

LEGISLATIVE DECREE n. 286 dated 25 July 1998

Consolidated act of provisions concerning regulations on immigration and rules about the conditions of aliens.

In force as of: 26 June 2014

TITLE I GENERAL PRINCIPLES

Art. 1
(Scope of enforcement)
(Law n. 40 dated 6 March 1998, art. 1)

1. This consolidated act, implementing article 10, second paragraph, of the Constitution, is enforced, unless provided for otherwise, on citizens belonging to non-EU States and to stateless persons, hereinafter indicated as aliens.

((2. This consolidated act is not enforced on citizens belonging to EU Member States, withstanding what provided for by rules implementing community regulations)).

3. When other provisions of law refer to statuses concerning persons with a citizenship different from Italian, or stateless persons, the reference is to statuses provided for by this consolidated act. The most favourable domestic, community and international provisions however in force in the State's territory remain withstanding.

4. As regards matters falling within the legislative competence of the regions, the provisions of this consolidated act constitute fundamental principles pursuant to article 117 of the Constitution. As regards matters falling within the competence of the regions with special statute and the autonomous provinces, these have the value of fundamental rules of economic-social reform of the Republic.

5. The provisions of this consolidated act are not enforced should it be differently provided for by the laws in force for the state of war.

6. The regulation implementing this consolidated act, hereinafter called regulation implementation, is issued pursuant to article 17, paragraph 1, of law n. 400 dated 23 August 1988, upon proposal of the President of the Council of Ministers, within one hundred and eighty days from the entering into force of law n. 40 dated 6 March 1998.

7. Prior to the issuing, the scheme of the regulation as mentioned under paragraph 6 is submitted to the Parliament so as to acquire the opinion of the cognizant Commissions, which are to provide said opinion within thirty days. After said term, the regulation is issued even lacking the opinion.

Art. 2
(The alien's rights and duties)
(Law n. 40 dated 6 March 1998, art. 2
law n. 943 dated 30 December 1986, art. 1)

1. The alien present at the border or on the State's territory is recognised the human being's fundamental rights provided for by the rules of domestic laws, by international conventions in force and by the principles of international law generally recognised.

2. The alien legally present on the State's territory benefits from the civil rights recognised to Italian citizens, unless the international conventions in force for Italy and this consolidated act provide for otherwise. Should this

consolidated act or international conventions provide for the condition of reciprocity, this is ascertained on the basis of the criteria and modalities provided for by the regulation implementation.

3. The Italian Republic, implementing ILO's convention n. 143 dated 24 June 1975, ratified with law n. 158 dated 10 April 1981, guarantees to all foreign workers legally present on its territory and to their families equal treatment and full equality of rights compared to Italian workers.

4. The alien legally present participates in the local public life.

5. The alien is recognised equal treatment compared to the citizen as regards jurisdictional protection of rights and legitimate interests, relationships with the public administration and the access to public services, within the limits of what provided for by law.

6. In order to notify the alien concerning measures as regards entry, stay and expulsion, acts are translated, also synthetically, into a language comprehensible for the addressee, or, when this is not possible, into French, English or Spanish, preferring the one indicated by the involved party.

7. Diplomatic protection is carried out within the limits and the forms provided for by the rules of international law. Unless there are motivated and serious reasons concerning the administration of justice and the protection of public order and national security, every alien present in Italy has the right to contact the authorities of the Country of which he is citizen and to be helped to this regard by every public official interested in the procedure. The judicial authority, the public security authority and any other public official are obliged to inform, according to ways and terms provided for by the regulation implementation, the closest diplomatic or consular representatives of the Country of belonging of the alien, in case they proceeded in adopting against the latter measures as regards personal freedom, removal from the State's territory, minor's protection of personal status or in case of the alien's death or urgent hospitalization, and they also have the obligation to submit to said representatives documents and objects belonging to the alien not needing to be withheld for reasons provided for by law. Said information is not necessary in case of aliens submitting asylum applications, aliens who have been recognised the status of refugee, or aliens toward whom temporary protection measures have been adopted for humanitarian reasons.

8. International agreements entered into for the purposes as mentioned under article 11, paragraph 4, can establish more favourable juridical situations for aliens belonging to States interested in special cooperation programmes to prevent or limit illegal immigrations.

9. The alien present on the Italian territory must however comply with the obligations provided for by the laws in force.

Art. 2-bis

(((Coordination and monitoring Committee)))

((1. A Committee has been established for the coordination and monitoring of the provisions of this consolidated act, hereinafter called "Committee."))

2. The Committee is headed by the President or Vice President of the Council of Ministers or by a Minister delegated by the President of the Council of Ministers. It is composed of not less than four Ministers interested in the issues faced in each meeting and by a president of a region or autonomous province appointed by the Conference of presidents of the regions and autonomous provinces.

3. For the preliminary investigation of matters falling within the Committee's competence, a technical work group has been established at the Ministry of Interior, composed of the representatives of the Departments for regional affairs, for equal opportunities, for the coordination of community policies, for innovation and technologies, and of the Ministries of foreign affairs, of interior, of justice, of productive activities, of education, of university and research, of labour and social policies, of defence, of economy and finance, of health, of land and forest policies, of cultural heritage and activities, of communications, besides a representative of the Ministry for Italians in the world and three experts appointed by the unified Conference as mentioned under article 8 of legislative decree n. 281 dated 28 August 1997. As regards the matters object of examination, representatives of any other public administration interested in the

enforcement of the provisions of this consolidated act can be invited at the meetings, as well as national bodies and associations and workers' and employers' organizations as mentioned under article 3, paragraph 1.

4. The regulation, to be issued pursuant to article 17, paragraph 1, of law n. 400 dated 23 August 1988, and following amendments, upon the proposal of the President of the Council of Ministers, together with the Minister of foreign affairs, with the Minister of interior and with the Minister of community policies, defines the modalities concerning the coordination of the activities of the technical group with the structures of the Presidency of the Council of ministers.)

Art. 3

Migratory policies

(Law n. 40 dated 6 March 1998, art. 3)

1. The President of the Council of Ministers, having heard the Ministers interested, the National Council of economy and labour, the permanent Conference for the relationships among State, regions and autonomous provinces of Trento and Bolzano, the State-City Conference and local autonomies, the national bodies and associations mostly active in assisting and integrating immigrants and the workers' and employers' organizations mostly representative at national level, organises every three years, withstanding the need of a shorter term, the programmatic document concerning policies for immigration and aliens present on the State's territory, which is approved by the Government and submitted to the Parliament. The cognizant parliamentary Commissions express their opinion within thirty days from the reception of the programmatic document. The programmatic document is issued, keeping into account the opinions received, with decree of the President of the Republic and it is published in the Official Gazette of the Italian Republic. The Minister of Interior submits an annual report to the Parliament concerning the results achieved through the implementing measures of the programmatic document.

2. The programmatic document indicates the actions and interventions that the Italian State, also in cooperation with the other Member States of the European Union, with international organizations, with community institutions and with non-governmental organizations, intends to carry out as regards immigration, also by entering into agreements with the Countries of origin. This also indicates the economic and social measures toward aliens present on the States' territory, with reference to the matters that do not have to be regulated by laws.

3. Moreover, the document identifies the general criteria for defining the entry flows in the State's territory, it defines public interventions aimed at favouring family relationships, social insertion and cultural integration of aliens resident in Italy, respecting people's cultural diversities and identities, provided that they are not in conflict with the legal system, and it provides every possible tool for a positive reinsertion in the Countries of origin.

4. The decree of the President of the Council of Ministers, having heard the Committee as mentioned under article 2-bis, paragraph 2, the unified Conference as mentioned under article 8 of legislative decree n. 281 of 28 August 1997, and the cognizant parliamentary Commissions, currently defines, within the term of 30 November of the year prior to that of reference of the decree, on the basis of the general criteria identified in the programmatic document, the maximum shares of aliens admitted to enter the State's territory for subordinate work, even for seasonal needs, and for autonomous work, keeping into account family joining and temporary protection measures possibly provided for pursuant to article 20. Should it be deemed advisable, further decrees can be issued throughout the year. Entry visas and residence permits for subordinate work, even for seasonal needs, and for autonomous work, are issued within the limits of the mentioned shares. In case of non-publication of the decree as regards the annual planning, the President of the Council of Ministers can transitorily provide for it, with own decree **((within 30 November, within the limits of the shares established in the last decree issued))**.

5. Within the ambit of the respective budget attributions and endowments, the regions, provinces, municipalities and other local bodies adopt the measures concurring to the pursuit of the aim to remove hindrances that in actual fact

impede the full recognition of the rights and interests recognised to aliens present on the State's territory, with particular reference to those concerning lodging, language, social integration, in compliance with the human being's fundamental rights.

6. The decree of the President of the Council of Ministers, to be adopted in agreement with the Ministry of Interior, provides for the establishment of territorial Councils for immigration, representing the cognizant local administrations of the State, the Region, local bodies, bodies and associations locally active in aid and assistance to immigrants, workers' and employers' organizations, with tasks concerning the analysis of needs and promotion of interventions to be implemented at local level.

6-bis. Withstanding the treatment of the data envisaged for the pursuing of its institutional aims, the Ministry of Interior carries out, within the ambit of the national statistical system and without additional costs at the expense of the State's budget, activities for collecting data for statistical purposes on the phenomenon of non-EU immigration for all the public administrations interested in migratory policies.

7. In the first enforcement of the provisions of this article, the programmatic document as mentioned under paragraph 1 is carried out within ninety days from the entering into force of law n. 40 dated 6 March 1998. The same document indicates the date within which the decrees mentioned under paragraph 4 are adopted.

8. The scheme of the programmatic document as mentioned under paragraph 7 is transmitted to the Parliament for the acquisition of the opinion of the Commissions cognizant as regards the matter, which within thirty days express their opinion. After said term, the decree is issued also lacking said opinion.

TITLE II

PROVISIONS CONCERNING ENTRY, RESIDENCE AND REMOVAL FROM THE STATE'S TERRITORY

ITEM I

PROVISIONS CONCERNING ENTRY AND RESIDENCE

Art. 4

Entry in the State's territory (Law n. 40 dated 6 March 1998, art. 4)

1. Entry in the State's territory is allowed for the alien in possession of valid passport or equivalent document and entry visa, withstanding the exemption cases, and entry can take place, withstanding cases of force majeure, only through the borders specially established.

2. The entry visa is issued by the Italian diplomatic or consular representatives in the State of origin or in the State of the alien's stable residence. For residences not above three months, and on the basis of specific agreements, entry visas issued by diplomatic or consular authorities of other States are equal to those issued by the Italian diplomatic and consular representatives. Contextually with the issuing of the entry visa, the Italian diplomatic or consular authority provides the alien with a written communication in a language comprehensible for the same or, if not possible, in English, French, Spanish or Arabic, explaining the alien's rights and duties as regards the entry and residence in Italy. Should the requisites provided for by the laws in force not be satisfied for proceeding with the issuing of the visa, the diplomatic or consular authority shall communicate the denial to the alien in a language comprehensible for the same, or if not possible, in English, French, Spanish or Arabic. In derogation to what provided for by law n. 241 dated 7 August 1990, and following amendments, for security reasons or for public order, the denial does not have to be motivated, withstanding the visa applications submitted pursuant to articles 22, 24, 26, 27, 28, 29, 36 and 39. The submission of false or counterfeited documentation or false statements supporting the visa application automatically entails, besides relevant penal liabilities, the inadmissibility of the application. For the alien in possession of a residence

permit it is sufficient, in order to re-enter the State's territory, to provide a preventive communication to the border authority.

3. Withstanding the provisions as mentioned under article 3, paragraph 4, in compliance with the obligations undertaken by adhering to specific international agreements, Italy allows the entry on its territory to the alien who proves to be in possession of proper documentation confirming the purpose and conditions of the residence, as well as the availability of means of support sufficient for the duration of the residence and, excepting residence permits for work reasons, also for the return to the Country of provenance. Means of support are defined with specially provided directives issued by the Ministry of Interior, on the basis of the criteria indicated in the programming document as mentioned under article 3, paragraph 1. Admission in Italy is not allowed to the alien who does not satisfy said requirements or that is considered a threat for public order or the State's security or the security of one of the Countries with which Italy has entered into agreements for the suppression of controls at internal borders and the free circulation of people or that results to have been sentenced, also **((with non-definitive ruling, including the one adopted))** after the enforcement of the sentence upon request pursuant to article 444 of the code of criminal procedure, for crimes provided for by article 380, paragraphs 1 and 2, of the code of criminal procedure, or for crimes concerning drugs, sexual freedom, aiding and abetting of illegal immigration toward Italy and illegal emigration from Italy toward other States or for crimes aimed at the recruitment of people to destine to prostitution or prostitution or minor exploitation within illegal activities. **((The alien's entry in Italy is also impeded by the sentence, with irrevocable ruling, for one of the crimes provided for by the provisions of title III, item III, section II, of law n. 633 dated 22 April 1941, concerning copyright protection, and articles 473 and 474 of the criminal code))**. The alien applying for family joining, pursuant to article 29, is not admitted in Italy when representing an actual and current threat for public order or the State's security or the security of one of the Countries with which Italy has entered into agreements for the suppression of controls to internal borders and the free circulation of people.

4. Entry in Italy can be allowed with short-term residence visas, valid up to 90 days, and for long-term residences that entail for the holder the granting of a residence permit in Italy for reasons identical to what mentioned in the visa. For residences inferior to three months, also the reasons explicitly indicated in visas issued by diplomatic or consular authorities of other States shall be considered valid on the basis of specific international agreements signed and ratified by Italy, or of community regulations.

5. The Ministry of Foreign Affairs adopts, giving prompt communication to the cognizant parliamentary Commissions, every opportune measure of review and modification of the list of Countries whose citizens are subject to the obligation of visa, also implementing obligations deriving from international agreements in force.

6. Entry in the State's territory is denied and removal from the border is carried out as regards expelled aliens, unless they have received special authorization or the period of time concerning the prohibition to enter has finished, as regards aliens that must be expelled and those reported, also on the basis of international agreements or conventions in force in Italy, for removal or non-admission for serious reasons of public order, of national security and protection of international relations.

7. Entry is however subject to compliance with the fulfilment and formalities provided for by the regulation implementation.

Art. 4-bis
(Integration agreement)

1. Pursuant to what mentioned in this consolidated act, integration means the process aimed at promoting the cohabitation of Italian citizens with aliens, respecting the values sanctioned by the Italian Constitution, with the mutual commitment to participate in the economic, social and cultural life of the society.

((1-bis. Within the ambit of the activities aimed at the realization of the integration process as mentioned under paragraph 1, information is provided on

the rights conferred to the alien with residence permit as mentioned under article 5, paragraph 8.1.)).

2. Within one hundred and eighty days from the date of the entering into force of this article, with regulation, adopted pursuant to article 17, paragraph 1, of law n. 400 dated 23 August 1988, upon proposal of the President of the Council of Ministers and the Ministry of Interior, together with the Ministry of Education, University and Research and the Ministry of Labour, Health and Social Policies, criteria and modalities are established for the alien's signing, contextually with the submission of the application for the issuing of the residence permit pursuant to article 5, of an Integration Agreement, articulated by credits, with the commitment to comply with specific integration aims, to be achieved within the period of validity of the residence permit. The signing of the Integration Agreement represents the necessary condition for the issuing of the residence permit. The total loss of the credits determines the revocation of the residence permit and the alien's removal from the State's territory, carried out by the *questore* according to modalities as mentioned under article 13, paragraph 4, with the exception of the alien holder of residence permit for asylum, for asylum application, for subsidiary protection, for humanitarian reasons, for family reasons, long-term EU residence permit, residence paper for foreign EU citizen family member, as well as the alien holder of other residence permit that has exercised the right to family joining.

3. This article is implemented owing to the human, instrumental and financial resources available under the legislation in force, without new or higher expenses for the public finance.

Art. 5

Residence permit

(Law n. 40 dated 6 March 1998, art. 5)

1. Residence in the State's territory is allowed for aliens entered legally pursuant to article 4, holders of valid residence paper or residence permit issued pursuant to this consolidated act or in possession of residence permit or equivalent title issued by the cognizant authority of a State belonging to the European Union, within the limits and conditions provided for by specific agreements.

2. The residence permit application must be submitted, pursuant to the modalities provided for by the regulation implementation, to the *questore* of the province where the alien is present within eight working days upon entering the State's territory, and it is issued for the activities provided for by the entry visa or the provisions in force. The regulation implementation can provide for special issuing modalities as regards short-term residences for tourism, justice, waiting to emigrate to another State, the carrying out of functions as worship minister as well as residences in nursing homes, hospitals, civil and religious institutes and other cohabitations.

2-bis. The alien applying for a residence permit must undergo photodactyloscopic analyses. (6)

2-ter. The application for the issuing and renewal of the residence permit is subject to the payment of a contribution, whose amount is set between a minimum of 80 Euros and a maximum of 200 Euros with decree of the Minister of Economy and Finance, together with the Minister of Interior, that also establishes payment modalities and the implementation modalities of the provision as mentioned under article 14-bis, paragraph 2. The payment of the contribution for the issuing and renewal of the residence permit is not required for asylum, asylum application, subsidiary protection, humanitarian reasons.

