

regulation of law realization on the immigration

decree of the of the republic 31 August 1999, no.

394

Regulations bearing norms for the implementation of the unified text of measures regarding immigration, plus norms regulating the conditions of foreigners, in accordance with article 1, paragraph 6 of Legislative Decree no. 286 of 25 to July 1998.

DECREE OF THE PRESIDENT OF THE REPUBLIC 31 August 1999, no. 394

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SECTION II

ENTRY AND RESIDENCE

Article 5

(Issuing of entry visas)

1. The issuing of entry visas for transit in the territory of the State is the responsibility of the Italian diplomatic posts and consulates Italy authorized to release such documents and, except in certain specific cases, assigned territorial jurisdiction over the area where the foreign citizen resides. The offices of the Italian border police may be authorized to issue entry visas or transit visas for periods no greater than, respectively, ten and five days, in cases of absolute

necessity.

2. The visa can be issued, assuming the stipulated prerequisites and conditions are met, for the time period necessary in terms of the motives of the request and the documentation produced by the applicant.

3. The visa category corresponding to the various motives for entry, as well as the prerequisites and conditions for obtaining each type of Visa, are determined under special instructions contained in a decree issued by the Minister of Foreign Affairs, acting in concert with the Minister of Internal Affairs, the Minister of Labor and Social Security, the Minister of Justice, and the Minister of Social Solidarity, with the decree to be updated periodically, if necessary to meet international obligations undertaken by Italy.

4. Italian diplomatic posts and consulates are required ensure, to meet the needs of users, adequate propagation of information regarding the above prerequisites the conditions, as well as any supplementary prerequisite made necessary by specific local situations or by joint decisions adopted within a framework with the diplomatic representatives of other nations that have signed the convention established in application of the Schengen Accord.

5. In the application for the issue of the visa, the foreign citizen must indicate his or her full personal identifying formation, as well as that of any family members who are to accompany the former citizen, plus the identifying information of a passport or other traveling document recognized as its equivalent, together with the destination, the motive and the duration of the stay.

6. A passport or another traveling document recognized as its equivalent must be included with the application, together with the documentation necessary for the type of visa requested, plus, for all applications, documentation regarding:

- a) the purpose of the trip;
- b) the means of transportation to be used;
- c) availability of sufficient means of subsistence for the duration of the voyage and the stay, in observation of the directives contained in Article 4, paragraph 3 of the unified text, or documentation regarding the establishment of a guarantee in those instances referred to under article 23 of the unified text;
- d) the lodging conditions.

7. In the case of visas regarding family members accompanying the foreign citizen, the following must be exhibited, in addition to the documentation referred to under paragraph 6:

- a) documentation demonstrating the assumed conditions of family relations, marriage, minor age or inability to work, plus cohabitation. To this end, the certificates issued by the responsible authorities of a foreign state are authenticated by the Italian consular authority, which certifies that the Italian translation of the documents is identical to the original text;
- b) the authorization issued by police headquarters, which also serves to demonstrate that lodging is available, under the norms of article 29, paragraph 3, letter a) of the unified text, and to confirm that the means of subsistence referred to under the same article, paragraph 3, letter b), exist. To this end, the interested party must produce a statement issued by the municipal office regarding the existence of the prerequisites referred to in the aforementioned article of unified text, or a certificate of the hygienic-medical suitability issued by the Local Health Care Enterprises with jurisdiction over the territory.

8. Having evaluated the acceptability of the application, and performed the controls required for the type of visa requested, including preventive security checks, the visa is issued within 90 days of the request.

Article 6

(Visas for family reunification)

1. For visas regarding family reunification, the applicant must possess a prior authorization from police headquarters, indicating the general identification information of the individuals for whom the reunification is requested, and presenting:

- a) the residence card, the residence permit meeting the prerequisites referred to under article 28, paragraph 1 of the unified text, or suitable documentation certifying Italian citizenship or citizenship in a member nation of the European Union;
- b) documentation certifying availability of income, as per article 29, paragraph 3, letter b) of the unified text;
- c) documentation demonstrating the availability of lodging, as per article 29, paragraph 3, letter a) and the unified text. To this end, the interested party must present certification released by municipal office confirming that requirements referred to in the aforementioned article of the unified text have been met, or a certificate of hygienic-medical suitability issued by Local Health Care Enterprises with jurisdiction over the territory.

