

The new EU Blue Card in Italy

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Introduction

Brief paper on the recent changes to the EU Blue Card regulation in Italy.

The EU Blue Card is a residence permit typology regulated uniformly within the EU, aimed at allowing highly qualified non-European citizens to enter the EU without being subject to quantitative limits on maximum annual entries, which instead condition the admission of non-highly qualified workers.

On 16 October 2023, the Government officially adopted new provisions concerning the EU Blue Card that modify the Article of the Italian Immigration Law specifically regulating this type of residence permit, namely Art. 27 quarter.

On 28 March 2024, the Interior and Labour Ministries published an implementing Memorandum that finally makes the new legal provisions applicable by competent Public Administrations.

With this brief article, we will examine the most relevant amendments and novelties, which are meant to further promote the entry of qualified workers.

In order to facilitate the reader's understanding of these changes, it is worth mentioning that the European Blue Card is



a residence permit usually issued to the highly skilled non-EU worker following a) an application for a Certificate of No Impediment (so-called Nulla Osta) by the Italian employer to the competent Prefecture; b) a subsequent application for a National Visa at the Italian Consulate by the non-EU worker himself; c) and finally the application for a residence permit submitted in Italy by the worker to the competent Police Headquarters.



1. Broadening of the concept of highly qualified workers coming from extra-EU countries eligible to apply for an EU Blue Card

Before the aforementioned Decree came into force, the EU Blue Card was accessible only to highly qualified workers holding at least a bachelor's Degree (granted following a 3 year's University course). The new EU Blue Card has considerably increased the range of possible applicants by giving access also to workers who, even without a university degree, can be considered highly qualified as they meet one of the following requirements:

- i. Having at least **five years of professional experience** ensuring a level of qualification comparable to a graduate, and relevant to the profession envisaged for future employment in Italy. The employer applying for the Certificate of No Impediment for the Blue Card has to attach a statement confirming the possession of the professional qualification. The statement should then be supported by previous employment contracts signed by the applicant and/or related payrolls.
- ii. Having at least **three years of relevant professional experience** acquired within the seven years prior to the date of application for the EU Blue Card Certificate of No Impediment. This option is however viable only for Managers and Specialists in the field of Information and Communication Technology.
- iii. Holding professional qualifications obtained in other EU countries that qualify them to carry out a **"regulated" profession** in Italy, pursuant to the requirements of the Legislative Decree No. 206 of 9 November 2007 (such as engineers, architects and any other profession can only be carried after obtaining a specific license).

In addition, due to the new provisions, non-European citizens who are already in Italy as they were granted international protection, or they have a residence permit for seasonal employment, for research or for intra-company transfer are now eligible to apply for an EU Blue Card residence permit. The latter are non-EU citizens who have entered Italy to work as employees of a foreign company even



though they are temporarily carrying out their activities for a connected Italian company or branch.

As a result, this most recent novelty will allow seconded workers to terminate their employment with the foreign company in order to establish a new employment relationship with the Italian company or branch. Thus, at the end of the secondment period (having a maximum duration of three years), the worker will be allowed to stay in Italy as an employee of the Italian company, no longer as a foreign company's seconded employer).

2. Reduction of the minimum duration of the job offer

According to the new Decree, the employer who intends to sponsor an EU Blue Card can offer the recruited worker a job with a minimum duration of **6 months**, contrary to the previous minimum duration of 1 year. This clear decrease will certainly facilitate the hiring of non-EU nationals for limited periods of time so that the employer may evaluate long-term employment only afterwards.

3. Minimum wage

It is abolished the outdated reference to a minimum wage equal to three times the minimum income level to access the healthcare exemption, in fact imposing a minimum annual income of about 26,000 EUR gross.

It is instead established that the salary offered to the non-EU worker cannot be lower than the minimum salary set by the national collective agreements signed by the most representative trade union associations, and in any case not lower than the average gross annual salary recorded by Italian Statistic Institute (ISTAT)-

The minimum salary thus shifts from being fixed to flexible and specific to the field of work.

4. Reduction of the obligation to perform the work activity for which the Visa was issued

The obligation to carry out only the qualified work activity for which the Visa was issued went from 24 months to 12 months, although it remains possible to request a waiver from the Labour Territorial Directorate and be granted permission to change employer before the abovementioned deadline.



5. Facilitation of entry and stay in Italy for the foreigner already holding a residence permit for highly-qualified work issued by another Member State

When the Blue Card application concerns a third-country citizen who already holds another residence permit issued for highly qualified work (e.g., holders of a residence permit for research, or for transnational secondment), the employer is not required to submit documents proving the worker's professional qualifications, since those were already verified by the other Member State.

A foreigner who holds a valid EU Blue Card issued by another Member State may enter and stay in Italy to carry out a professional activity for a maximum period of 90 days within a 180-day period.

It is maintained the possibility for a foreigner already holding an EU Blue Card issued by another Member State who wants to work in Italy to enter the Country, ask the Italian employer to apply to the Immigration Desk for a Certificate of No Impediment and obtain an Italian residence permit, without the need for a previous application for a National Visa at the Consulate, which is instead usually essential to apply for a residence permit. In this respect, the news is that it is reduced from 18 months to 12 months the minimum time of legal stay in another Member State by the foreigner before being granted the possibility to apply for the Certificate of No Impediment for the issuance of the Blue Card in Italy.

The Certificate of No Impediment's application has to be made within one month of the worker's entry; and must be processed by the Prefecture within 30 days.



6. Elimination of the employer's obligation to verify the unavailability of other workers already in Italy

According to the previous rule, rarely enforced by the competent authorities, the employer had the burden of verifying with the competent Employment Center the unavailability on the national territory of a worker able to perform the same tasks as the applicant. Only upon this verification, the Certificate of No Impediment could be issued. Theoretically, this implied the need to post a job offer with the Employment Center and thus prove the lack of suitable candidates. Practically, this rule, when applied, never fulfilled the aim of promoting employment levels among those already residing in Italy. In fact, any employer actively promoting an EU Blue Card application by a non-EU citizen has already chosen who wants to hire and has no interest in seriously considering other candidates.

In realizing this, the legislator eliminated this incumbency, which was just a worthless burden to the process.

7. Provision for the exercise of self-employment

The EU Blue Card residence permit is issued based on an employment offer to a non-EU national. The new rule regulating the Blue Card makes explicit the possibility, already existent because of applicable general provisions, to carry out also self-employment activities while being an employee.

8. Simplification of the procedure by signing the Understanding Agreement

The applicable provisions already provided for the possibility for employers to replace the Certificate of No Impediment's application with a simple communication of the job offer to the Immigration Desk, as long as they were members of an association signatory of a specific Understanding Agreements with the Ministry of the Interior aimed at ensuring the necessary "high" qualification of workers without a case-by-case assessment by the public authority.

However, the significant novelty is that the new regulation provides that the Police Headquarters issue the residence permit within 30 days

of the above-mentioned communication. The rule does not only set a very strict deadline for the issuance of the residence permit (the general rule is 60 days from the appointment at the Police Headquarters), but it also seems to eliminate the incumbency of applying for the National Visa at the Italian Consulate, which is usually essential for the obtainment of the residence permit. While this novelty seems groundbreaking and would significantly speed up the process, it seems very difficult to be enforced, especially since many non-EU citizens without visas cannot enter the Schengen area even for tourism.



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