3. The duration of the residence permit not issued for work reasons is as provided for by the entry visa, within the limits established in this consolidated act or in implementation of the international agreements and conventions in force. However, the duration cannot be:

- a) more than three months, for visits, business and tourism;
- b) LETTER ABROGATED BY L. N. 189 DATED 30 JULY 2002;
- c) less than the period of attendance, even long-term, of a study path at school and university institutions, as well as high training in arts, music and dance or for training duly certified, withstanding the annual profit verification,

according to what provided for by the regulation implementation. The permit can be prolonged for twelve extra months beyond the term of the accomplished training path, pursuant to what provided for by article 22, paragraph 11-bis; (49)

d) LETTER ABROGATED BY L. N. 189 DATED 30 JULY 2002;

e) more than needs specifically documented, in the other cases provided for by this consolidated act or by the regulation implementation.

3-bis. The residence permit for work reasons is issued following the signing of the work residence contract as mentioned under article 5-bis. The duration of the relevant work residence contract is as provided for by the residence contract and however cannot be more than:

a) a total of nine months, as regards one or more seasonal contracts;

b) one year, as regards a fixed-term subordinate work contract;

c) two years, as regards an open-ended subordinate work contract.

3-ter. The alien proving to have been in Italy for at least two consecutive years for seasonal work can receive, in case of repetitive employments, a long-term permit, with said title, up to three years, for the annual temporal duration which was used in the two previous years with a single measure. The relevant entry visa is issued every year. The permit is revoked immediately should the alien infringe the provisions of this consolidated act.

3-quater. Moreover, aliens with an autonomous work residence permit can reside in the State's territory when said permit is issued on the basis of the certification of the cognizant Italian diplomatic or consular representative concerning the existence of the requisites provided for by article 26 of this consolidated act. The residence permit cannot have a validity lasting more than two years.

3-quinquies. -The Italian diplomatic or consular representatives that issue the entry visa for work reasons, pursuant to paragraphs 2 and 3 of article 4, or entry visa for autonomous work, pursuant to paragraph 5 of article 26, shall provide communication of this also via computer to the Ministry of Interior and to INPS as well as INAIL for the filing in the archive as provided for by paragraph 9 of article 22 within thirty days upon reception of documentation. Said communication is given also to the Ministry of Interior as regards the entry visas for family joining as mentioned under article 29 within thirty days from the reception of the documentation.

3-sexies. In cases of family joining, pursuant to article 29, the duration of the residence permit cannot be more than two years.

4. The application for the renewal of the residence permit must be submitted by the alien to the *questore* of the province where the alien lives, at least sixty days before expiry, and it shall be subject to verification as regards the conditions necessary for the issuing and the various conditions provided for by this consolidated act. Withstanding the various terms provided for by this consolidated act and the regulation implementation, the residence permit shall be renewed for not more than what established with the initial issuing.

4-bis. The alien that applies for the renewal of the residence permit is subject to photodactyloscopic analyses.

5. The residence permit or its renewal is rejected and, if the residence permit was issued, it is revoked, when lacking or coming to lack the requisites necessary for entry and residence in the State's territory, withstanding what provided for by article 22, paragraph 9, and provided that no new elements are found allowing its issuing and that it is not a remediable administrative irregularity. In adopting the measure concerning the rejection of the issuing, the revocation or denial of renewal of the residence permit of the alien that executed the right to family joining or of the family member joined, pursuant to article 29, the nature and the actual family bonds of the interested party are also taken into consideration as well as the family and social connections with his Country of origin, and, for the alien already present on the national territory, also the duration of his residence on the national territory. (47)

5-bis. In evaluating the dangerousness of the alien for the public order and the State's security or the security of one of the Countries with which Italy has signed agreements for the suppression of controls at the internal borders and the free circulation of people for the adoption of the measure as regards the revocation or denial of the renewal of the residence permit for family reasons, it is also necessary to take into consideration possible sentences for the crimes

provided for by article 380, paragraph 1 and 2, and article 407, paragraph 2, letter a), of the code of criminal procedure, or for crimes as mentioned under article 12, paragraph 1 and 3.

5-ter. Residence permit is refused or revoked when ascertaining the infringement of the prohibition as mentioned under article 29, paragraph 1-ter.

6. The refusal or the revocation of the residence permit can also be adopted on the basis of international agreements or conventions, made executive in Italy, when the alien does not satisfy the conditions of residence applicable in one of the contracting States, unless there are serious reasons, in particular of humanitarian nature or resulting from constitutional or international obligations of the Italian State. The residence permit for humanitarian reasons is issued by the *questore* according to modalities provided for in the regulation implementation.

7. The alien with a residence permit or equivalent title issued by the authority of a State belonging to the European Union, valid for residence in Italy, is obliged to state his presence to the *questore* with the modalities and within the terms as mentioned under paragraph 2. Said alien is issued a proper receipt of the residence statement. Transgressors shall be imposed an administrative sanction from 200 thousand Liras to 600 thousand Liras. Should the statement not be provided within 60 days from the entry in the State's territory, an administrative expulsion can be ordered.

8. The residence permit and the residence paper as mentioned under article 9 are issued through advanced technological means with anti-counterfeiting characteristics compliant with the models to be approved with decree of the Ministry of Interior, together with the Ministry for innovation and technologies, implementing regulation (EC) n. 1030/2002 of the Council, dated 13 June 2002, concerning the adoption of a standard form for the residence permits issued to Third Country citizens. Moreover, the residence permit and the residence paper issued in compliance with the above mentioned form show the personal data provided for, as regards the identity card and other electronic documents, by article 36 of the consolidated act of the legislative provisions and regulations with reference to administrative documentation, as mentioned under decree n. 445 of the President of the Republic dated 28 December 2000.

((8.1. In the residence permit that authorizes to work pursuant to the regulations stated in this consolidated act and in the regulation implementation there is the statement: "permit for a single job" ["perm. unico lavoro"].

8.2. The provision as mentioned under paragraph 8.1 does not apply:

- a) to aliens as mentioned under articles 9 and 9-ter;**
- b) to aliens as mentioned under article 24;**
- c) to aliens as mentioned under article 26;**
- d) to aliens as mentioned under article 27, paragraph 1, letters a), g), h), i) and r);**
- e) to aliens residing for temporary protection or for humanitarian reasons, or that have applied for a residence permit for said reasons and are waiting for a decision concerning their application;**
- f) to aliens residing for international protection as defined by article 2, paragraph 1, letter a), of legislative decree n. 251 dated 19 November 2007, or have applied for protection recognition and are waiting for a decision concerning their application;**
- g) to aliens residing for study or training reasons.))**

8-bis. Whoever counterfeits or modifies an entry or re-entry visa, a residence permit, a residence contract or a residence paper, or counterfeits or modifies documents with the aim to cause the issuing of an entry or re-entry visa, a residence permit, a residence contract or residence paper, or uses one of said counterfeited or modified documents shall be punished with imprisonment from one to six years. If the falsity concerns an act or part of an act warranting up to a lawsuit for falsification, imprisonment shall be from three to ten years. The penalty shall be increased if the fact is carried out by a public official.

9. The residence permit is issued, renewed or converted within **((sixty days))** from the date on which the application is submitted, if there are the requisites and the conditions provided for by this consolidated act and by the regulation

implementation as regards the residence permit applied for, or lacking this, for any other type of permit to be issued implementing this consolidated act.(13)

9-bis. While waiting for the issuing or the renewal of the residence permit, even if not in compliance with **((the term of sixty days))** as mentioned under the previous paragraph, the foreign worker can legally reside in the State's territory and work temporarily until receiving a possible communication from the public security Authority, to notify also to the employer, indicating the reasons hindering the issuing or renewal of the residence permit. The work mentioned above can be carried out under the following conditions:

a) the application for the issuing of the residence permit for work reasons must have been carried out by the foreign worker when entering into the residence contract, in compliance with the modalities provided for by the regulation implementation, or, in case of renewal, the application must have been submitted before the expiry of the permit, pursuant to the previous paragraph 4, and of article 13 of decree n. 394 of the President of the Republic dated 31 August 1999, or within sixty days from the expiry of the same;

b) the cognizant office must have issued the receipt certifying the submission of the application for the issuing or renewal of the permit.

UPDATE (6)

Legislative Decree n. 195 dated 9 September 2002, converted with amendments by Law n. 222 dated 9 October 2002, provides for as follows (with art. 2, paragraph 3): "In derogation to what provided for by article 5, paragraph 2-bis, of the consolidated act approved with legislative decree n. 286 dated 25 July 1998, as amended by article 5, paragraph 1, letter b), of law n. 189 dated 30 July 2002, non-EU workers that enter into a residence contract for subordinate work pursuant to article 1, paragraph 5, or other employment contract, are subject to photodactyloscopic analyses within one year from the issuing date of the residence permit and, however, at the moment of the renewal of the same."

UPDATE (13)

Legislative Decree n. 144 dated 27 July 2005, converted with amendments by Law n. 155 dated 31 July 2005, provides for as follows (with art. 1, paragraph 1): "In derogation to what provided for by article 5 of legislative decree n. 286 dated 1998, when, during police operations, investigations or proceedings concerning crimes carried out for terrorism, even international, or eversion of the democratic order, there is the need to guarantee the permanence on the State's territory of the alien who offered his collaboration to the judicial authority or police having the characteristics as mentioned under paragraph 3 of article 9 of the mentioned decree-law n.8 dated 1991, the *questore*, autonomously or upon the report of the people in charge at least at provincial level of the police or directors of Informative and security systems, or when required by the public prosecutor, issues for the alien a special residence permit, of annual duration and renewable for the same period of time."

UPDATE (47)

The Constitutional Court, with ruling n. 202 dated 3 - 18 July 2013, (in the Official Gazette, the special series dated 24 July 2013, n. 30), stated the constitutional "illegitimacy" of art. 5, paragraph 5, of legislative decree n. 286 dated 25 July 1998 (Provisions concerning the entry, residence and removal from the State's territory), in the part where it provides that the discretionary evaluation established in the same is to be applied only to the alien that «exercised his right to family joining» or «joined family member», as well as to the alien «that has family bonds on the State's territory»."

UPDATE (49)

Legislative Decree n. 104 dated 12 September 2013, converted with amendments by Law n. 128 dated 8 November 2013, provides for as follows (with art. 9, paragraph 2): "Within six months from the date of the entering into force of the law of conversion of this decree, it is necessary to adjust the regulation as mentioned under decree n. 394 of the President of the Republic dated 31 August 1999, adopted pursuant to article 1, paragraph 6, of the consolidated act as mentioned under

legislative decree n. 286 dated 25 July 1998. The provision as mentioned under paragraph 1 is applied starting from the fifteenth day after the entering into force of the above mentioned regulatory rules of adaptation."

Art. 5-bis

((Residence contract for subordinate work))

((1. The residence contract for subordinate work entered into between an Italian employer or a foreign employer legally residing in Italy and an employee, citizen of a non-EU State or a stateless person, provides for as follows:

a) the employer's guarantee concerning the availability of lodging for the employee falling within the minimum parameters provided for by law as regards public residential housing;

b) the employer's commitment to pay the travelling expenses for the worker to return to the Country of origin.

2. The contract that does not provide for the statements as mentioned under letters a) and b) of paragraph 1 is not a valid title for the issuing of the residence permit.

3. The residence contract for work reasons is signed on the basis of what provided for by article 22 at the One Stop Shop for immigration of the province where the employer resides or has his registered office or where the job will be carried out pursuant to the modalities provided for by the regulation implementation)).

Art. 6

Residence rights and duties

(Law n. 40 dated 6 March 1998, art. 6;

Royal decree n. 773 dated 18 June 1931, article 144, paragraph 2 and article 148)

1. The residence permit issued for subordinate work, autonomous work and family reasons can be used also for the other activities allowed. The residence permit issued for study and training reasons can be converted, however before its expiry, and upon signing the residence contract for work reasons or upon the issuing of the certification stating the existence of the requisites provided for by article 26, into a residence permit for work reasons within the ambit of the shares established pursuant to article 3, paragraph 4, according to the modalities provided for by the regulation implementation.

2. Excepting the measures concerning sport and recreational activities with temporary nature (**(, for those concerning access to health services as mentioned under article 35 and for those concerning compulsory school services))**, the documents concerning the residence as mentioned under article 5, paragraph 8, must be submitted to the public administration offices for the issuing of licenses, authorizations, registrations and other measures involving the alien however denominated.

((3. The alien that, upon the request of officials and police agents, does not comply, without justified reason, with the order to exhibit passport or other identification document and residence permit or other document certifying the legal presence on the State's territory is punished with arrest up to one year and with a fine up to Euros 2,000)).

4. Should there be any reason to doubt of the alien's identity, the latter is subject to photodactyloscopic and identification analyses.

5. As regards the verifications provided for by this consolidated act or by the regulation implementation, the public security authority, when there are founded reasons, requires aliens to provide information and documents certifying the availability of an income from work or other legal source, sufficient for his own support and that of cohabiting family members present on the State's territory.

6. Excepting what provided for by military laws, the *Prefetto* can prohibit residence to aliens in municipalities or locations that are involved in the military defence of the State. This prohibition is communicated to aliens through the local public security authority or through public notices. The aliens that violate the prohibition can be removed by the police.

7. Registrations and changes of the personal information of the alien legally resident are carried out under the same conditions of the Italian citizens with modalities provided for by the regulation implementation. In any case, the alien's residence is considered habitual even in case of documented hospitality for more than three months at a reception centre. The office must communicate registrations or variations to the *questura* cognizant by territory.

8. Excepting the cases provided for by paragraph 7, the aliens that reside on the State's territory must communicate to the *questore* cognizant by territory, within the following fifteen days, possible variations concerning his habitual domicile.

9. The identification document for aliens is issued according to a model compliant with the type approved with decree of the Ministry of Interior. It is not valid for travelling abroad, unless otherwise regulated by international conventions or agreements.

10. Opposing the measures as mentioned under article 5 and under this article it is possible to lodge an appeal at the cognizant regional administrative court.

Art. 7

Obligations of the hosting party and of the employer
(Royal decree n. 773 dated 18 June 1931, art. 147)

1. Whoever, at any title, gives lodging or hosts an alien or stateless person, even if a relative or the like, ((. . .)) or gives to the same property or the possibility to benefit from real estate, in the country or in the city, located on the State's territory, must provide written communication within forty-eight hours, to the local public security authority.

2. The communication includes, besides the general information of the reporting party, that concerning the alien or stateless person, the data of the passport or identification document, the exact location of the real estate provided or in which the person is living, hosted or provides service and the title for which the communication is due.

2-bis. Infringements of the provisions as mentioned under this article are subject to administrative sanction for an amount from 160 to 1,100 Euros.

Art. 8

(Particular provisions)
(Royal decree n. 773 dated 18 June 1931, art. 149)

1. The provisions of this item are not applied to the members of the sacred college and of diplomatic and consular bodies.

Art. 9

((EU residence permit for long-term residents))

1. The alien in possession of, as of at least five years, a valid residence permit that shows the availability of an income not inferior to the annual amount of the social cheque and, in case of request as regards family members, of a sufficient income pursuant to the parameters indicated in article 29, paragraph 3, letter b) and of a proper lodging falling within the minimum parameters provided for by the regional law for lodging within public residential housing or compliant with the requisites of hygiene-sanitary eligibility ascertained by the Local Health Authority cognizant by territory, can submit application to the *questore* for the issuing of the **((EU residence permit for long-term residents))**, for himself and for family members as mentioned under article 29, paragraph 1.

(24) (29)

((1-bis. The EU residence permit for long-term residents issued to the alien holder of international protection as defined by article 2, paragraph 1, letter a), of legislative decree n. 251 dated 19 November 2007, contains, in the «annotation» section, the statement «international protection recognised by Italy» and then it states the date on which protection was recognised.

1-ter. For the issuing of the EU residence permit for long-term residents as mentioned under paragraph 1-bis, the alien holder of international protection and his family members are not required to submit documentation concerning lodging eligibility as mentioned under paragraph 1, withstanding the need to indicate a

place of residence pursuant to article 16, paragraph 2, letter c), of the regulation implementation. For aliens holders of international protection in conditions of vulnerability as mentioned under article 8, paragraph 1, of legislative decree n. 140 dated 30 May 2005, the availability of free lodging, for aid or charitable purposes, provided by public bodies or recognised private parties, concurs figuratively in establishing the income as mentioned under paragraph 1 in the measure of fifteen per cent of the relevant amount.))

2. The *((EU residence permit for long-term residents))* is indefinite and issued within ninety days from the submission of the application.

2-bis. The issuing of the *((EU residence permit for long-term residents))* is subject to the applicant's passing of an Italian language test, whose modalities are established with decree of the Ministry of Interior, together with the Ministry of Education, University and Research. Should the EC residence permit be issued for carrying out research at universities and bodies supervised by the Ministry of Education, University and Research as mentioned under legislative decree n. 213 dated 31 December 2009, the passing of the above mentioned test is not required.

((2-ter. The provision as mentioned under paragraph 2-bis does not apply to the alien holder of international protection.))

3. The provision as mentioned under paragraph 1 does not apply to aliens that:

a) reside for study or professional training reasons;

b) reside for temporary protection or for humanitarian reasons or have applied for a residence permit for said reasons and are waiting for a decision concerning the application;

c) *((have applied for international protection as defined by article 2, paragraph 1, letter a), of legislative decree n. 251 dated 19 November 2007))* and are still waiting for a definitive decision concerning the application;

d) are holders of a short-term residence permit as provided for by this consolidated act and by the regulation implementation;

e) benefit from the juridical status provided for by the Vienna Convention of 1961 on diplomatic relationships, the Vienna Convention of 1963 on consular relationships, by the Convention of 1969 on special missions or by the Vienna Convention of 1975 on States' representatives in their relationships with international organizations of universal nature.

