

A PRACTICAL GUIDE FOR FOREIGN CITIZENS AND PROFESSIONALS



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Introduction

The **"Vivere, Studiare, Lavorare in Italia"** is a comfortable instrument for individuals who need to answer or to face directly legal, bureaucratic, and administrative questions related to migration phenomenon. Provides information with regard: the arrival, temporary permanence and legal permanence of foreigners in Italy, family re-unification and family connection, citizenship, sanity right, job contracts, social benefits, right to study, acknowledgement of foreign study titles and professional abilities, unaccompanied minors, sexual exploitation and international protection.

It's designed in cards divided into questions and answers, starting from those simple to those more complicated, in a simple and direct language. It's available in: Italian, Arabic, Chinese, English, French, and Spanish. The on-line version is found on website of the observatory on immigration and the asylum rights in Piemonte.

<https://www.piemonteimmigrazione.it/faq>

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Graphic design and layout: Mirza Sokolija

Cover design: Modus Operandi



Edited by the Association of Legal Studies on Immigration (ASGI)
Coordination and supervision: Laura Furone e Manuela Spadaro

In drafting of thesis collaborate

Alberto Guariso, Chiara Maugeri - A Pieno Titolo, Eleonora Vilardi, Enrica Casetta, Francesco Mason, Laura Furno, Luce Bonzano, Luigi Tessitore, Maria Cristina Romano, Mariella Console, Marta Lavanna, Maurizio Veglio, Natalie Ghirardi, Noris Morandi, Ornella Fiore, Serena Martini

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Coordination and supervision

Laura Furno, Silvia Genetti, Manuela Spadaro, Roberta Valetti

Graphic design and layout

Massimo Battaglia

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Section 1

Living in Italy

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Chapter 1

Entering Italy





CHAPTER 1

ENTERING ITALY

What is an entry visa?

An entry visa is the document that allows foreign citizens to legally access the Italian territory. EU citizens are not required to have a visa. A visa is not required also for citizens from San Marino, the Vatican City, Liechtenstein, Switzerland, Norway, Iceland, as Italy has agreements with these Countries with regard to freedom of movement.

A visa is always necessary for stays lasting more than 90 days. Whereas, for stays lasting less than 90 days for reasons related to tourism, mission, business, invitation and sport competitions, it depends on the State of belonging if a visa is necessary or not.

If applications are submitted for work reasons, the visa is granted only within the entry quotas established in the annual decree programming migratory flows.

Citizens of which Countries are required an entry visa for stays up to 90 days?

Foreign citizens holding an ordinary passport and belonging to the following Countries are required to apply for an entry visa: Afghanistan, Algeria, Angola, Saudi Arabia, Armenia, Palestinian Authorities, Azerbaijan, Bahrain, Bangladesh, Belize, Benin, Bhutan, Belarus, Bolivia, Botswana, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, China, Comoros, Congo, Democratic Republic of the Congo, Cuba, Dominica, Dominican Republic, Djibouti, Ecuador, Egypt, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Georgia, Ghana, Grenada, Guinea, Guinea Bissau, Equatorial Guinea, Guyana, Haiti, India, Ivory Coast, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Kiribati, Kosovo, Kuwait, Laos, Lesotho, Lebanon, Liberia, Libya, Madagascar, Malawi, the Maldives, Mali, Morocco, Marshall, Mauritania, Micronesia, Myanmar, Moldova, Mongolia, Mozambique, Namibia, Nauru, Nepal, Niger, Nigeria, North Korea, Oman, Pakistan, Palau, Papua New Guinea, Philippines, Qatar, Rwanda, Russia, Saint Lucia, Saint Vincent And The Grenadines, Solomon Island, Sao Tome And Principe, Senegal, Sierra Leone, Syria, Somalia, Sri Lanka, South Africa, Sudan, Suriname, Swaziland, Tajikistan, Tanzania, Thailand, West Timor, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuva-



lu, Ukraine, Uganda, Uzbekistan, United Arab Emirates, Vanuatu, Vietnam, Yemen, Zambia, Zimbabwe.

Citizens of which Countries are not required an entry visa for stays up to 90 days?

Albania, Andorra, Antigua And Barbuda, Argentina, Australia, Bahamas, Barbados, Bosnia-Herzegovina, Brazil, Brunei, Canada, Chile, Columbia, Costa Rica, Croatia, Dominica, El Salvador, East Timor, Former Republic Yugoslav Of Macedonia (FYROM), Georgia, Grenada, Guatemala, Honduras, Hong Kong, Israel, Japan, Kiribati, Malaysia, Macao, Marshall, Mauritius, Mexico, Micronesia, Monaco, Montenegro, Northern Mariana Islands, Nicaragua, New Zealand, Palau, Panama, Paraguay, Peru, Saint Kitts And Nevis, Samoa, Saint Lucia, Saint Vincent And Grenadine, Serbia, Seychelles, Singapore, South Korea, Solomon Island, Taiwan, Tonga, Trinidad, Tobago, Tuvalu, Ukraine, United States, United Arab Emirates, Uruguay, Vanuatu, Venezuela.

For Taiwanese citizens, the exemption of the visa requirements applies exclusively to holders of passports including identity card number. For citizens of Albania, Bosnia-Herzegovina, Former Republic Of Macedonia, Moldova, Montenegro, Serbia, the exemption of the visa requirements applies exclusively to holders of biometric passport.

Which Countries belong to the Schengen area?

The Countries belonging to the Schengen area are: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, the Netherlands, Poland, Portugal, Spain, Slovakia, Slovenia, Sweden, Switzerland.

Are foreign citizens holding a residence permit in Italy required an entry visa?

Foreign citizens regularly residing in Italy are not required a visa to enter or exit Italy. It is enough to hold a valid passport and a valid residence permit. If the residence permit is in phase of renewal, foreign citizens will have to show the border control officers the relevant receipt, together with the expired residence permit and a valid passport. However, in the event of an expired residence permit, foreign citizens are not allowed to stay or transit in Countries belonging to the Schengen area without a visa.



What is a re-entry visa?

A re-entry visa is the document which foreign citizens are required to have if they have lost their residence permit, if it has been stolen, or if it has expired while staying abroad. In the latter case, the expired residence permit - expired by no more than 60 days – must be annexed to the visa application.

What requirements must be met to be granted an entry visa?

In order to be granted an entry visa, it is necessary to indicate the reason of the stay, to hold a valid passport (or equivalent valid document) and to annex all necessary documentation which differs depending on the type of visa being requested. In fact, there are different types of visas, and each one of them is characterised by specific requirements and procedures in order to be issued.

In order to be granted an entry visa, except for visas for work reasons, foreign citizens must prove that their means of support are enough to stay in Italy and to return to the Country of provenance.

What types of visas are there?

There are visas for the following reasons: adoption, business, medical treatments, diplomatic reasons, family reunification, sport competitions, invitation, autonomous work, subordinate work, mission, religious reasons, re-entry, elective residence, study, airport transit, transit, transport, tourism, working holiday.

Where to apply for an entry visa?

Visa applications are to be submitted to the Italian Embassy or Consulate in the Country of origin or residence. Visa applications for stays lasting less than 90 days for reasons related to tourism, mission, business, invitation and sport competitions can be submitted also to Italian Embassies or Consulates in other EU Countries.

Who is not allowed to enter Italy?

Any person who has been deported is not allowed to enter Italy, unless:

- the deportation order has been revoked or annulled;
- the term of the entry ban established in the deportation order has ended;
- the person involved has been granted by the Ministry of Interior a special authorisation to enter the Country.



Besides, any person blacklisted by a Member State in the Schengen Information System (S.I.S.), and therefore not allowed to enter the European Union, cannot enter Italy.

How to know if a person has been blacklisted in the Schengen Information System (S.I.S)?

In order to know if a person has been blacklisted in the S.I.S., and therefore is not allowed to enter the territory, it is necessary to submit a specific request to the Ministry of Interior at the following address: Ministero dell'Interno, Dipartimento della pubblica sicurezza, Ufficio coordinamento e pianificazione delle forze di polizia, Divisione N.SIS, Via di Torre di Mezzavia 9/121, 00173 Roma.

What to do if a visa application is rejected?

The rejection of a visa application is notified by the Italian Embassy or Consulate in the Country of provenance. With regard to rejections of visa applications for family reasons, it is possible to lodge an appeal with the ordinary Court of Rome.

Whereas, with regard to rejections of other types of visa applications, the appeal must be lodged with the Ministry of Foreign Affairs through the State Bar of Rome within 60 days from the relevant notification. Within the following 30 days, the appeal must be lodged with the Regional Administrative Court of Lazio, with premises in Rome.

The claimant's signature placed at the bottom of the letter conferring power of attorney to a lawyer for lodging the appeal can be attested at the Italian Embassy or Consulate in the Country of provenance.



Chapter 2

Residing in Italy





CHAPTER 2

RESIDING IN ITALY

What is a residence permit?

A residence permit is the document that authorises Non-EU citizens to regularly reside in Italy and that, as a rule, implies the legal entry in the territory. In the absence of entry visa and in derogation of the norms regarding entry and stay permit, a residence permit is issued on inextricable grounds by the submission of an application for international protection or recognition for international protection (in the form of refugee status and subsidiary protection status), special protection, or requirements for a residence permit for special cases, medical treatment, calamity, act of a particularly civil importance, and for family reasons through family members up till the second generation or a spouse to an Italian citizen.

What types of residence permits are there?

The main residence permits are granted for: tourism, visits, international affairs, study or training, seasonal work, self-employment, dependent work, family reasons, medical treatment, asylum request, international protection, special protection, special case, calamity, acts of particular civil importance and religious purposes, EU blue-card, EU long term residence permit.

How long does a residence permit last?

If a residence permit is issued **for work reasons**, the duration is equal to that of the employment relationship, and anyway it cannot last:

- a) more than **1 year** for a fixed-term employment contract;
- b) more than **2 years** for a permanent employment contract;
- c) more than **9 months** for seasonal work. Foreign citizens that prove to have come to Italy at least two consecutive years for seasonal work, and if the work is repetitive, can be granted a long-term permit, up to three years. Said permit will indicate the period of validity for each year, which will be adapted to the annual duration enjoyed in the last year of the previous two;
- d) more than **2 years** for autonomous work.

If a residence permit is issued **for reasons different from work**, the duration is equal to the one established by the entry visa, if required, and anyway cannot last:



- e) more than **3 months** for tourism, visits, business;
- f) more than **2 years** for family reunification;
- g) less than the period established to attend an educational or training course, also long-term, duly certified (notwithstanding the annual evaluation of the foreign citizen's profit). It can be extended for another twelve months after the completion of the training path.

Where to apply for a residence permit?

Applications for a residence permit must be submitted within **8 working days** from entering Italy, to the following offices:

- **pre-established Post Offices** through specially provided forms, with regard to permits for the following reasons: adoption, foster care, awaiting employment, awaiting the re-granting of citizenship, autonomous work, subordinate work, seasonal work, family reasons, religious reasons, mission, EU residence permit for long-term residents, elective residence, scientific research, study, apprenticeship, vocational training, tourism, residence permit conversion. Applications must be submitted in an open envelope. The post office employee will verify that the envelope contains all documentation required. After certifying the foreign citizen's identity through a passport or other equivalent document, said employee will issue a receipt which, shown together with the citizen's passport or equivalent document, proves the legitimacy of the residence. Foreign citizens submitting application through the Post Office will be convened through a delivery message at the time of sending the kit and subjected to digital fingerprints and the consignment of the residence permit.
- **Immigration Office at the Questura of the province** where the foreign citizen is residing, with regard to permits for the following reasons: international affairs, medical treatment, special protection, calamity, act of particular civil importance, special cases, request for international protection, minor, grounds for justice, statue for statelessness, minor integration, cohesion with a foreign citizen.
- **Single Desk at the Immigration Office of the province** where the foreign citizen is residing, with regard to permits for family reunification and subordinate work. Said office will take care of preparing the application for the first issue of the first residence permit, which will then be sent to the foreign citizen by mail.



What documentation is required when applying for a residence permit?

When applying for a residence permit, the following documentation must be submitted:

- 1) passport or other equivalent document showing the applicant's nationality, date and place of birth;
- 2) tax code;
- 3) entry visa if required;
- 4) documentation proving the current abode (residence certificate or hospitality statement);
- 5) documentation proving the availability of the necessary means of support to return to the country of provenance, except for residence permits for family and work reasons;
- 6) four passport-size photographs;
- 7) documents relating to the specific residence permit.

The documents mentioned under numbers 1) 2) and 3) are not required from:

- a) Applicants for international protection;
- b) beneficiaries for special protection or applicants on special case permit;
- c) foreign citizens granted to stay for extraordinary reception and measures for exceptional events
- d) Applicants for Italian citizenship or status for statelessness.

The request is subject to payment of a contribution equals to:

- 40 euros, for residence permits lasting over three (3) months duration and less or equals to one year;
- 50 euros, for residence permits lasting over one year but less or equals to two years;
- 100 euros, for residence permits for management officers or highly skilled personnel (articolo 27, comma 1, lettera a), 27-quinquies, comma 1, lettera a) e b)e 27-sexies, comma 2 del decreto legislativo, 25 luglio 1998, n.286 "referenced legislation"
- 100 euros, for issue of EU long term residence permit.

The following are excluded from the payment of such contributions:

- minors (children) under the age of 18;
- minors including children of the spouse or children born out of wedlock;
- an individual who enters in Italy to receive medical treatments and their companion;
- applicants for the issue and renewal of residence permit for asylum, for asylum request, for subsidiary protection and special protection (of which are required 16 euros purchase for a revenue stamp).

In addition to these amount are:



- contributions of 30.46 euros for printing the residence permit in electronic format
- the purchase of a 16 euros revenue stamp
- the payment of 30 euros to the operator of the postal office in cases where the application is to be forwarded by a postal kit.

How to apply for the renewal of a residence permit?

Applications for the renewal of a residence permit must be submitted **with-in and not beyond 60 days after the permit's expiry, to the following offices:**

- **pre-established Post Offices** through specially provided forms, with regard to permits for the following reasons: adoption, foster care, awaiting employment, awaiting the re-granting of citizenship, autonomous work, subordinate work, seasonal work, family reasons, religious reasons, mission, EU residence permit for long-term residents, elective residence, scientific research, status of stateless person, study, apprenticeship, vocational training, tourism, international protection, family, residence permit conversion.
- **Immigration Office at the Questura** of the province where the foreign citizen is residing, with regard to all other typologies of residence permits.

Renewals of residence permits are subject to verifications concerning the meeting of the requirements that allowed their original issue.

The request is subject to payment of a contribution equals to:

- 40 euros, for residence permits lasting over three (3) months duration and less or equals to one year;
- 50 euros, for residence permits lasting over one year but less or equals to two years;
- 100 euros, for residence permits for management officers or highly skilled personnel (articolo 27, comma 1, lettera a), 27-quinquies, comma 1, lettera a) e b) e 27-sexies, comma 2 del decreto legislativo, 25 luglio 1998, n.286 "referenced legislation"
- 100 euros, for issue of EU long term residence permit

The following are excluded from the payment of such contributions:

- minors (children) under the age of 18;
- minors including children of the spouse or children born out of wedlock;
- an individual who enters in Italy to receive medical treatments and their companion;
- applicants for the issue and renewal of residence permit for asylum, for asylum request, for subsidiary protection and special protection (of which are required 16 euros purchase for a revenue stamp)

In addition to these amount are:



- contributions of 30.46 euros for printing the residence permit in electronic format
- the purchase of a 16 euros revenue stamp
- the payment of 30 euros to the operator of the postal office in cases where the application is to be forwarded by a postal kit

The duration of a renewed residence permit **does not last more than the one established for the first issue**, except for several cases (for example: the duration of a residence permit for subordinate work depends on the duration of the employment contract).

What documentation is required when applying for the renewal of a residence permit?

When applying for the renewal of a residence permit, the following documentation must be submitted:

- 1) residence permit in expiry;
- 2) passport or other equivalent document showing the applicant's nationality, date and place of birth;
- 3) tax code;
- 4) documentation proving the current abode (residence certificate or hospitality statement);
- 5) documentation proving the availability of the necessary means of support and their suitability to stay in Italy and return to the country of provenance, except for residence permits for family and work reasons;
- 6) three passport-size photographs;
- 7) documents relating to the specific residence permit (tourism, work, family reunification...).

Which residence permits cannot be renewed?

Some residence permits cannot be renewed. Specifically, residence permits issued for the following reasons and under the following conditions:

- a) issue for tourism reasons**, after the original period of validity (ninety days) has elapsed
- b) university studies**, when studies have gone beyond the third supplementary year;
- c) at any title**, when foreign citizens **interrupt** their stay in Italy:
 - for **more than 6 months**, in the event of an annual residence permit
 - for **more than half of the permit's term**, if the original residence permit was at least biennial, unless the stay was interrupted due to the need to fulfil military obligations or to other serious and proven reasons;



d) **at any title**, when failing to meet the income requirements established for a legal stay in the State's territory or due to a **criminal sentence** for crimes banning entry in Italy and lacking any new elements justifying its renewal.

What does a residence permit allow to do?

Residence permits allow to carry out the activities for which they are issued. It is possible to carry out activities different from those for which they are issued, without having to convert them and with the same duration, in the following cases:

- residence permits issued for autonomous work, subordinate work and family reasons can be used for other activities as provided for by law. In particular:
 - a) residence permits issued for subordinate work (not seasonal work) allow to carry out autonomous work and vice versa;
 - b) residence permits issued for family reasons, like those for special protection, special cases and minor integration, these allows the access of either subordinate and self-employed work.
 - c) residence permits issued for study or training reasons allow to carry out subordinate work for not more than 20 hours a week, without prejudice to the annual limit of 1,040 hours.

When is it required to show the residence permit?

Foreign citizens must show their residence permit every time they are requested by public security officials.

Besides, foreign citizens must show their residence permit in order to be issued licences, authorisations, to carry out enrolments and in other cases in the foreign citizens' interest, with the exception of the following cases:

- a) temporary sport and recreational activities;
- b) access to healthcare for foreign citizens not registered with the SSN (National Health Service);
- c) compulsory educational services.

What to do if a residence permit application is rejected?

If an application for family reunification or for a residence permit for family reasons is rejected, foreign citizens can lodge an appeal, **in accordance with laws on family unity**, with the Section specialised in immigration, international protection and freedom of movement of EU citizens. Said Section is present at every Court where there is a Court of Appeal. The appeal must be lodged in the place where the Administration that issued the rejection



tion has its seat. If an application for a residence permit is rejected by the Questura, the appeal must be lodged with the **Regional Administrative Court (TAR)** in the place where the Questura that issued the rejection has its seat **within 60 days from relevant notification**.

The claimant is required to pay justice expenses, in particular a unified contribution (€ 300.00). Whereas, the claimant is not required to pay said expenses if admitted to legal representation at the State's expense.

Upon the rejection of a residence permit application, foreign citizens **must leave the national territory within 15 days**. If foreign citizens do not comply with said term and remain in Italy, a **deportation order** may be issued, even if in the meantime the foreign citizens lodged an appeal with the TAR. Upon the claimant's request, the TAR can suspend the enforceability of the rejection. In such case, foreign citizens cannot be deported for remaining in Italy after the term of 15 days.

Which residence permits can be converted?

The following cases are in case of conversion of the residence permit:

- **without restriction of quotas:**

- a) subordinate employments, self-employment or elective residences;
- b) self-employment, subordinate work or elective residences
- c) each permit issued for family reasons;
- d) family reasons, in subordinate or self-employed work, study, waiting for occupation, health emergency or medical cure and elective residence;
- e) special protection and special cases for serious labour exploitation, in subordinate or self-employed work;
- f) special cases for social protection or victims of domestic violence, in subordinate or self-employed work and study;
- g) for acts of particular civil value, in subordinate or self-employed worker
- h) reason for study, in which the holder have obtained a university degree in Italy or a doctorate and awaiting employment, a subordinate or self-employed worker

Other residence permits are also convertible for reasons for employment, subordinate or autonomous:

- i) for calamities;
- j) for elective residence in favour of the foreign citizen in holder of pension received in Italy;
- k) For the acquisition of citizenship or status for statelessness in favour of a foreign citizen who previously was a holder of a permit for another reason except for asylum request;
- l) for professional sports activities at Italian sports Clubs;
- m) for work in particular cases only if issued to those who have entered Italy through the share of "decreto flussi" decree as artistic and technical personnel for shows opera, theatrical, concert or ballet, as well



as dancers and artist or musicians to be employed at entertainment venues;

n) for religious reasons;

o) for minor assistance:

p) for medical treatment issued to foreign citizens who are in serious psychological conditions or resulting from serious pathologies such as to cause significant damage to their health in case of return to their country of origin or provenance.

- **within quotas:**

a) reasons for study or training before the end of the course of study, in subordinate or autonomous work;

b) seasonal work, in subordinate work from the first season.

What is the Integration Agreement?

The **Integration Agreement** is a document that foreign citizens between 16 and 65 years of age are required to sign when applying for a residence permit. It lasts at least one year. With said Agreement, foreign citizens undertake towards the Italian State to achieve specific integration objectives through language, civil and social courses, to be carried out during the period of validity of the residence permit.

Foreign citizens **are required to sign** the Agreement in order to be granted a residence permit. When signing the Agreement, foreign citizens are given **16 credits**, that can be increased by acquiring specific knowledge (A2 Italian level, the fundamental principles of the Constitution, civil life in Italy) or by carrying out various activities. In order to remain on the national territory, foreign citizens are required to achieve **30 credits in two years**.

Credits can be decreased if foreign citizens commit criminal, administrative and tax offences.

Foreign citizens who are not required to sign the Agreement are:

a) unaccompanied minors, minors in foster care or in ward

b) victims of human trafficking or exploitation

What happens if foreign citizens lose the total amount of credits?

The **total loss of credits** leads to the revocation of the residence permit and **deportation**, with the exception of residence permits issued for international protection, international protection seekers, **special protection**, family reasons, EU residence permit for long-term residents, residence card for a Non-EU family member of a EU citizen, and with regard to foreign citizens that exercised the right to family reunification.



What is a EU residence permit for long-term residents?

The EU residence permit for long-term residents is a residence permit that has validity in Europe and that provides freedom to move and work in all Member States.

It is a permanent permit, notwithstanding the updating every ten years. It is issued within 90 days from application.

What requirements must be met for the issue of a EU residence permit for long-term residents?

In order to be granted an EU residence permit for long-term residents, the following requirements must be met:

- a) regular residence **for at least 5 years** on the national territory. Foreign citizens' **absence** from the territory does not interrupt the term mentioned under letter a) and is included in the calculation of said period when it lasts less than 6 consecutive months and does not exceed the total amount of 10 months during the five-year period;
- b) an **income**, which must not be less than the amount of the social cheque. For international protection holders, the period of residence is calculated starting on the date of the application.