2. The police headquarters releases a receipt for the application and for the documentation presented, applying to the copy of the application and to the documents the dated seal of the office and the seal of the receiving official. Having confirmed that the other prerequisites and conditions have been met, the police headquarters issues, within 90 days of reception of the application, the authorization, assuming that the documentation confirming the conditions of family relations, marriage, minor age or inability to work, plus cohabitation have actually been received from the Italian consular

authorities.

3. The consular authority, having received the authorization referred to under paragraph 2, or, once 90 days have passed from the presentation of the application for authorization, having received a copy of the same application and of the documents, countersigned under the provisions of paragraph 1, and having obtained documentation demonstrating that the preconditions referred to under paragraph 2 have been met, issues the entry visa, after the applicant has exhibited the passport or traveling documentation.

<![endif]> Article 13

(Renewal of residence permit)

1. Residence permits issued by countries that have signed the Schengen Accord, in accordance with the uniform visa stipulated under the convention for application of the aforementioned Accord, or issued as an extension of the visa, exclusively for reasons of tourism, cannot be renewed or extended beyond a period of ninety days, unless there exist serious motives for doing so, in particular motives regarded humanitarian concerns or resulting from constitutional or international obligations.

2. For the purpose of renewing the residence permit, in addition to the measures contemplated under article 22, paragraph 9 of the unified text, the documentation demonstrating the availability of income, either from work or another, legitimate source, sufficient to sustaining the applicant and his or her family dependents, may be controlled automatically on the basis of a temporarily replacement declaration made by the interested party and included with the application for renewal.

3. The application for renewal is presented in two copies. The official receiving the application, having examined the documents exhibited, and having confirmed the identity of the applicant, issues a copy of the application, bearing the dated seal of the Office and his own signature, as receipt, with this document including the written notification, under the procedures referred to in article 2, paragraph 6 of the unified text, that exhibition of the receipt to the pertinent Local Health Care Enterprise is a precondition to continued registration with the National Health Care Service.

4. The residence permit cannot be renewed or extended when it is found that the foreign citizen has interrupted his or her stay in Italy for a continuous period of more the six months, or, in the case of residence permits with a duration of at least two years, for a continuous period greater than half the validity of the residence permit, unless this interruption was the result of the need to meet military obligations or was caused by other grave and demonstrated motives.

Article 14

(Conversion of the residence permit)

1. Residence permits issued for reasons of salaried employment or self employment, or for family motives, can also be utilized for other activities which the foreign citizen is allowed to perform, even without converting or adjusting the document, for the period of validity of the document itself. In particular:

- a) the residence permit issued for non-seasonal salaried employment makes it possible to work on a self-employed basis, after the subject has obtained the obligatory title or authorization eventually called for, and assuming that the other prerequisites and conditions contemplated under the norms currently in force for the performance of self-employed activities, as well as activities as a working partner of a cooperative, are met;
- b) a residence permit issued for self-employment allows its holder to work as a salaried employee for the period of validity of the permit itself, following registration on the employment placement lists or, if the employment relationship is already under way, following notification on the part of the employer to the Provincial Labor Department;
- c) residence permits for family reunification or for entry into Italy in the company of a worker make possible the performance of work as a salaried employee or self-employment activities, assuming the conditions indicated under the preceding letters are met.

2. The office of the Public Administration which issues the document of approval or the authorization in the cases contemplated under paragraph 1, letter a), or the Provincial Employment Office in the cases contemplated under paragraph 1, letter b), notify the police headquarters, with regard to the elements falling under their responsibility, of those cases in which a residence permit is being utilized for a motive other than that shown on the document.

3. Upon renewal, a new residence permit is issued for the activity effectively performed.

4. A residence permit for reasons of study for training makes it possible, for the period of validity of the permit itself, to perform working activities on salaried basis for no more of 20 hours per week, which can be calculated as a 52-week total, though without exceeding an annual limit of 1040 hours.

5. Unless otherwise stipulated under international accords or under the conditions according to which the foreigner was allowed to enter the country to attend courses of study of training in Italy, a residence permit for reasons of study or training can be converted, before its expiration, into a residence permit for the purpose of employment, within the limits of the quotas established under the norms of article 3 of the unified text, as exhibited by the Provincial Labor Department, following presentation of suitable documentation demonstrating the employment relationship or, in the case self-employment, following presentation of the approved or authorized title, where required, as well as the documentation for all other obligatory administrative formalities, plus documentation confirming possession of the financial resources needed for performance of the activity in question.