4. The *((EU residence permit for long-term residents))* cannot be issued to aliens dangerous for public order or the State's security. In evaluating said dangerousness, the alien's belonging to one of the categories mentioned in article 1 of law n. 1423 dated 27 December 1956 is also taken into consideration, as substituted by article 2 of law n. 327 dated 3 August 1988, or in article 1 of law n. 575 dated 31 May 1965, as substituted by article 13 of law n. 646 dated 13 September 1982, or of possible sentences also not definitive, for crimes provided for by article 380 of the code of criminal procedure, as well as, limitedly to non-culpable crimes, by article 381 of the same code. For the adoption of a denial measure as regards the issuing of the residence permit as mentioned under this paragraph, the *questore* also keeps into account the duration of the residence in the national territory and the alien's social, family and labour integration.

((4-bis. Excepting the cases as mentioned under paragraphs 4 and 7, the EU residence permit for long-term residents as mentioned under paragraph 1-bis is rejected or revoked in cases of revocation or termination of the status of refugee or of subsidiary protection provided for by articles 9, 13, 15 and 18 of legislative decree n. 251 dated 19 November 2007. In the cases of termination as mentioned under articles 9 and 15 of the mentioned legislative decree, the alien is issued an EU residence permit for long-term residents, updated with the cancellation of the annotation as mentioned under paragraph 1-bis or a residence permit for other reasons in the presence of the requisites provided for by this consolidated act.))

5. For the calculation of the period as mentioned under paragraph 1, the periods of residence for the reasons indicated in letters d) and e) of paragraph 3 are not taken into consideration.

((5-bis. The calculation of the period of residence as mentioned under paragraph 1, for the issuing of the EU residence permit for long-term residents as mentioned under paragraph 1-bis, is carried out starting from the date of submission of the

application for international protection on the basis of which international protection was recognised.))

6. The alien's absences from the national territory do not interrupt the duration of the period as mentioned under paragraph 1 and are included in the calculation of the same period when inferior to six consecutive months and not above a total of ten months during the five-year period, unless said interruption was caused by the need to carry out military obligations, by serious and documented health reasons or other serious and provable reasons.

7. The residence permit as mentioned under paragraph 1 is revoked:

- a) if acquired fraudulently;
- b) in case of expulsion, as mentioned under paragraph 9;
- c) when lacking or coming to lack the conditions for the issuing, as mentioned under paragraph 4;
- d) in case of absence from the territory of the Union for a period of twelve consecutive months;
- e) in case of issuing of long-term residence permit by another Member State of the European Union, upon communication by the latter, and however in case of absence from the State's territory for more than six years.

8. The alien who has been revoked the residence permit pursuant to letters d) and e) of paragraph 7, can apply for it, with the same modalities as mentioned under this article. In this case, the period as mentioned under paragraph 1, is reduced to three years.

9. The alien, who has been revoked the **((EU residence permit for long-term residents))** and is not subject to expulsion, is issued a residence permit for other reasons implementing this consolidated act.

10. As regards the holder of the **((EU residence permit for long-term residents))**, expulsion can be ordered:

- a) for serious reasons of public order or State security;
- b) in the cases as mentioned under article 3, paragraph 1, of law-decree n. 144 dated 27 July 2005, converted, with amendments, by law n. 155 dated 31 July 2005;
- c) when the alien belongs to one of the categories indicated under article 1 of law n. 1423 dated 27 December 1956, or article 1 of law n. 575 dated 31 May 1965, provided that one of the measures as mentioned under article 14 of law n. 55 dated 19 March 1990 has been implemented, even preventively.

((10-bis. The expulsion of the refugee or of the alien admitted to subsidiary protection and holder of the EU residence permit for long-term residents as mentioned under paragraph 1-bis, is regulated by article 20 of legislative decree n. 251 dated 19 November 2007.))

11. For the adoption of the expulsion measure as mentioned under paragraph 10, the alien's age is kept into consideration, as well as the duration of his residence on the national territory, the possible consequences of the expulsion for the party involved and family members, the existence of family bonds and social connections on the national territory and the lack of said bonds in the Country of origin.

12. Besides what provided for as regards the alien legally resident in the State's territory, the holder of the **((EU residence permit for long-term residents))** can:

- a) enter the national territory without visa and circulate freely on the national territory with the exception of what provided for by article 6, paragraph 6;
- b) carry out on the State's territory any kind of subordinate or autonomous work excepting what the law expressly reserves to citizens or prohibits as regards aliens. In order to carry out subordinate work it is not necessary to enter into a residence contract as mentioned under article 5-bis;
- c) make use of the welfare services, national insurance, health, school and social services, as well as services for accessing procedures in order to obtain public residential lodging, unless otherwise provided for and as long as the alien's actual residence on the national territory is proved;
- d) participate in the local public life, with the forms and within the limits provided for by the laws in force.

13. The alien expelled by another Member State of the European Union is authorized to be readmitted on the national territory if holder of the **((EU**

residence permit for long-term residents)) as mentioned under paragraph 1 and does not constitute danger for public order and the State's security.

((13-bis. Moreover, readmission on the national territory is authorized for the alien with EU residence permit for long-term residents holder of international protection removed by another Member State of the European Union and for his family members, when under the 'annotations' of the mentioned permit it is stated that the international protection was recognized by Italy. Within thirty days from the reception of the relevant request for information, communication is sent to the Member State asking if the alien still benefits from the protection recognised by Italy.))

UPDATE (24)

The Constitutional Court, with ruling n. 306 dated 29-30 July 2008, (in the Official Gazette, the special series dated 6 August 2008, n. 33) stated the constitutional illegitimacy of paragraph 1, in the part where it excludes that the accompanying indemnity, as mentioned under article 1 of law n. 18 dated 11 February 1980, can be attributed to non-EU foreign citizens only because they do not result in possession of the income requisites already established for the residence paper and now provided for, by effect of legislative decree n. 3 dated 8 January 2007, (Implementation of directive 2003/109/EC concerning the status of Third-Country long-term residents) for the EC residence permit for long-term residents.

UPDATE (29)

The Constitutional Court, with ruling n. 11 dated 14-23 January 2009 (in the Official Gazette, the special series dated 28 January 2009, n. 4) stated the constitutional illegitimacy of paragraph 1 of this article 9, "in the part where it excludes the disability pension, as mentioned under article 12 of law n. 118 dated 30 March 1971 (Conversion in law of legislative decree n. 5 dated 30 January 1971, and new rules in favour of wounded and disabled persons), can be attributed to non-EU foreign citizens only because they do not result in possession of income requirements already established for the residence paper and now provided for, by effect of Legislative decree n. 3 of 2007, for the EC residence permit for long-term residents."

Art. 9-bis

Aliens in possession of **((EU residence permit for long-term residents))** issued by another Member State.

1. The alien, holder of **((EU residence permit for long-term residents))** issued by another Member State of the European Union and in course of validity, can ask to reside on the national territory for not more than three months, for the following reasons:

a) to carry out an economic activity in quality of subordinate or autonomous worker, pursuant to article 5, paragraph 3-bis, articles 22 and 26. Certifications as mentioned under article 26 are issued by the One Stop Shop (*Sportello unico*) for immigration;

b) to attend study courses or professional training pursuant to the laws in force;

c) to reside for other legal purposes upon proving of being in possession of non-occasional means of support, of an amount above the double of the minimum amount provided for by law for the exemption from the participation to health expenses and health insurance for the period of residence.

2. The alien as mentioned under paragraph 1 is issued a residence permit according to the modalities provided for by this consolidated act and the regulation implementation.

3. The family members of the alien holder of the **((EU residence permit for long-term residents))** and in possession of a valid title of residence issued by the Member State of provenance, are issued a residence permit for family reasons, pursuant to article 30, paragraphs 2, 3 and 6, upon proving to have resided in quality of family members of the long-term residing party in the same Member State and to be in possession of the requisites as mentioned under article 29, paragraph 3.

4. For stays lasting less than 3 months, article 5, paragraph 7, with exclusion of the fourth period is applied to the alien as mentioned under paragraphs 1 and 3.

5. The alien as mentioned under paragraphs 1 and 3 is allowed to enter the national territory, in exemption of visa and regardless of the requisite of the actual residence abroad, for the issuing procedure of the no impediment document as mentioned under article 22.

6. The residence permit as mentioned under paragraphs 2 and 3 is rejected and, if issued, is revoked, with reference to aliens dangerous for public order or the State's security. In evaluating the dangerousness, the alien's belonging to one of the categories indicated in article 1 of law n. 1423 dated 27 December 1956 is also taken into consideration, as substituted by article 2 of law n. 327 dated 3 August 1988, or in article 1 of law n. 575 dated 31 May 1965, as substituted by article 13 of law n. 646 dated 13 September 1982, or possible sentences, also not definitive, for the crimes provided for by article 380 of the code of criminal procedure, as well as, limitedly to non-culpable crimes, by article 381 of the same code. In adopting the measure, the party's age is also taken into consideration, as well as the duration of the residence on the national territory, the consequences of the expulsion of the person involved and family members, the existence of family bonds and social connections on the national territory and the absence of said bonds in the Country of origin.

7. As regards aliens as mentioned under paragraph 6, the expulsion measure is adopted pursuant to article 13, paragraph 2, letter b), and removal is carried out toward the Member State of the European Union that issued the residence permit. Should there be the conditions for the adoption of the expulsion measure pursuant to article 13, paragraph 1, and of article 3, paragraph 1 of law decree n. 144 dated 27 July 2005, converted, with amendments, by law n. 155 dated 31 July 2005, expulsion is adopted having heard the Member State that issued the residence permit, and removal is executed outside of the territory of the European Union. **((The alien, whose EU residence permit for long-term residents issued by another Member State of the European Union states his right to international protection, as defined by article 2, paragraph 1, letter 1), of legislative decree n. 251 dated 19 November 2007, and that of his family members, is removed toward the Member State that recognised the international protection, upon confirmation of said State of the up-to-datedness of the protection. Should there be the conditions as mentioned under article 20 of legislative decree n. 251 dated 19 November 2007, the removal can be accomplished outside the territory of the European Union, having heard the Member State that recognised the international protection, withstanding the compliance with the principle as mentioned under article 19, paragraph 1.))**

8. The alien as mentioned under paragraphs 1 and 3, in possession of the requisites as mentioned under article 9, is issued, within ninety days from the application, an **((EU residence permit for long-term residents))**. Said issuing is communicated to the Member State that issued the previous **((EU residence permit for long-term residents))**. **((If the previous EU residence permit for long-term residents issued by another Member State, in the 'annotation' section, states the holding of international protection as defined by article 2, paragraph 1, letter a), of the legislative decree n. 251 dated 19 November 2007, the EU residence permit for long-term residents issued pursuant to this paragraph shall state the same annotation previously inserted. To this end, the Member State that issued the previous EU residence permit for long-term residents is requested to confirm if the alien still benefits from international protection or if said protection was revoked with definitive decision. If, following the issuing of the EU residence permit for long-term residents, the responsibility of international protection is transferred to Italy, according to international and national rules that regulate the transfer, the 'annotations' section of the EU residence permit for long-term residents is updated within three months in compliance with said transfer.))**

((8-bis. Within thirty days from the relevant request, the other Member States of the European Union are provided with information concerning the status of international protection recognised by Italy to aliens that have obtained an EU residence permit for long-term residents in said Member States.

8-ter. Within thirty days from the recognition of international protection or the transfer of the responsibility to Italy of the international protection of an

alien holder of an EU residence permit for long-term residents issued by another Member State of the European Union, this Member State is requested to insert or modify the relevant annotation on the EU residence permit for long-term residents.))

Art. 9-ter

(Status of EC long-term resident as regards holders of EU Blue Card)

1. The alien holder of an EU Blue Card issued by another Member State and authorized to reside in Italy under the conditions provided for by article 27-*quater*, can apply to the *Questore* for the issuing of the **((EU residence permit for long-term residents))**, as mentioned under article 9.

2. The provision as mentioned under paragraph 1 is applied to the alien who proves as follows:

a) to have resided, legally and interruptedly, for five years in the territory of the Union as holder of the EU Blue Card;

b) to be in possession, as of at least two years, of an EU Blue Card permit pursuant to article 27-*quater*. The alien's absences from the territory of the Union do not interrupt the duration of the period as mentioned under this paragraph and are included in the calculation of the same period when inferior to twelve consecutive months and not above a total of eighteen months in the period as mentioned under letter a).

3. The holders of the EU Blue Card, in possession of the requisites provided for under paragraph 2, are issued by the *questore* the **((EU residence permit for long-term residents))**, stating the phrase, in the 'annotation' section, 'Former holder of EU Blue Card'.

4. The residence permit as mentioned under paragraph 1 is revoked in the hypothesis provided for by article 9, paragraph 7, letters a), b), c) and e), as well as in case of absence from the territory of the Union for twenty-four consecutive months.

5. The family members of the alien holder of the **((EU residence permit for long-term residents))**, issued pursuant to this article, in possession of a valid document, are issued a residence permit for family reasons pursuant to article 5, paragraph 3-*sexies*, and article 30, paragraphs 2 and 6, upon proving to have the requisites as mentioned under article 29, paragraph 3.

6. The family members of the alien holder of the **((EU residence permit for long-term residents))** issued pursuant to this article, in possession of the requisites as mentioned under article 9, paragraph 1, are issued the **((EU residence permit for long-term residents))** if they have resided, legally and interruptedly, for five years in the territory of the Union, the last two of which in the national territory.

TITLE II
PROVISIONS CONCERNING ENTRY, RESIDENCE
AND
REMOVAL
FROM THE STATE'S TERRITORY
ITEM II
BORDER CONTROL,
REJECTION
AND EXPULSION

Art. 10
Rejection
(Law n. 40 of 6 March 1998, art. 8)

1. The border police rejects aliens that show up at the borders without the requisites provided for by this consolidated act for entering the State's territory.

2. Rejection and accompanying to the border is provided for by the *questore* as regards aliens:

a) that, when entering the State's territory, avoid border controls and are stopped at their entry or immediately after;

b) that, in circumstances as mentioned under paragraph 1, were temporarily admitted on the territory because in need for public aid.

((3. The means of transport that conducted to the border an alien without documents as mentioned under article 4, or that however has to be rejected in compliance with this article, must take said alien in charge and take him back to the State of provenance, or to that which issued the travel document possibly in the alien's possession. This provision is applied also when entry is denied to the alien in transit, should the means that was supposed to transport the alien to the Country of destination refuse to do so or if the authorities of the State of destination have denied entry or have sent the alien back to the State.))

4. The provisions in paragraphs 1, 2 and 3 and those under article 4, paragraphs 3 and 6, do not apply in the cases provided for by the provisions in force that regulate political asylum, recognition of the status of refugee, or adoption of temporary protection measures for humanitarian reasons.

5. The rejected alien is provided with all necessary assistance at the borders.

6. Rejections as mentioned under this article are registered by the public security authority.

Art. 10-bis
(Illegal entry and residence in the State's territory)

1. Unless the fact constitutes a more serious crime, the alien that enters the State or remains on the State's territory infringing the provisions of this consolidated act as well as those as mentioned under article 1 of law n. 68 dated 28 May 2007, is punished with a sanction from 5,000 to 10,000 Euros. Article 162 of the code of criminal procedure is not applied to this crime as mentioned under this paragraph.

2. The provisions as mentioned under paragraph 1 do not apply to the alien addressee of the rejection measure pursuant to article 10, paragraph 1 **((or to the alien identified during border police controls, exiting the national territory))**.

3. The provisions as mentioned under articles 20-bis, 20-ter and 32-bis of legislative decree n. 274 dated 28 August 2000 are applied to the criminal proceedings for the crime as mentioned under paragraph 1.

4. For the execution of the expulsion of the alien reported pursuant to paragraph 1, the issuing of the no impediment document is not requested as mentioned under article 13, paragraph 3, by the judicial authority cognizant for ascertaining the crime. The *questore* communicates the execution of the expulsion or rejection as mentioned under article 10, paragraph 2, to the judicial authority cognizant for ascertaining the crime.

5. The judge, once acquired the news of the expulsion or rejection pursuant to article 10, paragraph 2, dismisses the case. If the alien re-enters the State's territory illegally before the term provided for by article 13, paragraph 14, he is subject to article 345 of the code of criminal procedure.

6. In case of submission of application for international protection as mentioned under legislative decree n. 251 dated 19 November 2007, the proceedings is suspended. Once acquired the communication concerning the recognition of international protection as mentioned under legislative decree n. 251 dated 19 November 2007, or the issuing of the residence permit in the cases as mentioned under article 5, paragraph 6 of this consolidated act, the judge dismisses the case.

Art. 11

Strengthening and coordination of border controls
(Law n. 40 dated 6 March 1998, art. 9)

1. The Ministry of Interior and the Ministry of Foreign Affairs enforce the general plan of interventions for the strengthening and the perfecting also through the automation of procedures and control measures falling within respective competences, within the ambit of compatibilities with the informative systems of non-national level provided for by the international agreements or conventions in force and of the provisions in force as regards the protection of personal data.