The issue of the residence permit is subject to the applicants' passing of an **Italian language test**, with the exception of children under 14 years old, persons affected by serious limitations in their learning skills, international protection holders and those who can prove to have reached an A2 Italian language level (through university courses, courses organised by the Provincial Centres for Adult Learning (CPIAs), by attending lower and upper secondary Italian schools, enrolling at University or following a Master's degree).

Who cannot apply for a EU residence permit for long-term residents?

EU residence permits for long-term residents cannot be applied for by:

- a) holders of residence permit for study or vocational training reasons;
- b) holders of residence permit for temporary protection, for medical treatment and holders of permit for special cases, for calamities, acts of particular civil value, for special protection;
- c) international protection seekers or special protection;
- d) holders of residence permit for voluntary work, diplomatic reasons or special missions;
- e) holders of visas or short-term residence permits;



f) foreign citizens dangerous for public order or for the State's security. The periods of residence relating to residence permits mentioned under numbers a), b), c), and d) are nonetheless kept into account for calculating the five-year period.

How to apply for a EU residence permit for long-term residents and what documentation is required?

Applications must be submitted to pre-established Post Offices through specially devoted forms. The documentation required is as follows:

- 1) photocopy of the entire valid passport or equivalent document;
- 2) photocopy of the residence permit;
- 3) photocopy of tax code;
- 4) certificate issued by the judicial register and a document certifying any registration of criminal proceedings;
- 5) certificate stating the availability of a fit accommodation, if the application is submitted also for family members;
- 6) photocopy of the documentation certifying the availability of an income not below the annual amount of the social cheque;
- 7) photocopy of the hospitality statement or of the house transfer or of the registered rent or sale contract;
- 8) residence certificate and a family certificate, if the application involves also family members;
- 9) four passport-size photographs.

What rights are granted by the EU residence permit for long-term residents?

Besides what established for foreign citizens regularly residing on the State's territory, holders of an EU residence permit for long-term residents are allowed:

- a) to enter Italy without a visa and freely move on the State's territory;
- b) to carry out subordinate work (without having to enter into a residence contract) and autonomous work, notwithstanding any work legally reserved to citizens or prohibited to foreigners;
- c) to make use of social assistance services, national insurance, as well as healthcare, educational and social services;
- d) to participate in the local public life.



What causes the revocation of the EU residence permit of long-term residents?

EU residence permits for long-term residents are revoked:

- a) if acquired by fraud;
- b) in case of deportation;
- c) if foreign citizens become a danger for public order or the State's security;
- d) if foreign citizens are absent from the European Union for 12 consecutive months;
- e) if foreign citizens are absent from Italy for 6 years;
- f) if the EU residence permit for long-term residents is issued by another Member State of the European Union;
- g) if the status of refugee or of subsidiary protection is terminated or revoked, in the presence of specific conditions.

If the EU residence permit for long-term residents is revoked, a different type of residence permit may be issued, if foreign citizens meet the relevant requirements and have not been deported.

What to do if a foreign citizen's application for a EU residence permit for long-term residents is rejected?

Rejections must be reasoned and notified to foreign citizens. Against the Questura rejection to issue the residence permit, it is possible to lodge an appeal with the **Regional Administrative Court (TAR)** in the place where the Questura that issued the rejection has its seat **within 60 days from the relevant notification**.

Is it possible to apply for a Non-EU residence permit for long-term residents for family members?

It is possible to apply for an EU residence permit for long-term residents also for the following dependant family members:

- a) **spouse** not legally separated and not under 18 years old;
- b) **under-age children**, also of the spouse or born outside of marriage, not married, as long as the other parent, if living, gives relevant consent. Minors adopted or in foster care or in ward are equalled to natural children;
- c) **dependent children of age** if for objective reasons they cannot take care of themselves due to health conditions entailing total invalidity;
- d) **dependant parents**;
- e) **parents over 65 years old**.



Which requirements must be met in order to extend a EU residence permit for long-term residents to family members?

- a) Regular residence **for at least 5 years** on the Italian territory;
- b) Availability of a **sufficient income** (also obtained by summing the incomes of cohabiting family members) according to the criteria established for family reunification;
- c) Availability of a **fit accommodation** in accordance with specific requirements; international protection holders are excluded.

What to do if an EU residence permit for long-term residents requested for family members is rejected?

Rejections must be reasoned and notified to foreign citizens.

In case of refusal of the rejection, it is allowed for an appeal to the ordinary court, a specialised section for immigration where the authority that issued the provision is based.

How to move to another EU country?

In order to move from Italy to another EU Member State specific requirements must be met, which differ depending on the type of residence permit held by the foreign citizen. Specifically, if it is an **ordinary residence permit** or a EU residence permit for long-term residents issued in Italy.

- Foreign citizens holding an ordinary residence permit (with the exclusion of permits issued for medical treatments, international protection seekers and for reasons related to justice) are allowed to move to another EU Member State without a visa for **not more than 90 days** for reasons related to tourism, business, study, sports events, scientific events. Whereas, if foreign citizens want to work or live in another EU Member State for more than 90 days, it will be necessary to apply for a visa and a residence permit according to the procedures of the host Country.
- Foreign citizens **holding a EU residence permit for long-term residents** are allowed to freely reside, study and work in another EU Member State for periods lasting **also more than 90 days**. However, the host State may require to prove the availability of adequate financial resources, a fit accommodation, health insurance and other conditions depending on the reason of the stay.



Who is eligible for an EU Blue Card?

Highly qualified foreign workers who have been allowed to work on the national territory are granted a special residence permit called “EU Blue Card” after signing a residence contract for work reasons.

Foreign citizens considered highly qualified workers are those who possess a degree issued by a higher educational institute certifying the completion of a post-secondary educational path lasted at least three years and the achievement of the relevant degree.

These regulations are extended also to workers with professional-technical qualifications. Holders of a EU Blue Card are allowed to enter and reside on the national territory for more than three months, outside the quotas, and carry out paid work on behalf of and under the management of third parties.

Besides, it is possible to apply for a EU residence permit for long-term residents proving:

- a) to have resided regularly and uninterruptedly for 5 years in the European Union as holders of the EU Blue Card issued by another Member State;
- b) to have held the “EU Blue Card” issued in Italy for at least 2 years.

By meeting the abovementioned requirements, all holders of the EU Blue Card are issued an EU residence permit for long-term residents with the wording **“Former holder of an EU Blue Card”**.

What is a tax code and when is it issued?

A tax code is a code composed of letters and numbers unequivocally identifying natural persons and other subjects for tax and administrative purposes.

After being granted a residence permit, foreign citizens can apply for a tax code submitting application to the local offices of Agenzia delle Entrate (Italian Tax Authority) of the Ministry of Finance.

For the tax code to be issued, it is necessary to show a valid residence permit and the photocopy of a valid passport.

A tax code is required, for example, in order:

- a) to be registered with the SSN (National Health Service);
- b) to be hired as dependent worker;
- c) to begin an autonomous work;
- d) to enter into any type of contract (e.g. lease, sale);
- e) to open a bank account.

How to register with the Registry Office?

L’iscrizione nelle liste anagrafiche della popolazione residente in un comune italiano costituisce il presupposto per l’esercizio di diritti fondamentali.



Foreign citizens residing in Italian cities and towns must register with the Registry Office in order to exercise their fundamental rights.

In order to register, foreign citizens must meet the requirement of habitual abode - that is the permanent presence in a specific city or town with the will to stay and establish their residence in that place - and must hold a valid residence permit. For international protection seekers hosted in reception structures, the latter represent the place of habitual abode, provided that foreign citizens supply documented evidence to have been living in said structures for more than 3 months.

Registration with the Registry Office allows:

- a) to register with the National Health Service (SSN - Servizio Sanitario Nazionale);
- b) to access welfare services and benefits or facilitations granted by the municipalities;
- c) to exercise the right to participate in the local administration as provided for by the municipal statutes;
- d) to be granted an identity document and personal data certificates;
- e) to be granted an Italian driving licence.

What is a self-certification?

Self-certifications are simple statements through which a person, under personal, civil and criminal liability, declares a series of facts, statuses and conditions, certified in public acts, without having to submit relevant certificates. They must be signed by the party involved, without having to attest the signature. Their validity has the same term of the act replaced.

Are foreign citizens allowed to submit self-certifications?

Foreign citizens can submit self-certifications of statuses, facts and qualifications that can be certified or attested by Italian public subjects.

Foreign citizens are not allowed to self-certify:

- statuses, facts and qualifications that Italian authorities cannot certify because referred to events occurred abroad. In such cases, foreign citizens are required to submit certificates and documents issued by the competent authorities of the foreign State, legalised by the Italian Embassy or Consulate with relevant annexed translation into Italian and a statement declaring that the translation corresponds to the original documents.

Examples:

- a) birth certificates for births occurred abroad;
- b) wedding certificates for weddings celebrated abroad;
- c) criminal certificates relating to events occurred abroad;



d) income statements for income produced abroad.

All the above is not applied to international protection holders and international protection seekers, who instead can submit self-certifications.

- statuses, facts and qualifications relevant for procedures regulated by immigration laws (issue and renewal of residence permits, family reunification).

Examples:

- a) family certificate indicating the family member's relationship;
- b) family certificate indicating the family unit;
- c) accommodation fitness.



Chapter 3

Family and minors





CHAPTER 3

FAMILY AND MINORS

What is family reunification?

Family reunification is the right to family unity, understood as the right to maintain, create or reconstruct a family unit. It is a person's fundamental right provided for and protected by our Constitution and by other international and European conventional texts.

Family reunification is the legal institution that allows foreign citizens regularly residing on the national territory to obtain the entry and the consequent authorisation to reside for one or more family members that are in the Country of origin.

Who can apply for family reunification?

Non-European citizens legally resident in Italy and in possession of an EU long term residence permit or residence permit for a period of not less than one year.

It is not possible for the following to apply for family reunification:

- asylum / international protection seekers
- those in temporary protection status.

Which family members can benefit from family reunification?

The family members for whom it is possible to apply for family reunification are as follows:

- **spouse**, not legally separated and not under 18 years old, also of the same gender, or the partner under a registered cohabitation;
- **under-age children not married**, be they natural or legitimate children, born from relationships prior to the current one, biological or adopted. If the other parent has not lost parenthood rights and is still living, it is necessary to obtain relevant consent for expatriation. The age established as "under-age" is the one provided for by the Italian law, that is under 18 years old. When submitting application for an entry clearance, the child must be under-age; whereas, it is not relevant if the child turns of age when applying for the entry visa or when entering Italy. It is also possible to reunify minors under the foster care or guardianship of a foreign citizen regularly residing in Italy as long as the document certifying the



foster care or guardianship was issued by a public authority and is not the result of a mere agreement between private subjects;

- **children of age** only if dependent due to their impossibility to take care of themselves because of serious health conditions entailing total invalidity;
- **parents under 65 years old** only if dependent and if they have no other children residing in the Country of origin or provenance;
- **parents over 65 years old** only if dependent and if no other children residing in the Country of origin or of provenance can take care of them due to serious proven health conditions.

Which requirements must be met in order to apply for family reunification?

For the purpose of obtaining family reunification, the foreign citizen in possession of legal residence must prove the availability of the following:

- an accommodation that complies with the health and hygiene requirements and housing suitability issued by the municipality of residence;
- a minimum annual income;
- a health insurance in the event of reunification with a parent over 65 years of age.

Regarding the availability of income, the minimum threshold required is parametrized to the amount of the annual social allowance increased by half of each family to be reunited (updated to 2021).

Social allowance-amount for 1 person	€ 5.983,64
n. 1 family member to be reunited	€ 8.975,46
n. 2 family member to be reunited	€ 11.967,28
n. 3 family member to be reunited	€ 14.959,10
n. 4 family member to be reunited	€ 17.950,92
n. 5 family member to be reunited	€ 20.942,74
n. 6 family member to be reunited	€ 23.934,56

If two or more children under the age of 14 are reunited, the minimum income required for 2021 is equal to 11,967,28 euros.

It should be noted that there will be changes to the amount of the annual social allowance for year 2022.

For each update visit the INPS website <https://www.inps.it/presentazioni-servizi/assegno-sociale>

The family members to be reunited must on the other hand, present to the diplomatic representations of the country of origin or residence, their valid passport and documentation certifying family relationships.



Which requirements must be met by international protection holders in order to apply for family reunification?

Foreign citizens holding the status of refugee or under subsidiary protection are not required to prove neither the fitness of their accommodation nor the minimum income threshold required.

How to apply for family reunification?

In order to start the family reunification procedure, foreign citizens regularly residing in Italy must submit application for the issue of a family reunification clearance document to the Single Desk at the Immigration Office of the Prefettura territorially competent on the basis of the applicant's residence. The application must be submitted via computer. Subsequently, the applicant will have to set an appointment with the Single Desk in order to submit the required documentation and a valid residence permit.

Following its issue, the clearance document is sent via computer to the Italian Embassy or Consulate of competence with regard to the Country of origin or of residence of the family member to be reunified for the issue of an entry visa.

Once arrived in Italy, the reunified family member must go to the Single Desk at the Immigration Office of the Prefettura UTG within 8 days from arrival in order to prepare the application for a residence permit for family reasons to be submitted to the Questura territorially competent.

How long does the reunification procedure last?

The clearance document for family reunification is issued within 90 days and is valid for 6 months. The entry visa is issued within 30 days, while the residence permit is issued within 60 days.

It is important to specify that said terms are absolutely regulative and not peremptory. Therefore, their non-compliance does not entail neither a sanction for the acting Administration nor the automatic acceptance of the application. As a matter of fact, the general rule has proven that the procedure lasts much longer than what indicated by regulations.

What to do if a family reunification application is rejected?

If the clearance document for family reunification, the relevant residence permit or the entry visa for family reasons is rejected, foreign citizens can lodge and appeal with the Section specialised in immigration, international



protection and freedom of movement of EU citizens present in every Ordinary Court where the Court of Appeal has its seat, with reference to the place where the acting Administration has its seat.

Therefore, in the first two cases, the territorial competence is identified on the basis of where the Prefettura UTG or the Questura that issued the rejection is found. Whereas, appeals against the rejection of the entry visa must be lodged with the Ordinary Court of Rome, since the acting Administration is the Ministry of Foreign Affairs. There is no term for lodging the appeal. The judge has the power to annul the rejection and order the acting Administration to accept the application and therefore to issue the visa, the clearance document for family reunification or the residence permit initially rejected.

What is family cohesion?

The concept of **family cohesion** includes all those cases in which the issue of a residence permit for family reasons in favour of a foreign citizen already present on the national territory is necessary to protect the right to family unity.

This procedure can be considered like a reunification *sur place*, in view of the fact that in almost all cases foreign citizens are required to meet the same requirements laid down for entries, but the whole procedure is carried out in Italy.

When is a foreign citizen granted cohesion with a Non-EU family member already present in Italy?

Residence permits for family reasons are issued to Non-EU family members regularly residing on the national territory if:

- they already hold a valid residence permit or expired from less than one year
- they meet the requirements laid down for family reunification – income, fit accommodation and, where required, health insurance.

Therefore, by meeting income and accommodation requirements, it is possible to apply for the conversion of the residence permit already held and possibly even expired, also in cases in which the residence permit cannot be renewed (e.g. medical treatments, tourism, assistance to minors). This procedure is implemented, for instance, when a permit is issued for medical treatments to be provided to women through the whole duration of a pregnancy and for the first six months after the child's birth: upon expiry, said residence permit can no longer be renewed, but the foreign citizen may apply for its conversion into a residence permit for family reasons if the



husband is regularly resident in Italy and has a sufficient income and a fit accommodation.

With regard to family members of refugees, the regulations provide for an extremely favourable treatment since it is not necessary to have a previous residence permit to be converted, nor to prove the availability of means of support and a fit accommodation.

When is a foreign citizen granted cohesion with a EU family member?

Family members of EU citizens have the right to accompany them or reach them in the EU Member Country to which they have moved. Said right is based on a provision aimed at safeguarding the right to freedom of movement and the fundamental right to family unity. The applicable law is provided for by Legislative Decree No. 30 of 6th February 2007.

The family members to whom this right is extended are:

- **children under 21 years old**, both natural and legitimate, also adopted, or of the EU citizen or of the spouse or partner
- **dependent ascendants**, direct, or of the spouse or of the partner
- **spouse**, as long as not legally separated and not under 18 years old, also of the same gender, or a partner under a registered cohabitation.

In order to enter the territory, it is sufficient for the Non-EU family member of a EU citizen to submit application for an entry visa to the Italian Embassy or Consulate in the Country of origin or of residence proving the family relationship, the residence of the family member in Italy (residence certificate issued by the Registry Office) and, where required, the fact of being dependant. On the basis of the same documents, the No-EU citizen is granted a five-year residence card. Said card can be issued also if the family relationship began in Italy and, anyway, after the foreign citizen's entry on the national territory for any other reason.

When is a foreign citizen granted cohesion with an Italian spouse or family member?

Non-EU family members of Italian citizens are governed by the regulations laid down for family members of EU citizens, since they are more favourable compared to the provisions mentioned in the Consolidated Act on Immigration. However, in such cases there are **some further favourable provisions completing the regulatory framework**.

In particular, foreign citizens living with a family member within the second degree (son, brother, parent, the parent's ascendant) or with the spouse or with the partner in a registered cohabitation with Italian citizenship cannot



be deported. Besides, they have the right to be granted a two-year residence permit for family reasons, that can be renewed.

The condition of non-deportability – and consequently also the granting of a residence permit – is implemented against the ascertainment of the actual cohabitation, regardless of any further evaluation concerning the existence of a sufficient income, the availability of a fit accommodation or of a health insurance.

What type of residence permit is issued to a parent of an Italian minor?

Parents of Italian minors can apply for a residence permit on the basis of their condition of non-deportability deriving from cohabiting with their child, or they can apply for a residence permit for family reasons proving not to have lost parenthood rights.

In such case, the issue of a residence permit is granted regardless of the parent's previous holding of a regular residence permit and actual cohabitation with the minor.

When can a residence permit for family reasons be converted?

Holders of a residence permit for family reasons can work both as subordinate and autonomous workers without having to convert their permit into another type of residence permit.

If the residence permit for family reasons can no longer be renewed because failing the necessary conditions - for example, the loss of family bonds – said permit can be converted into another type of permit if meeting the relevant requirements provided for by law (subordinate or autonomous work, elective residence, awaiting employment).

What type of residence permit is issued to a minor with regularly residing parents?

Foreign minors present on the national territory with one or both parents – or with a person legally representing them, for example a foster care parent or a guardian – are subject to the relevant legal conditions.

If the foreign minors' parents or legal representatives regularly reside on the national territory, said minors are granted a residence permit for family reasons up to 18 years of age.

Said regulations are implemented with regard to minors that entered Italy through family reunification before turning 14 years old, as well as to children of foreign citizens born in Italy. Whereas, foreign minors that entered



the national territory being already 14 years old do not benefit from said regulations. In the latter case, in fact, they are granted a residence permit for family reasons with a term equal to that of the residence permit held by the family member already resident in Italy.

How to apply for the renewal of a residence permit for family reasons when turning 18 years old?

When turning 18 years old, foreign citizens holding a residence permit for family reasons have the right to be granted a residence permit for reasons related to: study, access to work, health, subordinate work, autonomous work. However, a strict implementation of said regulation would exclude all those cases – currently very frequent - in which youngsters when turning 18 years old have not yet found a job and, at the same time, are not yet enrolled in university or in a vocational training path. Indeed, this would thwart the years devoted to integration on the national territory. Therefore, the administrative procedures of the single Questure, standardised with Circular No. 17272/7 of 28 March 2008 of the Ministry of Interior, are oriented towards recognising the right for 18-year old foreign citizens, still dependent on parents, to renew their residence permit for family reasons, if meeting the requirements of income and accommodation.

Which requirements must be met in order to marry in Italy?

In order to marry in Italy, foreign citizens must hold a valid passport or equivalent document and a clearance to marry document issued by the diplomatic authorities of their Country of origin in Italy. Said document is necessary to certify that the foreign citizens are not already married in their Country of origin, given the prohibition of bigamy in Italy. Therefore, it must expressly indicate their marital status (unmarried woman/unmarried man, widow/widower or divorced) and the name of the future spouse.

The document must be legalised at the Prefettura UTG, notwithstanding the cases of exemption provided for States that undersigned the Treaty in London on 7 June 1968 (Austria, Belgium, Cyprus, Estonia, France, Germany, Great Britain, Greece, Ireland, Liechtenstein, Luxemburg, Norway, Holland, Poland, Portugal, Czech Republic, the Republic of Moldova, Romania, Spain, Sweden, Switzerland, Turkey.).

After submitting said documentation, the future spouses can ask the Municipality to publish the banns. From said publishing, 8 days must go by before celebrating the wedding.

Foreign citizens are allowed to marry even if lacking a valid residence permit in Italy.



If the spouses or the witnesses do not understand Italian, an interpreter must be present at the spouses' expense.

Which requirements must be met for a holder of a refugee status to marry in Italy?

In the event that one or both of the subject who must marry holds a refugee status as they cannot contact their diplomatic authorities, they will have to ask the court to issue a notorious act that certify, in the presence of two witnesses, that there are no impediments to marrying. The aforementioned notorious act must then be sent in original to the office of the United Nations High Commissioner For Refugees located in Rome, in via Caroncini 19, with a copy of the recognition of the refugee status, of the valid permit residence and an identity document of both spouses. The UNHCR provides for the endorsement of the deed and its return to the applicant. The practice is free. Upon representation of this documentation, the future spouses must then ask the municipality to proceed with the banns of marriage, which can be celebrated no earlier than 8 days from the actual publication. With the circular act of 12th January 2022, the ministry of interior specified that, it is possible for refugees to resort to a substitutive declaration pursuant to presidential decree DPR 445/2000 regarding the in existence of obstacles of a marriage contract or civil union.

What happens if the diplomatic authority does not issue clearance to marry?

If the diplomatic authority does not issue a clearance to marry – for example due to religious differences between the spouses – the Municipality will reject the publishing of the banns. In such case, it will be necessary to request the ordinary Court, Voluntary Jurisdiction, to ascertain the right to marry. In accepting the request, the Judge will order the publishing of the banns, and it will be possible to marry after the terms of law.

What are civil unions?

Civil unions were introduced with Law No. 76 of 20 May 2016. They are unions established between two individuals, of age and of the same gender, through a declaration carried out before a Registry Office official and in the presence of two witnesses.

The parties acquire the same rights and assume the same duties, and they both have the obligation to provide mutual moral and material assistance and to cohabitate.



Civil unions cannot be established if one of the two parties is already married or joined with another person. Should the civil union be dissolved, said dissolution has immediate effects and does not require any period of separation.

In order to celebrate a civil union, foreign citizens must hold a valid passport or equivalent document, as well as a clearance document to celebrate the civil union issued by the diplomatic authority of their Country of origin.

If the clearance document cannot be requested because the laws of the foreign citizens' State do not recognise civil unions between persons of the same gender or similar institution, the clearance document may be replaced with a certificate or other act anyway suitable to certify the subjects' free marital status, or with a substitutive affidavit.

