

PAPER ON ITALIAN ENTRY VISAS AND WORK PERMITS

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**Analysis of the Italian applicable law in order to obtain an Italian VISA
and residence permit for carrying out working activity in Italy.**

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1. ITALIAN WORKING VISA AND RESIDENCE PERMIT UNDER ENTRY QUOTAS

According to Article 3, paragraph 4, and Article 21 of the Legislative Decree 286/98 (the Italian Consolidated Act on Immigration), an extra EU citizen may obtain an Italian VISA and residence permit on the basis of the conditions set forth by the so-called “Decreto Flussi”, a decree issued every year by the Italian government which sets forth the specific and limited number (quotas) of extra EU citizens who may enter the Italian territory in order to carry out working activities.

This decree is normally issued during the month of December, but such deadline may be delayed. With respect to the year 2020, the Decreto Flussi has not been issued yet.

Pursuant to Article 22 of the Legislative Decree 286/98, in order to obtain an Italian working VISA and residence permit, the Italian employer willing to employ an extra EU employee shall submit to the competent *Sportello Unico per l’Immigrazione* (i.e. the Italian immigration office):

- a. Request of the “*nulla osta al lavoro*” (i.e. the permission to work) which shall be released within 60 days from the submission of the VISA application;
- b. Records attesting the accommodation of the employee;
- c. Copy of the “*contratto di soggiorno*” (i.e. a residence contract) which shall be signed by the Italian employer and the extra EU citizen;
- d. Written undertaking to notify the competent Italian authority of any change in the employment relationship.

Considering the limited number of Italian working VISAs and residence permits made available by the Italian government and the high number of applications submitted every year, it may be possible that the VISA application under reference results unsuccessful, even when all the above-mentioned requirements are met.

2. ITALIAN WORKING VISA AND RESIDENCE PERMIT FOR HIGHLY QUALIFIED WORKERS - EU BLUE CARD

It may be possible to enter the Italian territory in order to carry out working activity, irrespectively of the entry quotas set forth by the Decreto Flussi, by being employed under an Italian employer as a highly qualified worker.

Pursuant to Article 27-quater of the Legislative Decree 286/98, “highly qualified workers” are extra EU citizens in possession of:

- a. A title of “*istruzione superiore*” (i.e. an higher education qualification) issued by the competent authority of the country where it was obtained, which certifies that a secondary level education course of at least three years has been completed; and
- b. A high professional qualification (e.g. managers and middle managers, officers, etc.), attested by the country of origin and recognized in Italy. Such professional qualification shall also be maintained when employed in Italy under the Italian employer.

However, neither Italian law nor official documents released by the competent Italian authorities specify whether the term “*istruzione superiore*” refers only to university degrees or may also refer to high school diplomas.

Pursuant to Article 27-quater of the Legislative Decree 286/98, in order to obtain the EU Blue Card:

- i. The Italian employer willing to employ the extra EU citizen shall verify the unavailability, on the Italian territory, of a worker with equivalent professional characteristics;
- ii. The Italian employer shall request the *nulla osta al lavoro* to the competent *Sportello Unico per l’Immigrazione*, which shall release such *nulla osta al lavoro* within 90 days from the date of the application;
- iii. The extra EU citizen shall transmit the *nulla osta al lavoro* to the Italian Consular Offices abroad to obtain the Italian working VISA;
- iv. The extra EU citizen, once obtained the *nulla osta al lavoro*, shall request the EU Blue Card from the competent Police Office.

2. ITALIAN WORKING VISA AND RESIDENCE PERMIT FOR HIGHLY QUALIFIED WORKERS – EU BLUE CARD

The duration of the Italian working VISA and residence permit for highly qualified workers (EU Blue Card) may be:

1. Equal to two years in case of indefinite-term employment contract;
2. Equal to the duration of the employment relationship in case of fixed-term employment contract.

The Italian working VISA and residence permit for highly qualified workers is renewable.

3. INTRA-COMPANY TRANSFER VISA AND RESIDENCE PERMIT

It may be possible to enter the Italian territory in order to carry out working activity, irrespectively of the entry quotas set forth by the Decreto Flussi, by being employed under a foreign employer that holds subsidiaries, branches or representative offices in Italy and, subsequently, being transferred to such entity.

Article 27-quinquies of the Legislative Decree 286/98 allows highly qualified extra EU citizens to apply for an intra-company transfer VISA and residence permit if they:

- a. Are employed as managers or specialized workers;
- b. Have been employed by a company, established outside the European Union, for at least 3 months.

In order to obtain an intra-company transfer VISA and residence permit:

- i. The Italian receiving entity shall submit the application and the required documentation to the *Sportello Unico per l'Immigrazione*, which shall release the *nulla osta al lavoro* within 45 days from the submission of the application;
- ii. The extra EU citizen shall transmit the *nulla osta al lavoro* to the Italian Consular Offices abroad to obtain the intra-company transfer VISA;
- iii. The extra EU citizen, within 8 working days from entering Italy, shall declare his presence on the Italian territory to the competent *Sportello Unico per l'Immigrazione*.

The maximum duration of the Italian VISA and residence permit under reference is equal to 3 years.

4. ITALIAN VISA AND RESIDENCE PERMIT FOR POSTING OF MANAGERS OR HIGHLY QUALIFIED WORKERS

Article 27, paragraph 1, letter a) of the Legislative Decree 286/98, provides for another Italian VISA and residence permit that is similar to the intra-company transfer VISA and residence permit.

More precisely, an extra EU citizen may enter the Italian territory in order to carry out working activity, irrespectively of the entry quotas set forth by the Decreto Flussi, by being employed under a foreign employer that holds subsidiaries, branches or representative offices in Italy and, subsequently, being transferred to such entity, provided that such extra EU citizen:

- a. Is in possession of specific knowledge and know-how;
- b. Has been employed by a company, established outside the European Union, for at least 6 months, where he carries out the same working activity that will carry out in Italy and where he holds the same position that will hold in Italy.

The procedure to obtain the Italian VISA and residence permit under reference is quite similar to the procedure to obtain the intra-company transfer VISA and residence permit.

While the maximum duration of the intra-company transfer VISA and residence permit is equal to 3 years, the maximum duration of the Italian VISA and residence permit under reference is equal to 5 years.

5. ITALIAN VISA AND RESIDENCE PERMIT FOR SELF-EMPLOYMENT

It is also possible to obtain an Italian VISA and residence permit for self-employment, in order to start a self-employment activity in Italy.

Pursuant to Article 25 of the Legislative Decree 286/98, in order to obtain an Italian VISA and residence permit for self-employment, the extra EU citizen shall be in possession of:

- a. Sufficient funds for the activities that the same intends to carry out in Italy;
- b. The qualifications required by the Italian law to carry out the specific activity;
- c. A certificate from the competent authority, issued in the three months prior to the submission of the VISA application, stating that there are no impediments for carrying out the professional activity that the extra EU citizen intends to carry out in Italy;
- d. An appropriate accommodation;
- e. An annual income higher than the minimum level required by the Italian law for the exemption from healthcare expenses.

The extra EU citizen may obtain an Italian VISA and residence permit for self-employment **on the basis of the conditions set forth by the Decreto Flussi**.

It should also be considered that the application for an Italian VISA and residence permit for self-employment requires to carry out significantly expensive and time-consuming activities and formalities (e.g. the obtaining of a VAT number).

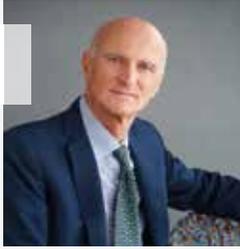


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