1-bis. The Ministry of Interior, having heard, when necessary, the National Committee for public order and security, issues the measures necessary for a unified coordination of controls on the Italian maritime and land borders. The Ministry of Interior also promotes specially provided coordination measures between the Italian cognizant authorities as regards controls on immigration and the European cognizant authorities as regards controls on immigration pursuant to the Schengen Agreement, ratified pursuant to law n. 388 dated 30 September 1993.

2. The parts of the plan concerning the automated informative systems and relevant contracts are communicated to the IT Authority in the public administrations.

3. Within the ambit and in the implementation of the directives adopted by the Ministry of Interior, the prefects of the provinces at land borders and the prefects of the regional capital cities involved at maritime borders promote the measures necessary for the coordination of border controls and the maritime and land surveillance, in agreement with the prefects of the other provinces involved, having heard the *questori* and the managers of the areas controlled by the border police, as well as the maritime and military authorities and those responsible for the police bodies, of level not inferior to the provincial one, possibly interested, and supervise the implementation of the directives issued as regards this matter.

4. The Ministry of Foreign Affairs and the Ministry of Interior promote the initiatives necessary, in agreement with the Countries interested, in order to accelerate the carrying out of the ascertainment and the issuing of the documents possibly necessary to improve the effectiveness of the measures provided for by this consolidated act, and for mutual collaboration so as to fight against illegal immigration. To this end, collaboration agreements can provide for the free transfer to the authorities of the Countries involved of movables and devices specifically identified, within the limits of functional and financial compatibilities defined by the Ministry of Interior, together with the Ministry of Treasury, Budget and Economic Planning, and, if concerning goods, devices or ancillary services provided by other administrations, with the cognizant Ministry.

5. For the purposes as mentioned under paragraph 4, the Ministry of Interior organizes one or more long-term programmes of extraordinary interventions for the acquisition of plants and technical and logistic means necessary to acquire or restore the movables and devices substituting those given to the Countries involved, or to provide assistance and other ancillary services. When concerning goods, devices or services provided by other administrations, the programmes are adopted in agreement with the cognizant Ministry.

((5-bis. The Ministry of Interior, within the ambit of interventions supporting preventive policies for fighting against illegal immigration from Countries of ascertained provenance, shall contribute, for years 2004 and 2005, in the realization, in the territories of the Countries involved, of structures, useful for fighting against illegal flows of migratory population toward the Italian territory.))

6. Reception services are provided at the borders in order to give information and assistance to aliens that intend to submit application for asylum or enter Italy for a residence lasting more than three months. Said services are put at disposal, when possible, within the transit area.

Art. 12

Provisions against illegal immigration
(Law n. 40 dated 6 March 1998, art. 10)

1. Unless the fact constitutes a more serious crime, whoever, infringing the provisions of this consolidated act, promotes, directs, organizes, finances or transports aliens in the State's territory or carries out other acts aimed at their illegal entry in the State's territory, or in another State of which the person is not citizen or does not have the right to permanent residence, is punished with imprisonment from one to five years and with a 15,000 Euro fine for each person.

2. Withstanding what provided for by article 54 of the code of criminal procedure, aid and humanitarian assistance carried out in Italy toward aliens in state of need, however present on the State's territory, do not constitute crime.

3. Unless the fact constitutes a more serious crime, whoever, infringing the provisions of this consolidated act, promotes, directs, organizes, finances or transports aliens in the State's territory or carries out other acts aimed at the illegal entry in the State's territory, or in another State of which the person is not citizen or does not have the right to permanent residence, is punished with imprisonment from one to fifteen years and with a 15,000 Euro fine for each person in the following cases:

a) the fact concerns the entry or the illegal permanence in the State's territory of five or more persons;

b) the life of the person transported was placed at risk or was exposed to danger to obtain his entry or illegal permanence;

c) the person transported underwent inhuman or demeaning treatment to obtain his entry or illegal permanence

d) the fact was carried out by three or more persons in agreement among each other or using international transportation services or counterfeited or modified documents or in any case obtained illegally;

e) the authors of the fact have the availability of weapons or explosives.

3-bis. If the facts as mentioned under paragraph 3 are committed occurring two or more of the hypothesis as mentioned under letters a), b), c), d) and e) of the same paragraph, the sentence provided for is increased.

3-ter. Imprisonment is increased from one third to half and a 25,000 Euro fine is imposed on every person if the facts as mentioned under paragraphs 1 and 3 are committed:

a) with the aim to recruit persons to destine to prostitution or however sexual or labour exploitation, or concern the entry of minors for favouring their exploitation in illegal activities;

b) are committed for profit, even indirect.

3-quater. The extenuating circumstances, different from those provided for by articles 98 and 114 of the code of criminal procedure, concurring with the aggravating circumstances as mentioned under paragraphs 3-bis and 3-ter, cannot be considered equivalent or prevalent and the reductions of the sanction are carried out on the quantity of sentence resulting from the increase consequent the above mentioned aggravating circumstances.

3-quinquies. For the crimes provided for by the previous paragraphs, the sentences are decreased up to half for the defendant that works toward avoiding that the criminal activity has further consequences, helping in actual fact the police or judicial authority in collecting evidence decisive for reconstructing the facts, for finding or capturing one or more authors of crimes and for subtracting resources relevant for carrying out said crimes.

3-sexies. Under article 4-bis, paragraph 1, third period, of law n. 354 dated 26 July 1975, and following amendments, after the phrase:

"609-octies of the code of criminal procedure" the following statement has been added: "as well as by article 12, paragraphs 3, 3-bis and 3-ter, of the consolidated act as mentioned under legislative decree n. 286 of 25 July 1998."

3-septies. PARAGRAPH ABROGATED BY L. N. 146 DATED 16 MARCH 2006.

4. In the cases provided for by paragraphs 1 and 3, when in flagrancy, arrest is mandatory.

4-bis. When there is serious proof of culpability as regards the crimes provided for by paragraph 3, preventive detention in prison is enforced unless elements have been acquired from which there is evidence that there is no need for preventive measures. **((41))**

4-ter. In the cases provided for by paragraphs 1 and 3, the confiscation of the means of transport used for committing the crime is always provided for, also when implementing the sentence upon the parties' request.

5. Excepting the cases provided for by the previous paragraphs, and unless the fact does not constitute a more serious crime, whoever, in order to obtain an illegal profit from the alien's condition of illegality or within the ambit of activities punished in compliance with this article, favours the permanence of said aliens on the State's territory in violation of the regulations of this consolidated act, is punished with imprisonment up to four years and with a fine up to thirty million Euros. When the fact is committed in complicity by two or more persons, or it concerns the permanence of five or more persons, the sentence is increased from one third to half.

5-bis. Unless the fact constitutes a more serious crime, whoever, under remuneration in order to obtain an illegal profit, gives shelter or transfers a real estate, also in tenancy, to an alien that is lacking a residence permit when signing a rent contract or the renewal of said contract, is punished with imprisonment from six months to three years. The sentence with irrevocable provision or the implementation of the sentence upon the parties' request is regulated by article 444 of the code of criminal procedure, even if the conditional suspension of the sentence was granted, and entails the confiscation of the real estate, unless it belongs to a person not involved in the crime. The provisions implemented, as they are applicable, are those in force concerning the management and destination of the goods confiscated. The amounts of money obtained by the sale, where provided for, of the goods confiscated are destined to strengthening the prevention and repression activities of crimes connected to illegal immigration.

6. The air, maritime or land carrier must make sure that the alien being transported is in possession of the documents required for entering the State's territory, as well as refer to the border police concerning the possible presence on board his means of transport of aliens in an illegal position. In case of non-compliance with even just one of the obligations as mentioned under this paragraph, an administrative sanction is imposed from 3,500 Euros to 5,500 Euros for each of the aliens transported. In the most serious cases, the suspension of the authorization or concession of the licence issued by the Italian administrative authority is ordered from one to twelve months, or its revocation, with reference to the professional activity carried out and the means of transport used. The provisions implemented are those as mentioned under law n. 689 dated 24 November 1981.

7. During police operations aimed at fighting against illegal immigration, provided for within the ambit of the directives as mentioned under article 11, paragraph 3, public security officials and agents operating in provinces along the border and in territorial waters can control and inspect means of transport and what transported, even if in the presence of subjects under special customs regime, when, also as regards specific circumstances of place and time, there are founded reasons to believe that they are being used for any of the crimes provided for by this article. On the basis of the outcome of the controls and inspections, a report is written on specially provided forms, which is transmitted within forty-eight hours to the public prosecutor who, if there are the conditions, validates the report within the following forty-eight hours. In the same circumstances, the judicial police officials can also carry out a search, in compliance with the provisions as mentioned under article 352, paragraphs 3 and 4, of the code of criminal procedure.

8. The goods impounded during police operations aimed at preventing and repressing the crimes provided for by this article, are entrusted by the judicial authority in judicial custody, unless there are procedural needs, to the police bodies that submit request for their use in their activities or other bodies of the State or other public bodies due to justice, civil protection or environmental protection purposes. The means of transport cannot be in any way whatsoever alienated. The provisions of article 100, paragraphs 2 and 3 of the consolidated act of the laws regulating drugs and psychotropic substances are implemented, as they are compatible, approved with decree n. 309 of the President of the Republic dated 9 October 1990.

8-bis. Should no requests be submitted for the entrusting of the means of transport impounded, the provisions to be applied are those of article 301-bis, paragraph 3, of the consolidated act of the legislative provisions as regards customs, as mentioned under decree n. 43 of the President of the Republic dated 23 January 1973, and following amendments.

8-ter. Destruction can be provided for directly by the President of the Council of Ministers or by the authority delegated by the same, upon the issuing of a no impediment document by the acting judicial authority.

8-quater. The measure regulating the destruction pursuant to paragraph 8-ter also establishes the execution modalities.

8-quinquies. The goods acquired by the State following the definitive confiscation measure are, upon request, appointed to the administration or transferred to the body that had their use pursuant to paragraph 8 or are alienated or destroyed. The means of transport not appointed, or transferred for purposes as mentioned under paragraph 8, are however destroyed. The provisions implemented, as they are applicable, are those in force as regards the management and destination of confiscated goods. In order to establish possible indemnity, paragraph 5 is implemented of article 301-bis of the mentioned consolidated act as provided for by decree n. 43 of the President of the Republic dated 23 January 1973, and following amendments.

9. The money confiscated following the sentence for one of the crimes provided for by this article, as well as the money obtained from the sale of the goods confiscated, where ordered, are destined to strengthening the prevention and repression activities of the mentioned crimes, also at international level through interventions aimed at the collaboration and technical operational assistance with the police of the Countries involved. To this end, the amounts are placed on a specially provided revenue item of the State's budget to be appointed, on the basis of specific requests, to pertinent forecast items of the Ministry of Interior, in the section "public security."

9-bis. The Italian police patrol meeting in territorial waters, or in contiguous zones, a ship of which there are founded reasons to believe that it is equipped or involved in illegal transportation of migrants, can stop it, subject it to inspection and, if finding elements that confirm the involvement of the ship in trafficking of migrants, sequester it taking the same to the State's harbour.

9-ter. Withstanding the institutional competences as regards national defence, the ships of the Navy can be used to concur to the activities as mentioned under paragraph 9-bis.

9-quater. The powers as mentioned under paragraph 9-bis can be executed outside the territorial waters, besides the Navy, also by police patrols, within the limits provided for by law, by international law or by bilateral or multilateral agreements, if the ship exhibits national flag or also that of another State, or if it is a ship without flag or with a convenience flag.

9-quinquies. The modalities of intervention of the Navy's ships as well as those collaborating in activities carried out by the other police naval units are defined with inter-ministerial decree of the Ministry of Interior, of Defence, of Economy and Finance and of Infrastructure and Transport.

9-sexies. The provisions as mentioned under paragraphs 9-bis and 9-quater are implemented, as they are compatible, also for controls concerning air traffic.

UPDATE (41)

The Constitutional Court, with ruling n. 331 dated 12 - 16 December 2011 (in the Official Gazette, the special series dated 21 December 2011, n. 53) stated the "the constitutional illegitimacy of article 12, paragraph 4-bis, of legislative decree n. 286 dated 25 July 1998, (Consolidated act of provisions concerning the measures on immigration and rules on the alien's conditions), added by article 1, paragraph 26, letter f), of law n. 94 dated 15 July 2009, (Provisions concerning public security), in the part in which - when there is serious proof of culpability as regards crimes provided for by paragraph 3 of the same article, precautionary custody in prison is implemented, unless elements have been acquired which show that there are no precautionary needs - it does not withstand the case in which specific elements have been acquired concerning the

actual case, which prove that precautionary needs can be satisfied with other measures."

Art. 13

Administrative expulsion

(Law n. 40 dated 6 March 1998, art. 11)

1. For reasons connected to public order or the State's security, the Ministry of Interior can order the expulsion of the alien also not resident on the State's territory, giving preventive notice to the President of the Council of Ministers and to the Ministry of Foreign Affairs.

2. The expulsion is ordered by the *prefetto*, case by case, when the alien:

a) entered the State's territory avoiding border controls and was not rejected pursuant to article 10;

b) remained on the State's territory without providing communication as mentioned under article 27, paragraph 1-bis, or without applying for residence permit within the established term, unless the delay was due to force majeure, or when the residence permit was revoked or annulled or refused or expired for more than sixty days and renewal was not applied for, or if the alien remained on the State's territory infringing article 1, paragraph 3, of Law n. 68 dated 28 May 2007.

c) belongs to one of the categories indicated in article 1 of law n. 1423 dated 27 December 1956, as substituted by article 2 of law n. 327 dated 3 August 1988, or in article 1 of law n. 575 dated 31 May 1965, as substituted by article 13 of law n. 646 dated 13 September 1982.

2-bis. In adopting the expulsion measure, pursuant to paragraph 2, letters a) and b), with reference to the alien that executed the right to family joining or of the re-joined family member, pursuant to article 29, also the nature and the reality of the family bonds of the party involved are taken into consideration, as well as the duration of his residence on the national territory and the existence of family, cultural or social connections with his Country of origin.

2-ter. Expulsion is not ordered, nor carried out coercively if the measure has already been adopted against the alien identified exiting the national territory during police controls at external borders.

3. Expulsion is provided for in any case with immediately executive motivated decree, also if subject to encumbrance or act of impugnation by the party involved. Should the alien be subject to criminal proceedings and is not in a state of precautionary custody in prison, the *questore*, before carrying out the expulsion, asks for the no impediment document from the judicial authority, that can deny it only in the presence of imperative proceedings needs evaluated with reference to the ascertainment of the liability of possible concurring parties in the crime or defendants in proceedings for connected crimes, and with reference to the interest of the person offended. In this case, the execution of the measure is suspended until the judicial authority communicates the termination of the proceedings needs. The *questore*, once obtained the no impediment document, provides for the expulsion with the modalities as mentioned under paragraph 4. The no impediment document is considered granted if the judicial authority does not intervene within seven days from the date of reception of the request. While waiting for the decision concerning the request of the no impediment document, the *questore* can adopt the detaining measure at a temporary reception centre, pursuant to article 14. (14a)

3-bis. In case of arrest in flagrancy or of detention, the judge issues the no impediment document at the moment of the validation, unless implementing the measure as regards precautionary custody in prison pursuant to article 391, paragraph 5, of the code of criminal procedure, or unless one of the reasons for which the no impediment document can be denied occurs, pursuant to paragraph 3.

3-ter. The provisions as mentioned under paragraph 3 are implemented also as regards the alien subject to criminal proceedings, following the revocation or the extinction for any reason whatsoever of the precautionary custody in prison applied against the mentioned alien. The judge, with the same measure with which he revokes or declares the extinction of the measure, decides concerning the issuing of the no impediment document for the execution of the expulsion. The measure is immediately communicated to the *questore*.

3-quater. In the cases provided for by paragraphs 3, 3-bis and 3-ter, the judge, once acquired the proof of the occurred expulsion, if the measure provided for by the judgement has not been issued yet, sentences the indictment. The confiscation of the goods is always ordered as indicated in the second paragraph of article 240 of the code of criminal procedure. The regulations implemented are those as mentioned under paragraphs 13, 13-bis, 13-ter and 14.

3-quinquies. If the alien expelled re-enters the State's territory illegally before the term provided for by paragraph 14 or, if of longer duration, before the prescription term of the more serious crime for which proceedings were carried out against him, he is subject to article 345 of the code of criminal procedure. If the alien was released from prison for expiry of the terms of maximum duration of the precautionary custody, the latter is re-established pursuant to article 307 of the code of criminal procedure.

3-sexies. PARAGRAPH ABROGATED BY L.D. n. 144 DATED 27 JULY 2005, CONVERTED WITH AMENDMENTS BY L. N. 155 DATED 31 JULY 2005.

4. Expulsion is carried out by the *questore* with the police accompanying to the border:

a) in the hypothesis as mentioned under paragraphs 1 and 2, letter c), of this article or article 3, paragraph 1, of law decree n. 144 dated 27 July 2005, converted with amendments by law n. 155 dated 31 July 2005;

b) when there is the risk of escape, as mentioned under paragraph 4-bis;

c) when the application for the residence permit was rejected because clearly unfounded or fraudulent;

d) if, without justified reason, the alien did not comply with the term granted for the voluntary leave, as mentioned under paragraph 5;

e) when the alien has also infringed one of the measures as mentioned under paragraph 5.2 and as mentioned under article 14, paragraph 1-bis;

f) in the hypothesis as mentioned under articles 15 and 16 and in the other hypothesis in which the alien's expulsion was ordered as criminal sanction or as consequence of a criminal sanction;

g) in the hypothesis as mentioned under paragraph 5.1.