In implementing regulations on immigration, the relationships deriving from the celebration of a civil union between persons of the same gender have the same value of those deriving from the celebration of a marriage.

What are factual cohabitations?

Factual cohabitations are established when two persons of age live together joined by sentimental bonds typical of couples and provide mutual moral and material assistance not bound by kinship, marriage or civil union, neither between them nor with other people. It does not matter if the two cohabiting persons belong to the same gender or not.

The parties interested in establishing a factual cohabitation must already reside in the same apartment and be registered with the Registry Office in the same family unit. Therefore, only foreign citizens that hold a residence permit are allowed to establish a factual cohabitation, since registration with the Registry Office is mandatory for a regular residence.

In implementing regulations on immigration, the relationships deriving from the registration of a factual cohabitation with the Registry Office have the same value of those deriving from the celebration of a marriage.

What is the special residence authorisation issued by the Juvenile Court?

The Juvenile Court can at the request of the interested parties authorize the temporary stay of a relative for serious reasons connected with the psychological development of the minor. The norm in question can be applied in favour of the parents, but also of all parental figures- grandparents, uncles, elder brothers or sisters in which the presence of such relative in Italy is absolutely necessary to avoid significant harm to the minor.

The law does not however specify the possible reason connected to serious psychological development of the minor to justify a derogation from



the rules on the entry and stay of a foreign citizen on national territory, but imitates itself by providing two non-exhaustive parameters, such as the age and health conditions of the minor.

Their identification is therefore left to the juvenile court which may grant it in all cases in which the removal of the minor or one of the parent from national territory represent a serious matter harm to the psychological development of the minor, for example, in case of serious physical illnesses.

Similarly, the duration of the aforementioned authorization is also decided by the juvenile court in reference to laws which follows the issue of a residence permit for minor assistance. Such permit is not renewable, except through a new judicial procedure, it can be however be converted to a permit for work reasons for family reasons through the institute of family cohesion.



Chapter 4

Italian citizenship





CHAPTER 4

ITALIAN CITIZENSHIP

What does the acquisition of Italian citizenship entail?

The acquisition of Italian citizenship entails the acquisition of all the rights and duties established for Italian citizens. The acquisition of Italian citizenship automatically entails the acquisition of the EU's citizenship.

Who acquires Italian citizenship by birth?

Italian citizenship is acquired by birth when at least one parent is Italian. In order to transmit citizenship, the mere biological bond is not enough. The child must be legally recognised.

If a late recognition takes place when the child is still under-age, the child automatically acquires Italian citizenship.

If a late recognition takes place after the child has already turned 18 years old and has thus become of age, the child must declare the desire to acquire Italian citizenship within one year from recognition.

Can a direct descendant of an Italian citizen acquire Italian citizenship?

Direct descendants of an Italian citizen can apply for the recognition of Italian citizenship as long as they prove that none of their ascendant expressly renounced to citizenship. If they are holders of a valid residence permit, they are required to register with the Registry Office of their Municipality, and then submit the documentation for citizenship recognition to the Register's Office. Subsequently, they can apply for a residence permit while awaiting citizenship up to the end of the procedure.

If the subjects are abroad, the procedure must be carried out through diplomatic offices.



Who acquires Italian citizenship by being born in Italy (the so-called *ius soli*)?

Italian citizenship acquired by being born in Italy involves children born in Italy or found in a state of abandonment and whose parents are unknown. It also involves children born in Italy with both parents recognised as stateless persons.

Furthermore, it involves children born in Italy with parents whose Country's laws establish that children are not entitled to the parents' citizenship. It must concern a total impossibility to acquire the parents' citizenship. Therefore, it is not applicable if it is possible to acquire the parents' citizenship through a declaration of will or other administrative fulfilments.

Which requirements must be met in order to apply for Italian citizenship by marriage?

The acquisition of Italian citizenship by marriage is regulated by Art. 5 of Law No. 91/1992.

The spouse of an Italian citizen can apply for Italian citizenship if at least two years have gone by from the date of the wedding (if the couple resides in Italy) or three years (if the couple resides abroad), without any occurrence of legal separation or dissolution of the marriage. The terms are halved if the couple has children.

How to apply for Italian citizenship by marriage?

Applications for Italian citizenship by marriage must be submitted on-line on the website of the Ministry of Interior – Dipartimento delle Libertà Civili e l'Immigrazione (Department for Civil Liberties and Immigration).

The applicant must be in possession of the authentication system SPID and submit the application electronically on the site

<http://portaleservizi.dlci.interno.it/Alicittadinanza/ali/home.htm>

The application form must be attached in PDF format:

- 1) translated and legalized birth certificate;
- 2) Italian National Identity Card
- 3) passport
- 4) residence permit
- 5) criminal certificate issued by the country of origin
- 6) marriage certificate
- 7) receipt of payment of the contribution of 250 euros
- 8) certificate relating to the level of knowledge of the Italian language
- 9) identity document of the spouse.



The application is assessed directly at the “PREFETTURA” of the place where the applicant resides.

Which crimes prevent the acquisition of Italian citizenship by marriage?

The acquisition of citizenship by marriage is prevented by sentences for crimes against the State as provided for by Book I, Title I, items I-III of the Code of Criminal Procedure. In the event of pending criminal proceedings for one of those crimes, the citizenship application remains suspended up to a definitive judgment.

The acquisition of citizenship is also prevented by sentences (including a judgment of “plea bargaining” pursuant to Art. 444 of the Code of Criminal Procedure) for non-culpable crimes for which the law provides for a sanction up to a maximum of three years.

Furthermore, it is prevented by sentences for non-political crimes with imprisonment carried out abroad if the sentences are recognised in Italy.

Applications can anyway be rejected for “proven reasons relating to the State’s security”.

How long is it necessary to reside in Italy in order to apply for Italian citizenship by naturalisation?

The acquisition of citizenship by naturalisation is regulated by Art. 9 of Law No. 91/1992.

It is necessary to meet the following requirements:

- 10 years for Non-EU citizens;
- 4 years for EU citizens;
- 5 years for international protection holders and stateless persons residing in Italy;
- 5 years for youngsters of age adopted by an Italian citizen;
- 3 years for EU or Non-EU citizens whose parent or grandfather was an Italian citizen;
- 3 years for EU and Non-EU citizens born in Italy.

Legal residence, understood as the registration with the Registry Office, must be uninterrupted.

Italian citizenship is not granted to foreign citizens who have transferred their residence abroad.



How to apply for Italian citizenship by naturalisation?

Applications for acquiring Italian citizenship by naturalisation must be submitted through the procedure provided on-line on the website of the Ministry of Interior - Dipartimento delle Libertà Civili e l'Immigrazione.

The applicant must be in possession of the authentication system SPID and submit the application electronically on the site

<http://portaleservizi.dlci.interno.it/Alicittadinanza/ali/home.htm>

The application form must be attached in PDF format:

- 1) translated and legalized birth certificate;
- 2) Italian National Identity Card
- 3) passport
- 4) residence permit
- 5) criminal certificate issued by the country of origin
- 6) receipt of payment of the contribution of 250 euros
- 7) certificate relating to the level of knowledge of the Italian language.

The application is assessed by the ministry of the interior and the concession provision issued by the president of the Republic.

What is the minimum income necessary to apply for Italian citizenship by naturalisation?

Applicants are required to prove a personal (or family) income for 3 years prior to the application. The amount of said income must be as follows:

- Euros 8,263.31 for the sole applicant without dependant persons
- Euros 11,362.05 for the applicant with dependant spouse
- Euros 516.00 for every other dependant person.

Applicants are required to submit their income statements (modello UNICO, modello 730, CUD) relating to the incomes of the last 3 years prior to the application.

Is it necessary to know Italian in order to apply for Italian citizenship?

Following the approval of Law No. 132/2018, it is mandatory to prove an adequate knowledge of Italian. This means that foreign citizens must prove to know Italian at least at a Level B1 of the Common European Framework of Reference for Languages. Applicants who have not signed the integration agreement or are not holders of an EU residence permit for long-term residents are required to submit the educational qualifications acquired at a public school or at an officially recognised private school, or to submit specific certification.



Is Italian citizenship granted if lacking a personal income?

Yes, it is. Foreign citizens meeting the requirements to reside in Italy can apply for Italian citizenship annexing the income of one or more family members, as long as they cohabit with the applicant and are present on the same family certificate (spouse, parents, siblings).

Is Italian citizenship granted in the presence of criminal convictions?

With regard to citizenship applications by marriage, the law provides for rehabilitation to cease the preclusive effect of convictions. With regard to citizenship applications by naturalisation, the law does not provide for a list of preventing crimes, but it is always advisable to request and obtain rehabilitation or the extinction of the crime before submitting application. It is necessary to be aware that the evaluation for granting citizenship is widely discretionary and includes all aspects of the applicant's life and conduct. Therefore, the Administration, also in case of rehabilitation, can keep into account the historic fact of the crime committed.

What must foreign citizens do if they change residence during the application procedure?

It is always necessary to communicate any changes of residence to the Administration.

Within when is the procedure closed?

Following the entry into law 173/2020, the applications presented starting from 20 December 2020 must be defined within 24 month, which can be extended up to a maximum of 36 month.

For applications submitted previously, the deadline for the conclusion of the procedure remains 48 month.

Is it possible to have information on the progress of the procedure?

Yes, it is. Applicant must be in possession of the authentication system SPID and submit the application electronically on the site.

Applicants can visit the website of the Ministry of Interior and access the reserved area through the authentication system SPID. In the section "visualizza lo stato della domanda" ("view the progress of the application") it is



possible to verify the progress of the procedure. In the section “comunicazioni” (“communications”) it is possible to view any communications from the Administration.

Moreover, applicants, also through the aid of a lawyer, can send communications to the Ministry concerning naturalisation applications (reminders, warnings, access requests, and more) utilising the following certified e-mail address: comunicazione.cittadinanza@pecdlci.interno.it

If a parent is granted Italian citizenship, what does this entail for children not of age?

Children not of age of a parent granted Italian citizenship acquire Italian citizenship if they cohabit. The cohabitation must be steady and permanent, duly certified through suitable documentation such as registration with the Registry Office. However, jurisprudence has held that a parent granted Italian citizenship transmits said citizenship to the child not of age, even if the latter does not physically live with the parent due to separation or divorce, as long as a steady family relationship continues to exist.

How can a foreign citizen born in Italy acquire Italian citizenship when turning 18 years old?

When foreign citizens born in Italy turn 18 years old, they can submit an election statement (that is, declare the desire to acquire Italian citizenship), as long as they kept their residence in Italy uninterruptedly until turning 18 years old. The election statement must be made before an official of the Register's Office, before turning 19 years old. With regard to the maintenance of residence in Italy up to 18 years old, the registration of the lack of interruptions with the Registry Office is not mandatory, but applicants can prove the continuity of their presence in Italy in a different way.

The Municipality of residence is obliged to send a written communication to all residents who are in the condition to submit an election statement.

How much does it cost to apply for citizenship?

In order to apply for citizenship, it is necessary to purchase an electronic revenue stamp amounting to 16.00 Euros and pay a contribution of 250 Euros (Form 451) via the current account No. 809020 in the name of: MINISTERO INTERNO D.L.C.I. – CITTADINANZA with the following description: “Cittadinanza - contributo di cui all’art. 1, comma 12, legge 15 luglio 2009, n. 94”. The payment of the contribution is required for all applications submitted for citizenship election, acquisition, re-acquisition and granting.



How to apply for Italian citizenship by adoption?

Minors adopted by an Italian citizen acquire Italian citizenship automatically. Youngsters who were 18 years old when adopted by an Italian citizen can apply for Italian citizenship after 5 years of residence.

When is citizenship acquired by “benefit of law”?

Italian citizenship by “benefit of law” is granted to foreign citizens that have at least one parent or grandfather with Italian citizenship by birth, and if:

- they offer military service for the Italian State declaring in advance the desire to acquire Italian citizenship;
- they are employed by the Italian State, also abroad, and declare the desire to acquire Italian citizenship;
- when turning 18 years old, they have regularly resided in Italy already for two years and declare the desire to acquire Italian citizenship before turning 19 years old.

In which cases can Italian citizenship be revoked?

Law No. 132/2018 introduced the possibility to revoke Italian citizenship acquired by marriage, naturalisation or following the declaration of election when turning 18 years old for persons convicted definitively for certain crimes relating to terrorism and subversive acts against the Constitution. Revocation is adopted within three years from the final judgment with decree of the President of the Republic, upon proposal of the Minister of Interior.

What to do if a citizenship application is rejected?

In case of denial of an application for citizenship by neutralization, it is possible to appeal before the court of the Administrative office in Lazio within 60 days of notification of rejection order.

In case of denial of an application for citizenship by marriage, it is possible to appeal to the section specialized in immigration, International protection of the court of the place where the applicant has his/her residence.

What is a residence permit while awaiting citizenship?

A residence permit while awaiting citizenship is a residence permit granted to foreign citizens, already residing for other reasons, in order for them to carry out all the procedures necessary to be granted citizenship (e.g. granting of citizenship by birth in the presence of Italian ascendant).



Chapter 5

The Right to Health





CHAPTER 5

THE RIGHT TO HEALTH

What is the right to health?

Health is defined by the World Health Organisation as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.

What is the National Health Service (SSN)?

The **SSN** is a universalist public service that guarantees healthcare to all citizens and to those who are equalled to Italian citizens. It is financed through the general taxation system (taxes), direct incomes (medical prescriptions) and services for a fee.

What rights are entailed when registering with the SSN?

Personal healthcare cards give the right to receive the following services:

- a family doctor or paediatrician
- free hospitalisation in public hospitals and in those operating under the National Health Service
- pharmaceutical assistance
- general medical examinations in surgeries
- specialist examinations
- medical examinations at home
- vaccinations
- blood tests
- X-rays
- ultrasound scans
- medication
- rehabilitative assistance and prosthesis assistance
- other services provided for by essential assistance



Which Non-EU citizens are required to register with the SSN?

Registration is required for all foreign citizens regularly residing who carry out subordinate or autonomous work, who are registered in the employment lists and who have applied for the renewal of a residence permit.

Citizens of which residence permits are required to register with the SSN?

- subordinate work (also seasonal)
- autonomous work
- family reasons
- political asylum and asylum seekers (international protection)
- humanitarian reasons (Art. 20 par. 1 of the Consolidated Act on Immigration with regard to extraordinary reception measures for exceptional events; Art. 40 par. 1 of the Consolidated Act on Immigration with regard to foreign citizens hosted in reception centres, if they have no other title to receive healthcare)
- social protection, pursuant to Art. 18 par. 1 of the Consolidated Act on Immigration;
- medical treatments, if issued pursuant to Art. 19 par. 2 let. d) of the Consolidated Act on Immigration with regard to the prohibition to deport women while pregnant and up to six months after the child's birth;
- for medical treatment if issued pursuant to art. 19 c. 2 lett. d-bis) T.U. immigration in case of prohibition of expulsion for foreign citizens who are in serious pathological conditions ascertained through suitable documentation issued by a public health facility or by an approved doctor affiliated to the National Health Service such as to cause significant damage to health of the subject in case of return to the country of origin or provenance.
- under-age children, if issued pursuant to Art. 19, par. 2 let. a) of the Consolidated Act on Immigration with regard to the prohibition to deport minors;
- holders of the EU Blue Card, granted to highly qualified workers pursuant to Art. 27c of the Consolidated Act on Immigration
- awaiting adoption, foster care, citizenship acquisition
- assistance to minors
- elective residence, only if holding an Italian contributory pension plan.



Are dependant family members of foreign citizens who are mandatorily registered with the SSN registered as well?

Yes, they are. Dependant family members of foreign citizens who are required to register with the SSN are registered as well.

Are under-age children of foreign citizens who are registered with the SSN registered as well?

Yes, they are. Under-age children are mandatorily registered. In any case, while waiting for registration, under-age children of foreign citizens who are registered with the SSN are granted from birth the same treatment granted to registered minors.

Are regular Non-EU citizens who are not obliged to register with the SSN required to have a health insurance cover?

Yes, they are. Foreign citizens who are not obliged to register with the SSN must be covered by an insurance policy for healthcare expenses or can voluntarily register with the SSN.

Which Non-EU citizens can voluntarily register with the SSN?

Voluntary registration can be carried out by holders of a residence permit for study reasons; by au pair foreign citizens (only in this case, also for periods lasting less than three months); parents over 65 years old of foreign citizens regularly residing.

How do foreign citizens voluntarily register with the SSN?

Foreign citizens can register by paying a contribution which is calculated on the basis of a percentage of their income and can never be less than the minimum amount of € 387.34. This is valid also for dependant family members. Students lacking an income and without dependant family members and au pair foreign citizens are required to pay an amount equal to € 149.77.



Which regular Non-EU citizens are not required to register with the SSN although working in Italy?

Registration with the SSN is not mandatory for foreign citizens that hold a residence permit issued pursuant to Art. 27 of the Consolidated Act on Immigration in particular letter a) (managers or highly specialised personnel of companies with premises or branches in Italy...); letter i) (employees regularly paid by employers residing or with premises abroad and directly paid by the same) and letter q) (correspondents officially accredited in Italy) if they are not required to submit their income-tax return in Italy.

Of course, if said subjects and their dependant family members are not registered with the SSN, they are required to have an insurance cover (health insurance) for themselves and for their dependant family members. Registration is not mandatory also for foreign citizens holding a residence permit for business reasons.

Can the holder of a residence permit for voluntary work register with the SSN?

Holders of a residence permit for voluntary work are required to be covered by health insurance.

Can the holder of a residence permit for scientific research register with the SSN?

Holders of a residence permit for scientific research can choose if to take out a health policy or if to be registered with the SSN by the body with which they signed an agreement.

Can the holder of a residence permit for elective residence register with the SSN?

Holders of a residence permit for elective residence on the basis of an entry visa for elective residence are required to take out a health policy.

Foreign citizens holding a residence permit for elective residence because recipients of a pension received in Italy are required to register with the SSN.



Are there any regular foreign citizens not allowed to register with the SSN?

Yes, there are. Foreign citizens that stay for a short period, that is less than 3 months (with the exception of the so-called au pair subjects) and those who hold a residence permit for medical treatments cannot register with the SSN. It is hereby reminded that women while pregnant and up to six months after the child's birth are issued a permit for "medical treatments" which instead allows to register with the SSN.

To whom are residence permits for medical treatments granted?

There are three types of residence permit for medical treatment:

- 1) Residence permits for medical treatments are granted to foreign citizens holding an entry visa for medical treatments as well as to the possible accompanying person. In order to be granted an entry visa and consequent residence permit for medical treatments, foreign citizens must submit: a statement specifying the Italian structure chosen, the type of treatment that will be carried out, the scheduled date for hospitalisation and its assumable duration; a document proving to have deposited caution money on the basis of the assumed cost of the treatment requested (at least 30%); the availability in Italy of the resources necessary to cover all expenses with regard to healthcare, board and lodging, and return to the Country of provenance both for the subject needing treatment and for the possible accompanying person; a medical certificate certifying the pathology, issued by the Country of origin, translated and legalised at the Italian Consulate.
- 2) The residence permit for medical treatment issued to foreign citizens who are already in national territory in case of prohibition of expulsion to foreign citizen who are in serious psychological conditions deriving from serious pathologies, ascertained through suitable documentation issued by a public facility or a doctor affiliated with the National Health Service such as to cause significant damage to their health in the event of their return to the country on origin. The permit lasts one year and can be renewed if the conditions persist.
- 3) Residence permits for medical treatments are granted to women while pregnant and after the baby's birth, up to the child's six month of life. This permit is granted also to the cohabiting husband and the child's father.



Does a foreign citizen irregularly present on the territory have the right to healthcare?

Foreign citizens present on the national territory not compliant with the regulations on entry and stay are guaranteed, in public hospitals and in structures operating under the National Health Service, urgent or anyway essential hospital and surgery treatments, even continuative, for diseases and accidents. Besides, they are allowed access to preventive medicine programmes safeguarding individual and collective health. In particular, the following services are guaranteed:

- a) social protection relating to pregnancy and maternity, equally to what offered to Italian citizens, pursuant to Law No. 405 of 29 July 1975, and of Law No. 194 of 22 May 1978, and to Decree of 6 March 1995 of the Ministry of Health, published in the Official Journal No. 87 of 13 April 1995, equally to what offered to Italian citizens;
- b) safeguard of minors' health implementing the Convention on the Rights of the Child of 20 November 1989, ratified and made executive pursuant to Law No. 176 of 27 May 1991;
- c) vaccinations according to laws and within the scope of campaigns for collective precautionary measures authorised by the regions;
- d) international preventive treatments;
- e) preventive treatments, diagnosis and treatment of infective diseases and reclamations of centres of infection.

What are urgent and essential treatments?

Urgent treatments are those that cannot be postponed without putting a person's life at risk or damaging the person's health. Essential treatments are healthcare, diagnostic and therapeutic services that if not supplied over time could cause greater damage to a person's health or put a person's life at risk.

When accessing medical structures, is a foreign citizen irregularly present on the territory required to be reported to the public security authorities?

Access to medical structures by a foreign citizen irregularly present on the territory cannot entail any reporting to the administrative authority, with the exclusion of cases of mandatory report (e.g. wounds caused by firearms). In said cases the judicial authority must be informed.



What does a foreign citizen have to do in order to obtain healthcare when registration with the SSN is not possible?

In order to obtain healthcare, foreign citizens irregularly present on the territory have to refer to the I.S.I. centres established at the A.S.L. and ask for the STP code (Straniero Temporaneamente Presente - Temporarily Present Foreigner).

What is the STP code (Straniero Temporaneamente Presente - Temporarily Present Foreigner)?

The STP code is the regional code issued to irregular foreign citizens by A.S.L.s, Hospitals, University General Hospitals, IRCCS and by the I.S.I. centres. It is valid for six months and it is renewable. The code gives right to healthcare (urgent and essential) and allows foreign citizens to access health services.

How is the STP code issued?

The ASL/medical structure issuing the code asks for foreign citizens' personal data and nationality. If foreign citizens do not show an identity document, it is sufficient to provide said information through a personal statement.

The data filed by the ASL are confidential and can be communicated only upon the judicial authority's written request.

Foreign citizens may also make a statement concerning their state of need.

What is the STP code for?

The STP code is necessary to obtain direct access to first level health services, without any reservation and authorisation for free medical treatments (e.g. general medicine, drug addiction services (SERT), mental disorders (DSM), family counselling);

It also gives direct access to:

- urgent First Aid services;
- services aimed at protecting pregnancy and maternity;
- mandatory vaccines;
- services free of charge in the presence of chronic pathologies.



Does the foreign citizen have to pay a prescription charge with the STP code?

Health services are provided free of charge, with the exception of the amounts due for participating in healthcare expenses equally to Italian citizens.

Is an EU citizen required to register with the SSN?