Article 15

(Registry entries)

1. Registry entries and variations for foreign citizens legally residing in Italy are performed in the cases, and according to the criteria, contemplated under law number 1228 of 24 December 1954 war, and under the registry regulations for the resident population, as approved with Decree no. 223, issued the President of the Republic on 30 May 1989, with the modifications made by the present regulations.

2. Paragraph 3 of article 7 of Decree no. 223, issued by the President of the Republic on 30 May 1989, is replaced by the following:

"3. Foreigners entered in the registry are required to repeat the registry official the declaration of their habitual residence in the municipality, within 60 days of renewal of the residence permit, accompanied by the permit itself. In the case of foreigners possessing a residence card, the renewal of the declaration of habitual residence is made within 60 days of the renewal of the residence card. The registry official shall update registry entry for the foreigner, notifying police headquarters of the fact. "

SECTION V

REGULATIONS GOVERNING WORK

Article 29

(Determination of entry quotas for reasons of work)

1. In addition to the provisions expressly stipulated under the unified text or under international accords, in accordance with the norms of the unified text, the decrees which determine the maximum quotas for the entry of foreigners in the

territory of the State for reasons of work also indicate the quotas for salaried employment, as well as those for seasonal work and self-employment.

2. For the purposes of the present section, the Minister of Labor and Social Security adopts the necessary measures for the information liaison of its own central and local offices, as well as for the computer processing of data on foreign workers, and, through conventions with the relevant ministries, for the necessary connections to diplomatic and consular posts, as well as to police headquarters.

3. (Paragraph not authorized by the State Audit Court).

Article 30

(Work permit for salaried employment for a fixed or indeterminate period)

1. Work permits for foreigners residing abroad are issued by the Provincial Departments of Labor with the jurisdiction over the area in which the working activity is to be performed, in response to the application of an employer, and within the qualitative and quantitative limits contemplated under the decrees referred to in article 29.

2. The applications referred to under paragraph 1 must contain:

- a) the full identifying information on the owner or legal representative of the enterprise, together with the company name and headquarters, or, if domestic work is involved, the full identifying data of the employer;
- b) the full identifying data of the worker or workers to be hired;
- c) a pledge to provide the foreigner with the compensation and insurance treatment stipulated under the laws currently in force and under the national collective-bargaining labor contracts for the industry in question, or contracts that are otherwise applicable;
- d) the headquarters of the enterprise and its production facility, or the location where the activity involved in the employment relationship is primarily to be performed;
- e) indication of the conditions of lodging

3. The application referred to under paragraph 1 must be accompanied by:

- a) the enterprise's certificate of registration with the Chamber of Commerce, Industry, Crafts and Agriculture bearing the declaration referred to under article 9 of the Decree no. 252, issued by the President of the Republic on 3 June 1998, unless the salaried employment relationship does not involve the enterprise's activities;
- b) a copy of labor contract drawn up with the foreign citizen residing abroad, unless the activities do not involve business activities;
- c) a copy of the documentation produced by the employer for tax purposes, demonstrating his or her economic capacity.

4. The work permit is issued within 20 days of receipt of the application, following confirmation of the conditions referred to under article 22, paragraph 3 of the unified text, and assuming that the number of applications presented during the same period by the same employer is in keeping with his or her economic capacity and the needs of the enterprise or of the domestic activity, based on uniform criteria, in determined by the compensation and social security commitments referred to under paragraph 2, letter c).

Art. 31

(Permit from police headquarters and entry visa)

1. The work permit, together with a copy of the application and the documentation referred to under article 3 of article 30, must be presented to the police headquarters with jurisdiction over the territory for application of the provisional authorization for the purposes of entry.

2. The provisional authorization is placed at the bottom of the permit within 20 days of its reception, following confirmation that the foreign citizen is not subject to factors which would prevent entry of residence in the territory of the State, and that there do not exist, with regard to the employer, the impediments referred to under paragraph 3.

3. The authorization can be refused should the domestic employer, or the owner of the individual enterprise, or, in other cases, the legal representatives and the members of the administrative organs of the company, prove to have been accused of one or more of the crimes contemplated under the unified text, or one of the crimes contemplated under articles 300 and 381 of the Criminal Code, unless the result of proceedings concluded with a sentence which excluded the possibility of criminal responsibility on the part of the interested party; or in the event that a measure of imprisonment has been applied against the same individuals, though always taking into account the affects of rehabilitation.

4. The permit referred to under article 30, accompanied by the authorization indicated under the present article, are presented to the foreigner under the responsibility of the employer, with the foreigner then presenting them to the

diplomatic post or consulate responsible for the issue of the entry visa, within the time period referred to under article 22, paragraph 5, of the unified text.