4-bis. The risk of escape falls within what mentioned under paragraph 4, letter b), should at least one of the following circumstances occur from which the *prefetto* ascertains, case by case, the risk that the alien can avoid the voluntary execution of the expulsion measure:

a) the alien is not in possession of passport or other equivalent document, in course of validity;

b) the alien does not have proper documentation capable of proving the availability of a lodging where he can be easily traced;

c) the alien stated previously or falsely certified his personal data;

d) the alien did not comply with one of the measures issued by the cognizant authority, implementing paragraphs 5 and 13, as well as article 14;

e) the alien infringed also one of the measures as mentioned under paragraph 5.2.

5. If the conditions for immediate accompanying to the border as mentioned under paragraph 4 are inexistent, the alien, addressee of an expulsion measure, can ask the *prefetto*, for the execution of the expulsion, to be granted a period of time for voluntary departure, also through programmes of voluntary and assisted repatriation, as mentioned under article 14-ter. The *prefetto*, once evaluated the single case, with the same expulsion measure, orders the alien to leave the national territory voluntarily, within a term comprised between 7 and 30 days. This term can be extended, if necessary, for a reasonable period, proportioned to the specific circumstances of the individual case, such as the duration of the residence on the national territory, the existence of minors that attend school or other family bonds and social connections, as well as the admission to programmes of voluntary and assisted repatriation, as mentioned under article 14-ter. The *questura*, once acquired the proof of the occurred repatriation of the alien, notifies the judicial authority cognizant for the ascertainment of the crime provided for by article 10-bis, for the purposes as mentioned under paragraph 5 of the same article. The provisions of this paragraph do not apply, however, to the alien addressee of a rejection measure, as mentioned under article 10.

5.1. For the implementation of paragraph 5, the *questura* takes care of providing adequate information to the alien concerning the possibility to ask for a term

for voluntary departure, through multilingual informative forms. In case said term is not requested, expulsion is carried out pursuant to paragraph 4.

5.2. Should a term be granted for voluntary departure, the *questore* requires for the alien to prove the availability of sufficient economic resources deriving from legal sources, for an amount proportional to the term granted, comprised between one and three months of the annual social cheque. Moreover, the *questore* provides for one or more of the following measures: a) to hand in passport or other equivalent document in course of validity, which shall be given back at the moment of departure; b) obligation to live in a place found beforehand, where he can be easily traced; c) obligation to present himself, according to days and hours established, at the police department territorially cognizant. The measures as mentioned under the second period are adopted with motivated measure, which has effect from the notification to the person involved, provided for pursuant to article 3, paragraphs 3 and 4 of the regulation, stating the notice that the same has the right to submit personally or through defender notes or deductions to the validation judge. The measure is communicated within 48 hours from the notification to the lay judge cognizant by territory. The judge, if there are the conditions, orders with decree the validation within the following 48 hours. The measures, upon request of the party involved, having heard the *questore*, can be modified or revoked by the lay judge. The transgressor, even only of one of the above mentioned measures, is punished with a fine from 3,000 to 18,000 Euros. In this hypothesis, for the alien's expulsion, the issuing of the no impediment document is not requested as mentioned under paragraph 3 by the judicial authority cognizant for the ascertainment of the crime. The *questore* carries out the expulsion, provided for pursuant to paragraph 4, also through the modalities provided for by article 14.

((5-bis. In the cases provided for by paragraph 4, the questore communicates immediately and, however, within forty-eight hours from its adoption, to the lay judge territorially cognizant, the measure with which the accompanying to the border is provided for. The questore's execution of the measure concerning the removal from the national territory is suspended until the decision of the validation. The hearing for the validation is carried out in chamber of council with the necessary participation of a defender promptly notified. The party involved is also promptly informed and led to the place where the judge holds the hearings. The alien has the right to the legal assistance of a hired counsel provided with special power of attorney. The alien is also admitted to legal aid at the State's expense, and, should he not have a defender, he shall be assisted by a defender appointed by the judge within the ambit of the subjects registered in the list as mentioned under article 29 of the rules of implementation, coordination and transitory of the code of criminal procedure, as mentioned under legislative decree n. 271 dated 28 July 1989, as well as, if necessary, by an interpreter. The authority that adopted the measure can be present at the hearing personally also making use of officials specially delegated. The judge orders the validation, with motivated decree, within the following forty-eight hours, once verified the compliance with the terms, the existence of the requisites provided for by this article and having heard the party involved if present. While waiting for the defining of the validation procedure, the alien expelled is kept in one of the identification and expulsion centres, as mentioned under article 14, unless the procedure can be defined in the place where the removal measure was adopted even before the transfer to one of the centres available. When the validation is granted, the accompanying measure to the border becomes executive. If the validation is not granted or the term for the decision is not complied with, the questore's measure loses all effects. Opposing the validation decree, it is possible to recur to cassation. The relevant appeal does not suspend the execution of the removal from the national territory. The term of forty-eight hours within which the lay judge has to provide for the validation starts from the moment in which the measure is communicated to the registry.)) ((37))

5-ter. In order to ensure the timeliness of the measure validation procedure as mentioned under paragraphs 4 and 5, and article 14, paragraph 1, the *questura* provides the lay judge, within the limits of the resources available, with the necessary support and the availability of a proper place.

6. PARAGRAPH ABROGATED BY L. N. 189 DATED 30 JULY 2002.

7. The expulsion decree and the measure as mentioned under paragraph 1 of article 14, as well as any other document concerning entry, residence and expulsion, are communicated to the party involved together with the indication concerning the impugnement modalities and a translation in a language known by the same, or, if not possible, in French, English or Spanish.

((8. Opposing the expulsion decree, it is possible to lodge an appeal to the ordinary judicial authority. All controversies as mentioned under this paragraph are regulated by article 18 of legislative decree n. 150 dated 1st September 2011.)) ((37))

9. PARAGRAPH ABROGATED BY L. N. 189 DATED 30 JULY 2002.

10. PARAGRAPH ABROGATED BY L. N. 189 DATED 30 JULY 2002.

11. Against the ministerial decree as mentioned under paragraph 1, the jurisdictional protection in front of the administrative judge is regulated by the code of administrative procedure.

12. Withstanding what provided for by article 19, the expelled alien is sent back to the State of belonging, or, when this is not possible, to the State of provenance.

13. The alien addressee of an expulsion measure cannot re-enter the State's territory without a special authorization issued by the Ministry of Interior. In case of transgression, the alien is punished with imprisonment from one to four years and is newly expelled with immediate accompanying to the border. The provision as mentioned under the first period of this paragraph does not apply to the alien already expelled pursuant to article 13, paragraph 2, letters a) and b), for whom joining was authorized, pursuant to article 29.

13-bis. In case of expulsion ordered by the judge, the transgressor of the prohibition to re-enter is punished with imprisonment from one to four years. The alien who, already reported for the crime as mentioned under paragraph 13 and expelled, re-enters the national territory is subject to imprisonment from one to five years. (14)

13-ter. For the crimes provided for by paragraphs 13 and 13-bis, the arrest of the author of the fact is compulsory also outside of the cases of flagrancy and the procedure is with summary judgement.

14. The prohibition as mentioned under paragraph 13 operates for a period not inferior to three years and not above five years, whose duration is established keeping into account all the circumstances pertinent to the single case. In cases of expulsion provided for pursuant to paragraphs 1 and 2, letter c), of this article or pursuant to article 3, paragraph 1, of law-decree n. 144 dated 27 July 2005, converted with amendments by law n. 155 dated 31 July 2005, a term above five years can be provided for, whose duration is established keeping into account all the circumstances pertinent to the single case. For the expulsion measures as mentioned under paragraph 5, the prohibition provided for by paragraph 13 starts from the expiry of the appointed term and can be revoked, upon the interested party's request, upon the condition that he proves to have left the national territory within the term as mentioned under paragraph 5.

15. The provisions as mentioned under paragraph 5 do not apply to the alien who proves, on the basis of objective elements, to have entered the State's territory before the date of the entering into force of law n. 40 dated 6 March 1998. In this case, the *questore* can adopt the measure as mentioned under article 14, paragraph 1.

16. The expenses deriving from paragraph 10 of this article are evaluated in 4 billion Liras for year 1997 and in 8 billion Liras a year starting from year 1998.

UPDATE (9)

The Constitutional Court, with ruling n. 222 dated 8-15 July 2004, (in the Official Gazette, the special series dated 21 July 2004, n. 28) stated the constitutional illegitimacy of paragraph 5-bis of this article "in the part where it does not provide for the validation judgement to be carried out in cross-examination before the execution of the accompanying measure to the border, with the guarantees of defence."

UPDATE (14)

The Constitutional Court, with ruling n. 466 dated 14-28 December 2005, (in the Official Gazette the special series dated 4 January 2006, n. 1) stated the constitutional illegitimacy of paragraph 13-bis, second period of this article.

UPDATE (14a)

Lgs.D. n. 30 dated 6 February 2007, as amended by Lgs.D. n. 32 dated 28 February 2008, provides for as follows (with art. 20-bis, paragraph 2): "The no impediment document as mentioned under article 13, paragraph 3, of legislative decree n. 286 dated 25 July 1998, is meant granted if the judicial authority does not intervene within forty-eight hours from the date of reception of the request."

UPDATE (24)

The Constitutional Court, with ruling n. 278 dated 9-16 July 2008, (in the Official Gazette, the special series dated 23 July 2008, n. 31) stated the constitutional illegitimacy of paragraph 8 of this article "in the part where it does not allow the use of the postal service for the alien's direct proposition of the appeal against the expulsion decree of the *Prefetto*, when the identity of the recurring party has been ascertained implementing the laws in force."

UPDATE (37)

Lgs.D. n. 150 dated 1 September 2011, provides for as follows (with art. 36, paragraph 1): "The rules of this decree are applied to proceedings launched after the date of the entering into force of the same."

Moreover, it provides for as follows (with art. 36, paragraph 2): "The rules abrogated or amended by this decree continue to be applied to the controversies pending at the date of the entering into force of the same."

Art. 13-bis
((ARTICLE ABROGATED BY LGS.D. N. 150 DATED 1 SEPTEMBER 2011)) ((37))

UPDATE (37)

Lgs.D. n. 150 dated 1 September 2011, provides for as follows (with art. 36, paragraph 1): "The rules of this decree are applied to proceedings launched after the date of the entering into force of the same."

Moreover, it provides for as follows (with art. 36, paragraph 2): "The rules abrogated or modified by this decree continue to be applied to controversies pending at the date of the entering into force of the same."

Art. 14
Execution of the expulsion
(Law n. 40 dated 6 March 1998, art. 12)

1. When it is not possible to carry out expulsion immediately by accompanying to the border or rejection, due to transitory situations that hinder the preparation of the repatriation or the carrying out of the removal, the *questore* provides for the alien to be kept for the time strictly necessary at the nearest identification and expulsion centre, among those found or established with decree of the Ministry of Interior, together with the Ministry of Economy and Finance. Among the situations that legitimize detainment, besides those indicated in article 13,

paragraph 4-bis, there are also those referable to the need to give aid to the alien or to carry out additional ascertainment as regards the alien's identity or nationality or to acquire travel documents or the availability of a proper means of transport.

1-bis. In the cases in which the alien is in possession of a passport or other equivalent document in course of validity and the expulsion has not been provided for pursuant to article 13, paragraphs 1 and 2, letter c), of this consolidated act or pursuant to article 3, paragraph 1, of law-decree n. 144 dated 27 July 2005, converted with amendments by law n. 155 dated 31 July 2005, the questore, in place of detention as mentioned under paragraph 1, can provide for one or more of the following measures: a) to hand in passport or other equivalent document in course of validity, that shall be given back at the moment of departure; b) obligation to live in a place found beforehand, where the alien can be easily found; c) obligation to show up, on established days and hours, at the police department cognizant by territory. The measures as mentioned under the first period are adopted with motivated provision, which has effect as of the notification to the party involved, provided for pursuant to article 3, paragraphs 3 and 4 of the regulation, stating the notice that the same has the possibility to submit personally or through a defender notes or deductions to the validation judge. The provision is communicated within 48 hours as of the notification to the lay judge cognizant by territory. If there are the conditions, the judge with decree provides for the validation within the following 48 hours. The measures, upon request of the party involved, having heard the questore, can be modified or revoked by the lay judge. The transgressor even just of one of the mentioned measures is punished with a fine from 3,000 to 18,000 Euros. In said hypothesis, for the alien's expulsion, the issuing of the no impediment document is not required as mentioned under article 13, paragraph 3, by the judicial authority cognizant for the ascertainment of the crime. Should immediate accompanying to the border not be possible, with the modalities as mentioned under article 13, paragraph 3, the questore operates pursuant to paragraph 1 or 5-bis of this article.

2. The alien is kept at the centre with modalities such to ensure the necessary assistance in the full respect of his dignity. Besides what provided for by article 2, paragraph 6, in any case freedom to communicate with the outside is guaranteed also by telephone.

3. The questore of where the centre is located transmits a copy of the acts to the lay judge cognizant by territory, for the validation, without delay and however within forty-eight hours as of the adoption of the measure.

((4. The hearing for the validation is carried out in chamber of council with the necessary participation of a defender promptly notified. The party involved is also promptly informed and led to the place where the judge holds the hearing. The alien has the right to legal assistance by a hired counsel with special power of attorney. The alien also has the right to legal aid at the State's expense, and should he not have a defender, he is assisted by a defender appointed by the judge within the ambit of the subjects registered in the list as mentioned under article 29 of the rules of implementation, coordination and transitory of the code of criminal procedure, as mentioned under legislative decree n. 271 dated 28 July 1989, as well as, if necessary, by an interpreter. The authority that adopted the measure can be in trial personally also making use of officials specially delegated. The judge provides for the validation, with motivated decree, within the following forty-eight hours verifying the compliance with the terms, the existence of the requisites provided for by article 13 and by this article, excluding the requisite of the closeness of the identification and expulsion centre as mentioned under paragraph 1, and having heard the party involved, if present. The measure ceases to have all effects if the term for the decision is not complied with. The validation can be provided for also on the occasion of the validation of the decree as regards the accompanying to the border, as well as during the examination of the appeal opposing the expulsion provision.)) ((37))

5. The validation entails the permanence at the centre for a total of thirty days. Should the ascertainment of the identity and nationality or the acquisition of travel documents present serious difficulties, the judge, upon the questore's request, can postpone the term for another thirty days. Even before said term, the questore carries out the expulsion or the rejection, giving communication

without delay to the judge. After said term, should the conditions indicated under paragraph 1 persist, the *questore* can ask the lay judge to extend the detention for an extra sixty days. Should the conditions as mentioned under the fourth period persist, the *questore* can ask the judge for a further extension of sixty days. The maximum total period of detention cannot be more than one hundred and eighty days. Should it not have been possible to carry out the removal, despite every reasonable effort, due to the lack of cooperation as regards the repatriation of the Third Country citizen involved or due to delays in obtaining the necessary documentation from the Third Countries, the *questore* can ask the lay judge to extend the detention, each time, for periods not above sixty days, up to a maximum term of an extra twelve months. The *questore*, in any case, can carry out the expulsion and the rejection also before the expiry of the extended term, promptly notifying the lay judge.

5-bis. In order to end the alien's illegal residence and adopt the necessary measures for the immediate expulsion or rejection, the *questore* provides for the alien to leave the State's territory within seven days, should it not have been possible to detain the same at an identification and expulsion Centre, or should the permanence at said structure not have allowed the removal from the national territory. The order is provided in writing, stating the indication, in case of infringement, of the sanctioning consequences. Together with the *questore's* order, the party involved can be given, also upon the latter's request, the documentation necessary to reach the offices of the diplomatic representatives of his Country in Italy, even if honorary, as well as to re-enter the State of belonging or, when this is not possible, the State of provenance, including travel documents.

5-ter. The infringement of the order as mentioned under paragraph 5-bis is punished, unless there is a justified reason, with a fine from 10,000 to 20,000 Euros, in case of rejection or expulsion provided for pursuant to article 13, paragraph 4, or if the alien, admitted to the programmes of voluntary and assisted repatriation, as mentioned under article 14-ter, avoided the above. A fine is imposed from 6,000 to 15,000 Euros if the expulsion was ordered on the basis of article 13, paragraph 5. Once evaluated the single case and keeping into account article 13, paragraphs 4 and 5, unless the alien is in a state of imprisonment, a new expulsion measure is implemented for the infringement of the removal order adopted by the *questore* pursuant to paragraph 5-bis of this article. Should it not be possible to proceed with the accompanying to the border, the provisions are applied as mentioned under paragraphs 1 and 5-bis of this article, as well as, existing the conditions, those mentioned under article 13, paragraph 3.

5-quater. The infringement of the order provided for pursuant to paragraph 5-ter, third period, is punished, excepting justified reason, with a fine from 15,000 to 30,000 Euros. In any case, the provisions are applied as mentioned under paragraph 5-ter, fourth period.