EU citizens residing in Italy for less than 90 days can make use of free health assistance by showing their TEAM card (European Card for Medical Assistance) issued by their Country of origin.

Which EU citizens are required to register with the SSN?

Registration with the SSN is mandatory for: EU citizens who are employed, also with a fixed-term contract; self-employed EU citizens; dependent EU family members; dependent Non-EU family members, regularly residing, otherwise not registered; EU seasonal workers.

Does an unemployed EU citizen residing on the territory for more than 90 days entitled to register with the SSN?

EU citizens have the right to healthcare and are registered with the SSN if they are unemployed, registered in the lists of Employment Centres, or enrolled in a vocational training course.

Is a EU citizen who is registered in the temporary population list also registered with the SSN?

Said citizens are not registered with the SSN. Therefore, in order to access healthcare they must use the TEAM Card issued by the Country of origin (e.g. students, outsourced workers).

Is a needy EU citizen without a TEAM Card entitled to healthcare?

EU citizens not registered with any municipal Registry Office, not assisted by the National Health Service in their Country of origin, in a situation of



social frailty and indigence, and not meeting the requirements to register with the SSN have the right to urgent and essential healthcare.

What does a needy EU citizen without a TEAM card have to do in order to obtain healthcare?

Said EU citizens must hold an ENI card (non-registered European citizen). EU citizens can apply for the ENI card at the ASL where they have to self-certify the fact of not meeting healthcare requirements in their Country of origin and their situation of need.

Is a detained foreign citizen entitled to register with the SSN?

In Italy, all detainees are mandatorily registered with the SSN, regardless of their nationality or their holding of a residence permit.

Foreign citizens under part-time detention or release on probation (not only with social services; home detention or serving an alternative measure because affected by evident AIDS or serious immune deficiency) are mandatorily registered with the SSN for the whole period in which they are serving the sentence.

Is an unaccompanied foreign minor entitled to register with the SSN?

Unaccompanied foreign minors are required to be registered with the SSN, also while awaiting the issue of a residence permit, upon their identification on the national territory on the basis of the authorities' report.

How does an unaccompanied foreign minor register with the SSN?

In Italy, whoever registers with the SSN must have a tax code.

If minors have a tax code, the registration is carried out immediately.

If minors do not have a tax code, they can register with the STP code (Temporary Present Foreigner) or with the ENI code (non-registered European citizen).

According to a regional circular in Piedmont, of 28 May 2015, file No. 10717, minors irregularly present on the territory can submit application for a tax code directly to the A.S.L.



Chapter 6

Removal from Italy





CHAPTER 6

REMOVAL FROM ITALY

When is refoulement exercised?

There are two types of refoulement:

- immediate refoulement, which falls within the competence of the border police against whoever arrives at border posts without meeting the requirements laid down by the Italian law to enter the State's territory;
- deferred refoulement, which falls within the competence of the Questura against whoever arrives at border posts without meeting the requirements laid down by the Italian law to enter the State's territory and is then temporarily admitted to enter because in a state of need for public aid, and whoever enters the State's territory avoiding border controls and is then stopped upon entry or immediately after.

No form of refoulement can be ordered against international or humanitarian protection seekers.

When is deportation exercised?

There are two types of deportation: deportation based on judicial provisions and deportation based on administrative provisions.

Administrative deportations can be ordered by the Ministry of Interior for reasons related to public order, the State's security or terrorism prevention, or by the Prefecture. Deportations ordered by the Prefecture, by far the most recurrent, are divided into deportations due to irregular entry, irregular residence, non-compliance with a previous refoulement order, illegal re-entry in Italy, and social dangerousness.

Judicial deportations – thus ordered by a judicial authority – are divided into orders adopted for safety measures, substitutive sanctions and measures alternative to detention.

Which categories cannot be deported?

Deportation and refoulement can never be exercised against foreign citizens at risk of persecution due to race, gender, citizenship, religion, political opinions, personal or social conditions, and at risk of torture and of being sent to another Country in which they are not protected by the mentioned



dangers. Nor can a foreign citizen be expelled whose repatriation would violate the right to respect for his private and family life without danger to National security reasons. Public health, safety and health protection. To this end, the nature and effectiveness of the family to the person concerned, of his actual social insertion in Italy for the duration of his stay on National territory, as well as the existence of family, cultural or social ties with his country of origin.

Besides, unaccompanied foreign minors can never be subjected to refoulement at the border.

Deportations cannot be exercised against the following categories (with the exception of reasons related to public order, the State's security or terrorism prevention):

- minors;
- holders of a EU residence permit for long-term residents;
- foreign citizens cohabiting with relatives within the second degree or with an Italian spouse;
- women while pregnant and for the first six months after the child's birth, together with the cohabiting husband.

How is deportation carried out?

Deportation orders consist in a written act, reasoned and translated into a language known by the addressee, and it is immediately executive. Appeals do not automatically suspend the execution of deportations, as suspension is provided only by a judge's decision.

Deportations are carried out by escorting foreign citizens to the border, that is they are taken to their Country of origin by the Police. Specifically, deportations are carried out through the public authorities' intervention in the event of terrorism prevention, if there is the risk of escape, when a residence permit application is rejected because clearly unfounded or fraudulent, if – for no justified reason – foreign citizens did not comply with the term granted for voluntary return or with a measure connected or alternative to withholding in the event of judicial deportation, and if foreign citizens did not ask for a term for their voluntary return.

In rare cases in which the mentioned conditions for immediate escorting to the border do not exist, foreign citizens can ask the Prefecture to be granted a term for their voluntary return - also through voluntary and assisted return programmes - comprised between 7 and 30 days.



What are *Centri di Permanenza per il Rimpatrio* (C.P.R.)?

Whenever it is not possible to carry out immediate refoulement or deportation with relevant escorting to the border due to transitory situations – among which, the need to provide foreign citizens with assistance or to carry out ascertainties on their identity or nationality, or to acquire documents for the journey or to find suitable means of transport – the Questura orders for the foreign citizen to be withheld for the time strictly necessary at the closest Centro di Permanenza per il Rimpatrio (C.P.R. – Detention Centre for Forced Return), (former C.I.E., Centro di Identificazione ed Espulsione – Identification and Deportation Centre).

Currently there are 10 C.P.R (Center For Repatriation) in Italy located in Bari, Brindisi, Caltanissetta, Gradisca d'Isonzio (GO), Macomer (NU), Milan, Palazzo San Gervasio (PZ), Rome and Turin.

How is detention into C.P.R. carried out?

In case whereby there are no other conditions for alternative measures- delivery of passport, residence requirements and obligation to present at the office of the force office- the commissioner orders the detention of the foreign citizen with a provision written, motivated and translated into a language known the recipient.

Detention is a relative measure of personal freedom and therefore must be validated by the judicial authority after verifying the legal requirements.

To this end, the commissioner of the place where the Center is located sends a copy of the documents to the justice of peace with 48 hours subsequent, otherwise the detention must be cease.

The hearing takes place in council chamber with the necessary participation of a defender in a timely manner warned.

If the judge does not validate the measure, the foreign citizen must be released. The maximum length of detention is 90 days, which increase to 120 in the case of foreign nationals of a country with which Italy has signed agreements in matter of repatriation.

Which are the cases of detention of the applicant for international protection?

The applicant for international protection cannot be detained for the time being until the application examined, but only in the specific hypotheses provided for by the law, and always after evaluating each individual case.



The foreign citizen who submits an application for international protection in a state of freedom detained if:

- you have committed a particular serious crime (crime against humanity);
- a recipient of an expulsion decree for reasons of public order, security of state, terrorism or social danger
- constitute a danger to public order and safety;
- risk of escape:
- already located in a Detention Center For Repatriation (C.P.R.) and there are foundational reasons to believe that the application for international protection has been submitted to for the sole purpose of delaying or preventing the execution of a rejection order of expulsion.

The provision by which the detention in a Detention Center For Repatriation (CPR) is adopted in writing by the commissioner and like any eventual extensions of the detention must be validated by the court territorially qualified.

The detention of the applicant for international protection cannot extend beyond the time strictly necessary for the examination of your application and in any case not beyond the maximum total duration of 12 months. The application for international protection can also be detained when it is necessary to determine or verify the identity or citizenship. In that case the detention is arranged in special facilities for time strictly necessary and in any case not more than 30 days.

If in this period it was not possible to determine or verify the identity or citizenship, the applicant must be detained in a C.P.R. for a maximum period of 180 days.

The application for international protection of the detained applicant is examined in via priority and subject to accelerated procedure. In case of rejection of the application for international protection, the detained applicant can lodge an appeal by shortened term of 15 days from the notification of the decision and remain in the C.P.R. till the adoption of the Jurisdictional Authority on the suspension or of the decision, as well as, for as long as the individual is allowed to stay on Italian territory as a result of the judicial appeal proposed.

How is detention of the applicant for international protection carried out?

The applicant for international protection cannot be detained for the sole purpose of the examined application but only in the specific hypotheses foreseen by the law, and always after evaluating each individual case. The foreign citizen who applies for international protection in a state of freedom withheld if:



- committed particularly serious crimes (crime against peace, war crimes, crimes against humanity)
- the recipient of an expulsion decree for reasons of public order, security of the state, terrorism or social danger
- constitute a danger to public order and safety:
- risk of escape.

If the foreign citizen is already detained at a C.P.R. makes a request for protection international, the same will be remain withheld if the application is withheld solely for the purpose of delaying or preventing the return procedure.

The validation, and subsequent extensions, of the detention decree are the responsibility of the court in monochrome composition.

The detention of the applicant for international protection cannot last beyond time strictly necessary for the examination of your application, and in any case no later than the maximum total duration of 12 month.

How to appeal against refoulement?

Although the so-called Schengen Borders Code establishes that "Persons refused entry shall have the right to appeal. Appeals shall be conducted in accordance with national law" (Art. 13, par. 3, Regulation EC No. 562/06), the Italian national law does not provide for any regulations with regard to appeals against refoulement. On the basis of what stated by the Court of Cassation (No. 15115 of 17 June 2013,), appeals against deferred refoulement ordered by the Questura must be lodged within 30 days from notification with the ordinary Court competent per territory.

Whereas, according to the best judicial authorities, appeals against immediate refoulement fall within the jurisdiction of the administrative judge (T.A.R.).

How does the refusal take place?

The refusal of entry must be subjected to the validation judicial procedure in analogy with the measures of immediate accompaniment to the border and detention.

The provision must be sent to the justice of peace with 48 hours from the adoption of provision. The judge provides on the request of validation, with a reasoned decree, within the following 48 hours, otherwise the measure loses effect. The hearing takes place in a council chamber with the necessary participation of a defender promptly notified.

The recipient refusal of entry cannot return to the territory of the state without a special authorization from the Ministry of Interior Affairs.



How to appeal against deportation?

Appeals against deportations ordered by the Prefecture must be lodged within 30 days from notification with the Justice of the Peace in the place where the ordering Prefecture has its headquarters. Recurring parties are granted free aid at the State's expense regardless of their economic conditions.

The Prefecture that issued the order can stand in the proceedings personally or through officials specially delegated.

The judgment is defined within 20 days from lodging and is unappeasable. Therefore, any appeals can only be submitted to the Court of Cassation.

During the appeal it is possible to ask the judge to suspend the execution of the deportation as precautionary measure, in order to avoid for the addressee to be deported before the relevant decision. If such request is accepted, foreign citizens can remain in Italy up to the end of the appeal.

How does a re-entry ban work?

Foreign citizens addressees of a deportation order cannot re-enter the State's territory without a special authorisation issued by the Ministry of the Interior. In the event of non-compliance, foreign citizens are punished with imprisonment from 1 to 4 years and are once again deported with immediate escorting to the border.

The ban lasts not less than 3 years and not more than 5 years.

If a term is provided for voluntary return, the re-entry ban can be revoked upon foreign citizens' request, as long as they prove to have left the national territory promptly.

In the event of deportations ordered by a judge, transgressors of the re-entry ban are punished with imprisonment from 1 to 4 years. Foreign citizens who re-enter the national territory, despite having been already reported and deported for said crime, are subject to imprisonment from 1 to 5 years.



Section 2

Working in Italy

Chapter 7	Procedures for workers and employers
Chapter 8	Main employment contracts
Chapter 9	Social benefits and INPS





Chapter 7

Procedures for workers and employers





CHAPTER 7

PROCEDURES FOR WORKERS AND EMPLOYERS

How can a Non-EU citizen enter Italy to work?

Non-EU citizens are allowed to enter Italy to work and consequently be granted a related residence permit, only in the context of specific procedures and subjected to obtaining a specific visa.

Residence permits for work reasons can be issued for subordinate work, seasonal work, long-term seasonal work, autonomous work.

The number of foreign citizens allowed to enter Italy to work is established by specific provisions (the so-called “flows decree”).

The law regulates the issue of residence permits for work reasons, establishing the conditions and necessary requirements for their granting, as well as the operational modalities concerning applications. When flows decrees are not issued or if there are no more places available, it is not possible to enter Italy regularly for reasons related to work. Generally speaking, said decrees provide for the foreign citizen to be abroad when applying and to be therefore “called” by the employer, who submits a request for an authorisation to employ.

What is the “flows decree” and what are the entry quotas? (subordinate-seasonal work)

The so-called “flows decree” is issued periodically by the President of the Council of Ministers, on the basis of the indications provided by the Ministry of Labour and Social Policies on the state of employment and on the number of foreign citizens registered in the employment lists, as well as on data concerning the actual employment requests provided by the Computerised Registry Office, established at the Ministry of Labour and Social Policies. The decree provides for numerical quotas of workers admitted entering Italy regularly for subordinate and/or seasonal and/or autonomous work throughout the year. The “flows decree” can indicate general quotas (e.g.: 2,000 workers are allowed to enter) or specific types of workers (e.g.: only domestic workers and carers are allowed to enter), or it can also provide for quotas of workers coming from a specific country (e.g.: 2,000 Nigerian



workers are allowed to enter). The quotas are divided on the basis of the availability at regional and provincial level.

How to enter Italy with the “flows decree”?

Generally speaking, the procedure to enter Italy through the flows decree is laid down in the actual decree and can vary from one decree to another. The procedures for submitting applications are now managed via computer. Employers are required to register on the website of the Ministry of Interior (<https://nullaostalavoro.dlci.interno.it>) <https://nullaostalavoro.dlci.interno.it/Ministero/Index2> and be provided with all the documents relating to the worker to be employed and to the employment relationship (personal data and identity document, type of contract, working hours, classification, any documents relating to accommodation). Employers can access the procedure autonomously or make use of the support of the many bodies or qualified aid societies at disposal.

After the registration on the website, employers are required to fill in a specific form depending on the type of work for which the entry is being requested. Generally speaking, the flows decree establishes a specific date and time starting from which applications can be submitted (the so-called “Click day”). Applications are evaluated in a chronological order.

If the application falls within the quotas, the employer will be called to the Single Desk at the Immigration Office in order to hand in all relevant documentation. If the application is accepted, an authorisation will be issued for the foreign citizen’s entry (the so-called entry clearance).

What does a worker have to do after being granted clearance to enter?

After being granted clearance to enter, workers are required to submit application for an entry visa to the Italian Embassy or Consulate in their country of origin within 90 days. Regulations governing entries and residences establish that once being granted the entry visa and after entering Italy, workers must go to the Questura of the area where they will be working within 8 days to apply for a residence permit. Actually, each flows decree provides for different registration modalities for foreign workers once arrived in Italy. In practice, said registration is carried out upon appointment at the Single Desk of the Immigration Office competent for the territory where the foreign worker will be employed. The appointment can be made via e-mail or can be transmitted by SU1 depending on the type of entry. On that occasion, workers are required to sign an Integration Agreement (the only workers exempted are seasonal workers and autonomous workers).



What happens if the employer declines availability during the worker's entry procedure?

If the employer declines availability before the clearance document is issued, the application loses effect and the worker can no longer enter Italy. If the employer declines availability after the issue of the clearance document and the worker's entry in Italy, the worker can turn to a lawyer, also through a trade union. Depending on the case, the worker may be granted a residence permit while awaiting employment.

Which residence permits allow to work?

The residence permits that allow to work are as follows:

- subordinate work
- autonomous work
- seasonal work (for seasonal activities)
- family reasons
- international protection seekers (60 days after relevant application)
- subsidiary protection
- political asylum
- statelessness
- awaiting employment
- study, training apprenticeships (it allows to work part-time up to 20 hours a week)
- EU residence permit for long-term residents
- permit for EU Blue Card holders
- elective residence
- assistance to minors (Art. 31 of Consolidated Act on Immigration) (it allows to work, and can be converted into a work permit)
- permit pursuant to Art. 27 of the Consolidated Act on Immigration (limitedly to the specific category of activities for which it was granted)
- for calamities (it allows to work, and can be converted into a work permit)
- for acts of high civil value (it allows to work and it can be converted into a work permit)
- special protection (it allows to work, and can be converted into a work permit)
- special cases /social protection (it allows to work and it can be converted into a work permit).

Residence permits relating to subordinate work/autonomous work/awaiting employment/family reasons/humanitarian reasons allow to carry out any work, and at the moment of renewal a residence permit is issued for the actual activity carried out (e.g.: foreign citizens holding a residence permit for family reasons can work and upon expiry be granted a permit for subordi-



nate work or autonomous work if they are carrying out said activity without having to wait for the issue of a flows decree).

Residence permits for study reasons or apprenticeship can be converted into a residence permit for work reasons within the quotas established by the flows decree. The procedure for applying for the conversion is carried out via computer; the SUl of the Prefecture is <https://nullaostalavoro.dlci.interno.it/Ministero/Index2>.

What type of communication is the employer required to give?

When wanting to employ (at least 24 hours before the start of work) in the event of a subordinate employment relationship, the employer is required to submit a single communication via computer to the employment centre competent per territory. Said communication, called UNILAV, replaces the previous communications to the Questura, INPS, Employment Centre (for subordinate work, therefore, a Residence Contract is no longer required). A similar communication must be submitted if the employment relationship is transformed, postponed or rescinded.

What documents is the worker required to submit in order to be employed?

In order to be employed, workers are required to submit the following documents:

- valid identity document (passport of the country of origin or Italian/EU identity document);
- valid residence permit or, if in phase of renewal, the previous residence permit and the receipt related to the renewal application,
- tax code.

Does the receipt issued when applying for a residence permit allow to work?

Yes, it does. Art. 5 par.9 bis of the Consolidated Act on Immigration provides for foreign citizens who have applied for a residence permit and are waiting for its issue to work.



Does the receipt issued when applying for the renewal of a residence permit allow to work?

Yes, it does. It is possible to work and to be hired as long as workers hold an expired residence permit and the receipt relating to the renewal.

Does the receipt issued when applying for the conversion of a residence permit allow to work?

Yes, it does. It is possible to work while waiting for the conversion, if both previous permit and the one applied for allow to work.

How to apply for a residence permit while awaiting employment and relevant renewal?

The **loss of employment** (also due to dismissal) does not cause the loss of the residence permit for Non-EU workers and their family members regularly residing. If foreign citizens remain jobless, they can apply, upon the expiry of their residence permit for work reasons, for a residence permit while awaiting employment to the competent Questura. In order to obtain its issue, foreign citizens are required to register with the Employment Centre of their area after losing employment. Said registration must be annexed to the application for the residence permit while awaiting employment, which is submitted through the post office kit.

Generally speaking, residence permits while awaiting employment are granted for not more than one year. However, renewal is possible for more than one year if workers belong to a family unit, already established on the national territory, composed of one person that can prove to have sufficient means to support the members constituting the family unit (reference is made to the income required for family reunification). In said case, it is necessary to submit documentation relating to the family unit and to the employment relationships of its members.

Which categories of workers can enter outside the quotas provided for by the flows decree (Art. 27)?

Workers falling within the special categories provided for by Art. 27 of the Consolidated Act on Immigration can enter Italy regardless of the issue of a flows decree and outside the established entry quotas. Said workers are those falling within the following categories:

- Managers/highly specialised personnel employed by the transferring company for at least 6 months, who are taken in by the receiving compa-



ny in Italy. The contract can be extended up to 5 years and it is possible for workers to then be hired by the Italian company.

- Workers employed by employers, natural persons or legal persons, residing or with registered office abroad, who temporarily leave the foreign Country and move to the natural or legal persons residing in Italy, in order to carry out on the national territory specific services object of a contract entered into between the mentioned natural or legal persons. Entry is authorised for the time strictly necessary to realise the work object of the contract. It can be extended up to a maximum of 4 years.
- Professors from foreign schools and universities working in Italy. Applications can be submitted only by foreign educational institutions, present in Italy from at least 5 years, that have been granted the necessary authorisation by the Ministry of Education, Research and University (MIUR). The contract can be extended, at SUI, up to 2 years.
- University professors who carry out academic jobs. Employment is possible also without limits of time.
- Translators and interpreters. The contract can be extended, at SUI, up to 2 years.
- Foreign maritime workers who will work on board Italian ships. The relevant entry visas for subordinate work are issued by the Italian Embassy or Consulate within abbreviated terms and with simplified procedures. In order to apply for a visa, maritime workers are required to submit, besides a valid travel document, also a copy of the contract between the foreign company and the Italian shipping company, a certificate proving the registration of the ship with the International Registry and the request of the shipping company documented with a personal employment contract.
- Family workers who, for at least one year, have had full time domestic employment relationships with Italian citizens or EU citizens, who reside abroad, but that moved to Italy to continue their employment relationship. The application can be submitted only by Italian or European citizens. Non-EU citizens cannot change employer. Their right to a renewed residence permit fails when the employment relationship is interrupted, as said permit is what legitimised the entry.
- Foreign citizens who enter with a working-holiday visa from Countries with which a specific agreement has been entered into, which currently are: Canada, Australia, New Zealand and South Korea. Each employment relationship can last up to 3 months, in a time frame that varies from 6 months to 1 year depending on the mentioned agreement.
- Professional nurses employed at public and private healthcare structures. The healthcare structures submitting application are required to be accredited with the Region. Before submitting application, it is nec-



essary obtain the equivalence of the degree as nurse from the Ministry of Health.

- Entertainment workers. Employers are required to submit application for a clearance document to Direzione Generale per l'Impiego – Segreteria del Collocamento dello Spettacolo di Roma (Directorate-General for Employment – Secretariat of the Entertainment Employment of Rome). The mentioned Office takes care of forwarding the document to SUI, whose territorial competence is established on the basis of the employer's registered office. The employer and the worker then set an appointment in agreement with SUI to sign the contract. Finally, the post office KIT is sent for the issue of the residence permit.
- Sportspersons for whom the sports clubs are required to submit application, at professional or amateur title, for a Dichiarazione Nominativa di Assenso (Personal Declaration of Consent) issued by CONI. In the event of sport activities carried out at professional level, the Office will forward the clearance document to SUI, whose territorial competence is established on the basis of the registered office of the sports club submitting application. The employer and the worker then set an appointment in agreement with SUI to sign the residence contract. Finally, the post office KIT is sent for the issue of the residence permit.