5. The entry visa is released within 30 days of presentation of the application, following confirmation of the preconditions referred to under article 5.

Art. 32

(Lists of foreigners requesting work in Italy)

1. The list of foreigners requesting work in Italy, established in implementation of the accords referred to under article 21, paragraph 5 of the unified text, are compiled and updated throughout the calendar year, with a distinction being made between workers employed for indeterminate and set amounts of time, or for seasonal work; these listings are kept on the basis of the order in which the registration applications were presented.

2. Each list consists of a series of names and registration charts which the interested parties are required to fill out and sign, based on a form stipulated under a decree by the Minister of Labor and Social Security, adopted in concert with the Minister of Foreign Affairs and with the Minister of Internal Affairs, and containing:

- a) the Country of origin;
- b) the sequential number of the presentation of the application;
- c) the full identifying information;
- d) the type of working relationship preferred: seasonal, for a set or an indeterminate period of time;
- e) professional capacities of interest parties, and whether they fall under specific categories of workers, qualifications or tasks;
- f) knowledge of the Italian language, or of one of the following languages: French, English or Spanish, or of another language;
- g) eventual predispositions for types of work or prior work experience in the country of origin or in other countries;
- h) eventual right to priority, in the case of seasonal workers who find themselves in the conditions contemplated under article 24, paragraph 4, of the unified text, as demonstrated by the exhibition of the passport, or another, equivalent

document, illustrating the date of departure from Italy at the end of the previous period of residence for seasonal work.

3. The data referred to under paragraph 2, regarding the order of priority of the registrations, is sent without delay to the Ministry of Foreign Affairs and to the Ministry of Labor and Social Security in order to be inserted in the annual computerized register referred to under article 21, paragraph 7 of the unified text, established, beginning on January 1, 1999, at the Ministry of Labor and Social Security – General Department for Employment -Service for the Problems of Migrant Workers and their Families.

4. The interested party, entered of the list of foreign workers referred to under paragraph 1, is entitled to request from the Ministry of Labor and Social Security, under the provisions of Law no. 241 of August 7, 1990, information on what position he or she holds on the list.

Article 33

(Work permit for foreigners entered on the lists)

1. The data referred to under article 32 are entered in the S.I.L. (Labor Information System) of the Ministry of Labor and Social Security, referred to article 11 of Legislative Decree no. 469 of December 23, 1997; the data are made available, through the Provincial Labor Departments, to employers and union organizations of workers and employers which present motivated requests. Until such time as the S.I.L. is fully implemented, the same data will be made available to employers, and to union organizations of workers and employers, under the procedures contemplated in article 25 of law no. 241 of August 7, 1990.

2. Applications for permits for each type of labor relationship are made, regarding the names entered on the lists, under the same procedures referred to in articles 30 and 31 of the present regulations.

3. In the event that the employer does not intend to make the selection by name, the order of priority for the numerical requests is based on the seniority of registration on the list, assuming that the professional capacities of the candidates are equal.

Article 34

(Presentation of guarantee)

1. The parties eligible for establishing the guarantee referred to under article 23 of the unified text are Italian citizens or foreign citizens residing legally in Italy, with a residence permit whose residual duration is no less than a year, and who possess economic resources adequate to the making of the guarantee referred to under paragraph 2, and against whom there exist none of the negative conditions referred to under article 31, paragraph 3.

2. The guarantee may be established for no more than two foreigners in a given year, and it must regard:

- a) obligatory insurance for the National Health Service;
- b) the availability of suitable lodging;
- c) supply of means of subsistence, at an amount no less than the annual sum of social welfare checks, as per the criteria found under article 29, paragraph 3, letter b) of the unified text;
- d) payment of expenses for return to the country of origin.

3. The guarantee regards the services referred to under paragraph 2, letters a), c) and d) and is established through a security deposit or insurance policy, with the related document being deposited with the police headquarters to which the application for authorization of entry, referred to under article 23, paragraph 1 of the unified text, has been presented. The guarantee document is returned:

- a) immediately, if the permit is not granted;
- b) following notification from the diplomatic post or consulate that the entry visa has not been granted;
- c) following issues the residence permit for reasons of work, as per the provisions of article 36.

4. The guarantee regarding lodging may be demonstrated through a specific commitment by the party in possession of

the lodging, accompanied by the certification required under article 16, paragraph 4, letter b).

