

INGLESE
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**Guide to new procedures
regulating the right of residence for
communitarian citizens and their
family members**

Introduction

In Italy, the legislative decree n. 30/07²⁴ is in force as of April 11th 2007 and it regulates the movement and the stay of EU citizens²⁵ and their family members in our country.

The communitarian citizen staying for periods shorter than 3 months is not submitted to any formality. As concerning longer periods as well as for the first 5 years of stay, the new discipline provides a clear separation between the communitarian worker and his family members on one side, and communitarian citizens staying for other reasons on the other side (students, tourists, etc.). The former, as we shall see, has the right of residence and they have immediate access to the social assistance system in the same conditions of Italian citizens; the latter, instead, in order to reside legally, must guarantee an autonomous ability of maintenance and healthcare to ensure they do not become a burden on the social assistance system of the host member state. After 5 years of legal stay, the citizen obtains the right of permanent residence, without being submitted to any conditions.

This body of legislation represents the attempt to conjugate two of the founding principles of the European Union, such as the right of people and firms to move freely, with the one concerning the sustainability of member countries' welfare systems. The non-homogeneity of welfare states at the European level can contribute to determine huge population movements from new member countries to the founding countries, with relevant social and economic consequences. Hence the directive 2004/38/CE calls for necessity to avoid EU citizens could become an excessive burden for the social assistance system of the host member state, providing for the chance to expel the citizen in the case the above-mentioned situation occurs.

The decree brings many other innovations to the general framework which governed the entry and the residence of foreign citizens in Italy during the last 10 years. The EU citizen will no longer need to go to the Police Headquarters in order to request the residence permit, but from now on he will have to go to the Register Office of the commune of residence which will deliver the certification of regularity of the stay. Except for seasonal worker, the certification of residence will not have an expiry date, but the loss of requirements will involve the loss of the right of residence. Previously, the residence permit issued by the Police Headquarters represented in itself the presupposition for the access to certain services, at the same level as the Italian citizen. The system which is going to establish itself wants the Boards (Enti), such as Local Health Office, Social Services or Municipality's Lodging

²⁴ It acknowledges the Directive 2004/38/CE on the right of Union citizens and their family members to move and reside freely within the territory of the Member States.

²⁵ Citizens from Switzerland, San Marino and from all the countries members of the European Economic Area – EEA (Norway, Iceland and Liechtenstein) – are treated as equivalent to EU citizens.

Office (Ufficio Casa del Comune) to check autonomously the possession of the requisites the EU citizen needs to have in order to reside legally.

**EU CITIZEN STAYING FOR A PERIOD OF UP
TO 3 MONTHS**

1. THE EU CITIZEN STAYING IN ITALY FOR UP TO 3 MONTHS

The EU citizen can reside in Italy for a period not exceeding three months without being subject to any conditions or any formalities other than the requirement to hold a valid identity document, delivered by the authorities of his country.

He must exhibit, if requested by Italian authorities:

- **a valid identity document** (passport or identity card valid for expatriation, issued in his country of birth)

2. EXTRA EU FAMILY MEMBERS

With the definition of "family members", we mean the spouse²⁶, the direct descendants who are under the age of 21 or are dependants and those of the spouse; the dependent direct relatives in the ascending line and those of the spouse.

Extra EU family members accompanying the EU citizen maintain the same right, provided that they have a valid passport and they arrived in Italy with a regular entry visa.

Extra EU family member does not need to go to Police Headquarters²⁷, but he has to exhibit when requested by the National Authority for Public Security:

- **valid passport;**
- **entry visa issued by the Italian Consulate Representation in the country of provenance²⁸.**

3. OTHER EXTRA EU FAMILY MEMBERS OR PARTNERS

Other extra EU family members (neither spouse, nor dependent direct descendants and dependent direct relatives in the ascending line, nor the spouse's ones) can enter Italy with a visa for residence of choice only if they are in one of the following situations:

- they are dependent or they cohabit with the EU citizen who has the right of residence;
- serious health problems force the EU citizen to assist them personally;

²⁶ The decree refers also to the registered partner, but it specifies "in respect of the conditions laid down by the legislation of the host Member State".