How can workers enter the territory outside the quotas (Art. 27)?

Italian or foreign employers holding a residence permit can submit application for the issue of a clearance document for foreign workers, through the whole year without waiting for a flows decree to be issued and without having to comply with the thresholds provided as to entry quotas. The clearance document is issued by the Single Desk of the Immigration Office, although with different procedures and forms depending on the category. Also in this case, employers are required to register on the website <https://nullaostalavoro.dlci.interno.it/Ministero/Index2> and then fill in and send via computer the relevant forms.

How to enter for autonomous work?

Foreign citizens are allowed to enter for autonomous work always within the quotas specifically destined to this category by the flows decrees. Foreign citizens who intend to apply for a clearance document for autonomous work must meet specific requirements and produce the licence or authorisation documents for the activity to be carried out and/or the relevant registration. Said documents must be submitted to the Questura territorially competent for the issue of the clearance document for autonomous work.



Following the issue of the clearance document, workers can apply for a visa for autonomous work to the Italian Embassy or Consulate in the Country of origin.

Once entered in Italy, workers are required to submit application for their first residence permit through the post office kit. Residence permits for autonomous work are granted for a maximum of two years and can be converted into a residence permit for Subordinate work, if meeting requirements. If at the moment of renewal, foreign citizens residing as autonomous workers are unemployed, they can apply for a permit "awaiting employment." In the past, the quotas for autonomous work did not specify the typology of workers/entrepreneurs allowed to enter, provided for the entry of specific types of professional and/or entrepreneurial figures.

Who can access public employment?

Public competitions are open for all work positions that do not entail the exercise of public functions, without prejudice to the requirement of knowing Italian. Besides Italian citizens, the categories that can participate in said competitions are as follows:

- EU citizens and their family members regularly residing;
- Non-EU citizens holders of a EU residence permit for long-term residents;
- Holders of international protection (status of refugee or subsidiary protection).

Public work positions that entail the direct or indirect exercise of public powers or that involve the protection of the State's interests remain reserved to Italian citizens (e.g.: public management, the judiciary, State Bar, officials of some Ministries).

In which cases is a residence permit granted for serious labour exploitation?

Residence permits for serious labor exploitation, provided for by Art. 18 of the Consolidated Act on Immigration, are granted to foreign citizens victims of crimes relating to "slavery or trafficking," and therefore to foreign citizens victims of violence or serious exploitation which can cause an actual danger for their safety. The situation giving the right to be granted this type of residence permit must be reported either by local bodies' social services or by associations operating in the sector or by bodies and associations that manage projects addressed to victims of exploitation or by the Public Prosecutor's Office, whenever relevant investigations identify the existence of victims.



The permit is granted upon prior favorable opinion expressed by the Public Prosecutor conducting the investigation and upon the foreign citizens' participation in insertion projects. The permit lasts 6 months and it can be renewed up to one year or for a longer period of time if necessary due to reasons related to justice. It is granted with the wording "special cases." It allows to work and can be converted into a permit for work reasons upon expiry if holders have found a job.



Chapter 8

Main employment contracts





CHAPTER 8

MAIN EMPLOYMENT CONTRACTS

There are various types of employment contracts. This chapter illustrates the main characteristics of the most widespread.

Subordinate employment contract

Subordinate employment contracts are entered into when employers hire workers giving them specific duties under the employers' management, in a specific place and in established working hours.

The main characteristics of this employment relationship (weekly working hours, salary, overtime pay, holidays, etc.) are laid down in the National Collective Bargaining Agreement (CCNL - Contratto Collettivo Nazionale del Lavoro) which also sets the minimum pay. The CCNL applied is usually indicated in the employment letter/contract and in the UNILAV communication (Modello Unificato Lavoro – Unified Labour Form). Subordinate employment contracts can be full-time, when the working hours are equal to what provided for by the CCNL, or part-time, if the working hours are reduced. In the latter case, the part-time percentage and the working hours must be indicated in the contract.

Subordinate employment contracts can be:

- **temporary**, in this case the term of the employment relationship is indicated in the contract and can be extended by the employer up to a maximum of 5 times and 36 months.
- **permanent**, in this case no term is provided concerning duration and the employment relationship continues until the employer does not dismiss the worker or the worker resigns.

What to do in the event of dismissal?

Workers who receive a dismissal letter have 60 days to suggest a possible appeal against it.

Said proposal must be submitted in writing and with a suitable means capable of identifying a sure date (recorded delivery letter with advice of delivery, certified e-mail, etc...)



This first act does not require particular formalisms and can be carried out personally or with the aid of a trade union or a lawyer.

Workers can obtain assistance and be put into contact with lawyers with experience in labour laws through the technical offices of the main trade unions.

From the date on which the impugnement is submitted, 180 days have to go by for a possible judicial appeal. The competent judicial body for said appeal is the Labour Judge.

Such act must necessarily be drawn up by a lawyer.

The consequences of an illegal dismissal differ on the basis of the date of employment and size of the company, as well as the reasons of the dismissal.

With regard to labour, there are no conciliative procedures or mandatory mediations. The appointed lawyer evaluates the advisability to activate alternative means to litigations case by case. If members of a cooperative are dismissed contextually and excluded as members, the term for lodging appeal against said exclusion is of 60 days from the actual communication. Therefore, it is necessary to refer to a lawyer as quick as possible.

All workers within 60 days from dismissal are also required to apply for NASPI (unemployment benefit) to INPS. The procedure is carried out via computer and can be done personally or through an aid society.

Contracts through employment agencies

Subordinate employment contracts, besides being entered into directly by the company needing the worker, may also be carried out through employment agencies (e.g. Temporalay, Adecco, Gi Group) to which the company refers in search of personnel.

In this case, the contract is entered into with the employment agency. Workers have the right to general economic and regulatory conditions not inferior to those of employees of the same level hired directly by the company. The company making use of this service binds itself jointly and severally with the employment agency to pay salaries and relevant national insurance taxes.

Employment carried out by a cooperative or another outsourced company

Subordinate employment contracts may not be entered into directly by the company that needs the worker, but through another company to which the main company delegated part of its activities with an outsourcing contract (this is the case for example of logistics cooperatives).



The contractee binds itself jointly and severally with the contractor to pay, within 2 years from the termination of the contract, the salaries and national insurance taxes accrued in the contract.

The contract is legal if the contractee manages the service with its own personnel and means.

Sometimes, behind formal outsourcing contracts there are illegal labour intermediations, that is situations in which, in actual fact, the employee works under the directives of the contractee and is inserted in its corporate organisation, although being formally hired by another subject. In such cases, it is possible to refer to a trade union or to a lawyer to verify the possibility of a dispute within 60 days from the termination of the employment relationship.

Intermittent work contract (job on call)

It is a subordinate employment contract through which employers have the power to call workers who sign a contract according to the employers' needs, that is "on call." Workers are paid only for the actual days of work (unless workers guaranteed their availability to answer calls, in which case they are entitled to an availability bonus).

The cases are regulated in the CCNLs and in specially provided decrees.

This type of contract can, in any case, be entered into with subjects under 24 years of age, as long as the work is carried out within the 25th year of age, or with subjects over 55 years old.

The law establishes that workers can be called for a maximum of 400 days during a three-year period. Said limit is not set in the sectors relating to tourism, commercial businesses and entertainment.

Occasional collaborations

Occasional collaboration contracts can be entered into to carry out work with a limited duration (maximum 30 days a year) and with a maximum remuneration of 5,000 Euros throughout the year.

These contracts do not provide for paid holidays, nor other forms of protection such as sick leaves, leaves of absence, permits, parenthood leaves, maternity leaves.

If the work carried out is in actual fact assimilable to that of an employee, it is advisable to refer to a trade union or a lawyer to verify the situation.

Contracts with subjects holding VAT

Contracts with VAT holders are entered into on the occasion of autonomous and non-subordinate work.

A typical example is a contract for services characterised by the lack of subjection bonds because workers work autonomously, they are not sub-



ject to the contractor's managerial, organisational and disciplinary power. Workers can therefore autonomously organise their work, working hours, modalities, organisation with personal means, in force of the objectives set out by the contract, that is the realisation of a physical or intellectual work. Remuneration is therefore connected not to working hours, but to the results achieved.

Generally speaking, the parties agree on remuneration and on the time frame for realising the work required, either through a service contract or through an assignment letter.

Any job where there is a hierarchical and organisational subjection (workers have set working hours, work with the entrepreneur's means, in places owned by the entrepreneur and receive specific directives from the entrepreneur with which they have to comply with) is to be entered into with a subordinate employment contract and not through payments based on invoices.

For example:

A genuine service contract is a contract through which a craftsman is assigned the duty to realise furniture; said artisan realises the pieces at his/her workshop within the established terms and delivers the work to the contractor. Remuneration is agreed upon on the basis of the pieces of furniture realised.

A pretence contract of this type is when a person is requested to work inside the contractor's company in set working hours for the realisation of an indefinite amount of furniture within a specific time frame. The compensation is agreed upon on the basis of the amount of working hours/days."

Finally, there are specific categories of workers that have to be registered with a professional order and that can be paid, with the exception of rare cases, only through the issue of an invoice with VAT.

Apprenticeship contracts

Apprenticeship contracts are subordinate employment contracts, reserved to workers between 15 and 29 years old, which besides providing a work activity also provide practical and theoretical training.

At the end of the apprenticeship, if none of the parties rescind, the relationship continues as an ordinary permanent subordinate employment contract. Apprenticeship contracts are associated to a training path that – with the exception of a vocational apprenticeship – is organised by a training institution with the involvement of an enterprise.

There are 3 types of apprenticeships:

- 1) Apprenticeship for professional qualification and diploma, higher secondary education degree and higher technical specialisation certificate;
 - it is structured in such a way to connect the training carried out in the company with vocational training and education carried out by



the training institutions that operate within the regional systems of training and education. It is reserved to youngsters between 15 and 25 years old.

- the duration is established by the qualification or diploma to be achieved and cannot last more than 3 years (extended up to 4 years in specific cases).
- the employer must sign a protocol with the training institution with which the student is enrolled, establishing the content and duration of the employer's training obligations.

2) Vocational apprenticeship,

- it is aimed at achieving a professional qualification, for contractual purposes and is addressed to youngsters between 18 and 29 years old (17 if they already have a qualification).
- the intra-confederal agreements and the CCNLs establish, with regard to the professional qualification for the contractual objectives to achieve, the duration and modalities of the training as well as the duration even minimum of the apprenticeship, which cannot last more than 3 years (extended to 5 years for professional figures that characterise the figure of artisan, as identified by the CCNLs).
- The training is carried out under the employer's responsibility and is integrated by the public training offer, aimed at acquiring the basic and transversal competences for a maximum amount of 120 hours, in a three-year period, regulated by the regions and the autonomous provinces.

3) Apprenticeships for higher training and research

- it is an apprenticeship contract aimed at achieving university degrees and higher training, as well as at accessing professional rolls. It is addressed to subjects between 18 and 29 years old, holding a higher secondary education diploma or other educational qualifications considered equivalent by the law for said objective.
- Employers must sign a protocol with the training institution with which the student is enrolled or with the research body, establishing the duration and the modalities of the training at the employers' expense, the number of training credits awarded to each student for the training carried out at the employer's expense. Training outside the company is carried out at the training institution with which the student is enrolled. Regulations and duration of the apprenticeship for research activities or higher training paths are assigned to the regions and autonomous provinces. Lacking regional regulations, the higher training and research apprenticeship is assigned to specific agreements entered into between the single employers or their associations with universities, higher technical institutes and other training or research institutions.



Domestic work

Domestic work is the work carried out by those who provide assistance at home to a single person or to a family unit. Domestic workers are subordinate workers. Domestic workers can be employed with a temporary or permanent contract and may or may not cohabit with the family unit or single individual. The employment letter of domestic workers must indicate their classification - which varies depending on the mansions - the hourly or monthly remuneration, whether or not board and lodging are included, working hours. Employers are required to communicate said employment and specific agreements to INPS through a specific procedure online.

Employers must provide the worker with monthly pay packets and with a CUD (Single Certificate for Employees) at the end of the year. Domestic workers have the same rights of all employees in terms of holidays, ordinary and extraordinary working hours, sickness, maternity.

However, since it is an employment relationship carried out at home, it is important for employers and workers to have a relationship based on trust, considering that it is the only type of employment relationship that provides for unappealable dismissal without specific reasons. Therefore, in the event of sudden dismissal, workers have the right to a notice substitutive indemnity and to what due for contract termination. However, they cannot challenge the legitimacy of the rescission. Domestic workers have the right to unemployment benefit.

What is apprenticeship and how does it work?

Apprenticeships consist in a period of orientation towards work and training. They are not considered a subordinate employment relationship. It is a form of training that allows apprentices to gain direct knowledge of the labour market.

In order to realise training apprenticeship, it is necessary to enter into an agreement undersigned by the promoting body (e.g.: university, public and private high schools, CPLs, employment agencies, public centres for professional training and/or orientation) and the host subject (company, professional firm, cooperative, public bodies). Besides, said apprenticeship has to be provided with training projects drawn up by the host subject and the apprentice, establishing respective rights and duties. It does not provide for a remuneration, while it provides a minimum payment. Therefore, there is no contrast in benefiting from NASPI (unemployment benefit).

Apprenticeships are regulated by the single Regional Laws.

There are different types of apprenticeships:

- "Curricular" apprenticeships, (provided within a formal university or educational apprenticeship path). In this case, the apprentice must be a



student enrolled in an educational course activated by who actually promotes the apprenticeship;

- Training apprenticeships and apprenticeships for the reinsertion or insertion in the labour market. The objective is to insert or reinsert in the labour market subjects lacking a job (jobless and unemployed subjects) or with disadvantages (disabled persons or asylum seekers).
- Training and orientation apprenticeships for foreign citizens of age residing abroad, aimed at completing the vocational training started in the Country of origin. It lasts at least 3 months, with maximum 12 extensions, from the year in which a degree was achieved in the country of origin (these entries are regulated outside the quota provided for by Art. 27 of the Consolidated Act on Immigration).



Chapter 9

Social benefits and INPS





CHAPTER 9

SOCIAL BENEFITS AND INPS

What is the single universal allowance?

The new service (introduced with Law no. 46/21 and with legislative decree 230/2021) comes into force on 1st March 2022 and is attributed to the families for each dependent minor child up to the age of maturity or to the use of certain conditions, up to 21 years of age;

In the event of a child's disability, the single allowance is recognized without age limits.

By "dependent" we mean those included in the family unit for ISEE purposes and therefore, if of adult age, children living with their parents, adult children (18-21) are considered even if they are not cohabiting as long as they are charged with IRPEF purposes (therefore with internal income of 4,000 euros), are not married, and have no children

The amount is established on the basis of the ISEE value of the family unit and the number of children.

Unlike the previous allowances to the family unit that is no longer linked to the status of worker: it is therefore also applied to self employed worker's and unemployed.

Who is eligible for the single universal allowance?

Base on the Law and the clarifications made by INPS with the circular of 9th February 2022 no.23, the check could be assigned to:

- To Italian citizens and citizens of the European Union;
- To holders of a long-term residence permit;
- To holders of a single work permit pursuant to directive 2011/98 (there of permits for family or for work or for pending employment) provided that the permit is of longer duration at 6 month
- To Non-EU family member of citizens of the European Union;
- To holders of international protection (political refugee status or subsidiary protection);
- To holders of a permit for self-employment;
- To holders of "Blue Card" (the permit of high skilled workers);
- To citizens of Algeria, Tunisia, Morocco;
- To stateless person.



It is also required that, the beneficiary be resident in Italy for the entire duration of the benefit and a resident in Italy prior to the application for at least two years even if not continuously.

There two-year residency is not required for those who have open-ended for fixed-term employment relationship lasting at least six month. (in practice, those who have an employment relationship can obtain checks even upon entering Italy).

All permit holders not included in the list are there for excluded from the new service above (e.g. holders of a permit for Asylum request, for special protection, for protection social security, for the protection of minors, etc.) will therefore no longer enjoy the support for the family even if they work, given the abolition of the allowances to the family unit and the tax deductions for dependent children.

In fact, from 1st March 2022, the following services will no longer be paid and are absorbed from the single universal allowance: birth or adoption bonus, allowance for large families with at least three minor children, family allowance, birth allowance (so-called baby bonus), tax deduction for children up to 21 years of age (deduction for children 21-24 years of age remain applied if students and those for dependent spouse).

The consequence is that, a worker for example with permit for special protection, will have from 1st March, higher loss of salary up to 200 euros per month (including family allowances and deductions) that can only obtain converting again the permit into work permit.

What is the temporary allowance?

It is the Advance of the " Single Universal Allowance" introduced by decree law n.27/2021. Found application only for a period 1/7/2021-28/2/2022 and only for people who did not received the "old" family allowance (e.g. self employed and the unemployed).

Many INPS offices believe that this service, unlike the universal allowance, does not have to be paid to family permit holders, but this interpretation is incorrect.

If anyone finds himself in this situation, he can turn to charities and associations to act in judgement and given that service even if it ceases on 28/2/2022, can always be requested by 5-year limit.

What is the basic maternity allowance?

The service (governed by Article 74 of legislative Decree 151/2001) is not absorbed by the single universal allowance.

The application must be submitted by the mother (or by the father if the only parent or custodian) to 6 month from the birth of the child or from the



actual entry into the family. Municipality of the residence within 6 month of the child adopted or in pre-adoptive foster care.

Who is eligible for the basic maternity allowance?

The allowance (which for 2022 amounts to 1.773,65 euros) is due to unemployed mothers with and within the sum of set annually by INPS (for 2022: 17.747,58 euros). It cannot be combined with the maternity allowance of dependent or self-employed women; however just in case the latter are received in a very small amount e.g. for part-time workers- it is up to for the difference.

The law provided that the allowance was paid only to holders of long term permits. The constitutional court, with the sentence of 11th January 2022, declared the unconstitutionality of art.74 above mentioned in the part which it excluded women holders of a single permit from the benefit work lasting more than 6 months. So the holders of such permit who applied promptly in the past and have not received the service, they are now entitled to have it. In addition, from 1st February 2022, the rule was amended by expressly recognizing the performance also to the holders of this permit. Therefore, they currently have the right to obtain the service:

- Italian citizens and citizens of EU countries
- Non EU-citizens holding a long term residence permits;
- Non EU-citizens who are family members of Italian or EU citizens (INPS circular no.9 of 22/01/2010)
- Holders of "single work permit" (permit for work, for pending employment and for family reasons) lasting more than 6 months.

On the basis of the constitutional principle of maternity protection (Article 31 of the constitution), however, it can be considered that mothers who have residence permits other than those indicated above can also enforce the right to benefit in case of non-recognition, therefore, we suggest to contact the patronage or associations to initiate a judgement. Proof of timely submission of the application is required: if the municipality refuses to receive the application, it must be sent by certified mail or registered letter with return notice again within 6 months.

What is the maternity allowance for atypical working mothers?

The loan (govern by Article 75 of legislative Decree 151/01) is not absorbed by the single universal allowance. It is provided directly by INPS and the application must be submitted electronically to INPS, also in this case within 6 month of birth.



Who is eligible for the maternity allowance for atypical working mothers?

It is up to working women who do not receive the ordinary maternity allowance and who have minimum contribution requirements (the worker must in fact claim three months of contribution in the period between 18 and 9 months prior to the birth, or three months of work even in previous periods provided no more than 9 months have passed between the loss of employment benefits and the date of birth).

If these contributions requirements are met, it is convenient to ask for this allowance and not the basic allowance maternity leave, because this is of a higher amount (2,143 euros). With regard to residence permits, the same issues set out above apply to basic maternity allowance.

What is the nursery school bonus (the so-called Bonus asilo nido)?

The service (governed by art.1 comma 335, L. 232/2016) is not absorbed by the single universal allowance. It is granted "for the payment of fees relating to the attendance of public and private nursery schools, as well as for the introduction of forms of support at one's home in favour of children beyond under the age of three, suffering from serious chronic diseases".

It is up to the parents of children born after 1st January 2016, but must be requested from INPS by 31st December each year. For children who attended the nursery, the bonus is paid upon presentation of documents certifying the enrolment and payment of the fees to public or private structures.

For disabled children who cannot attend the nursery due to the condition of disability (medical certificates are required), the bonus consists in the payment of a fixed sum. The maximum repayable amount varies, depending on the family ISEE, from 1,500 to 3,000 euros.

INPS initially believed that that the service should be recognized with regards to only foreign citizens holders of long term permits, but the following two decisions of the court of Appeal of Milan- currently the benefit is paid to all foreign citizens regardless of the residence permit even if the law has not yet been amended. If foreign citizens without a long term permit encounter difficulties in obtaining the service, it is necessary to contact associations or patronages.



What is the birth allowance (the so-called Bonus bebè)?

The benefit is paid only for births that took place up to 31/12/2021. For births subsequently, the assignment of the single universal allowance varies according to income:

160 euros per month for 12 months for ISEE up to 7,000 euros; 120 euros a month for ISEE up to 40,000; 80 euros a month for ISEE superior. If the application is made within 90 days of the birth, the benefit starts from the birth, if proposed subsequently, it starts from the date of the application (therefore after 12 months it is no longer feasible) the law required a long-term residence permit for foreign citizens. However, both the European court of justice and the Constitutional court (judgement 11 January 2022) have the exclusion of holders of a single work permit was declared illegitimate. Therefore, who proposed request in the past and was refused the service for lack of a residence permit now obtains it by submitting a request for view to the competent INPS office and, in the event of a negative outcome, proposing judgement.

What is the birth premium?

It is an amount of 800 euros paid for births that occurred by 28 February 2022 or for mothers who have reached the seventh month of pregnancy by 31st December 2021.

For subsequent situations, the benefit is replaced by the single universal allowance. It has no income limits and no residence permit limits, therefore is entitled to all foreign citizens legally residing. The application must be submitted on the INPS portal or through patronages within one year of birth. Therefore from 31st December 2022, the service will cease definitely.

What is the allowance for family units with at least 3 children?

It is a service (regulated by art.65 L.488/98) scheduled until 28/02/2022. For the period, the subsequent one is absorbed by the single allowance. The application had to be presented to the Municipality of residence by 31st January of each year with referring to the previous year, but not for those who submitted an application by 31st January 2022. It is also paid in the month of February. Also for this service, the law initially provided for the right of only holders of permits for long term residence, but the European court of justice (judgement 21st June 2017) has considered illegitimate the exclusion of holders of single work permits. Therefore, holders of this per-



mit who have applied and who have been denied the allowance can apply to the judge within 5 years to have the allowance.

What is the allowance for family units?

The service, govern by art. 2 L.153/1988, ceases on 28th February 2022 and will be replaced by the single universal allowance check. However as arrears can be claimed within 5 years, it is possible to apply for the allowance for the past years, within this limit.

The application must be submitted to INPS, possibly on the request for authorizing the insertion of family members if resident abroad. The allowances consists of a variable amount based on income and the number of family members considering minor children (adults if students), spouse or other family members if in conditions of disability.