5. Also eligible for establishing the guarantee referred to under article 23 of the unified text are professional associations and labor unions, as well as volunteer organizations and associations active in the sector of immigration for at least three years, assuming that:

- a) there exist the financial and organizational contemplated under article 52, and the articles which follow it;
- b) the legal representatives, as well as the members of the board of directors and the board of auditors, or the shareholders, in the case of companies held under a collective name, are not subject to the negative conditions referred to under article 31, paragraph 3;
- c) the establishment of the guarantee is approved under the provisions of the respective statutes.

6. The regions, local government bodies, including mountain communities, and their consortiums or associations may provide the guarantee referred to under article 23 of the unified text, within the limits of their financial resources, assets and organizational capabilities, and having specifically approved the initiative under their respective statutes.

7. In the cases referred to under paragraph 5, the application for the entry permit is accompanied by an authenticated copy of the resolution regarding the establishment of a guarantee and a document certifying the availability of the necessary resources, taking into account the guarantees already presented. In the cases referred to under paragraph 6, an authenticated copy of the resolution is sufficient.

Article 35

(Entry permit for placement on labor market)

1. The guarantee referred to under article 34, together with a copy of the documents stipulated therein, must be presented to the police headquarters with jurisdiction over the site in which the subject presenting the guarantee resides or is headquartered, together with an indication of the name of the foreigners for whom the entry permit is requested, as per article 23, paragraph 1, of the unified text. In the case of public organizations, the names are indicated, unless measures of the law or regulations permit different procedures, in the order of priority indicated therein, based on the lists referred to under article 23, paragraph 4 of the unified text.

2. The entry permit is issued within 60 days of receipt of the guarantee, in respect of the quantitative and qualitative limits of the specific quota, following confirmation that the foreign worker is not subject to any factors which could impede his or her entry and residence in the territory of the State, and that the party presenting the guarantee meets the prerequisites

and conditions contemplated under article 34. A copy the permit is sent to the Provincial Labor Department.

3. For the purposes of paragraph 2, the Department of Public Safety adopts the necessary measures, eventually through specific computerized processing of the data, which may be performed in connection with the S.I.L. of the Ministry of Labor and Social Security.

4. The permit referred to under paragraph 2 is delivered, under the responsibility of the subject presenting the guarantee, to the foreign citizen in question, who, in turn, presents it to the diplomatic post or consulate responsible for issuing the entry permit, within the deadline referred to under art 23, paragraph 1 of the unified text.

5. In accordance with availability of the quotas, the diplomatic post or consulate issues the entry permit for placement on the labor market, doing so in the cases indicated under article 23, paragraph 4 of the unified text, within the limits and under the procedures stipulated by the decrees referred to in article 3, paragraph 4 of the unified text.

6. The entry permit is issued within 30 days of presentation of the application, following confirmation that the preconditions referred to under article 5 of the present regulations are met.

Article 36

(Issue of residence permits for placement on the labor market)

1. Foreigners who enter the territory of the state with a visa issued under the provisions of article 35 are required to request a residence permit for placement on the labor market within the time period stipulated under article 5, paragraph 2 of the unified text, making the request at the police headquarters which issued the permit indicated under article 35; in addition, such foreigners must request, doing so through the Provincial Labor Department of the same location, that they be registered on the employment placement lists, exhibiting the form for the residence permit application issued by the police headquarters.

2. The residence permit for placement on the labor market, with a duration of one year, is issued following confirmation by the relevant Provincial Labor Board of the fact that the foreign worker has been entered on the employment placement lists.

3. Foreigners entered on the employment placement lists under the norms of the present article, and then hired, followed by the required notification of the Provincial Labor Department, may request from the police headquarters with jurisdiction over the territory issue of a residence permit for motives of work, under the norms of article 5, paragraph 3, of the unified text. Similar residence permits have a duration of:

- a) two years, barring renewals, if an employment contract for an indeterminate period is involved;
- b) equal to the duration of the labor contract, and under no circumstances less than 12 months from the date of issue of the residence permit referred to under paragraph 2, in the event that seasonal work or employment for a set period of time are involved.

4. Upon expiration of the deadline referred to under paragraph 2, the foreign citizen must leave the territory the State, unless he or she has obtained the residence permit referred to under paragraph 3.