²⁷ In the writer's opinion, art. 6, paragraph 2 of decree 30/07, where it provides for EU citizens' extra EU family members not to be submitted to any condition or formality, except the entry visa, for stays up to 3 months, deviates from the short stays' new discipline which imposes to the extra EU citizen the declaration of presence.

²⁸ In the writer's opinion, the demonstration of the degree of relationship with appropriate documentation having legal value in our country corrects the lack of entry visa.

- it's about the partner with whom the EU citizen has a durable relationship, duly attested by the EU citizen State.

In this case, the extra EU family member or partner must be in possession of:

- **valid passport;**
- **entry visa for residence of choice issued by the Italian Consulate Representation in the country of provenance.**

4. SOCIAL ASSISTANCE SERVICES

The EU citizen and his family members do not have the right to national assistance services during the first 3 months of stay, except that this right is automatically recognized by virtue of the activity practised or by other laws.

5. HEALTHCARE SERVICES

The EU citizens who are in Italy for tourism, or for stays shorter than 3 months, do not have the right to be registered to the National Health Service. Seasonal workers holding a regular contract of employment and holders of E106 form with 3 months validity represent an exception. The others, unless they hold TEAM (European Health Insurance Card), must pay the full fees of the services received.

The citizens having TEAM or any other Form delivered by their country of origin have the right to health insurance services to be charged to their country of origin, according to the modalities laid down by the respective law certificates. If the EU citizen is not in the possession of the aforementioned certificate, the Local Health Office will demand the certificate to the State of origin. In the lack of this conditions, the payment of the health insurance service will be requested directly to the patient²⁹.

²⁹ It is good to mention that for the 2007 it is envisaged the extension for the use of the STP code for urgent and essential treatments, though continuative, to Rumanian and Bulgarian citizens who already possessed it by 31st December 2006. For everybody else, instead, it is not possible anymore to obtain the STP code. Anyway, the healthcare services which are urgent and unable to be deferred are guaranteed also to people resulting not assisted by the country of provenance and being in indigence, but ASL (Local Health Service) reserves the right to promote recovery actions against the competent States.

1. THE STAY IN ITALY FOR A PERIOD LONGER THAN 3 MONTHS

After 3 months from the entry, the EU citizen must request to the Register Office of the Commune where he resides the registration and the issue of a certificate of residence.

If he resides in Italy as a worker or if he is a worker's family member, he must furnish to the Register Office documentary evidence of the work activity or of the family relationship, besides the one of the habitual residence. In the other cases of stay (student, tourist, etc.), he must demonstrate he has sufficient economic resources not to become a burden on the social assistance system and have comprehensive sickness insurance cover in the host Member State.

The status of owner of the right of residence can be demonstrated with every mean of proof in compliance with regulations.

2. THE DOCUMENTATION CERTIFYING THE DEGREE OF RELATIONSHIP

In order to have a legal value in Italy, the documents delivered in the country of origin and attesting the degree of relationship must be translated in Italian language and authenticated by the Italian Consulate Representation of the country of origin or of provenance, or they must be authenticated according to The Hague Convention of 1961. Alternatively it is possible to present an ad hoc certification issued by the Consulate Representation of one's country in Italy, translated in Italian language and averred by the Prefecture or, for the Member States, it is also possible to produce a multi-lingual certificate according to Paris Convention of 1956.

3. MEDICAL INSURANCE POLICY FOR OF THE REGISTRATION AT THE REGISTER OFFICE

In Italy, the EU worker and his family members have the health expenses covered by the National Health Service, in the same way of Italian citizen.

The EU citizen who is staying for studying or for professional training, or other reasons, must have comprehensive sickness insurance cover valid for at least a year, or as long as the duration of the class or training course, if these are shorter than a year. This documentation must be produced in order to be registered and to obtain the certificate of residence.

In order to be registered, also E106, E120, E121 (or E33), E109 (or E37) forms satisfy the requisite of the sickness insurance cover.

On the contrary, the European Health Insurance Card (TEAM) issued by the country of provenance does not substitute the healthcare policy.

4. THE DOCUMENTATION REGARDING ECONOMIC RESOURCES

The registration of the EU student or of people staying not for working reasons is submitted also to the possession of sufficient economic resources not to become a burden on the social assistance system.

