colombian national?

U.S. authorities intend to apply the principle of family unity to the Humanitarian Parole Process (“Process for Venezuelans”) On This point, the US states in the pre-publication of the Federal Registrar the following: “Certain non-Venezuelans may use this process if they are an immediate family member of a Venezuelan beneficiary and traveling with that Venezuelan beneficiary. For purposes of this process, immediate family members are limited to a spouse, common-law partner, and/or unmarried child(ren) under the age of 21”.

How will children travelling with non-parental adults (who are not their legal guardians) be able to access the Humanitarian Parole Process (“Process for Venezuelans”)?

For the most part it is understood that Venezuelans already on the move are often not travelling in family units, but if that shifts and more children are on the move in groups that do not include their parents or legal guardians, challenges may arise regarding how the children could access the Humanitarian Parole Process (“Process for Venezuelans”). Such children under the age of 18 are considered “unaccompanied children” under U.S. law and will not be able to enter the U.S. on this Humanitarian Parole Process (“Process for Venezuelans”) without an accompanying parent or legal guardian. Under similar processes implemented by the U.S. government (Uniting for Ukraine process), a non-parental relative was required to prove legal guardian ship ordered by the appropriate national authorities (or the competent judicial authority in the first country of asylum) to include a child in their application. R4V will seek clarification on this possible scenario.

If Humanitarian Parole is only granted for two years, what happens after that two-year period expires?

Humanitarian Parole for Venezuelans can be extended by the U.S. government. However, it appears that the expectation is that process beneficiaries will apply for asylum (or another lawful status, if available) during the humanitarian parole period in the United States. The U.S. government states in the pre-publication of the Federal Register notice that, during the 2-year humanitarian parole period, individuals will be able to “seek humanitarian relief or other immigration benefits for which they may be eligible. Those who are not granted asylum or other immigration benefits will need to leave the United States at the expiration of their authorized period of humanitarian parole or will generally be placed in removal proceedings after the period of humanitarian parole expires”.

Once an individual has claimed asylum, they can lawfully remain in the country during the pendency of their proceedings, even after their humanitarian parole expires.

R4V is gathering more information about how asylum processing for other humanitarian parolees in similar situations have been functioning, to try to understand better what Venezuelans who benefit from this process may expect.

Generally, asylum grant rates for Venezuelans in the U.S. are currently high, as compared to other profiles.

Can someone who is admitted in the Humanitarian Parole Process (“Process for Venezuelans”) and enters the United States apply for asylum immediately or is there a waiting period?

While there is no official guidance on this point, we believe that someone who is benefiting from the Humanitarian Parole Process (“Process for Venezuelans”) and enters the U.S. may apply for asylum immediately. R4V is seeking additional information.



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