Article 37

(Registration on the employment placement lists of fired, resigned or disabled workers)

1. When a foreign worker loses his or her job under the provisions of the norms currently in force with regard to collective firing, the enterprise which hired the worker must notify the pertinent Provincial Employment Department within five days of the firing in order to permit placement of the foreign worker and economic assistance in his or her favor. The aforementioned Provincial Labor Department also ensures that the foreign citizen is entered on the employment placement lists for the residual period of validity of the residence permit, and for a period, except in the case of seasonal workers, of no less than one year.

2. Under the same conditions, and with the exceptions referred to under paragraph 1, in cases where the firing has been performed under the legal norms in effect for individual firing, as well as in the case of resignation, the employer makes notification, within five days, to the pertinent Provincial Labor Department, which ensures that the foreign worker is entered on the employment placement list for the residual period of validity of the residence permit, and, in any event, except for the case of seasonal employment, for a total period of no less than one year.

3. When, under the provisions of the unified text and the present article, the foreign worker is entitled to remain in the territory of the State beyond the period stipulated by the work permit, then the police headquarters renews the permit, having first received a documented application from the interested party, for up to a year from the date of entry on the employment placement lists. The provisions of article 36, paragraphs 3 and 4, are observed.

4. In cases where a foreign citizen legally residing in Italy for reasons of work, or for a motive which permits salaried employment, should be civilly disabled, then entry on the lists referred to under article 19 of Law no. 482 of 2 April 1968 will be considered the equivalent of entry on the employment placement lists.

Article 38

(Access to seasonal work)

1. Seasonal work permits, with a minimum validity of twenty days and a maximum of six or nine months, are issued within fifteen days of the date on which the hiring applications are received from the employers, based on the procedures stipulated under article 30 of the present regulations, and in accordance with the right of precedence in favor of the foreign workers referred to in article 24, paragraph 4 of the unified text.

2. For the purposes of the permit, foreign workers who returned to their state of origin upon expiration of the residence permit issued in the preceding year for seasonal work are entitled to precedence with the same employer, and within the context of the cumulative applications, as well as the applications not bearing names, compared to foreign workers not in the same condition.

3. In the case of seasonal activities, applications for work permits may also be presented by business associations on behalf of their members.

4. A seasonal work permit valid for more than one employer who draw on the services of the same foreign worker for periods of work which amount to a total, in the course of the season, that respects the time limit, both minimum and maximum, set under article 24 , paragraph 3 of the unified text, must consist of a single permit, requested in an application presented simultaneously by the employers, eventually on a cumulative basis, and issued to each one of them. Additional permits are also allowed, even at the request of different employers, as long as they fall within the maximum period contemplated.

5. For the purpose of confirming that the compensation and insurance treatment offered to a foreign worker matches that contemplated under the national collective-bargaining contracts for the employment category, the Provincial Labor Departments are to follow the conventions referred to under article 24, paragraph 5 of the unified text, assuming such conventions have been signed.

6. The seasonal work permit must be accompanied by the authorization of the police headquarters, as per the provisions of article 31.

7. Foreign workers who have returned to their country of origin upon expiration of the residence permit issued in the previous year for seasonal work, and who are authorized to return to Italy for an additional period of seasonal work, and who are then offered a contract of salaried employment for a set or a indeterminate period of time, within the limits of the quotas referred to under article 29, may request that the police headquarters issue a residence permit, in accordance with the provisions of article 9 of the present regulations. The residence permit is issued within 20 days of the presentation of the application, if the prerequisites and conditions contemplated in the unified text, and in the present article, are met.

Article 39

(Measures regarding self-employment)

1. Foreigner citizens who intend to perform in Italy activities for which possession of an authorization or a license is required, or which call for entry in a special registry or set of rolls, or for the presentation of a declaration or a report, as well as the fulfillment of any other administrative formality, are required to request from the pertinent administrative authority, eventually doing so through a representative, a declaration to the effect that there are no motives impeding issue of a qualifying title or authorization, however entitled, in light of the criteria and the procedures contemplated for the issue of the same. In addition to the provisions of articles 49, 50 and 51, in the case of activities which call for confirmation of specific professional or technical capabilities, the Ministry of Industry, Trade and Crafts, or another ministry or other body with responsibility for the subject matter, ensures that recognition be granted to titles or certificates of professional capacity issued by foreign nations.

2. The declaration is issued when all the conditions and prerequisites contemplated under the law for issue of the title of certification or authorization requested have been met, apart from the actual presence of the foreign citizen in Italy, in possession of the stipulated residence permit.