This requirement must be satisfied according to the following table:

Minimum economic resources ³⁰	Number of family members
Euro 5.061,68	Applicant + a family member
Euro 10.123,36	Applicant + two or three family members
Euro 15.185,04	Applicant + four or more family members

Table 1

The demonstration of economic means can be carried out both through the production of the needed documents (pension certificate, individual income tax return, cash or documents of credit, bank guarantees, savings accounts, bank statement), and a substitutive declaration, according to art. 46 and 47 of the presidential decree n. 445, 28 December 2000.

The self-declaration must supply detailed information in order to allow the carrying out of checks, also per sample, by the side of competent offices on the effective availability of economic resources. The failure of this availability consents the expulsion of the EU citizen from the national territory.

5. THE DOCUMENTATION TO PRESENT IN ORDER TO OBTAIN THE REGISTRATION AT THE REGISTER OFFICE AND THE RELEASE OF THE CERTIFICATE OF RESIDENCE

5.1 THE DEPENDENT WORKER

In order to be registered and to be given the certificate of residence, the dependent worker must produce to the Register Office of the Commune where he lives the following documents:

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing³¹;

³⁰ In the calculation of the total resources, possible incomes or resources of family members living together with the citizen must be considered.

- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) latest pay-packet or deposit receipts of INPS deductions for the household staff (as an alternative, current contract of employment containing INPS and INAIL identification numbers, hiring letter, employer declaration, hiring communication at Employment Centre)³²;
- 7) authorization³³ (nulla osta) issued by the Counter for Immigration at Prefecture, if it is about a neo-communitarian citizen (Rumanian or Bulgarian) entering in Italy for the first time and employed in sectors different from the ones here listed:
 - seasonal work;
 - agricultural, hotel and tourism;
 - domestic service, care and assistance;
 - building;
 - metal and mechanical;
 - managerial and high qualified;
 - fishing and maritime
 - entertainment industry.

5.2 THE SEASONAL WORKER

Those who want to stay in Italy only for a definite period in order to carry out a seasonal work activity can ask to be registered to the temporary population register at the Register Office.

In this case, the registrar will issue a certificate of temporary registration valid for a year.

In any case, the seasonal worker must produce to the Register Office of the Commune where he is temporarily living the following documents:

- 1) ongoing contract of employment (as an alternative, hiring letter, employer declaration, hiring communication at Employment Centre);
- 2) passport or ID card valid abroad;

³¹ It is good to mention that EU citizens residing in Italy can use their driving licence in order to move about all the Italian territory with no time-limits (provided that their driving licence is still valid) without been obliged to turn it into the Italian one.

³² Neither the law nor the Home Office circular letters state a week time-table, a duration or a minimum income for the work relationship, insofar as the contract of employment accounts for the awarding of the status of worker with all the protections and warrantees provided for by EU law and international conventions.

³³ After the registration, the neo-communitarian citizen employed with the authorization by the Counter for Immigration can change his job without the new employers have to demand again a new authorization, even if he is employed in sectors different from the ones listed at the point 8 of this paragraph.

- 3) tax code released by Tax Income Agency;
- 4) temporary registration application.

The seasonal worker will then be cancelled from the register within the maximum term of a year from the date of registration.

In the case soon after the seasonal worker decides to establish his habitual dwelling in the commune, he will have to produce again all the documents in order to demonstrate to still possess the requirements provided for the law.

5.3 THE INDEPENDENT WORKER

5.3.1 WITH VAT CODE³⁴:

In order to be registered and to be given the certificate of residence, the independent worker must produce to the Register Office of the Commune where he lives the following documents:

a) If he is enrolled in the Chamber of Commerce or in the Handicraft Businesses Register

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) receipt of the registration to the Chamber of Commerce or to the Handicraft Businesses Register or the business profile information (visura camerale). As an alternative to the registration to the Handicraft Businesses Register, it is possible to produce the INAIL registration.

b) If he is enrolled in Professions Registers

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;

³⁴ The EU citizen must supply documentary evidence of the ongoing work to the registrar, if he wants to demand the registration as a EU worker, according to art. 7. par. 1 – legislative decree 30/07. As concerns independent work, this is possible for instance through the exhibition of the VAT code or the registration to the Chamber of Commerce, Industry, Craft Trade and Agriculture or to the Registers, etc. In few provinces, the Chamber of Commerce, Industry, Craft Trade and Agriculture, the Tax Income Agency and Professions Orders do not issue these certifications if the residence does not exist already. We are waiting for precise directions by competent Ministries.

