



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.