3. Even for activities which do not require the issue of any titles of certification or authorization, the foreign citizen is required to obtain from the Chamber of Commerce, Industry, Crafts and Agriculture with jurisdiction over the area in which the self-employed working activity is to be performed, or from the pertinent professional order, certification of the parameters of reference regarding the availability of the financial resources necessary to perform the activities in question.

4. The declaration referred to under paragraph 2, together with a copy of the application and the documentation

presented for its issue, as well as the certification from the Chamber of Commerce, Industry, Crafts and Agriculture, as referred to under paragraph 3, must be presented, eventually through representatives, to the police headquarters with jurisdiction over the territory for application of a provisional authorization for the purpose of entry.

5. The authorization is placed at the bottom of the declaration referred to in paragraph 2 within 20 days of being received, following confirmation that there do not exist, with regard to the foreign citizen, factors which would impede his or her entry or residence in the territory of the State for the purpose of self-employment. The declaration, bearing the authorization, is issued to the interest party, or to his or her representative.

6. The declaration, certification and authorization referred to under paragraphs 2, 3 and 4 are presented to the diplomatic post or consulate responsible for issuing the entry visa, which is issued under the provisions of article 26, paragraph 5 of the unified text, following a control of the prerequisites called for under the norms, as well as the documentation send to the Ministry of Foreign Affairs by the pertinent ministries and the Chamber of Commerce, Industry, Crafts and Agriculture.

7. In addition to the provisions of article 14, foreign citizens already present in Italy, and in possession of a legitimate residence permit other than the type of permit which makes possible the performance of working activities, may request that the police headquarters with jurisdiction over the site in which the foreign citizen intends to work on a self-employed basis convert the residence permit. To this end, in addition to the documentation referred to under paragraphs 1, 2 and 3, and until such time as the connection to the S.I.L. becomes operative, certification issued by the Provincial Labor Department attesting to the fact that the request falls within the limits of the entry quotas for self-employed workers, as determined under the norms of article 3, paragraph 4 of the unified text, must be produced.

Article 40

(Special cases of entry for work)

1. The work permit for foreign citizens referred to under article 27, paragraphs 1 and 2 of the unified text, is issued, when applied for, in accordance with the procedures contemplated under articles 30, paragraphs 2 and 3 of the present regulations, plus the additional procedures contemplated under the present article. The work permit is issued regardless of quotas stipulated in the decree referred to under article 3, paragraph 4 of the unified text.

2. Unless otherwise stipulated under the law or regulations, in the case of employment relationships for set periods of time, the permit may not be issued for a period longer than that of the set-term employment relationship, or, in any event, longer than two years. Extensions, if contemplated, may not exceed the same period of time of the employment relationship. The period for which the permit is valid must be expressly indicated on the measure itself.

3. Except in the cases contemplated under paragraphs 11, 13, 14 and 15 of the present article, and under paragraph 2 of article 27 of the unified text, the permit is issued by the pertinent Provincial Labor Department. For the purposes of the entry visa and the application for a residence permit, the work permit must be utilized within 90 days of its issue, in observation of the provisions of article 31.

4. Though the longer time limits contemplated under article 5, paragraph 3, letter c) for those foreign citizens indicated under article 27, paragraph 1, letter f) of the unified text remain in effect, entry visa and residence permits for the foreign citizens referred to in the present article are issued for the time period indicated on the work permit; if a work permit was not requested, then the periods of time are strictly tied to the documented needs.

5. In the case of the workers referred to under article 27, paragraph 1, letter a) of the unified text, the work permit regards executives and highly specialized personnel hired at least 12 months before the date of their temporary transfer, in accordance with a commitment made under the G.A.T.S. accord, which was ratified and implemented in Italy with Law no. 747 of 29 December 1994.

6. For the personnel referred to under article 27, paragraph 1, letters b) and c) of the unified text, authorization depends on a request being presented by a university, or by an institute of university level instruction, so as to demonstrate possession of the professional prerequisites necessary for the performance of the related activities .

7. For the personnel referred to in article 27, paragraph 1, letter d) of the unified text, the request must either be presented directly by the interested party, accompanied by the contract regarding the professional services to be performed in Italy, or by the employer, in the event that he or she is hired as a salaried worker.

8. In the case of the workers referred to under article 27, paragraph 1, letter e) of the unified text, the labor contract, authenticated by the pertinent diplomatic post or consulate, must be obtained. Authorizations cannot be issued in favor of domestic workers employed by foreign citizens.

9. In the case of the foreign citizens referred to in article 27, paragraph 1, letter f), the work permit is issued exclusively for the period of training, as declared by the employer; this period may not exceed two years. During this training period, the worker in question may perform services as a salaried employee, based on an apprenticeship relation.