- 6) receipt of the registration to the Professions Register or Register's certificate.

c) If he is a self-employed person who do not need to enrol in any Register

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) awarding certificate of VAT code issued by Tax Income Agency.

5.3.2 WITHOUT VAT CODE:

In order to be registered and to be given the certificate of residence, the independent worker must produce to the Register Office of the Commune where he lives the following documents:

a) If he is a collaborator in a family-run firm

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) lawfully stipulated memorandum (atto d'impresa) of the family-run firm (as an alternative, registration to social security lists; INAIL registration);
- 7) business profile information (visura camerale).

b) If he is a worker with an atypical contract of employment (contract work, term employment contract, etc.) or in partnership

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) contract work or term employment contract or contract of association registered at the Tax Income Agency, as an

alternative employment preventive communication by the Centre for Employment;

7) pay-schedule, if existing.

c) If he is associate in a partnership or in a corporation

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) lawfully stipulated memorandum of the partnership/corporation, as an alternative copy of the registration receipt to social security lists or copy of INAIL registration receipt of the associate or business profile information (if already existing) complete with all the members names.

5.4 WHAT HAPPENS IF YOU LOSE YOUR JOB

The accidental loss of work allows to keep the worker status. It is thus possible to keep the status of worker when:

a) One is temporarily disabled to work following up an illness or an injury. In this case in order to be registered and to be given the certificate of residence, the worker must produce to the Register Office of the Commune where he lives the following documents:

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) medical certificate, exhibits, INAIL accident report, etc.

b) One is unwillingly unemployed (dismissal, end of a temporary contract of employment, etc.) after having carried on a work activity in Italy for more than a year and is looking for a new employment.

In this case in order to be registered and to be given the certificate of residence, the EU citizen must produce to the Register Office of the Commune where he lives the following documents:

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;

- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) unemployment status certificate issued by the Employment Centre (declaration of preparedness to the carrying out of a working activity) or self-certification of the unemployment status specifying the date and the competent Employment Centre;
- 7) documentary evidence of the unwilling unemployment status (dismissal letter, temporary contract of employment and last pay-packet, or self-declaration of the working relationship cessation, etc.)

c) One is unwillingly unemployed at the end of a temporary contract of employment inferior to a year, or has lost his job during the first 12 months of stay in Italy and is now looking for a new job. In this case, the status of dependent worker is maintained for the period of a year.

In order to be registered and to be given the certificate of residence, the EU citizen must produce to the Register Office of the Commune where he lives the following documents:

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) unemployment status certificate issued by the Employment Centre (declaration of preparedness to the carrying out of a working activity) or self-certification of the unemployment status specifying the date and the competent Employment Centre;
- 7) documentary evidence of the unwilling unemployment status (dismissal letter, temporary contract of employment and last pay-packet, or self-declaration of the working relationship cessation, etc.)

d) One is attending a vocational training course.

In this case, the maintenance of the status of worker requires the existence of a link between the previous job and the training course attended.

In order to be registered and to be given the certificate of residence, the EU citizen must produce to the Register Office of the Commune where he lives the following documents:

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;

- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) certificate of registration to the vocational training course;
- 7) documentation attesting the link between the working activity previously carried out and the training course (issued by the training institute).

5.5 THE EU CITIZEN POSSESSING A RESIDENCE PERMIT STILL VALID

In this case, the Register Office of the Commune where he lives verifies only the habitual dwelling since the possession of residence requirements is already documented by the still valid residence permit.

In order to be registered and to be given the certificate of residence, the citizen must produce to the Register Office of the Commune where he lives the following documents:

- 1) valid residence permit
- 2) passport or ID card valid abroad
- 3) tax code released by Tax Income Agency;
- 4) habitual dwelling declaration;
- 5) Italian driving licence if existing;
- 6) log book or number plate of the vehicle matriculated in Italy

5.6 THE EU CITIZEN WHO IS ALREADY RESIDENT

In this case the Register Office of the Commune where the citizen resides will go on only to the verification of the possession of stay requirements. In order to be given the certificate of residence, the citizen must produce to the Register Office the following documents:

- 1) passport or ID card valid abroad
- 2) documentation attesting the working activity (as indicated in the previous paragraphs).