5-quater.1. In evaluating the conduct of the alien subject to the *questore's* order, as mentioned under paragraph 5-ter and 5-quater, the judge also ascertains the possible delivery to the party involved of the documentation as mentioned under paragraph 5-bis, the cooperation of the same for the execution of the removal measure, in particular by providing proper documentation.

5-quinquies. As regards the criminal proceedings for the crimes as mentioned under articles 5-ter and 5-quarter, the provisions applied are those as mentioned under articles 20-bis, 20-ter and 32-bis, of legislative decree n. 274 dated 28 August 2000.

5-sexies. For the execution of the expulsion of the alien reported pursuant to paragraphs 5-ter and 5-quater, it is not necessary to proceed with the issuing of the no impediment document as mentioned under article 13, paragraph 3, by the judicial authority cognizant for ascertaining said crime. The *questore* communicates the execution of the expulsion to the judicial authority cognizant for ascertaining the crime.

5-septies. The judge, once acquired the news concerning the execution of the expulsion, sentences the indictment. If the alien re-enters the State's territory illegally before the term provided for by article 13, paragraph 14, he is subject to article 345 of the code of criminal procedure.

6. Opposing the validation and postponement decrees as mentioned under paragraph 5, it is possible to appeal by cassation. Said appeal does not suspend the execution of the measure.

7. The *questore*, through the use of the police, implements effective surveillance measures so that the alien does not unduly leave the centre and provides for, in case the measure is infringed, the re-establishment of the detention through the adoption of a new detention measure. The detention period provided for by the new measure amounts to the maximum detention term provided for by paragraph 5.

8. For the accompanying, even collective, to the border, it is possible to enter into agreements with subjects that carry out regular transport service or with structures even international that carry out assistance activities for aliens.

9. Besides what provided for by the regulation implementation and by jurisdictional rules, the Ministry of Interior adopts the necessary measures for the execution of what provided for by this article, also through agreements with other State administrations, with local bodies, with owners or distributors of areas, structures and other installations, as well as for the supply of goods and services. Possible derogations to the provisions in force as regards finance and accounts are adopted together with the Ministry of Treasury and Economic Planning. Moreover, the Ministry of Interior promotes the agreements necessary for interventions falling within the competence of other Ministries.

UPDATE (11)

The Constitutional Court, with ruling n. 223 dated 8-15 July 2004, (in the Official Gazette , the special series dated 21 July 2004, n. 28) stated the constitutional illegitimacy of paragraph 5-quinquies of this article, in the part where it established that for the crime provided for by paragraph 5-ter of the same article it is mandatory to arrest the author of the fact.

UPDATE (35)

The Constitutional Court, with ruling n. 359 dated 13-17 December 2010, (in the Official Gazette, the special series dated 22 December 2010, n. 51) stated the constitutional illegitimacy of paragraph 5-quater of this article, "in the part where it does not provide for the non-compliance with the removal order, according to what already provided for as regards the conduct as mentioned under the previous paragraph 5-ter, to be punished only if it takes place "without a justified reason."

UPDATE (37)

Lgs.D. n. 150 dated 1 September 2011 provides for as follows (with art. 36, paragraph 1): "The rules of this decree are applied to proceedings launched after the date of the entering into force of the same."

Moreover, it provides for as follows (with art. 36, paragraph 2): "The laws abrogated or amended by this decree continue to be implemented to controversies pending at the date of the entering into force of the same."

Art. 14-bis
(((Repatriation fund).))

((1. The ministry of Interior has established a Repatriation fund aimed at financing the expenses for aliens' repatriation to their Countries of origin or provenance.

2. The Fund as mentioned under paragraph 1 is composed of half of the proceeds obtained through the collection of the contributions as mentioned under article 5, paragraph 2-ter, as well as the contributions possibly provided for by the

European Union for the purposes of the mentioned Fund. The remaining share of the proceeds of the contribution as mentioned under article 5, paragraph 2-ter, is appointed to the forecast of the Ministry of Interior for the expenses connected to the preliminary activities related to the issuing and renewal of residence permits).

Art. 14-ter.

(((Assisted repatriation programmes))

1. The Ministry of Interior, within the limits of the resources as mentioned under paragraph 7, implements, also in collaboration with international or intergovernmental organizations expert in the sector of repatriations, with local bodies and associations active in assisting immigrants, voluntary and assisted repatriation programmes toward the Country of origin or provenance of third country citizens, withstanding what provided for by paragraph 3.

2. With decree of the Ministry of Interior, the guidelines are defined concerning the realization of voluntary and assisted repatriation programmes, establishing priority criteria that keep into account, first of all, the alien's conditions of vulnerability as mentioned under article 19, paragraph 2-bis, as well as the criteria for identifying organizations, bodies and associations as mentioned under paragraph 1 of this article.

3. Should the alien illegally present on the territory be admitted to the repatriation programmes as mentioned under paragraph 1, the prefecture of the place where the alien is present promptly communicates said situation to the cognizant questura, also via computer. Withstanding what provided for by paragraph 6, the execution of the measures issued is suspended pursuant to article 10, paragraph 2, article 13, paragraph 2 and article 14, paragraph 5-bis. The effectiveness of the measures possibly adopted by the questore is suspended pursuant to article 13, paragraph 5.2, and article 14, paragraph 1-bis. The questura, upon receiving communication from the prefecture, also via computer, concerning the execution of the alien's repatriation, notifies the judicial authority cognizant for the ascertainment of the crime provided for by article 10-bis, for the purposes as mentioned under paragraph 5 of the same article.

4. The alien avoiding the repatriation programme is subject to the measures as mentioned under paragraph 3 carried out by the questore with immediate accompanying to the border, pursuant to article 13, paragraph 4, also with the modalities provided for by article 14.

5. The provisions of this article do not apply to aliens that:

a) have already benefitted from the programmes as mentioned under paragraph 1;

b) are in the conditions as mentioned under article 13, paragraph 4, letters a), d) and f) or in the conditions as mentioned under article 13, paragraph 4-bis, letters d) and e;

c) are subject to an expulsion measure as criminal sanction or as a consequence of a criminal sanction or of an extradition measure or of a European arrest order or of an arrest order by the International Criminal Court.

6. The aliens admitted to the repatriation programmes as mentioned under paragraph 1 detained at the identification and expulsion Centres must remain at the Centres until their departure, within the limits of the maximum duration provided for by article 14, paragraph 5.

7. The voluntary and assisted repatriation programmes as mentioned under paragraph 1 are financed within the limits :

a) of the resources available of the Repatriation fund, as mentioned under article 14-bis, identified annually with decree of the Ministry of Interior;

b) of the resources available of the European funds appointed for said purpose, according to the related management modalities.)

((38))

UPDATE (38)

L.D. n. 89 dated 23 June 2011, converted with amendments by L. n. 129 dated 2 August 2011, provides for as follows (with art. 3, paragraph 2): "The decree of the Ministry of Interior as mentioned under paragraph 2 of article 14-ter of

legislative decree n. 286 dated 25 July 1998, introduced by paragraph 1, letter e), is adopted within sixty days from the date of entering into force of the conversion law of this decree."

Art. 15

((Expulsion for security measures and provisions for the execution of the expulsion))

1. Apart from the cases provided for by the code of criminal procedure, the judge can order the expulsion of the alien sentenced for any of the crimes provided for by articles 380 and 381 of the code of criminal procedure, provided that he results socially dangerous.

((1-bis. The issuing of the precautionary custody measure or the definitive sentence of imprisonment as regards a non-EU foreign citizen is promptly communicated to the questore and the cognizant consular authority in order to launch an identification procedure of the alien and enable, in the presence of the requirements of law, the execution of the expulsion immediately after the end of the period of precautionary custody or imprisonment)).

Art. 16

(Expulsion as substitutive or alternative sanction to imprisonment)

1. In sentencing for a non-culpable crime or in implementing the sentence upon request pursuant to article 444 of the code of criminal procedure against the alien who is in any of the situations indicated in article 13, paragraph 2, when deeming necessary to sentence to imprisonment within the limit of two years and not standing the conditions to order the conditional suspension of the sentence pursuant to article 163 of the code of criminal procedure or in sentencing for the crime as mentioned under article 10-bis, should there not be the impedimental causes indicated in article 14, paragraph 1, of this consolidated act hindering the immediate execution of the expulsion with the police accompanying to the border, the judge can substitute the same sentence with the expulsion measure for a period not inferior to five years. The provisions as mentioned under this paragraph are applied, in case of sentence, to crimes as mentioned under article 14, paragraphs 5-ter and 5-quater.

2. The expulsion as mentioned under paragraph 1 is carried out by the questore even if the sentence is not irrevocable, according to the modalities as mentioned under article 13, paragraph 4.

3. The expulsion as mentioned under paragraph 1 cannot be ordered in cases in which the sentence concerns one or more crimes provided for by article 407, paragraph 2, letter a), of the code of criminal procedure, or the crimes provided for by this consolidated act, punished with statutory sentence within a maximum of two years.

4. If the alien expelled in compliance with paragraph 1 re-enters the State's territory illegally before the term provided for by article 13, paragraph 14, the substitutive sanction is revoked by the cognizant judge.

5. Expulsion is ordered for the identified and detained alien who is in any of the situations indicated in article 13, paragraph 2, that has to serve a term in prison, even residual, not above two years **((Said expulsion cannot be ordered in case of sentence for crimes provided for by article 12, paragraphs 1, 3, 3-bis and 3-ter, of this consolidated act, or for one or more crimes provided for by article 407, paragraph 2, letter a) of the code of criminal procedure, excepting those carried out or attempted as mentioned under article 628, third paragraph and article 629, second paragraph, of the code of criminal procedure. In case of complicity in crimes or unification of concurring sentences, expulsion is ordered also when the part of the sentence concerning the conviction for crimes that do not allow it has been served.))**

((5-bis. In cases as mentioned under paragraph 5, when an alien is imprisoned, the director of the prison asks the cognizant questore for information concerning the identity and nationality of said alien. In the same cases, the questore launches an identification procedure involving the cognizant diplomatic authorities and proceeds with the possible expulsion of the aliens identified. To

this end, the Ministry of Justice and the Ministry of Interior adopt the necessary coordination tools.

5-ter. The information concerning the identity and nationality of the imprisoned alien is inserted in the personal file of the same as provided for by article 26 of the decree n. 230 of the President of the Republic dated 30 June 2000.))

((6. Unless the questore communicates that it was not possible to identify the alien, the director of the prison transmits the documents useful for the adoption of the expulsion measure to the surveillance judge cognizant as regards the place of imprisonment of the sentenced alien. The judge decides with motivated decree, without formality. The decree is communicated to the public prosecutor, to the alien and his defender, any of whom, within the term of ten days, can submit opposition in front of the surveillance court. If the alien is not assisted by a hired counsel, said counsel is appointed by the judge. The court resolves within the term of 20 days.))

7. The execution of the expulsion decree as mentioned under paragraph 6 is suspended until the coming into effect of the impugment terms or of the surveillance court's resolution and, however, the state of imprisonment remains until the necessary travel documents have not been acquired. The expulsion is carried out by the *questore* cognizant for the place of imprisonment of the alien with the police accompanying to the border.

8. The sentence is extinguished upon the expiry of the term of ten years from the execution of the expulsion as mentioned under paragraph 5, provided that the alien did not re-enter the State's territory illegally. In this case, the state of imprisonment is re-established and the execution of the sentence is resumed.

9. The expulsion as substitutive or alternative sanction to imprisonment does not apply to cases as mentioned under article 19.

Art. 17

Right to defence

(Law n. 40 dated 6 March 1998, art. 15)

1. The alien **((offended party or))** subject to criminal proceedings is authorized to re-enter Italy for the time strictly necessary for executing the right to defence, with the sole purpose to participate in the trial or for the carrying out of acts for which his presence is necessary. The authorization is issued by the *questore* also through a diplomatic or consular representative upon documented request **((of the offended party or))** of the defendant or of the defender.

TITLE II

PROVISIONS CONCERNING ENTRY, RESIDENCE AND REMOVAL FROM THE STATE'S TERRITORY

ITEM III

HUMANITARIAN PROVISIONS

Art. 18

Residence for social protection reasons

(Law n. 40 dated 6 March 1998, art. 16)

1. When, during police operations, investigations or proceedings for any of the crimes as mentioned under article 3 of law n. 75 dated 20 February 1958, or those provided for by article 380 of code of criminal procedure, or during aid interventions carried out by the social services of local bodies, there is the ascertainment of situations of violence against an alien or his serious exploitation and actual danger for his safety emerges, due to the attempt to avoid the conditionings of an association devoted to one of the above mentioned crimes or of statements given during preliminary investigations or trial, the *questore*, also upon the proposal of the Public Prosecutor, or with favourable opinion of the same authority, issues a special residence permit to enable the alien to avoid

the violence and conditionings of the criminal organization and to participate in a programme devoted to assistance and social integration.

2. With the proposal or the opinion as mentioned under paragraph 1, the *questore* is notified concerning the elements proving the existence of the conditions indicated herein, with particular reference to the seriousness and the actual danger and the relevance of the contribution offered by the alien for an effective fight against the criminal organization, or the finding or capturing of those responsible for the crimes indicated in the same paragraph. The modalities for participating in the assistance and social integration programme are communicated to the Mayor.

3. The regulation implementation provides for the provisions necessary as regards the appointing of the realization of the programme to subjects different from those institutionally responsible for social services of the local body, and for carrying out relevant controls. The same regulation identifies the requisites necessary for guaranteeing the competence and the capability to favour assistance and social integration, as well as the availability of adequate organizational structures of the mentioned subjects.

((3-bis. As regards aliens and citizens as mentioned under paragraph 6-bis of this article, victims of crimes provided for by articles 600 and 601 of the code of criminal procedure, or that are in the hypothesis as mentioned under paragraph 1 of this article, on the basis of the National Action Plan against human trafficking and serious exploitation, as mentioned under article 13, paragraph 2-bis, of law n. 228 dated 11 August 2003, a consolidated programme of emersion, assistance and social integration is implemented guaranteeing transitorily adequate conditions as regards lodging, meals and health assistance, pursuant to article 13 of law n. 228 dated 2003 and, afterwards, the continuing of the assistance and social integration, pursuant to paragraph 1 as mentioned under this article. With decree of the President of the Council of ministers, together with the Ministry of Interior, the Ministry of Labour and Social Policies and the Ministry of Health, to be adopted within six months from the date of the entering into force of this provision, upon agreement with the Unified Conference, the emersion, assistance and social protection programme is defined as mentioned under this paragraph and relevant modalities of implementation and financing.))

4. The residence permit issued pursuant to this article lasts six months and it can be renewed for one year, or for a longer period if necessary for justice reasons. It is revoked in case of interruption of the programme or due to a conduct incompatible with the purposes of the same, reported by the public prosecutor or, as falling within competence, by the social service of the local body, or however ascertained by the *questore*, or failing the other conditions that justified its issuing.

5. The residence permit provided for by this article allows access to aid services and study, as well as the registration in unemployment lists and subordinate work, withstanding the minimum requests of age. If, upon the expiry of the residence permit, the interested party has a job relationship in course, the permit can be further extended or renewed for the duration of said job relationship or, if the job relationship is indefinite, with residence modalities established according to said reason. The residence permit provided for by this article can also be converted into residence permit for study reasons should the holder be enrolled in a regular study path.

6. The residence permit provided for by this article can also be issued, upon dismissal from the detention institute, also upon proposal of the public prosecutor or surveillance judge operating at the court for minors, as regards the alien ending his serving of imprisonment imposed for crimes committed when not of age, and giving proof of actual participation in assistance and social integration programmes.

6-bis. The provisions of this article are applied, as they are compatible, also to citizens of Member States of the European Union that are in a situation of serious and actual danger.

7. Expenses deriving from this article are evaluated amounting to 5 billion Liras for year 1997 and to 10 billion Liras a year starting from year 1998.

Art. 18-bis

((Residence permit for victims of domestic violence))

(1. When, during police operations, investigations or proceedings for any of the crimes provided for by articles 572, 582, 583, 583-bis, 605, 609-bis and 612-bis of the code of criminal procedure or for any of the crimes provided for by article 380 of the code of criminal procedure, committed on the national territory within the ambit of domestic violence, there is evidence of situations of violence or abuse against an alien and there is real and actual danger for the alien's safety, as a consequence of the choice to avoid said violence or due to statements provided during preliminary investigations or trial, the questore, with favourable opinion of the judicial authority operating or upon the latter's proposal, issues a residence permit pursuant to article 5, paragraph 6, so as to enable the victim to avoid violence. For this article, domestic violence means one or more acts, serious or non-episodic, of physical, sexual, psychological or economic abuse that occur within the family or family unit or among people connected, currently or in the past, by matrimony or sentimental relationship, regardless of the fact that the author of said facts shares or used to share the same residence with the victim.

2. With the proposal or the opinion as mentioned under paragraph 1, the questore is notified concerning the elements proving the existence of the conditions indicated herein, with particular reference to the seriousness and actual danger for personal safety.

3. The residence permit can be issued by the questore when situations of violence or abuse emerge during aid interventions carried out by anti-violence centres, by territorial social services or social services specialized in assisting victims of abuse. In this case, the existence of elements and conditions as mentioned under paragraph 2 is evaluated by the questore on the basis of the report provided by the social services mentioned. For the issuing of the residence permit, the opinion of the cognizant judicial authority is however required pursuant to paragraph 1.