Who is eligible for the allowance for family units?

The check allowance is due:

- to employees (and in this case is paid through the employer);
- to unemployed holders of NASPI;
- to retired employees.

The law does not require that the family member be “Dependent” or “Co-habiting”, but it does provide for the relevant differences between Italians and foreigners depending on the place where the family member reside:

- Italian citizens can also count the family member residing abroad
- foreign citizens can count in the family unit only family members (co-habiting or not cohabitants) residing in Italy, except for the existence of specific agreements with the countries of origin.

The European court of justice, with two judgements on 25th November 2020, declared that this differential treatment is contrary to the holders of long-term residence directive and the single work permit holders directive. Therefore the holders of these two permits can now obtain, for 5 years preceding the application. The payment of the related checks to the family members residing at home or abroad. Therefore it is necessary that they present an application for authorization for the calculation of family members abroad, and the application for payment checks.

In the event of negative response from INPS, they must propose administrative appeal and then appeal to the judge, addressing to patronages and association.



What is the basic income?

The service (governed by DL 4/19 converted into L 26/19) can be requested at the Italian post offices, electronically on the portal www.redditodicittadinanza.gov.it or on INPS websites or at CAF and patronages.

The benefits start from the month following the submission of the application and is granted a maximum period of 18 months after which it can be renewed after suspension of one month submitting the new application.

Who is eligible for the basic income?

The applicant must meet a series of economic requirements (including a lower family ISEE of 9,360 euros and a family income not exceeding 6000 euros, both increased in relation to the family size); the service is compatible with the NASPI and with the performance activities working within the above income limits.

The applicant must not be subjected to personal precautionary measures and must not have been definitely convicted in the ten years preceding the request, for one of the particular crimes severity listed by the standard.

One must also be resident in Italy for as long as he receives the benefit and must have been a resident in Italy for at least 10 years of which the last two are continuous. As for citizenship, the service is recognized:

- to Italian citizens or citizens of a European Union state
- family members of Italian or EU citizens
- holders of a long stay permit
- holders of international protection
- stateless person.

Therefore, not only holders of the permits already indicated above for the check allowance are excluded (special protection, etc.) but also holders of a single work permit (family, work, awaiting occupation).

The constitution court with the sentence no. 19 of January 25th 2020 considered the requirements of a long-term permit is constitutionally legitimate. Many judgements are pending before various courts aimed at having the law declare the illegitimacy and 10 years of residence which constitute indirect discrimination to the detriment of foreign citizen.

What is the citizenship pension?

The benefit takes the name of pension citizenship if the family unit is composed exclusively by one or more members aged 67 or over. It may also be granted in case in which the member or members of the family unit aged 67 or over cohabit with one or more people under such age if they are in condition of severe disability or non-self-sufficiency as defined for the purposes of ISEE.



The pension citizenship is renewed automatically without the need to submit a new application and therefore last long as the income requirements are met.

What is the social allowance?

The service (governed by art. 3, comma 6, of L.335/1995) must be requested from INPS and is the responsibility of those who have been residing in Italy continuously for at least the last 10 years, who have reached the age of 67 and that are in possession of economic resources lower than the limits set by the law (for 2022, the maximum income is 6,075,30 euros or 12,170,60 euros with the spouse).

INPS often interprets the requirements of 10 years of presence in a restrictive way, denying the service even to those who, during the 10 years, have been absent only temporarily. In such cases, it is possible to appeal because the majority of judges do not agree with this restrictive interpretation. As for the citizenship requirements, the service is due:

- to Italian citizens or EU citizens;
- holders of long term residence permits;
- to Non-EU family members of EU citizens;
- to holders of international protection and stateless persons

All other foreign citizens are excluded, in particular holders of a single work permit. The constitutional court (sentence 50/2019) considered this exclusion legitimate. However, they are pending some judgements aimed at submitting the question to the European court of justice, with reference to the directed 2011/98 and therefore to holders of a single work permit.

The check allowance is suspended if the holder stays abroad for more than 29 days; and one year after the suspension, the service is revoked. Even in this case, however, the judges believe that any absence should be assessed on a case by case basis and therefore it is good to contact associations and patronages for an examination of the situation.

What is the unemployment benefit (NASPI and DISCOL)?

The NASPI benefit is due to employers with an employment relationship who have involuntarily lost their employments or in the event of resignation for just cause and resignation in the year of child birth.

From 1st January 2022, the only requirement is to have 13 weeks of contributions in the last 4 years prior to the termination. The benefit decreases starting from the sixth month and last for half of the last employment relationship (e.g. if the termination occurs on a 3 year relationship, the NASPI benefits last a year and half).



The application must be submitted to INPS within 68 days from dismissal or from the end of the compensated maternity period; however, if the application is submitted after the eighth day, the treatments starts from the application. In any case, it is not due for the period covered by the indemnity notice.

DIS-COL, on the other hand, is the unemployment benefit that is due to self-employed workers registered with the separate INPS management and can reach a maximum of 12 months; in relation to the months worked in the year preceding the termination. For theses services, there are no problems as for foreign citizens because they are recognized to all workers who meet the contribution requirements.





Chapter 10

Entry and study permit





CHAPTER 10

ENTRY AND STUDY PERMIT

Who is the residence permit for study issued to?

The residence permit for study can be issued:

- to those who have obtained an entry visa for study;
- at the age of 18, to minors who already hold a permit for family reasons, for foster care or for minor age.

What is a student visa?

A student visa allows foreign citizens to enter Italy for fixed-term stays in order to follow university courses, educational courses or vocational training at recognised institutes or anyway qualified. It is also addressed to foreign citizens who intend to carry out cultural and research activities.

Besides, a student visa is granted, for the period strictly necessary, to foreign citizens who, having graduated at an Italian university, have to undergo professional qualifying examinations.

Foreign citizens residing abroad who want to attend any whatsoever educational course in Italy can apply for a student visa to the Italian Embassy or Consulate in their country of residence.

The visa is issued within 90 days and has the same duration of the course to be attended, but in any case, it does not last more than one year.

What requirements must be met to be granted a student visa?

In order to be granted a student visa, foreign citizens must meet the following requirements:

- they must be 14 years old and over (children under 14 years old can be granted a student visa only in exceptional cases for not more than 45 days, in order to attend brief cultural-language courses, organised by Associations or institutes of proven and known reliability);
- they must have documented guarantees concerning their attendance of a higher course of study, a vocational training course or a course financed by the Italian government, or the research activity to be carried out;



- they must be covered by an insurance policy for medical treatments and hospitalisations, with a validity equal to the duration of the stay, if they do not have right to healthcare in Italy on the basis of agreements in force with the Country of origin;
- they must submit documents proving the availability of means of support which cannot be less than half of the annual amount of the social allowance (for year 2022, the annual amount of the social allowance is equal to € 6.085,43);
- they must submit documents proving the availability of the amount necessary to return to their Country after following the course of study;
- they must prove the availability of an accommodation through a hotel booking or a hospitality statement, provided by an Italian citizen or by a foreign citizen regularly residing in Italy.

Where to apply in order to enrol in University or any other course of study?

Before applying for study visa, you must access and register to the UNIVERSITY portal <http://www.universitaly.it> and fill in an online application for pre-enrolment for the degree program chosen. Once the request has been validated by the university, it must be presented to the consulate or embassy in the country of origin together with other documents.

The terms envisaged for the procedures relating to pre-enrolment in Bachelor's and Master's Degree courses with the exception of those with limited numbers, are defined by each Athenaeum and published in their respective site. The actual registration (matriculation) sites at the University will be carried out in Italy, once the visa is attained.

What documents must be annexed to the application?

- To enrol in university: original copy of an upper secondary education diploma (or substitutive certificate by all effects of law with a translation carried out and confirmed (legalised) by the Italian Embassy or Consulate in the Country of residence). Foreign degrees are valid for enrolment if they allow to access the Universities of the Country where they were issued and if they were achieved after at least 12 years of school: if the period of study is inferior, it is necessary to submit a university document certifying the passing of all the exams established for the years of study necessary to achieve the compulsory twelve years of schooling, or the achievement, in the event of foreign citizens residing in Italy, of an Italian high school diploma. Foreign citizens coming from a Country where it is necessary to pass a specific exam to enrol in University must also submit the document certifying the passing of said exam;



- To enrol in other courses of study: a qualification that allows to continue studies (e.g. I level university degree if applying to enrol in an II level course, a university degree if applying to a Master's degree or a PhD, etc.) always translated and legalised;
- 2 photos of which one authenticated;
- Possible certificate qualifying the competence in Italian language;
- Possible other documents required for the chosen course of study.

What to do if an admission test must be passed to enrol in university?

If an admission test is required, each University examines relevant applications and prepares a list of the foreign citizens residing abroad admitted to the admission test, sending said list to the Italian Embassies and Consulates in the various Countries of provenance, together with the indications concerning premises, date and hour of the test.

Within a date that can vary from year to year (generally speaking, at the beginning of August), the Italian Embassies and Consulates abroad publish the lists of students admitted to the tests.

The lists can be consulted also on the website of the Ministry of University and Scientific Research. Starting from the date of publication, the students that passed the test can apply for a student visa to the Italian Embassy or Consulate in the country of provenance.

How to prove the availability of means of support and the money necessary to return to the Country of provenance?

The availability of said resources can be proven by:

- Showing cash, travel cheques, credit cards;
- submitting a credit letter provided by the foreign bank ensuring that said amount is available;
- submitting a certificate proving that said amount is already available at an Italian bank, through bank transfer or payment from abroad;
- documentation proving the granting of scholarships, honour loans or accommodations provided by public administrations or by other public or private Italian subjects; if the amount proven is below the threshold established as "means of support," further documentation can be used to integrate the above, proving the availability of income, up to reaching the amount required; the mere candidature for a scholarship is not sufficient;
- with regard to the amount necessary to return the Country of provenance, it is sufficient to show the return ticket.



How to prove insurance cover for medical treatments?

The availability of an insurance cover for medical treatments and hospitalisations can be proven through:

- the availability of the amount necessary to register voluntary with the National Health Service (SSN);
- the insurance policy contract with a foreign or Italian insurance company.

What is a residence permit for study reasons?

Residence permits for study reasons are issued to foreign citizens who have been granted a student visa. Applications must be submitted within 8 working days from the entry in Italy to the Questura in the place of residence.

In addition to passport-size photographs, a revenue stamp and a document certifying to have paid the issue of the electronic permit, applications must be completed with:

- a copy of the passport and of the entry visa (showing the original copy);
- a copy of the enrolment in a course of study (showing the original copy);
- a certificate proving the insurance cover or the registration with the National Health Service (SSN);
- a certificate proving domicile: lease contract or hospitality statement. The hospitality statement must be accompanied with the photocopy of the lease contract or purchase document, and a copy of an identity document of the renter or owner;
- a guaranty policy or other documents proving the availability of the economic means of support.

Residence permits for study reasons are issued also, when turning 18 years old, to youngsters already holders of a permit for family reasons, foster care or for being under age. In such case, it is not necessary to apply for a visa, because it involves individuals already legally present in Italy, nor to prove the insurance cover for healthcare expenses, because the registration with the National Health Service (SSN) is maintained. Accommodation and the economic means of support can be provided by parents or foster care parents.

How long does a residence permit for study reasons last?

The duration is equal to that of the course which the foreign citizen intends to follow. In the event of enrolment in a multiannual course, the permit lasts one year and is renewable. With regard to university students, the permit can be renewed up to a maximum of 3 years beyond the legal duration of



the University course chosen. It is possible to renew the residence permit also if changing the university course for which the foreign citizen entered Italy and thus passing to another one. In any case, it is necessary to pass at least one profit test (exam) during the first year, and at least 2 exams in the following years.

For serious reasons connected to health conditions or force majeure, duly documented, the residence permit can be renewed also if students passed only one profit test during the year, notwithstanding the total amount of renewals.

Is it possible to work with a residence permit for study reasons?

Residence permits for study reasons allow to carry out a subordinate work for not more than 20 hours a week, also accumulable for 52 weeks, notwithstanding the annual limit of 1,040 hours.

Is it possible to convert a residence permit for study reasons?

If the course of study is still ongoing, the residence permit for study reasons can be converted into a residence permit for work reasons only within the limits of the annual quotas established pursuant to the "Flows Decree."

Applications for a conversion must be submitted when the permit for study reasons is still valid. Besides, it is necessary to obtain a clearance document from the Single Desk at the Immigration Office of competence.

The same procedure is applied to foreign citizens admitted to attend training courses, or to carry out training apprenticeships in Italy. In said case, the conversion is possible only after the conclusion of the training course attended or of the apprenticeship carried out.

If instead the foreign citizen has ended the course of study and has achieved in Italy a PhD or a Master's degree or a three-year degree or a five-year degree, it is possible to apply for a conversion into work reasons, without having to fall within the quotas established by the "Flows Decree." In alternative, it is possible to register with the Employment Centre and obtain a residence permit while awaiting employment and then, within a year, apply for the conversion into work reasons without having to fall within the quotas set by the "Flows Decree."

Foreign citizens who are granted a residence permit for study reasons and who used to hold, when under-age, a residence permit for family reasons, foster care or for under-age, can apply for a conversion in any moment without the need to fall within the quotas established by the flows decree.



Chapter 11

Recognition of educational qualifications, professional qualifications and competences





CHAPTER 11

RECOGNITION OF EDUCATIONAL QUALIFICATIONS, PROFESSIONAL QUALIFICATIONS AND COMPETENCES

How can a foreign citizen enhance in Italy the educational and vocational paths carried out abroad?

There are different educational and vocational paths in Italy that allow to enhance what acquired in another Country. Said paths depend on the specific purposes:

- **formal recognition of educational or professional qualifications:** it is necessary to submit application for the recognition of the educational qualification achieved, annexing the documentation required, to the Italian body of competence. In case of acceptance, the foreign qualification acquires in Italy the same legal value of the corresponding Italian one. The competent body can accept the request, reject it or require the passing of compensative measures;
- **recognition of educational qualifications and training credits, to continue an educational path in Italy** (education, vocational training, higher technical education, universities or AFAM institutes [Higher Training in Arts, Music and Dance], Academy of Art and Academy of Music: it is necessary to apply for enrolment with the body in charge of the educational path of interest, annexing the necessary documentation. This allows the foreign citizens' educational path to be evaluated in order to access the one of interest and/or to obtain a shortening of the career. If the application is accepted, foreign citizens can enrol and complete their educational path;
- **recognition to access public competitions and public employment, other types of courses or competitions for employment, specific training and apprenticeships:** foreign citizens can request the competent body to assess their educational qualification as equivalent to the Italian one, requested for that specific purpose;



- validation and certification paths of formal and informal competences at regional level: these paths are totally or in part recognised by the Region. In Piedmont it is currently possible to access said paths by entering projects that provide for experimentation (it is a system recently launched).

Is it important to know Italian?

In almost all paths, the knowledge of Italian is very important. Sometimes, it is required to hold a relevant certification.

The territorial Educational Centres for Adults (Centri per l'Istruzione degli Adulti - CPIA) organise courses aimed at the diffusion of literacy, at preparing for certifications and in-depth studies of the Italian language. Besides, it is possible to ask for information concerning other language training possibilities at the offices that provide orientation (Employment Centres, Informagiovani, etc.).

Is it always necessary to acquire the recognition of qualifications in order to exercise in Italy the profession for which one prepared and in which one has experience?

In order to work in Italy, it is not always necessary to initiate a recognition path. Non-regulated professions in Italy, that is those that do not have specific access requirements defined by law, can be freely accessed (never in the case of healthcare professions).

What to know before starting a recognition path?

Recognition paths require:

- to activate the path in the country in which one studied;
- to plan costs (different for each country) related to legalisation and translation, revenue stamps, any integrative measures (called "compensative measures," that is an exam, a training-evaluative apprenticeship, acquisition of credits or years of study);
- to be aware that the duration of the paths depends on various factors (for example, the possibility to start the path swiftly, the timeframe of the public administrations, the time necessary to pass any compensative measures, temporal windows for submitting requests).



What is a recognition path and how does it work?

There are different types of recognition:

- 1) Recognition with the logic of equivalence, means to confer to an educational or professional qualification the same legal value of the corresponding Italian qualification; the evaluation carried out by the competent body takes place according to a comparative logic (the study programmes carried out abroad and those provided for in the analogous path in Italy are compared in detail) and on the basis of the applicant's personal situation.

A positive outcome can involve immediate recognition or recognition subject to integrative measures, called "compensative measures," that is an exam, a training-evaluative apprenticeship or the acquisition of credits or years of study; if the requirements are not sufficiently met, the outcome will involve rejection (negative outcome).

With regard to educational qualifications (lower and upper secondary school diplomas and academic degrees): recognition is granted through the issue of a statement of equivalence, provided by the Italian body competent for the analogous path.

With regard to professional qualifications (degrees necessary to exercise a profession regulated by the national legislation, which establishes the educational qualifications indispensable to access a profession and the following requirements for exercising it, from apprenticeship, to State examination, to rules on professional deontology): recognition is granted through the publication of a decree on the recognition of the professional qualifications, carried out by the Italian Ministry competent for said profession;

- 2) Recognition with the logic of equivalence, means to provide forms of recognition aimed at specific purposes, providing for a more general evaluation with regard to the foreign educational system and the characteristics of the foreign qualification; the legal effects of equivalence are produced for the specific purpose for which it is requested. Therefore, it is a valid request only for a single occasion, which can be re-applied for in a following occasion.

The outcome can be negative or positive.

Recognition paths of educational qualifications allow to continue in Italy an educational path followed in the Country of provenance, to access public competitions and public employment or other forms of courses or competitions for employment, specific training apprenticeships and apprenticeship and registration with Employment Centres.



Where can the list of professions regulated in Italy be found?

On the website <https://qualifyme.it/ministeri/>

How are recognition paths (equivalence) carried out and what is the timeframe for the recognition of educational or professional qualifications?

When receiving applications, the administration of competence analyses the documentation. If it is complete, it submits it to the evaluation of the competent body, which establishes the relevant outcome.

The possible outcomes are as follows:

- **Recognition/Equivalence**

The request is accepted and the competent body issues relevant formal document (Recognition Decree and Equivalence Statement), which has immediate value. If a qualification is recognised, it may be necessary to meet further requirements to be able to actually exercise the profession (for example, the deposit of the decree at the Chamber of Commerce, admission to a register/roll, exercise of the profession within a defined term, etc.).

- **Recognition subject to passing compensative measures**

The request is accepted, but the content of the training and/or educational experience is evaluated as incomplete. The actual recognition is subject to the passing of compensative measures, that is further verifications on several matters.

With regard to recognitions of professional qualifications, applicants will have to undergo a theoretical-practical exam (aptitude test) or a period of specific apprenticeship that lasts less than three years (adaptation apprenticeship).

In most cases, EU citizens are given the possibility to choose which compensative measure to activate; in other cases, instead, it is defined by the competent body.

For the recognition of educational qualifications, the compensative measures consist in undergoing specific parts of the paths (for example, several exams or other credits or annualities).

Once the foreign citizen passes the mentioned measures, recognition becomes effective.

- **Rejection**

The request is not accepted. The negative outcome must also mention the reasons, which may involve the characteristics of the training qualification.



How are recognition paths (equivalence) carried out and what is the timeframes for the recognition of educational qualifications?

When receiving applications, the administration of competence analyses the documentation. The relevant answer should be provided within the date of the selection. In case of delay, foreign citizens are authorised to participate in the selection “upon condition,” that is awaiting an answer.

The possible outcomes are as follows:

The request of equivalence can be:

- **accepted**, in this case the possibility to access the requested path will be confirmed;
- **rejected**, in this case the path started will be invalidated (a negative answer arriving after carrying out the selection, under condition, determines the exclusion from the same, regardless of the relevant ranking in the classification).

What documents must be submitted?

The documents requested vary depending on the path chosen. In order to start most of the paths, it is necessary to provide:

- documentation in original: referring to the degree to be recognised (usually translated and legalised),
- relevant informative documentation: documents that provide information on the foreign qualification to which they refer; said documents are issued in the Country where the educational qualification was acquired or in Italy,
- any other documents: for example, for many paths it is necessary to submit report cards or certificates relating to the exams undergone. In equivalence paths, the training paths of the studies carried out are often requested, distinguished by subject.

International protection holders are equalled to EU citizens in all the procedures carried out. It is possible to agree with the competent bodies on derogations to the provision that requires foreign citizens to be in possession of the original document legalised; some procedures are not requested, and the informative documents can be requested through specific services.



What are informative documents required to be annexed to the educational or professional qualification?

Informative documents are those documents that provide information on the foreign qualification to which they are annexed. They are issued in the Country where the qualification was acquired or in Italy; in particular, they provide information on:

- the level of education in the educational system
- the issuing institute and the truthfulness of the document
- nature (educational or professional).

The main informative documents are as follows:

- 1) Statement of value in loco:** it is issued by the Italian Embassy or Consulate abroad competent per territory, that has the duty to ascertain the authenticity of the qualifications and their characteristics. It is possible to request the Statement of Value for study reasons (information concerning exclusively the characteristics of the educational qualifications) or for professional reasons (information also concerning other requirements, the meeting of which is necessary to exercise a profession).
- 2) Statement of compliance with the European regulations** (or also Compliance Certificate): it certifies that a professional qualification is compliant with what provided for by Directive 2005/36/EC of the European Parliament and of the Council. It is a document issued by the competent authority in the country of provenance for a given regulated profession and it is valid only for qualifications acquired in EU countries.
- 3) Certificate of comparability with the foreign qualification:** it is issued by CIMEA (Information Centre on Mobility and Academic Equivalence). Applications are carried out online.

It is an informative document that provides the general information concerning the foreign qualification. It also provides an opinion on the correspondence in the Italian educational system. It is accepted by most universities with regard to the procedures for recognising an educational qualification or for the admission to academic courses.

How to exercise the profession developed in another country?

In order to carry out in Italy a profession studied or exercised in a foreign country, it is necessary to request the recognition of the professional qualification to the Italian Ministry competent for that profession, if it is a profession regulated in Italy (that is a profession for which specific access requirements are defined by law).



If, instead, it is a profession not regulated in Italy (a profession for which specific access requirements are not provided, that is a profession with free access), it is possible to exercise said profession without any limitations (with the acceptance of healthcare professions).

Where can further information be found on the recognition of professional qualifications, on the list of regulated professions and competent ministries?

Further information is provided on the website <https://qualifyme.it/> on the page devoted to the Recognition of educational or professional qualifications.

How to participate in a public competition or in other forms that grant access to public employment with a foreign educational qualification?

It is possible to participate in a public competition or in other forms that grant access to public employment by following the equivalence path of foreign educational qualifications, if participating in a selection that has, as requirement, the holding of an educational qualification. **The equivalence provision is valid only for the competition of reference** for which the application was submitted; for any other public competition, it will therefore be necessary to submit a new equivalence application.