5.7 THE EU CITIZEN WHO APPLIED FOR THE RESIDENCE PERMIT

If the EU citizen had already applied for the residence permit, he can self-certificate the possession of the requisites required by legislative decree 30/07. In this case, in order to be given the certificate of residence, the citizen must produce to the Register Office the following documents:

- 1) passport or ID card valid abroad
- 2) residence permit application's receipt;
- 3) self-certification of the existence of stay conditions required by decree 30/07. The verification of these conditions will be

performed by sample by the Municipality, using the documentation possessed by the Police Headquarters.

5.8 THE EU CITIZEN WHO IS ALREADY RESIDENT AND HAVE A DOCUMENT OF RESIDENCE STILL VALID

In this case, the Register Office of the Commune where he resides does not need to verify neither the habitual dwelling nor the stay requirements. In order to be given the certificate of residence, the citizen must produce to the Register Office the following documents:

- 1) **valid residence permit;**
- 2) **passport or ID card valid abroad.**

5.9 THE STUDENT

In order to be registered and to be given the certificate of residence, the student must produce to the Register Office of the Commune where he lives the following documents:

- 1) **valid identity document (passport or ID card valid abroad);**
- 2) **tax code released by Tax Income Agency;**
- 3) **habitual dwelling declaration;**
- 4) **Italian driving licence if existing;**
- 5) **log book or number plate of the vehicle matriculated in Italy;**
- 6) **certificate of registration to a public or private institute, recognized by the law in force;**
- 7) **comprehensive sickness insurance cover³⁵ lasting a year or at least the duration of the class or of the vocational training course , if these last less than a year;**
- 8) **sufficient economic resources not to become a burden on the social assistance system, according to the parameters indicated by the table at paragraph 4, chapter II. This can be proved also through self-certification, pension certificate, documents of credit, bank statement, savings account, bank guarantee, etc.**

5.10 THE CITIZEN STAYING FOR OTHER REASONS

In order to be registered and to be given the certificate of residence, the citizen must produce to the Register Office of the Commune where he lives the following documents:

³⁵ Foreign students who come in Italy in order to attend a class (i.e. Erasmus) can register to Local Health Services by fulfilling the E106 form.

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) comprehensive sickness insurance cover lasting at least a year³⁶;
- 7) sufficient economic resources not to become a burden on the social assistance system, according to the parameters indicated by the table at paragraph 4, chapter II. This can be proved also through self-certification, pension certificate, documents of credit, bank statement, savings account, bank guarantee, etc.

5.11 THE CITIZEN STAYING FOR RELIGIOUS REASONS

In order to be registered and to be given the certificate of residence, the EU citizen staying for religious reasons must produce to the Register Office of the Comune where he lives the following documents:

- 1) valid identity document (passport or ID card valid abroad);
- 2) tax code released by Tax Income Agency;
- 3) habitual dwelling declaration;
- 4) Italian driving licence if existing;
- 5) log book or number plate of the vehicle matriculated in Italy;
- 6) declaration of the person responsible for the Religious Communion, attesting the nature of the task held and the undertaking of board and lodging costs. The declaration must be approved by the Episcopal Administration or by the equivalent Religious Authority in Italy;
- 7) declaration of the person responsible for the Religious Communion attesting the undertaking of healthcare expenses or of the medical insurance policy.

5.12 THE MINOR NOT ACCOMPANIED

EU minors who are on the national territory and are not accompanied by parents or by who wield the parental authority are registered on the base of the decision of the Juvenile Judicial Authority which has minor's custody or guardianship.

³⁶ European pensioners and their family members holding a pension in another EU State but residing in Italy have the right to register to the National Health Service by fulfilling the E121 (or E33) form.

The registration will be signed by the guardian or by who has the minor's custody subject to presentation of Tribunal's measure.

6. THE LACK OF STAY REQUIREMENTS

If during the registration process it is found out that the conditions for a stay longer than 3 months do not exist, the Register Office adopts a measure of rejection of the registration against which it is possible to appeal to the Tribunal according to art. 8 of legislative decree n. 30/2007.