4. The residence permit as mentioned under paragraphs 1 and 3 is revoked in case of behaviour incompatible with the purposes of the same, reported by the public prosecutor or, when within their competence, by social services as mentioned under paragraph 3, or however ascertained by the questore, or when failing the conditions that justified its issuing.

4-bis. The alien sentenced, also with non-definitive sentence, including the one adopted following the implementation of the sentence upon request pursuant to article 444 of the code of criminal procedure, for any of the crimes as mentioned under paragraph 1 of this article, committed within the ambit of domestic violence, can be subject to the revocation of the residence permit and expulsion pursuant to article 13 of this consolidated act.

5. The provisions of this article are applied, as they are compatible, also to citizens of Member States of the European Union and their family members.))

Art. 19

(Expulsion and rejection prohibitions.)

((Provisions concerning vulnerable categories.))

(Law n. 40 dated 6 March 1998, art. 17)

1. In no case whatsoever can the alien be expelled or rejected toward a State in which he can be object of persecution due to race, gender, language, citizenship, religion, political opinions, personal or social conditions, or can risk to be sent to another State in which he is not protected from persecution.

2. Expulsion is not allowed, excepting the cases provided for by article 13, paragraph 1, against:

a) aliens not of age, withstanding the right to follow an expelled parent or custodian;

b) aliens holders of residence paper, withstanding what regulated by article 9;

c) aliens living with relatives within the second degree or with spouse, of Italian nationality;

d) pregnant women or in the six months following the birth of their child of whom they take care. (2A)

((2-bis. Rejection or expulsion of people affected by disabilities, elderly people, minors, or members of mono-parental families with minors, minors, or victims of serious psychological, physical or sexual abuses are carried out with modalities compatible with the single personal situations, duly ascertained.))

UPDATE (2A)

The Constitutional Court, with ruling n. 376 dated 12 - 27 July 2000, (in the Official Gazette, the special series 2 August 2000, n. 32) stated the "constitutional illegitimacy of art. 17, paragraph 2, letter d) of law n. 40 dated 6 March 1998, (Regulation on immigration and rules on the alien's condition), now substituted by art. 19, paragraph 2, lett. d) of lgs.d. n. 286 dated 25 July 1998, (Consolidated act of provisions concerning the regulation of immigration and rules on the alien's condition), in the part where it does not extend the prohibition of expulsion to the cohabiting husband of the pregnant woman or in the six months following the birth of the child."

Art. 20

(Extraordinary reception measures for exceptional events)
(Law n. 40 dated 6 March 1998, art. 18)

1. The decree of the President of the Council of Ministers, adopted in agreement with the Ministries of Foreign Affairs, of Interior, social solidarity and with the other Ministries possibly interested, establishes temporary protection measures to be adopted within the limits of the resources pre-ordered for the purpose within the ambit of the Fund as mentioned under article 45, also in derogation to provisions of this consolidated act, for relevant humanitarian needs, on the occasion of conflicts, natural disasters or other events of particular seriousness in Countries not belonging to the European Union.

2. The President of the Council of Ministers or a Minister delegated by the same refers annually to the Parliament on the implementation of the measures adopted.

TITLE III LABOUR PROVISIONS

Art. 21

Determination of entry flows

(Law n. 40 dated 6 March 1998, art. 19;

Law n. 943 dated 30 December 1986, art. 9, paragraph 3, and art. 10;

Law n. 335 dated 8 August 1995, art. 3, paragraph 13)

1. Entry on the State's territory for subordinate work, even seasonal, and autonomous work, occurs within the ambit of entry shares established in decrees as mentioned under article 3, paragraph 4. **((In establishing the shares, the decrees provide for numerical restrictions as regards the entry of workers from States that do not collaborate adequately in fighting against illegal immigration or in the readmission of their citizens subject to repatriation measures))**. These decrees also appoint preferentially shares reserved **((to workers with Italian origins at least as regards one of the parents up to third grade in strait line of ascendance, resident in non-community Countries, that ask to be inserted in a specially provided list, at disposal at the diplomatic or consular representative offices, containing the professional qualifications of the workers, as well as))** to States not belonging to the European Union, with which the Ministry of Foreign Affairs, together with the Ministry of Interior and the Ministry of Labour and National Insurance have concluded agreements aimed at regulating entry flows and readmission procedures. Within the ambit of said agreements, it is possible to define specially provided agreements as regards flows for seasonal work, with the corresponding national authorities responsible for the labour market policies of the countries of provenance.

2. Moreover, agreements or bilateral agreements as mentioned under paragraph 1 can provide for the use in Italy, with subordinate work contract, of groups of

workers for the carrying out of specific jobs or services limited in time; at the end of the work relationship, the workers must return to their country of provenance.

3. These agreements can provide for procedures and modalities for the issuing of work authorizations.

4. The annual decrees have to keep into account the indications provided, in articulated manner for qualifications or mansions, by the Ministry of Labour and national insurance concerning the trend of employment and unemployment rates at national and regional level, as well as the number of aliens not belonging to the European Union registered in the unemployment lists.

(4-bis. The annual decree and the infra-annual decrees must also be established on the basis of the data concerning the actual labour demand divided by regions and by provincial areas of users, processed by the computerized personal data registry, established at the Ministry of Labour and Social Policies, as mentioned under paragraph 7. The regulation implementation provides for possible forms of collaboration with other public and private structures, within the limits of ordinary budget allocations.

4-ter. The regions can transmit, within 30 November of every year, to the Presidency of the Council of Ministers, a report on the presence and on the condition of the non-EU immigrants in the regional territory, containing also anticipatory indications concerning the flows sustainable in the following three-year period as regards the capacity of absorption of the social and productive fabric).

5. The agreements or bilateral agreements as mentioned under paragraph 1 can provide for aliens, who intend to enter Italy for subordinate work, also seasonal, to register in specially provided lists, identified by the same agreements, specifying their qualifications or functions, as well as the other requisites indicated by the regulation implementation. Said agreements can moreover provide the modalities of preservation of the lists, for the following forward to the offices of the Ministry of Labour and national insurance.

6. Within the ambit of the agreements as mentioned under this consolidated act, the Ministry of Foreign Affairs, together with the Ministry of Labour and national insurance, can organise integrated projects for the reinsertion of non-EU workers in the Countries of origin, when there are the conditions and when proper guarantees are provided by the governments of the Countries of origin, or the approval of requests of public and private bodies, that ask to organise analogous projects also for other Countries.

7. The regulation implementation provides forms of a computerized annual personal data registry of subordinate job supplies and demands of foreign workers and establishes the modalities of connection with the archive organized by the *Istituto nazionale della previdenza sociale* (I.N.P.S.) and with the *questura*.

8. The expenses deriving from this article are evaluated in Liras 350 million a year starting from year 1998.

Art. 22

Fixed-term and open-ended subordinate work

1. In every province, at the *prefecture*-territorial office of the Government there is a One Stop Shop for immigration, responsible for the entire procedure concerning the hiring of foreign workers under fixed-term and open-ended subordinate employment contacts.

2. The Italian employer or the foreign employer legally residing in Italy that intends to establish in Italy a fixed-term or open-ended subordinate job relationship with an alien resident abroad must submit to the cognizant employment centre, upon verification of the availability of a worker present on the national territory, all which follows properly documented, at the One Stop Shop for immigration of the province of residence or of that where the business has its registered office, or where the job will be carried out:

a) individual request by name for no impediment document to work;

b) proper documentation concerning the modalities for lodging the foreign worker;

c) proposal of residence contract specifying relevant conditions, including the employer's commitment to pay the expenses for the return of the alien to the Country of origin;

d) statement concerning the commitment to communicate any variation concerning the job relationship.

3. In the cases in which the Italian employer or foreign employer legally residing does not know the alien directly, said employer can require, submitting documentation as mentioned under letters b) and c) of paragraph 2, the no impediment document to work of one or more people registered in the lists as mentioned under article 21, paragraph 5, selected according to criteria defined by the regulation implementation.

4. PARAGRAPH ABROGATED BY L.D. N. 76 DATED 28 JUNE 2013, CONVERTED WITH AMENDMENTS BY L. N. 99 DATED 9 AUGUST 2013.

5. The One Stop Shop for immigration, in the total maximum term of **((sixty days))** from the submission of the request, provided that the conditions were complied with as mentioned under paragraph 2 and the conditions of the collective job contract are applicable to the case in point, issues, in any case, having heard the *questore*, the no impediment document in compliance with the numerical, quantitative and qualitative limits established pursuant to article 3, paragraph 4, and article 21, and, upon the employer's request, transmits the documentation, including the fiscal code, to the consular offices, when possible via computer. The no impediment document to subordinate work is valid for a period not above six months from the issuing date.

((5.1. The applications for the no impediment document are examined within the numerical limits established with the decree as mentioned under article 3, paragraph 4. The applications exceeding said limits can be examined within the ambit of the shares that are made available afterwards among those established with the same decree.))

5-bis. The no impediment document to work is rejected if the employer results to have been sentenced in the previous five years, also with non-definitive sentence, including that adopted after the implementation of the sentence upon request pursuant to article 444 of the code of criminal procedure, for the following reasons:

a) aiding and abetting of illegal immigration toward Italy and illegal emigration from Italy toward other States or for crimes aimed at the recruitment of people to destine to prostitution or exploitation of prostitution or minors to use in illegal activities;

b) illegal intermediation and job exploitation pursuant to article 603-bis of the code of criminal procedure;

c) crime provided for by paragraph 12.

5-ter. The no impediment document to work is also rejected or, in case it was issued, it is revoked if the documents submitted were obtained through fraud or were falsified or counterfeited or if the alien does not go to the One Stop Shop for immigration to sign the residence contract within the term as mentioned under paragraph 6, unless the delay was due to causes of force majeure. The revocation of the no impediment document is communicated to the Ministry of Foreign Affairs through computerized connections.

6. The consular offices of the Country of residence or of origin of the alien take care of, after standard ascertainment, the issuing of the entry visa indicating the fiscal code, communicated by the One Stop Shop for immigration. Within eight days from the entry, the alien must go to the One Stop Shop for immigration that issued the no impediment document in order to sign the residence contract that remains filed thereat and, under the latter's responsibility, a copy is transmitted to the cognizant consular authority and to the cognizant employment centre.

7. PARAGRAPH ABROGATED BY LGS.D. N. 109 DATED 16 JULY 2012.

8. Withstanding what provided for by article 23, for the entry in Italy for work reasons, the non-EU worker must be provided of visa issued by the Italian consulate present in the State of origin or of where the worker has stable residence.

9. The *questura* provides INPS and INAL, via computer, with the personal data of the non-EU workers whom are granted the residence permit for job reasons, or however fit for accessing work, and also communicates the issuing of the permits concerning the family members pursuant to the provisions as mentioned under title

IV; on the basis of the information received, INPS creates a "Personal data archive of the non-EU workers," to be shared with other public administrations; the exchange of information takes place on the basis of an agreement among the administrations involved. Said information is transmitted, via computer, by the *questura*, to the cognizant financial office that takes care of assigning the fiscal code.

10. The One Stop Shop for immigration provides the Ministry of Labour and Social Policies with the number and type of no impediment document issued according to classifications adopted in the decrees as mentioned under article 3, paragraph 4.

11. The loss of the job does not constitute reason for the revocation of the residence permit to non-EU workers and family members legally resident. The foreign worker in possession of the residence permit for subordinate work who loses his job, even due to resignation, can be registered in the unemployment lists for the period of remaining validity of the residence permit and however, unless it is a residence permit for seasonal work, for a period not inferior to one year or for the whole duration of the service supporting the income received by the foreign worker, should it be higher. Once concluded the term as mentioned under the second period, the income requisites are implemented as mentioned under article 29, paragraph 3, letter b). The regulation implementation establishes the modalities for communicating with the employment centres, also as regards the registering of the foreign worker in the unemployment lists with priority compared to the new non-EU workers.

11-bis. The alien who achieved in Italy his PhD or a master's degree or a three-year university degree or a specialization degree, upon the expiry of the residence permit for study reasons, can be registered in the personal data registry as provided for by article 4 of the regulation as mentioned under decree n. 442 of the President of the Republic dated 7 July 2000, for a period not above twelve months, or, in the presence of the requisites provided for by this consolidated act, can apply for the conversion into residence permit for job reasons.

12. The employer that employs foreign workers lacking residence permit provided for by this article, or whose permit is expired and for which renewal was not applied within the terms of law, or revoked or annulled, is punished with imprisonment from six months to three years and with a 5.000 Euro fine for each worker hired.

12-bis. The sentence for what provided for by paragraph 12 is increased from one third to half:

- a) if the workers employed are more than three;
- b) if the workers employed are minors not of working age;
- c) if the workers employed are subject to other working conditions of particular exploitation as mentioned under the third paragraph of article 603-bis of the code of criminal procedure.

12-ter. With the sentence, the judge imposes the additional administrative sanction of the payment of the average repatriation cost of the foreign worker hired illegally.

12-quater. In the hypothesis of particular work exploitation as mentioned under paragraph 12-bis, the *questore* issues, upon proposal or with the favourable opinion of the public prosecutor, to the alien who has submitted report and cooperates in the criminal proceedings launched against the employer, a residence permit pursuant to article 5, paragraph 6.

12-quinquies. The residence permit as mentioned under paragraph 12-quater lasts six months and it can be renewed for one year or for a longer period depending on what necessary for defining the criminal proceedings. The residence permit is revoked in case of conduct incompatible with the purposes of the same, reported by the public prosecutor or ascertained by the *questore*, or should the conditions that justified its issuing fail to exist.

13. Withstanding what provided for as regards seasonal workers by article 25, paragraph 5, in case of repatriation, the non-EU worker maintains the national insurance and social security rights matured and can benefit from these regardless of the existence of an agreement of reciprocity upon the maturing of the requisites provided for by the laws in force, upon turning sixty-five years old, also in derogation to the minimum contributive requisite provided for by article 1, paragraph 20, of law n. 335 dated 8 August 1995.

14. The attributions of the institutes of patronage and social assistance, as mentioned under law n. 152 dated 30 March 2001, are extended to non-EU workers that work legally in Italy.

15. The Italian workers and non-EU workers can ask for the recognition of the professional training titles acquired abroad; in the absence of specific agreements, the Ministry of Labour and Social Policies, having heard the central commission for employment, provides for conditions and modalities of recognition of the qualifications for the single cases. Moreover, the non-EU worker can participate, pursuant to this consolidated act, in all the training and requalification courses programmed throughout the territory of the Republic.

16. The provisions as mentioned under this article apply to the regions with special statutes and the autonomous provinces of Trento and Bolzano pursuant to the statutes and relevant implementation rules.

Art. 23

(((Pre-emption rights)))

((1. Within the ambit of programmes, also upon the proposal of regions and autonomous provinces, approved by the Ministry of Labour and Social Policies and by the Ministry of Education, University and Research and realized in collaboration with regions, autonomous provinces and other local bodies, national organizations of entrepreneurs and employers and workers, as well as international organisms aimed at transferring foreign workers to Italy and at their insertion in the Country's productive sectors, bodies and associations operating in the sector of immigration for at least three years, education and professional training activities can be organized in the Countries of origin.

2. The activity as mentioned under paragraph 1 is aimed:

a) at the job insertion in the Italian productive sectors that operate within the State;

b) at the job insertion in the Italian productive sectors that operate in the Countries of origin;

c) at the development of productive or autonomous entrepreneurial activities in the Countries of origin.

3. The aliens who participated in activities as mentioned under paragraph 1 are preferred in the employment sectors to which the activities refer for job possibilities as mentioned under article 22, paragraphs 3, 4 and 5, according to the modalities provided for by the regulation implementation of this consolidated act.

4. The regulation implementation of this consolidated act provides for employment facilitation for foreign autonomous workers that have attended courses as mentioned under paragraph 1)).

Art. 24

(Seasonal work)

1. The Italian employer or the foreign employer legally resident in Italy, or the category associations on behalf of their members, that intend to establish in Italy a subordinate seasonal work relationship with an alien must submit an individual request by name to the One Stop Shop for immigration of the province of residence pursuant to article 22. In the cases in which the Italian employer or the legally resident foreign employer or the category associations does not know the alien directly, the request, written according to the modalities provided for by article 22, must be submitted immediately to the cognizant employment centre, which shall verify within five days the possible availability of Italian or community workers for the seasonal job offered. The provisions applied are those **((as mentioned under article 22, paragraphs 3, 5-bis and 5-ter))**.

2. The One Stop Shop for immigration however issues the authorization in compliance with the priority right matured, passing ten days from the communication as mentioned under paragraph 1 and not more than twenty days from the date of reception of the employer's request.

2-bis. Should the One Stop Shop for immigration, passing the twenty days as mentioned under paragraph 2, not communicate to the employer its denial, the

application is considered approved, provided that the following conditions are jointly satisfied:

a) the application concerns an alien already authorized the previous year to provide seasonal work with the same applying employer;

b) the seasonal worker in the previous year was legally hired by the employer and complied with the conditions indicated in the residence permit.

3. The authorization to seasonal work has a validity from twenty days to a maximum of nine months, in correspondence of the duration of the seasonal work required, also with reference to the grouping of works of shorter periods of time to carry out with different employers.

3-bis. Withstanding the limit of nine months as mentioned under paragraph 3, the authorization to seasonal work is extended and the residence permit can be renewed in case of a new opportunity of seasonal work offered by the same or by other employer.