The documentation necessary in order to submit application for an equivalence path is as follows:

- foreign educational qualification translated and legalised, with annexed Value Statement
- plan of studies /certificate of exams translated and legalised (not required for lower secondary schools),
- public notice of the public competition /selection in which the foreign citizen intends to participate.

Further information on equivalence paths is available on the website qualifyme.it, under the page devoted to paths for Specific purposes.

Can Third-Country Nationals participate in public competitions and have access to public employment?

To date, participation in public competitions or other forms that provide access to public employment is granted only to EU citizens and to Non-EU citizens with a long-term residence permit and their family members, as well as international protection holders (equivalent to EU citizens).



How to continue studying in Italy once the foreign path has been recognised?

Generally speaking, it is necessary to hold an educational qualification equivalent to the Italian qualification requested in order to access the educational and training path chosen, which allows to access an analogous path in the country where it is achieved. The documents required can vary sensibly depending on the type of path chosen:

- lower secondary education,
- upper secondary education,
- regional Vocational Training (qualification, specialisation, job patents and qualifications, long-life training),
- Higher Technical Education and Training (Istruzione e Formazione Tecnica Superiore - IFTS),
- Higher Technical Education (Istruzione Tecnica Superiore - ITS),
- Academic Education or AFAM (University Degree, Five-year degree, Master's degree, specialisation, PhD).

Foreign citizens up to 29 years of age can acquire educational qualifications also through apprenticeship paths (training and employment contracts).

Further information on the documents required and on the competent bodies for the single paths is available on the portal qualifyme.it, under the section Enrolling in a training path.

Is there any form of support for attending educational paths (support to the right to study)?

The right to study is everybody's right to access and achieve educational results regardless of individual socioeconomic conditions. The support to the right to study is realised through various interventions, that vary depending on the type of education. They are implemented both at national and local level, and allow to guarantee the right to education to everybody. Said support is provided, for example, through: scholarships, accommodation, total or partial exemptions of enrolment fees, free books and other benefits.

Where to apply:

- Regional body for the Right to Study, EDISU Piemonte (for university paths), providing scholarships and accommodation and provides also other services (canteens, extraordinary aids, orientation, study rooms, cultural/recreational/sport spaces) addressed to all students;
- Universities (for university paths) providing directly several benefits, addressed to students who are worthy but lack means, who do not have access to the resources offered by the regional bodies for the Right to Study;



- Other public and private bodies (for all paths), providing benefits supporting studies (public notices for scholarships open to private funding) and microcredit opportunities (easy financing terms to support projects).

Where can foreign citizens find orientation and information?

There are services active at national level that offer support to foreign citizens interested in having their educational or professional qualifications recognised, or interested in resuming studies on the basis of the qualifications achieved abroad.

Further information is provided by:

- CIMEA - Centro di Informazione sulla Mobilità e le Equivalenze Accademiche (Information Centre on Mobility and Academic Equivalence), which can provide information on all recognition paths,
- Punto di contatto nazionale sulle qualifiche (National point of contact for qualifications), which can provide information on recognition paths of educational and professional qualifications.

There are also services and projects active in various regional territories providing orientation on educational and professional qualifications.

In Piedmont it is possible to have specific information, orientation and consultancy on these themes at the desk Extra-Titoli (active in Turin and in other cities of Piedmont).

For further information on the paths available in Italy for educational and professional qualifications, on the documents required and competent bodies, it is possible to refer to the portal qualifyme.it.



Chapter 12

Unaccompanied Foreign Minors





CHAPTER 12

UNACCOMPANIED FOREIGN MINORS

Who are unaccompanied foreign minors (UFMs)?

Unaccompanied foreign minors are minors without Italian citizenship or EU citizenship who are in Italy for any whatsoever reason, without the assistance and the representation of parents or other adults legally responsible for them on the basis of the applicable laws in the Italian legal system. Minors present in Italy with irregularly residing parents are not unaccompanied foreign minors.

Unaccompanied foreign minors include minors who live with adults other than their parents or who in are not guardians or custodians on the basis of a formal provision, and who are not their guardians on the basis of a formal provision, since said minors are anyway lacking legal representation on the basis of the Italian law.

Recently, with the ordinance no.9199/19 filed on 3/04/2019, the court of Cassation intervened on the subject, deeming it necessary to appoint a guardian by the Juvenile Court in the case of foreign minors entrusted to relatives up to the fourth degree, deemed to have no powers of representation and legal liability

Rights with regard to minors' protection are recognised to all minors, without discrimination, in compliance with what provided for by the Italian law and by the U.N. Convention on the Rights of the Child of 1989, establishing that all decisions concerning minors must keep into consideration their highest interest.

Which authorities must be informed concerning the presence of a UFM?

If a UFM is identified in Italy, public security authorities, local bodies and legal representatives of reception centres coming into contact with said minor must immediately communicate the minor's presence to the Prosecutor of the Republic at the Juvenile Court and to the Juvenile Court. This in order begin the protection procedure and to appoint a guardian, as well as to ratify the reception measures laid down. The communication must be transmitted also to the Directorate General for Immigration and Integration



Policies at the Ministry of Labour and Social Policies, for relevant census and monitoring. The appointment of a guardian and the other protection provisions are adopted by the President of the Juvenile Court or by a judge delegated by said President and can be appealed before the Court of Appeal. The role of guardianship can be assigned to Mayors, Councillors for Social Policies or to private citizens. In accordance with Law No. 47/2017, all Juvenile Courts are provided with a list of voluntary guardians: private citizens, selected and trained by the Regional Child Guarantors, willing to undertake the protection of a UFM (by rule, not more than three minors per guardian).

Can UFM be rejected?

Law No. 47/2017 (the so-called “Zampa” Law) expressly ratified the prohibition to reject unaccompanied foreign minors at the border. The prohibition is always and anyway valid, regardless of the reasons at the basis of the minor’s entry in Italy; therefore, regardless of the fact that the minor is or is not an asylum seeker.

Can UFM be deported?

Foreign minors cannot be deported, excepting reasons related to public order or the State’s security, notwithstanding the minor’s right to follow a deported parent or guardian. Deportation orders may be adopted by the Juvenile Court, upon the Questura’s request, as long as said deportation does not entail a risk of serious damage for the minor. The Juvenile Court is required to decide promptly and anyway within 30 days.

How are UFM identified?

Assisted return is a provision ordered by the Juvenile Court if a minor’s reunification with family members in the Country of origin, or in a Third Country, corresponds to the minor’s highest interest, and if it is ascertained that the minor would live in better conditions.

In order to verify the existence of said conditions, family investigations are carried out to reconstruct the minor’s parental network. Ascertainments are also conducted on the minor’s situation in Italy, even through specific reports provided by welfare services.

During the procedure, minors and guardians are heard personally.



How are UFM's identified?

In order for minors to have access to their rights and protection measures, as well as inclusion and reception, they first have to be identified.

Public security authorities, assisted by cultural mediators and in the presence of a guardian, ascertain minors' identity and establish their age through documents useful for identification (passport, identity document, also not valid, birth certificate or other identification document, as long as accompanied by a photograph, notwithstanding reasonable doubts on their authenticity). However, if said documents are not available, and if there are founded doubts on the age declared, a social-health ascertainment is carried out with regard to minors' age.

The competence to order a social-health ascertainment of the age is appointed to the Prosecutor of the Republic at the Juvenile Court. Once carried out all ascertains, the Juvenile Court adopts a provision ascribing the age, which is communicated both to the minor and the guardian and can be appealed against before the Court of Appeal within 10 days. Throughout the whole procedure for ascribing the age, including the appeal phase, any administrative and criminal procedures consequent the identification as over 18 years old is suspended up to the final decision. The person concerned is considered a minor, also for the purpose of submitting the application for the residence permit for a minor or applying for international protection, as well as for reception measures.

How is the social-health ascertainment of a minor's age carried out?

The social-health ascertainment of a minor's age has the aim to establish the minor's chronological age (the time elapsed from birth to the moment of the exam), by identifying the biological age (the level of development reached at the moment of the exam).

Since the development of each individual follows personal paces, people with the same chronological age may be very different from a physical viewpoint. Consequently, it will never be possible to define with precision the chronological age of a subject identified on the basis of physical aspects. On said basis, age can be defined only in probalistic terms, with a biological variance equal to ± 2 years, regardless of the method used.

Ascertains are carried out in a suitable environment with a multidisciplinary approach (therefore, ascertains based on a single method are not valid). Professionals suitably trained - when necessary, in the presence of a cultural mediator - use modalities the least invasive possible, respectful of the person's assumed age, gender, physical and psychical integrity.



In accordance with DPCM 234/2016 ("Regulations on the mechanism for establishing the age of unaccompanied minors victims of human trafficking") - applicable by analogy to all UFM's also not victims of human trafficking - the ascertainment is conducted by a multidisciplinary team at a public healthcare structure identified by the judge. The approach used is based on a social interview, a paediatric visit with auxologic indicators, and a psychological and neuropsychiatric evaluation.

The evaluation must keep into account specificities relating to the minor's ethnic and cultural origins. One method at a time is used, starting from the less invasive one and avoiding to apply the others if the previous ones already allowed to establish the minor's age. The margin of error, which must be indicated for the report to be held valid, has to keep into account the biological variability mentioned above, which entails indicating values ranging between a minimum age and a maximum age. If doubts on the minor's age continue to remain even after the social-health ascertainment, it is simply assumed by all effects of law (for example, if the report indicates an age equal to 18 years old, with a margin of error of ± 2 years, the party involved will be considered under-age).

Which residence permits can unaccompanied foreign minors be granted?

Unaccompanied foreign minors (UFMs) can be granted a residence permit mainly in two ways: applying not as asylum seekers or applying as international protection applicants (link to the section devoted to ASYLUM).

UFMs applying not as asylum seekers are granted an under-age residence permit if they do not meet the requirements for any other type of permit (e.g. for family reasons), upon the minors' direct application or through an application submitted by the person exercising parental responsibility, even before the appointment of a guardian. Said permit is valid up until minors turn 18 years old. Besides, in accordance with the Circular of the Ministry of Interior of 24 March 2017, said permit is granted regardless of the fact that minors show the authorities an identity or recognition document. This provision is implemented in order to safeguard UFM's fundamental rights related to holding a residence permit (registration with the registry office, assignment of a paediatrician/family doctor, enrolment in school).

Whereas, UFM's are granted a residence permit for family reasons if:

- a) they are under the guardianship of an Italian citizen or of a regularly residing foreign citizen, as long as meeting the requirement of cohabitation;
- b) they are formally entrusted to an Italian citizen or to a regularly residing foreign citizen;
- c) they are entrusted "to all intents and purposes" to a relative within the fourth degree.



As provided for by the Ministry of Interior, if the Judicial Authority formally orders a UFM's entrustment or guardianship, the minor is granted an entrustment residence permit which substitutes the under-age permit.

How is a residence permit renewed when turning eighteen years old?

If UFM's were granted a residence permit for family reasons, when turning 18 years old they can convert it automatically into a residence permit for study reasons, work reasons, subordinate or autonomous work, healthcare reasons or for medical treatments. Whereas, for under-age residence permits to be converted, it is necessary for UFM's to meet the following requirements:

- 1) the holding of a valid passport or equivalent valid document;
- 2) presence in Italy for at least three years and the admission to a social and civil integration project for no less than two years. Said project is managed by public or private bodies provided with specific characteristics (in this case, also the availability of accommodation); or, in alternative, as to the requirement indicated under No. 2);
- 3) the positive opinion of the Directorate General for Immigration and Integration Policies at the Ministry of Labour and social Policies. For said opinion to be positive, UFM's must have been on the State's territory for at least six months before turning 18 years old and they must have started a social and civil integration path (school, training, work, etc), without prejudice to the evaluation of each single case. Following Law No. 132/2018, the Directorate General's opinion is always necessary;

The non-issue of an opinion by the Directorate General cannot legitimise the Questura's refusal to renew the residence permit. If the Directorate General does not provide an opinion within 20 days from the date of reception of the relevant application, silence equals as a positive opinion. Therefore, being met all other requirements, the Questura will have to issue the residence permit.

Applications to convert the residence permit must be submitted to the competent Questura 60 days before turning 18 years old, or anyway not beyond 60 days following such date. Applications must be submitted by a guardian, before the minor turns 18 years old; whereas, after turning 18 years old, they must be submitted by the direct party involved.



What consequences are there for residence permits in the event of criminal convictions?

Possible criminal convictions do not compromise the minor's regular permanence on the territory, unless said minor is a danger for the State's security. Once turned 18 years old, however, the law excludes the possibility to issue or renew a residence permit in the event of convictions, even not definitive, for certain types of crimes, among which those that provide for mandatory arrest in flagrancy (for example: aggravated theft, robbery, sexual assault, etc.), as well as those involving drugs, regardless of the seriousness of the fact and the type of substance. With regard to minors holding a residence permit for family reasons, in deciding whether or not to issue a residence permit, the Questura has to keep into account the nature and the reality of the minors' family bonds, the existence of family and social bonds in their Country of origin, and how long they have resided in Italy.

Furthermore, if the minor committed a crime and served the term in prison or through measures alternative to imprisonment or, still, through the practical participation in an assistance and integration programme, the Questura may issue a residence permit for special cases, upon the proposal of the Prosecutor of the Republic or of the Surveillance Judge at the Juvenile Court.

What requirements must be met to register UFM's with the National Health Service (SSN)?

Registration with the National Health Service (SSN) is currently granted to all minors regardless of their position on the territory and of the Italian Region in which they reside.

Minors residing on the national territory not complying with the laws with regard to entry and stay, are nonetheless registered with the SSN and make use of healthcare equally to Italian citizens. UFM's are required to register with the SSN also while awaiting the issue of a residence permit.

How are UFM's' rights to education safeguarded?

The Italian Constitution, the European Union's regulations, and International Conventions ratified by our Country guarantee the right to education and training to all minors, without discriminations based on citizenship, regularity of residence or any other circumstance.

All foreign minors present on the territory are subject to compulsory schooling under equal conditions with Italian minors (including the possibility to participate in all the activities organised by the school attended by the minor). Besides, the actuality of the right to study must be guaranteed by



the State, Regions and local bodies, also through the activation of Italian language courses.

Minors lacking documents must be identified and enrolled in school on the basis of the data provided by the minors themselves and by the parent or who represents the parent, also lacking documentation fit to prove the minors' and the adults' identity. If no documentation is subsequently provided and therefore it is impossible to ascertain the truthfulness of the personal data, this does not affect the minors' possibility to continue studying and achieve the final qualification.

Students' right to achieve the educational path started, even if turning 18 years old in the meantime and regardless of their position on the territory, is expressly sanctioned by Law No. 47/2017 with reference to courses of study organised by institutions of all order and grade. In such case, the final qualifications are issued with the data acquired at the moment of the registration.

What procedure must UFM follow in order to apply as asylum seekers?

When UFM submit application for international protection, the Questura of competence with regard to the minors' place of abode sends immediate relevant communication to the Juvenile Court. The Court is required to appoint a guardian within 48 hours from the reception of the mentioned communication. The guardian or, if not yet appointed, the person in charge of the reception centre hosting the minor - acting as the person temporarily exercising guardianship powers - immediately contacts the Questura to confirm the continuation of the application procedure. UFM have the right for their asylum application to be examined with priority.

During the personal interview carried out at a Territorial Commission for the granting of international protection, a member with specific training must necessarily be present, together with the guardian, the possibly appointed attorney and any possible supporting personnel (e.g. a professional of the structure hosting the minor). Besides, after being heard in the presence of the guardian, minors can be heard again with no one present if the Commission holds it necessary on the basis of their personal situation and in their exclusive interest.

In any case, for the purpose of recognizing a form of protection, the minor age alone is not sufficient, but it is necessary to provide additional indications regarding specific and further reasons of vulnerability and or a particular significant path of integration, which they can justify at least the existence of conditions for the additional types of special protection introduced by the D.L.130/2021.



As far as international protection is concerned, it is essential to give details in depth of the application presented, in order to underline the presence of any acts against suffered childhood and adolescence which if serious, may constitute forms of persecution relevant to terms of recognition of refugee status (domestic violence, trafficking, labour exploitation, forced marriages, having lived in the country of origin as a street minor, etc.).

How is the reception system organized for UFM's?

The reception system for UFM's (both asylum seekers and not asylum seekers) is organized according to two phases. In the first phase, minors are received for needs related to immediate aid and protection at initial reception structures for minors, set up and managed by the Ministry of Interior. Minors are hosted in these centers for a maximum of 30 days, for the following purposes: to identify them, to possibly ascertain their age, to inform them of their rights (including the right to apply for international protection) and how to exercise them. Said reception centers (called "FAMI centers") must guarantee a series of services to minors, among which cultural mediation, legal guidance, medical and psychological assistance.

The second phase involves the transfer of minor to secondary reception facilities, set up by the municipalities as part of the SAI- Reception and Integration System (from 2002 to 2018 called SPRAR and from 2018 to 2020 SIPROIMI)

Said structures must meet the minimum standards of the services and assistance provided by residential structures for minors. Besides, they must be authorized or accredited pursuant to relevant rules and regulations. Compared to the FAMI centers (and to the CAS for minors, see below) they must also guarantee services aimed at minors' social inclusion and autonomy – such as enrollment in school and insertion in professional training -, as well as guidance and support for labor insertion.

If the initial reception structures and the SAI have no places available, the minors' reception is temporarily ensured by the municipality where they are staying.

If even the municipality cannot ensure reception, as of August 2016 the Prefect issues an order - in the event of consistent and close range arrivals of UFM's – providing for the setting up of temporary reception structures (the so-called CAS for UFM's) for minors over 14 years old, for the time necessary to transfer them to the above mentioned structures.



How long can reception measures be extended after UFM's turn 18 years old?

Depending on the type of reception structure, UFM's are treated differently when turning 18 years old.

Those who are hosted in SAI structures and that are not asylum seekers are granted an additional six months of reception after turning 18 years old.

The UFM's (Unaccompanied Foreign Minors) asylum seekers present in SAI facilities at the age of 18 are welcomed in SAI projects for adults or in CAS for adults up to the conclusion of the procedure to be granted protection and for an additional 6 months after the adoption of the final provision granting protection.

Whereas, if UFM's are not asylum seekers and are hosted in non-SAI structures, when turning 18 years old they lose the right by and large to reception measures. In order to avoid the sudden interruption of any form of support and of a path aimed at autonomy, Law No. 47/2017 established that when UFM's still need support after turning 18 years old, despite having started a path aimed at autonomy, the Juvenile Court can order their entrust to social services up to maximum 21 years of age, with a possible reception in the SAI (now SIPROIMI). Therefore, their taking in charge can be extended, which increases exponentially their possibility to benefit from a practical and positive social-labor insertion. Unaccompanied foreign minors for whom the Juvenile Court ordered administrative continuation do not have to have the opinion of the Directorate General for Immigration in order to be granted the conversion/renewal of their residence permit when turning 18 years old. Besides, should they not meet the requirements to be granted the conversion, the Questura must grant an entrust residence permit or renew a permit of stay for foster care.

Finally, specific reception measures are envisaged for minors who are victims of trafficking or exploitation so that they are guaranteed adequate protection even after reaching the age of 18.



Chapter 13

International Protection





CHAPTER 13

INTERNATIONAL PROTECTION

What is International protection?

International protection represents the system of regulations aimed at guaranteeing, safeguarding and protecting the fundamental rights of the person forced to flee from the Country of origin or of habitual residence due to the well-grounded fear to suffer personal persecution or serious damage. International protection is also addressed to who is present in one of the States that implements the Refugee Convention signed in Geneva. Finally, International protection includes the status of refugee and the status of subsidiary protection.

What is the status of refugee?

The status of refugee is granted to foreign citizens or stateless persons who, rightfully fearing the possibility to be persecuted due to race, religion, nationality, the belonging to a specific social group or for political opinions, left their Country of origin and, because of said fear, no longer can or want to go back and make use of the protection of their own Country; or, not having citizenship (stateless persons) and, due to said events, being outside the Country where they had habitual residence, they can no longer or no longer want to go back for the above mentioned fear.

What is subsidiary protection?

If foreign citizens or stateless persons seeking international protection do not meet the requirements to obtain the recognition of the status of refugee, they can be granted subsidiary protection. In order for subsidiary protection to be issued, there must be well-grounded reasons to believe that, if said foreigners went back to their Country of origin (or to the Country where they had habitual residence, if stateless persons), they truly would risk suffering serious damage. Serious damage means the well-grounded risk to suffer death sentence or the execution of a death sentence, torture, or any other form of sentence or inhuman or degrading treatment, and a



serious and personal threat against their lives deriving from in discriminated violence in situations of domestic or international armed conflict.

What is humanitarian protection?

Humanitarian protection used to be a system that protected three distinct and autonomous positions in compliance with humanitarian obligations, international obligations and the State's constitutional obligations, including the ban on extradition for political offences.

Humanitarian protection was repealed by Law n. 132/2018 but this obviously does not mean that the constitutional and international obligations of the state have been abolished since the latter have been repealed origin in the constitution and in the international treaties. And indeed, the Law n. 173/2020 "the compliance with the constitutional and international obligations was appropriately reintroduced in the TUIMM of the Italian state" and the rule on the prohibition of expulsion and refoulement from Italian territory in the sense of recognizing the right of a person to receive international protection for special protection reasons, even in the cases other than those already provided for by the Law n.152/2018.

As in principle sanctioned by the United Sections Court Of Cassation, those who are born submitted a request for protection before the entry into force of the D.L. 113/2018 will be able today still be granted humanitarian protection pursuant to and by effect of article. 5 paragraph 6 legislative decree 286/98 through the attribution of a motivated residence permit for "special cases" two-years duration and convertible.

What is a residence permit for special protection?

It is a residence permit issued to the asylum seeker who does not meet the conditions for recognizing international protection, but against which the Territorial Commission deems that there are other prejudices to the subject worthy of protection, In this event his/her repatriation to the country of origin.

Particularly, the rule that regulates the cases in which a residence permit can be granted for special protection reasons, protects the person from expulsion or refoulement to the state in which the foreign citizen may be subjected to persecution for reasons of race, sex sexual orientation, gender identity, language, citizenship, religion, political opinion, personal or social status, or may risk being sent back to another state in which he/she is not protected for persecution.

At the same, all situations in which a person must be extradited to a state are protected if there are reasonable grounds to believe that they risk being a subject to torture or inhuman or degrading treatment or if the obligations



referred to in Article 5, comma 6 or as to take into account the existence of a systematic and serious violations of human rights.

The institute of Special Protection, as amended by Law 173/2020 expressly excludes the possibility of expulsion of the subject from National territory, if this involved a violation of the right to respect for one's private and family life. In particular, administration must necessarily take into account the family ties of the person concerned, of his/her effective social integration in Italy, for the duration of your stay in the International Territory as well as the existence of family, cultural or social ties with the country of origin. The current regulatory framework underlines how the legislator intended to recognize a form of internal protection, in full respect of the fundamental rights of the individual, protected at the constitutional level and international and now expressly extended to respect for private and family life. Where the above conditions are met, the Territorial Commission transmits the documents to the QUESTURA for the issue of a residence permit bearing the wording "SPECIAL PROTECTION". The permit of special protection, as amended by Law 173/2020 at previous provisions introduced by Law 132/2018 has a two-year duration and can be converted into other residence permit.

