

# New Visa opportunity for Italian Companies on the lookout for foreign workforce:

Art. 27 paragraph 1 let. i bis of the Italian Immigration Act

## AUTHOR

**Pietro Derossi**

Counsel



**Maria Cherubini**

Associate



lexia.it



*Brief guide on the new type of Visa and Residence Permit application established by Article 27, paragraph. 1 lett. i-bis of the Italian Immigration Act*

*In the context of immigration law and employment, following the reform of the European Blue Card for highly qualified workers and the introduction of the new visa for digital nomads, another significant opportunity for attracting foreign labour to Italian companies has emerged.*

*This new opportunity is particularly noteworthy because it outlines a visa for non-EU workers which, although not subject to the numerical and country-of-origin limits established annually by the well-known "Flow Decree," does not require a high level of professional qualification from the foreign citizen, unlike what has been the case up until now for so-called extra-quota visas, i.e., those visas issued beyond the quantitative limits established yearly by the so-called "Flow Decree".*

*In this paper, we will examine under what conditions it is possible to apply for this visa and residence permit, formally introduced by Decree-Law No. 75 of June 22, 2023, but substantially accessible only from May 2024, following the issuance of Circular No. 4131 of 7 May 2024 by the Ministry of the Interior. In fact, this Circular lays out the necessary operational instructions for the prefectural offices competent at examining these applications.*





This new type of visa and residence permit has found its place in Article 27, paragraph 1 of the Italian Immigration Act, a provision that regulates a multitude of work visas and residence permits that are not subject to the quantitative limits of the “Flow Decree”, which instead provides for a maximum number of visas that can be issued yearly for each category. A new subparagraph (*i bis*) has been added to the aforementioned provision (Article 27, paragraph 1 of the Italian Immigration Act), which sets out the requirements for this new type of work visa.

In this paper, we examine its objective requirements, the type of employment relationship that can be established in Italy through this Visa, and the related immigration procedure.



Requirements for the residence permit application under Article 27, paragraph 1, letter i-bis of the Italian Immigration Act.

- ▶ *Requirement of the headquarters, holding company, branch or subsidiary in a non-EU territory*

The first requirement is that the Italian employer promoting the application and where the foreign citizen will work must have in a non-Eu country either of the following:

1. its main headquarters or a branch;
2. a subsidiary or its holding company;
3. a company of which the Italian company holds a minimum share of 20%.



► *Requirement of previous employment in a non-EU territory*

The second requirement is that the non-EU worker must have been employed by the foreign headquarters, branch or holding company for at least 12 months within the 48 months preceding the application for the entry clearance.

It should be noted that the necessary presence of previous employment between the foreign worker and the corporate group or multinational company is the subjective requirement of this type of Visa. This subjective condition replaces the need for a specific qualification or professional status, which characterizes all other types of so-called extra-quota visas and residence permits (i.e., those not subject to the annual quantitative limits set by the Flow Decree) regulated by Article 27 of the Italian Immigration Act.

The most innovative aspect of the regulation under examination is precisely this paradigm shift in the subjective requirement that qualifies for the entry into Italy of the non-EU worker outside the restrictions of the “Flow Decree”.

*Type of employment relationship in Italy with a residence permit under Article 27, paragraph 1, letter i bis of the Italian Immigration Act*

As mentioned in paragraph two of the previous chapter, it is not required that the worker is still an employee of the foreign company or branch at the time of the application for the entry clearance, provided they have been employed for at least one year within the four years preceding the application.

The fact that the worker is or is not employed at the foreign company or branch at the exact time of the entry clearance application results in a significant difference in the type of work



relationship that can be established with the Italian company or branch upon entering the national territory. Here are the 2 different possibilities.

► *Option of Transnational Secondment*

If the worker is an employee of the foreign company or branch at the time of the application for the entry clearance, they may choose to maintain their employment relationship with the foreign company and be temporarily seconded to Italy to work for the Italian company/branch, which will not assume the formal role of the employer but it will only serve as a “receiving” entity. This option is preferable if the company or multinational group wants the worker to spend a period of work in Italy not exceeding three years and then return to their first workplace, without any interruption of the employment with the foreign company/branch, which will continue to pay the foreign citizen for the entire duration of the so-called transnational secondment.

► *Option of Employment in Italy*

Conversely, if the worker is not employed at the foreign company or branch at the time of the entry clearance application, they can only be employed directly in Italy, and the Italian company will be the actual employer, with the consequent payroll obligation.

**Procedure for applying for a Visa and residence permit under Article 27, paragraph 1, letter i-bis of the Italian Immigration Act.**

From a procedural point of view, there are no particular innovations.



▶ *Entry Clearance (“Nulla Osta”)*

As a general rule, the Italian employer must first submit a nominative application for "entry clearance" to the Immigration Desk of the Prefecture of the Province where it has its registered office.

The Prefecture, within a maximum period of 90 days from the application, issues or denies the entry clearance, (a) after having obtained security clearance from the Police Headquarters regarding the absence of disqualifying offences committed by the employer or the worker in Italy or in the Schengen area; (b) after having verified the existence of the requirements for obtaining this residence permit; (c) and after having scrutinized the regularity of the proposed employment contract in light of the applicable national collective labour agreement.

▶ *National Visa*

Once the entry clearance is obtained, it is sent electronically to the competent Consular Authority. At this stage, the worker can go in person to the Italian Consulate in the country of residency and apply for the Visa in person.

After the necessary checks, the Consulate issues the Visa within 30 days from the application.

▶ *Residence Permit*

Once the Visa is obtained, which will have an annual duration, the worker can enter Italy.

Within 8 days from entering the national territory, an appointment must be requested with the same Prefecture that issued the entry clearance. At the appointment, the Italian



employer, the worker, and a Prefecture officer sign the so-called “contract of stay”, a three-lateral contract by which the Italian employer confirms the intention to employ the foreign citizen under the declared conditions and simultaneously ensures the latter has adequate accommodation in Italy.

After signing the “contract of stay”, the Prefecture prepares and hands in a residence permit application (the so-called model 209), which will be sent by the worker to the Police Headquarters. The latter authority finally takes the applicant's fingerprints and issue the residence permit.

---

LEXIA'S GLOBAL MOBILITY & CORPORATE IMMIGRATION PRACTICE



**Pietro Derossi**  
Counsel



**Beatrice Sica**  
Senior Associate



**Maria Cherubini**  
Associate



**Achraf Fadhel**  
Associate



**Claudia Elli**  
Paralegal



*This document is provided for general informational purposes and is not intended to provide legal advice or consultation on the topics discussed. The recipients of this document cannot rely on its contents. LEXIA Avvocati and/or the professionals of the firm cannot be held responsible in any way for the contents of this document, based on a professional mandate or any other basis*