10. In the case of the workers referred to under article 27, paragraph 1, letter g) of the unified text, the work permit may be requested only by an organization or enterprise, be it Italian or foreign, which operates in Italian territory, through its own offices, representative offices or branches, and can regard only high-level services of salaried employment for a

limited number of workers.

11. In the case of the foreigners referred to under per article 27, paragraph 1, letter h) of the unified text, members of the crews of ships flying the flag of the Republic, as well as foreign employees of foreign companies holding contracts issued by the shipping company, when these employees are called on to embark on Italian cruise ships for the performance of the complementary services referred to under articles 17 of Law no. 856 of 5 December 1986, the specific legal measures governing such activities are observed, and no work permit is necessary. The related entry visas are issued by the diplomatic posts or consulates in abbreviated time periods and under simplified procedures determined under the instructions contained in article 5, paragraph 3. These visas allow the personnel to remain on board the ship even when it navigates territorial waters, or is docked in a national port. In the case of going ashore, the measures currently in force regarding the issue of residence permits are observed. The measures currently governing the issue of transit visas remain in effect.

12. Under the provisions of article 27, paragraph 1, letter i) of the unified text, bilateral accords with countries not belonging to the European Union may contemplate the employment in Italy - with set-term salaried contracts, working under either Italian employers or foreign employers residing in Italy – of groups of workers assigned to carry out specific projects or to supply services for a period of time no greater than two years, at the end of which the foreign workers are required to return to their countries of origin. In such cases, work permits, entry visas and residence permits are issued for a period of time strictly tied to the duration of the working relationship tied to the performance of the project or the supply of the service.

13. In the case of the entertainment workers referred to under article 27, paragraph 1, letters l), m), n) and o) of the unified text, the work permit is issued by the special office for the placement of entertainment workers in Rome, or by its two branches in Rome and Naples, or by the placement office for entertainment workers in Palermo for a period of no more than six months, unless the working relationship is continued with the same employer.

14. In the case of the foreign athletes referred to under article 27, paragraph 1, letter p) of the unified text, the work permit is replaced by a declaration of assent, bearing the name of the foreign athlete, issued by the Italian National Olympic Committee at the request of the enterprise benefiting from the athletic services, in accordance with the provisions of Law no. 91 of 23 March 1981.

15. In the case of the workers referred to under article 27, paragraph 1, letter q) of the unified text, as well as workers employed by diplomatic posts or consulates, or by organizations governed under international law and headquartered in Italy, a work permit is not required.

16. In the case of the foreigners referred to under article 27, paragraph 1, letter r) of the unified text, work permits are issued under the internationals accord currently in force, which also govern their number, for a period of no more than a year, unless otherwise indicted in these same accords. In the case of individuals employed “au pair”, and not as part of programs of young people’s exchange or mobility, the duration of the work permit may be no longer than three months. Should foreigners arrive in Italy with vacation-work visas, as part of international accords currently in force for Italy, the work permit may be issued by the provincial labor department following the arrival of the foreigner in

the territory of the State, at the request of the employer, for a total period of no more than six months, and or no more than three months with any one employer.

17. The work permit for foreigners referred to under article 27, paragraph 1, letters a), b), c) and d) of the unified text, as well as the declaration of assent of the Italian National Olympic Committee, for the individuals referred to under letter p) of the same article, are also required when the worker is self-employed.

18. The work permits, the entry visas and the residence permits referred to in the present article, with the exception of the measures regarding the foreigners indicated under paragraph 9, may not be renewed, and, in the event that the employment relationship is terminated, they may not be utilized for a different employment relationship. The residence permits issued under the provisions of the present article may not be converted, unless otherwise indicated in article 14, paragraph 5.

Article 41

(Registry archive for non-European workers)

1. The offices of the Public Administration which issue a document of authorization or qualification for the performance of a self-employed working activity, as well as the provincial labor departments which proceed with the making of entries on their employment placement lists, are required to notify police headquarters and the Registry Archives for non-European Workers established at the National Social Security Institute, with regard to the information for which each is responsible, of cases in which the residence permit is used for a motive other than that listed on the document. A similar communication is made to the aforementioned archive by the police headquarters, based on the measures taken in issuing and renewing residence permits, together with communications regarding entries or variations in the registry, as contemplated under article 6, paragraph 7 of the unified text, as well as communications made by the employer under the provisions of article 7 of the same unified text.