The application for the issue of residence permit for special protection reasons can be formalized by the interested party directly before the territorially competent POLICE HEADQUARTERS, outside the procedure for the recognition of international protection.

The National Asylum Commission has indeed provided clear indications on the procedure to the police headquarters internal to follow in this case, affirming, as regards to the relative paths, the need for transmission by the police headquarters to the competent Territorial colleges in order to obtain an opinion whose nature is mandatory and binding since the legislator has outlined an ad hoc procedure completely autonomous and distinct from the international protection procedure whose ownership is for the note is sent to the police headquarters within which, however, the college plays a decisive role decision-making function being called to express an opinion.

What is a residence permit for temporary situations of disaster?

A residence permit for temporary situations of disaster is granted if the Country to which the foreign citizens are supposed to return is in a contingent and exceptional calamity that does not allow the return and stay in safe conditions. The qualification has a duration of six months, renewable for a further six months if the condition that determined the release remains and is convertible into residence permit for work reasons as per the amendments made by Law 175/2020 to the previous introduced by Law 132/2018.



the residence permit for calamity allows compulsory registration with the National Health Service.

What is the permit for acts of particular civil value?

It is a residence permit granted by the Minister Of Interior on the proposal of the perfect Territorially Competent to those who carry out acts of particular value, exposing their lives to a manifest danger to save people, to prevent or reduce the damage of a serious public or private disaster, to restore public order, to arrest or participate in arrest of criminals, to maintain the Law, to advance science or in general for the good of humanity or to keep the name and prestige of the country high.

The permit has a duration of 2 years, is renewable and allows you to study or carry out work and it can be converted into a permit for work purposes.

How to apply for international protection?

Applications for international protection are submitted personally by applicants to the office of the border police when entering the national territory, or to the office of the Questura of competence on the basis of where the applicants reside. When submitting application, the receiving authority must inform applicants concerning the procedure to follow, their rights and duties during the procedure, and the timeframe of the procedure, providing them with an informative flyer. Applications can be submitted at any time and cannot be rejected or excluded for the sole fact of not being promptly submitted. The registration of the applications is carried out through a form, called "C3" in which applicants are required to provide their personal data, the indication of where their closest relatives are, their citizenship, the language spoken, any possible religious orientation and/or ethnic belonging, as well as the Countries crossed before reaching Italy. If the "C3" form presents translation and/or writing mistakes, applicants standing before the Territorial Commission for International protection recognition may or may not confirm the personal data provided and the reasons at the basis of the application. Therefore, the C3 form represents the necessary condition for starting the procedure that will lead to hearing applicants before the Territorial Commission.

Which State has jurisdiction over applications?

The criteria concerning the jurisdiction over the examination of international protection applications are laid down by the so-called "Dublin Regulation" and must be applied according to the following hierarchical order:

1) criteria relating to family:



- the jurisdiction to examine applications is assigned to the State that authorised international protection, and thus residence, to a family member of the applicant, or that has under exam an international protection application submitted by a family member of the applicant, regardless of the fact that the family was already established in the Country of origin, as long as the parties involved express relevant written consent;
 - the jurisdiction to examine various applications submitted at the same time by several family members is assigned to the State competent for the highest number of applications, or the State competent for the eldest member of the family unit;
- 2) criteria relating to residence permits:
- if applicants hold a residence permit or an entry visa, the jurisdiction is assigned to the State that issued the permit or the visa; if applicants hold several residence permits or visas, the jurisdiction is assigned to the State that issued the permit or visa with the longest term or with the most distant expiry. Said criteria are applied also if the residence permit expired less than 2 years before submitting application for international protection and the visa less than 6 months before;
 - if the residence permit expired more than 2 years before and the visa more than 6 months before, the jurisdiction is assigned to the State where the relevant applications were submitted;
- 3) criteria relating to illegal residence or entry:
- the jurisdiction is assigned to the first EU Member State where applicants entered illegally.

What are Territorial Commissions?

Territorial Commissions for the recognition of International Protection (TC) are administrative bodies with offices at the Prefectures with the duty to verify that requirements are met in order to grant international or for special protection reasons to applicants, on the basis of their personal account and of the reasons that forced them to leave their Country of origin or residence. The TCs operate under the control of the Asylum National Commission (which has competence with regard to the revocation and termination of the status of international protection already recognised by the TCs, as well as to the coordination, updating and training of the members of the Commissions).



How are Territorial Commissions composed?

The amendments introduced by Lgs.D. No. 220/2017 in force as of 31 January 2018 provided for a new composition of the Territorial Commissions. Currently, they are composed of 4 administrative officials with preliminary investigation powers, by an official from the Prefecture, acting as President, and by an expert on international protection and human rights appointed by the UNHCR. Therefore, currently a Police official and a representative of the Local Body are no longer members of the Territorial Commissions.

The President, the officers making up the Commission, the support staff, the interpreters and all those who work in the Commission are called to observe the Code of Conduct- adopted on 15/11/2016 which established the rules of conduct that regulate responsibilities professional and ethical.

What do Territorial Commissions do?

TCs have the duty to listen to applicants in the language indicated by the same, to examine the applications in an objective and impartial manner, and to adopt a reasoned provision based on the factual and legal circumstances with regard to the protection applications. The Commission's decision must be taken referring to the updated situation of the applicants' Country of origin and/or provenance. The decision can be of acceptance or rejection.

How are applicants heard?

Applicants are heard before the Territorial Commission for the recognition of international protection in the language indicated by the same. Applicants are required to present themselves personally and to provide all the documentation in their possession relating to the application, including their passport. The private interview is carried out before an administrative official who, when possible, will be of the applicants' same gender. The interview can be postponed if the foreign citizen's health conditions are such to impede the carrying out of the interview or if the applicant makes such request for serious reasons. In the presence of vulnerable applicants because with particular needs, support personnel may be admitted to the interview in order to provide the necessary assistance. The Territorial Commission can anyway omit the applicants' presence at the interview when holding to have sufficient reasons to accept applications on the basis of the elements provided. In accordance with the regulations introduced by Law No. 46 of 2017, the interview is video recorded with audiovisual means and rewritten in Italian with the help of automatic voice recognition systems. Applicants can submit a reasoned request and ask not to be video recorded. The transcription of the interview is read to applicants in a language they can understand and in any case, through an interpreter. The member of the



Territorial Commission who carried out the interview, immediately after the reading and in collaboration with the applicants and the interpreter, verifies the correctness of the transcript, making any necessary corrections, and issues a copy for the applicant in Italian.

How does the under – age applicant procedure work?

The application presented by a parent also extends to under-age not married children living on the national territory with the parent at the time of submitting the request. The application can be presented by the minor also at another time, through the parent. The unaccompanied minor who wishes to access the application for international protection has the right to receive all necessary information as well as to participate in all jurisdictional and administrative proceedings that concern him, and to be heard on the merits, in the presence of a cultural and linguistic mediator. The authority that receives the application immediately communicates to the Juvenile Court for the opening of the guardianship and for the appointment of the guardian who assists the minor in every phase of the procedure. The application can be presented personally by the minor or his / her guardian. The interview of the under-age children takes place before a member of the Commission who received specific training, in the presence of the parent who exercises parental responsibility or the guardian. In the presence of justified reasons, the Territorial Commission may again listen to minor without the presence of the parent or guardian, without prejudice to the presence of support staff, taking into account his degree of maturity and development, in the exclusive interest of the child.

What is the relocation procedure?

The relocation programme was launched in September 2015 to allow Italy and Greece to deal with the high number of applications being submitted. The procedure provides for the transfer to another State of all international protection seekers belonging to nationalities for which the percentage of protections granted is equal to or above 75%. Said State then becomes competent to examine the applications on the basis of the quotas put at disposal by the other EU Countries (with the exclusion of Italy and Greece). Applicants must first be identified and provided with a photo line up in the State where they are present and where they formalised the international protection application. Applicants are then transferred to the competent Country identified according to the criteria provided for by the relocation procedure.



How is the reception system organised with regard to international protection seekers?

International protection seekers that have formalized their application for international protection and lack sufficient means to guarantee a quality of life suitable to support themselves and their family members, have access to reception measures. Said measures must guarantee the respect of the applicants' private lives – including differences of gender and needs related to age –, the protection of their physical and mental health, and the unity of their family. The reception must also provide for measures addressed to persons with particular needs, as well as measures aimed at preventing any form of violence, and thus at guaranteeing the applicants' safety and protection.

Law 173/2020 has renamed the "protection system for international protection holders and for unaccompanied minors" (SIPROMI) in (SAI) "system of hospitality and integration", establishing that they can be welcomed:

- applicant for international protection;
- holders of international protection;
- unaccompanied minor;
- foreign citizens in administrative continuation entrusted to social services upon completion of 18 years of age, and if they do not access specifically dedicated protection system;
- holders of a residence permit for special protection, except in cases for which the causes of exclusion of international protection have been applied;
- holders of residence permits for special case issued pursuant to art.1, co. 9, D.L 113/2018 (humanitarians in transitional regime), of art. 18 (social protection), of the art. 18 bis (victims of domestic violence), of art. 22, co. 12-quarter (labor exploitation), legislative decree n. 286/98;
- holders of residence permit for medical treatment issued pursuant to art.19, co. 2, lett. D-bis, legislative decree n.286/98, of residence permit for calamity, of permit of residence for acts of particular civil value.

How long does the reception of the international protection seeker last?

The reception is guaranteed for as long as is necessary to complete the procedure of examining the application in an administrative way before the Territorial Commission. In case of rejection of the application by the territorial commission, the reception remains for the entire duration of the judicial procedure before the ordinary court in the cases where the presentation of the appeal determines the automatic suspension of the effects of the rejection provision of the Territorial Commission. In the other cases, provided by



art.35-bis, co. 3, legislative decree n.25/2008, the stay in reception and subject to the adoption by the court of a suspension measure the enforceable effectiveness of the contested decision.

What decisions can the Territorial Commissions take?

The T.C decision can be of granting or rejecting the application. In the event of granting the application, the Commission recognizes the right of the applicant to receive international protection - and related permission residence for a period of 5 years – recognizing the refugee status or the subsidiary protection. If the Commission does not recognize the right to international protection, it will have to ascertain whether the applicant has the right to the recognition of a special protection, and therefore to the issue of a two-year residence permit, convertible into residence permit for work reasons, except for the cases for which they are the causes of denial and exclusion of international protection have been applied. If, on the opposite, the T, C. believes that the applicant is not entitled to any form of international nor special protection, a rejection decree will be adopted. The rejection decree can be appealed before the ordinary Court.

What to do if an international protection application is rejected?

In case of rejection of the application for international protection the applicant can present appeal to the territorial competent Court. In order to present the appeal is necessary the assistance of a lawyer. The applicant lacking the necessary resources to support the payment of legal fees may present an application for admission to legal aid of the State, personally or through the appointed lawyer. The appeal must be presented, under penalty of inadmissibility, within 30 days from the date of notification of the decision of the Territorial Commission, or in the reduced term of 15 days if the request was examined by the Territorial Commission according to an accelerated procedure. The applicant for international protection has the right to remain in Italian territory until the deadline for proposing the appeal expires. The presentation of the appeal automatically suspends the executive effectiveness of the contested provision, with the exception of the cases in which the appeal is proposed:

- by an applicant for the international protection against whom a detention order;
- against the decision declaring the application for the protection inadmissible internationally;
- against the decision of rejection for manifest groundless



- against the decision taken against the applicant for international protection from a safe country of origin;
- against the decision which held that the applicant for international protection has submitted the application in conditions of illegal stay, for the sole purpose of delaying or preventing the execution of an expulsion or refoulement order;
- by an applicant for international protection subject to criminal proceedings or also convicted with a non-definitive sentence for some specific crimes or is found under the conditions provided by art. 6, co. 2, letters a), b) and c), legislative decree n. 142/2015. In the latter cases, the contested provision can be suspended by the court upon presentation of a specific application. The filing of an appeal or precautionary petition does not suspend the executive effectiveness of the rejection decision of the Territorial Commission which declares inadmissible. For the second time, the repeated application for international protection, or in case of first repeated application presented, however, during the execution phase of provision removal. The applicant authorized to remain in the territory following the presentation of the appeal has the right to issue a residence permit for asylum request, except in the event that he/she is detained in a C.P.R

When, in the course of the judicial proceedings, the applicant is also convicted with a non-definitive sentence for certain specific crimes or is subjected to criminal proceedings for the same crimes and in conditions for his detention, the effects of the suspension cease and he loses the right to remain in the area pending the appeal decision. The appeal against the decision of the Territorial Commission can be presented both in the case in which the T.C. has denied the recognition of international or special protection and in the case in which another form of protection was granted, but the applicant believes that he is entitled to superior protection.

Are international protection applicants allowed to work?

After 60 days from the submission of an international protection application, applicants are allowed to work.

If the Questura does not issue a residence permit for asylum seeker contextually with the reception of the international protection application, it anyway issues a receipt certifying the formalisation of the application. This constitutes a temporary residence permit and thus allows to enter into an employment contract.

While waiting for the renewal of a residence permit, and if a definitive decision has not been taken on the international protection application, applicants are allowed to work.



Residence permits for asylum seekers cannot be converted into a residence permit for work reasons.

Can international protection seekers leave Italy?

International protection seekers have the right to remain in Italy up to the adoption of the decision concerning their application. Besides, if they lodge an appeal against the negative decision of the Territorial Commission, they can remain on the Italian territory for the whole time they are authorised.

Applicants are issued a residence permit for asylum seekers that lasts six months, is renewable, and is valid limitedly to the Italian territory.

Therefore, applicants are not authorised to transit and stay in the other EU Member States. If they are found in a Member State, lacking a residence permit valid on that territory, they will be brought back to Italy.

International protection seekers are also required to inform the competent authorities concerning any change of residence or domicile, in order to receive the communications concerning their application. Applicants must present themselves personally before the Territorial Commission to carry out the personal interview aimed at examining their international protection application. If they are called and do not show up without a prior request to postpone the interview, the Territorial Commission will take its decision concerning the application on the basis of the documentation at disposal.

Is it possible to convert a residence permit for special protection?

The convertibility of the residence permit was established with Law 173/2020 for a special protection reasons in a residence for work purposes, subordinate or autonomous, in the presence of the condition provided for by the law for these residence permit.

For the conversion of the residence permit for social protection reasons is that passport is always required.

Can international protection holders be granted a EU residence permit for long-term residents?

After 5 years of permanence in Italy, international protection holders meeting specific requirements have the right to apply for a EU residence permit for long-term residents.

The calculation of the period of residence is carried out starting from the date on which the application for international protection was submitted.

International protection holders, unlike the holders of a different residence permit, do not have to submit any documentation relating to the fitness of



their accommodation, nor do they have to prove to have passed the Italian language test. However, they are required to indicate their residence. The EU permit for long-term residents shows the indication of the state which has recognized international protection and the date of recognition.

Can international protection holders be granted family reunification?

International protection holders have the right to family reunification under privileged conditions compared to holders of a different residence permit. The procedure for family reunification and the categories of family members that can be reunified are the same provided for by the Consolidated Act on Immigration. However, if the holders of international protection are unaccompanied minors, the entry and stay for family reunification are granted to their ascendants of first grade without the limitations provided for in general.

In order for international protection holders to exercise their right to family reunification, they do not have to submit any proof concerning a fit accommodation and a minimum income. If they cannot provide official documents certifying their family bonds, they can make use of other means capable of proving said bonds. The Italian Embassy or Consulate in their Country of origin are required to carry out verifications each time held necessary in order to issue suitable substitutive certificates. In any case, applications for family reunification submitted by holders of international protection cannot be rejected for the sole lack of evidence of family bonds.

Can international protection holders work abroad?

International protection holders have freedom of movement in the Schengen Area, for a maximum period of ninety days.

The residence permit for international protection issued by the Italian State does not allow holders to work in other EU Member States.



Chapter 14

Human trafficking





CHAPTER 14

HUMAN TRAFFICKING

What is human trafficking?

Human trafficking, punished by Art. 601 of the criminal code, is a practice that consists in forcing or inducing a person to enter or stay on the territory to exploit him/her for forced labour, sexual slavery, begging, illegal activities or withdrawal of organs. The law punishes such behaviour criminally, providing for imprisonment between eight and twenty years.

What is the Anti-Trafficking System?

The Anti-Trafficking National Plan (PNA) establishes intervention strategies carried out by the State against the phenomenon of trafficking and serious exploitation, with the aim to improve the national response to the phenomenon in terms of prevention, fight and repression of crime, protection and integration of the victims and cooperation with the countries of origin.

The Plan defines the priorities of intervention, the possible sources of funding, the main actions that have to be developed on the territory and the administrations competent for each action.

How is a victim of trafficking and serious exploitation identified?

In order to help professionals identify assumed victims of human trafficking and serious exploitation, the PNA has developed *Guidelines for the definition of a quick mechanism to identify victims of human trafficking and serious exploitation* (annex 2 to the PNA): the Guidelines provide useful provisions on how to approach assumed victims, on how to interview them and on how to identify them, as well as a list, not exhaustive, of the indicators useful to identify an assumed situation of trafficking.

What is a residence permit for social protection?

Victims of human trafficking have the right to be granted a special residence permit "for social protection." Said permit, though, is issued with the wording "for special cases," in order to safeguard the holders' right to confidentiality. The permit lasts six months and can be renewed for one year, or for



an additional period of time should it be necessary for reasons related to justice. It gives the right to access welfare services and to study, to register in employment lists and to carry out subordinate work.

If recipients have an ongoing employment relationship when concluding the assistance and social integration programme, the permit can be renewed for the actual duration of said relationship. In the event of an indefinite employment relationship, it can be renewed for two years. Besides, residence permits for social protection can be converted into permits for reasons related to work or study.

Which are the conditions for the issue of a residence permit for victims of human trafficking?

Foreigners victims of violence or serious exploitation are granted a residence permit in the event their safeness is in danger due to the attempt to escape the control of a criminal association, or due to declarations made in criminal proceedings against exploiters.

Before granting a residence permit, the Questura verifies that the victim has joined the individual assistance and social integration programme agreed upon with the person in charge of the structure where the programme will be realised.

Which are the procedures for granting a residence permit for social protection reasons?

The law provides for two distinct and alternative paths for the issue of the residence permit (the so-called double path):

- judicial path: the victim reports to the authorities those responsible of the facts of violence and serious exploitation. The residence permit is issued by the Questura upon the proposal or upon prior positive opinion of the Prosecutor of the Republic appointed with the criminal proceedings for the facts reported;
- social path: the victims do not submit a report against their exploiters, but refer to a body in charge of assisting victims of human trafficking and join the assistance and social integration programme. In this case, the residence permit is issued by the Questura upon the proposal of the body that took the victims in charge, without preventive acquisition of the opinion of the Prosecutor of the Republic.



In which cases is a residence permit for social protection reasons revoked?

The permit is revoked if the subject interrupts the assistance and social integration programme, carries out conducts incompatible with the purposes of the programme or when the conditions that justified its granting come less.

What is the Single Programme for emersion, assistance and social integration?

The Single Programme for emersion, assistance and social integration has the aim to provide reception and protection to people in the preliminary phase of ascertainment of the condition of victims of human trafficking. It also aims at providing the instruments necessary to achieve full autonomy. Projects that realise the single programme are active throughout the whole territory.

What rights does the Single Programme for emersion, assistance and social integration guarantee?

The programme guarantees the victims, transitorily (three months, possibly extendible to another three months), adequate conditions of meals, accommodation and health assistance. It then continues with the assistance up to achieving a situation of complete housing, labour and social integration.

Which are the bodies authorised to carry out the Single Programme for emersion, assistance and social integration?

The only subjects authorised to take in charge victims of human trafficking implementing the Single Programme for emersion, assistance and social integration are the Welfare Services of local bodies, as well as private bodies involved in social matters registered with the Second Section of the National Registry established at the Ministry of Labour and Social Policies (the registration with the Registry certifies the organisational and patrimonial solidity of the bodies that operate in the field of social integration of foreigners).



Can victims of human trafficking be granted international protection?

Victims of human trafficking that, in the event of their return to the Country of origin, risk to undergo persecutions for one of the reasons provided for by the Convention of Geneva of 1951, have the right to be granted international protection.

In particular, according to the United Nations High Commissioner for Refugees (UNHCR), the forced recruitment or the deception of women and minors for their sexual exploitation can constitute persecution connected to "gender." It therefore gives the right to international protection if the authorities of the country of origin are not able to offer the victims an effective protection from traffickers. In any case, the evaluation of the international protection application for victims of human trafficking totally depends on the will of the same to report their traffickers.

What rights do victims of human trafficking have when applying for international protection?

The Italian law considers victims of human trafficking who apply for international protection a vulnerable category, recognising their specific procedural guarantees and particular benefits in terms of reception.

In order to foster the emersion and identification of victims of human trafficking among those who submit application for international protection and their swift submission to the Anti-Trafficking System, UNHCR and the National Commission for the Right of Asylum have provided Guidelines on *The identification of victims of human trafficking among applicants of international protection and referral procedures*, that establish Standard Operational Procedures that the Territorial Commission must adopt in examining these peculiar applications.

How is the international protection application of victims of potential human trafficking examined?

The examination takes place according to the Standard Operational Procedures laid down in the Guidelines. The interview must be carried out by a member of the Territorial Commission and by an interpreter of the same gender of the potential victim of human trafficking, especially in the cases of trafficking for sexual exploitation.

The interviewer must inform the applicants of the rights provided for by the Italian law for victims of human trafficking and, after receiving a written consent, it must report the case to a body authorised to carry out Programmes for emersion, assistance and social integration and suspend the examina-



tion. The body carries out interviews with the applicants and, upon the outcome, sends a report to the Commission containing its opinion. Once received the report, the Territorial Commission can relaunch the procedure and decide concerning the application.

If the applicants have already joined a Programme for emersion, assistance and social integration (therefore, the victims have already been taken in charge by the anti-trafficking body), the international protection application must be dealt with by the Territorial Commission as a priority; if the victims' joining of the programme is recent, the procedure can be suspended for a maximum of three months in order to verify the progress of the programme and, upon the outcome, the Commission expresses its decision.

How does the reception of trafficking victim who apply for international protection work?

The person who requires international protection identified as a victim of trafficking has the right to access the single program of emergence, assistance and social integration and to be hosted in a protected structure managed by an institution authorized to carry out this program.

However, in the event that the victim's safety is not at risk, the reception may eventually continue in a reception facility for applicants for international protection, as long as it is suitable for hosting vulnerable people.

LIVING, STUDYING, WORKING IN ITALY

A PRACTICAL GUIDE FOR FOREIGN
CITIZENS AND PROFESSIONALS