4. The seasonal worker, if complying with the conditions indicated in the residence permit and re-entering the State of provenance upon the expiry of the same, has the right of pre-emption for re-entering Italy the following year for seasonal work reasons, compared to citizens from his own Country that have never entered Italy legally for work reasons. Moreover, he can convert the residence permit for season work into residence permit for fixed-term or open-ended subordinate work, should there be the conditions.

5. The tripartite regional commissions, as mentioned under article 4, paragraph 1, of legislative decree n. 469 dated 23 December 1997, can stipulate with the trade unions of workers and employers mostly representative at regional level, with regions and local bodies, specially provided agreements aimed at favouring the access of foreign workers in seasonal job positions. The agreements can identify the economic and normative treatment, however not inferior to what provided for as regards Italian workers and the measures for ensuring proper labour conditions, as well as possible direct or indirect incentives to favour the activation of flows and outflows and the complementary measures concerning reception.

6. The employer that employs, for seasonal jobs, one or more aliens lacking residence permit for seasonal work, or whose permit is expired, revoked or annulled, is punished pursuant to article 22, paragraph 12.

Art. 25

Insurance and assistance for seasonal workers (Law n. 40 dated 6 March 1998, art. 23)

1. Taking into account the limited duration of contracts as well as their specificity, aliens holders of seasonal work residence permits are subject to the following mandatory forms of insurance and assistance, pursuant to the laws in force in the activity sectors:

- a) insurance for invalidity, old age and survivors;
- b) insurance against industrial accidents and professional diseases;
- c) insurance against diseases;
- d) insurance for maternity.

2. In substitution of the contributions for the family unit cheque and insurance against involuntary unemployment, the employer must pay the *Istituto nazionale della previdenza sociale* (INPS) a contribution equal to the amount of said contributions and on the basis of the conditions and modalities established for the latter. Said contributions are destined to social-welfare interventions in favour of workers as mentioned under article 45.

3. The implementing decrees of the programmatic document define the requisites, the ambits and the modalities of the interventions as mentioned under paragraph 2.

4. As regards the contributions as mentioned under paragraph 1 and 2, reductions of the social expenses are applied provided for the sector of activity.

5. **((As regards the contributions as mentioned under paragraph 1, letter a), the provisions applied are those of article 22, paragraph 13, concerning the transfer of the same to the institute or insuring body of the State of provenance)).** The possibility to reconstruct the contributive position in case of following entry remains withstanding.

Art. 26

Entry and residence for autonomous work
(Law n. 40 dated 6 March 1998, art. 24)

1. Entry in Italy of foreign workers not belonging to the European Union that intend to carry out on the State's territory non-occasional autonomous work is allowed under the condition that the carrying out of said activities is not reserved by law to Italian citizens, or to citizens of one of the Member States of the European Union.

2. In any case, the alien that intends to carry out in Italy an industrial, professional, artisan or commercial activity, or establish a corporation or a partnership or access company charges, must also prove to have the adequate resources for carrying out the activity that he intends to start in Italy; to be in possession of the requisites provided for by the Italian law for carrying out the single activity, including, if requested, the requisites for the registration in lists and registers; to be in possession of a certificate issued by the cognizant authority on a date not prior to three months stating that there are no hindering reasons for the issuing of the authorization or licence provided for as regards the execution of the activity that the alien intends to carry out.

3. The worker not belonging to the European Union must however prove to have a proper lodging and annual income, coming from legal sources, of an amount above the minimum level provided for by law for the exemption from the participation in health-care expense ((. . .)).

4. The more favourable rules provided for by international agreements in force for Italy remain withstanding.

5. The diplomatic or consular representatives, once ascertained the possession of the requisites indicated by this article and acquired the no impediment documents of the Ministry of Foreign Affairs, the Ministry of Interior and the Ministry possibly cognizant as regards the activity that the alien intends to carry out in Italy, issues the entry visa for autonomous work, with explicit indication of the activity to which the visa refers, within the numerical limits established pursuant to article 3, paragraph 4, and article 21. **((Moreover, the diplomatic or consular representatives issue to the alien the certification concerning the existence of the requisites provided for by this article in order to fulfil what provided for by article 5, paragraph 3-querter, for the granting of the residence permit for autonomous work)).**

6. The procedures as mentioned under paragraph 5 are carried out according to the modalities provided for by the regulation implementation.

7. The entry visa for autonomous work must be issued or denied within one hundred and twenty days from the date of submission of the application and of the related documentation and must be used within one hundred and eighty days from the issuing date.

((7-bis. The sentence with irrevocable measure for any of the crimes provided for by the regulations of Title III, Item III, Section II, of law n. 633 dated 22 April 1941, and following amendments, concerning copyright, and by articles 473 and 474 of the code of criminal procedure entails the revocation of the residence permit issued to the alien and the expulsion of the same with accompanying to the border by the police)).

Art. 27

Entry for work reasons with reference to particular cases
(Law n. 40 dated 6 March 1998, art. 25;

Law n. 943 dated 30 December 1986, art. 14, paragraphs 2 and 4)

1. Apart from the entries for work reasons as mentioned under the previous articles, authorized within the ambit of the shares as mentioned under article 3, paragraph 4, the regulation implementation regulates specific modalities and terms for the issuing of job authorizations, entry visas and residence permits for subordinate work, for each of the following categories of foreign workers:

a) managers or highly specialized personnel of companies with registered office or branches in Italy or representative offices of foreign companies that have their main business premises on the territory of a State member of the World

Organization Trade, or managers of main premises in Italy of Italian companies or companies of another Member State of the European Union;

b) university lecturers within exchange programmes or of mother-tongue;

c) university professors appointed to carry out an academic charge in Italy;

d) translators and interpreters;

e) family collaborators legally working abroad, for at least one year, as full-time domestic workers for Italian citizens or one of the Member States of the European Union residing abroad, that move to Italy, in order to continue their domestic work relationship;

f) people who, authorized to reside for professional training reasons, carry out temporary periods of training with Italian employers, also carrying out services that fall within the ambit of subordinate work;

g) workers employed by organizations or enterprises operating on the Italian territory, admitted temporarily, upon the employer's request, to carry out specific functions or tasks, for a limited or determinate period of time, obliged to leave Italy when said tasks or functions are ended;

h) maritime workers employed in the measure and within the modalities established in the regulation implementation;

i) dependent workers regularly paid by employers, natural and legal persons, resident or having registered office abroad and by these paid directly, temporarily transferred from abroad to natural or legal persons, Italian or foreigners, resident in Italy in order to carry out on the Italian territory specific services object of contract stipulated between the mentioned natural or legal persons or having registered office in Italy and those resident or having registered office abroad, in compliance with the regulations of article 1655 of the civil code, of law n. 1369 dated 23 October 1960, and of international and community laws;

l) workers employed at circuses or shows travelling abroad;

m) artistic and technical personnel for lyric, theatrical, concert or ballet shows;

n) dancers, artists and musicians to employ at entertainment places;

o) artists to be employed by musical, theatrical or cinema bodies or by radio or television enterprises, public or private, or by public bodies, within the ambit of cultural or folkloristic events;

p) aliens who carry out any kind of professional sport activity at Italian sport companies pursuant to law n. 91 dated 23 March 1981;

q) news reporters officially accredited in Italy and employees legally paid by daily or periodic press, or by foreign radio or television broadcasters;

r) people who, according to the rules of international agreements in force for Italy, carry out in Italy research activities or an occasional job within the ambit of exchange programmes of youth or mobility of youth or people collocated "au pair";

r-bis) professional male and female nurses hired at public and private health-care structures.

1-bis. If the workers as mentioned under letter i) of paragraph 1 are employees legally paid by employers, natural or legal persons, resident or with registered office in a Member State of the European Union, the no impediment document for work is substituted by the principal's communication concerning the contract on the basis of which the providing of services takes place, together with the employer's statement concerning the names of the workers to move and certifying the legality of their situation with reference to the conditions of residence and work in the Member State of the European Union where the employer has registered office. The communication is submitted to the One Stop Shop of the *prefecture-territorial* office of the Government, for the issuing of the residence permit.

1-ter. The no impediment document for work as regards aliens indicated under paragraph 1, letters a), c) and g), is substituted by the employer's communication concerning the proposal of a residence contract for subordinate work, provided for by article 5-bis. The communication is submitted by computer to the One Stop Shop for immigration of the *prefecture-territorial* office of the Government. The One Stop Shop transmits the communication to the *questore* for the verification of the inexistence of reasons hindering the entry of the alien pursuant to article 31, paragraph 1, of the regulation as mentioned under decree n. 394 of the President of the Republic dated 31 August 1999, and, if there is no impediment

from the questore, it is sent always via computer, to the diplomatic or consular representatives for the issuing of the entry visa. Within eight days from the entering in Italy, the alien must go to the One Stop Shop for immigration, together with the employer, in order to sign the residence contract and apply for residence permit.

1-quater. The provisions as mentioned under paragraph 1-ter are applied to employers that have signed a specially provided agreement protocol with the Ministry of Interior, having heard the Ministry of Labour, Health and Social Policies, through which said employers guarantee the economic capacity required and the compliance with the conditions of the collective category employment contract.

((1-quinquies. Doctors and other medical professionals following sport delegations, on the occasion of agonistic events organized by the International Olympic Committee, by International sport federations, by the Italian National Olympic Committee or by sport bodies, companies and associations recognised by the above mentioned, or in the cases identified with decree of the Ministry of Health, together with the Ministry of Labour and Social Policies, with the Ministry of Foreign Affairs and with the Ministry of Interior, following organized groups, are authorized to carry out their related activity, in derogation to the rules on the recognition of foreign titles, toward the components of the respective delegation or organized group and limitedly to the period of permanence of the delegation or of the group. The medical professionals, citizens of a Member State of the European Union, benefit from the same treatment, if more favourable)).

2. In derogation to the provisions of this consolidated act, the non-EU workers in the entertainment sector can be hired by employers for needs connected to the realization and production of shows upon specially provided authorization issued by the special office for the employment of entertainment workers or its minor sections, upon the issuing of a temporary no impediment document provided by the provincial authority of public security. The authorization is issued before the entering of the non-EU worker on the national territory, provided that the personnel is artistic or it is personnel to use for periods not above three months. The non-EU workers authorized to carry out subordinate work in the entertainment sector cannot change sector of activity nor the hiring qualification. The Ministry of Labour and national insurance establishes the procedures and the modalities for the issuing of the authorization provided for by this paragraph.

3. The provisions that provide for the possession of Italian citizenship in order to carry out specific activities remain withstanding.

4. The regulation as mentioned under article 1 also contains rules for the implementation of international agreements and conventions in force concerning the entry and residence of foreign workers employed under diplomatic or consular representatives or international bodies having registered office in Italy.

5. The entry and residence of cross-border workers not belonging to the European Union are regulated by specific provisions provided for by international agreements in force with the bordering States.

5-bis. The decree of the Ministry for cultural heritage and activities, upon the proposal of the Italian National Olympic Committee (CONI), having heard the Ministries of Interior and of Labour and Social Policies, establishes the maximum annual entry limit of foreign athletes that carry out professional sport or however paid, to be divided among the national sport federations. This division is carried out by CONI with resolution to be submitted to the approval of the surveillance Ministry. The same resolution establishes the general criteria as regards the appointing and registering for each season, in order to ensure the safeguard of a breeding-ground of young athletes.

Art. 27-bis

(Entry and residence for voluntary work).

1. With decree of the Ministry of social solidarity, together with the Ministry of Interior and of Foreign Affairs, to be issued within 30 June of each year, the annual quota is established concerning the aliens admitted to participate in programmes of voluntary work pursuant to this consolidated act.

2. Within the ambit of the quota as mentioned under paragraph 1, entry and residence is allowed to aliens of age comprised between 20 and 30 years old for

the participation in a programme of voluntary work, upon the issuing of a specially provided no impediment document, and upon the verification of the following requisites:

a) the belonging of the organization promoting the programme of voluntary work to one of the following categories:

1) ecclesiastic bodies civilly recognised, on the basis of law n. 222 dated 20 May 1985, as well as bodies civilly recognised by laws of approval of agreements with religious beliefs pursuant to article 8, third paragraph, of the Constitution;

2) non-governmental organizations recognised pursuant to law n. 49 dated 26 February 1987;

3) associations of social promotion registered in the national registry as mentioned under law n. 383 dated 7 December 2000;

b) the signing of a specially provided convention between the alien and the organization promoting the programme of voluntary work, specifying the functions of the voluntary worker, the framework conditions from which he will benefit in carrying out said functions, the working hours to comply with, the resources provided for his travelling expenses, lodging and meals and pocket money for the whole duration of the residence, as well as, if necessary, the indication of a training path also as regards the knowledge of the Italian language;

c) the signing of an insurance policy by the organization promoting the programme of voluntary work for the expenses concerning health assistance and civil liability toward third parties and the undertaking of the full responsibility for covering expenses concerning the residence of the voluntary worker, for the whole duration of the programme, and for the entry and return trip. The signing of the policy is mandatory also for associations as mentioned under n. 3) of letter a) of paragraph 2, that have entered into agreements pursuant to article 30 of law n. 383 dated 7 December 2000, in derogation to what provided for by paragraph 5 of the same article.

3. Application for the no impediment document is submitted by the organization promoting the programme of voluntary work to the One Stop Shop for immigration at the Prefecture-territorial office of the Government cognizant for the place where the programme of voluntary work is carried out. The One Stop Shop, once acquired from the *Questura* the opinion on the inexistence of reasons hindering the entry of the alien on the national territory and verified the existence of the requisites as mentioned under paragraph 1, issues the no impediment document.

4. The no impediment document is transmitted, via computer, by the One Stop Shop for immigration, to the consular representatives abroad, which are requested to issue the relevant entry visa within six months from the issuing of the no impediment document.

5. The residence permit is applied for and issued pursuant to the provisions in force, for the duration of the programme of voluntary work and usually for a period of time not above one year. In exceptional cases, specifically identified in the programmes of the voluntary work and evaluated on the basis of specially provided directives that will be issued by the Administrations involved, the permit can have a longer duration and however equal to the duration of the programme. In no case whatsoever the residence permit, which is not renewable nor convertible into another typology of residence permit, can last more than eighteen months.

6. The period of duration of the residence permit issued pursuant to this provision is not computable for the issuing of the **((EU residence permit for long-term residents))** as mentioned under article 9-bis.

Art. 27-ter

(Entry and residence for scientific research)

1. Entry and residence for more than three months, outside the shares as mentioned under article 3, paragraph 4, is allowed for aliens in possession of a higher degree, which in the Country where it was achieved gives access to PhD programmes. The alien, called researcher for the only purpose of implementing the procedures provided for in this article, is selected by a research institute registered in the specially provided list at the Ministry of University and Research.

2. The registration in the list as mentioned under paragraph 1, valid for five years, is regulated with decree of the Ministry of University and Research and, among other things, provides for as follows:

a) registration in the list of institutes, public or private, that carry out research activity meant as creative work carried out on a systematic basis to increase the fund of knowledge, including the knowledge of man, culture and society, and the use of said fund of knowledge so as to conceive new applications;

b) determination of the minimum financial resources at disposal of the private institute so as to ask for the entry of researchers and the number allowed;

c) obligation of the institute to bear the expenses connected to the possible condition of the researcher's irregularity, including the costs related to expulsion, for a period of time equal to six months from the termination of the reception agreement as mentioned under paragraph 3;

d) conditions for the revocation of the registration in case of non-compliance with the rules of this article.

3. The researcher and the research institute as mentioned under paragraph 1 enter into a reception agreement with which the researcher undertakes to realize the research project and the institute undertakes to receive the researcher. The research project must be approved by the administration bodies of the institute evaluating the object of research, the titles in the researcher's possession compared to the object of research, certificates with an authenticated copy of the degree, and the availability of the financial resources for its realization must be ascertained. The agreement establishes the researcher's juridical relationship and working conditions, the monthly resources put at his disposal, equal to at least the double of the social cheque, the expenses for the return trip, the signing of a health insurance policy for the researcher and family members or the obligation for the institute to register them at the National Health Service.

((3-bis. The existence of the monthly resources as mentioned under paragraph 3 is ascertained and stated by the research institute in the reception agreement, also in case the researcher's participation in the research project benefits from the financial support of the European Union, an international organization, another research institute or a foreign subject assimilable to the same.))

4. The application for the no impediment document for scientific research, together with the document certifying the registration in the list as mentioned under paragraph 1 and the authenticated copy of the reception agreement as mentioned under paragraph 3, is submitted by the research institute to the One Stop Shop for immigration at the *prefecture*-territorial office of the Government cognizant for the place where the research programme is carried out. The One Stop Shop, once acquired from the *Questura* the opinion on the inexistence of reasons hindering the entry of the alien on the national territory, issues the no impediment document.

5. The reception agreement loses effects automatically if the issuing of the no impediment document is denied.

6. The entry visa can be applied for within six months from the date of the issuing of the no impediment document, transmitted via computer to the consular representatives abroad by the One Stop Shop for immigration, and is issued with priority compared to other typologies of visas.

7. The residence permit for scientific research is applied for and issued, pursuant to this consolidated act, for the duration of the research programme and allows the carrying out of the activity indicated in the reception agreement in the forms of subordinate work, autonomous work or research training. In case of extension of the research programme, the residence permit is renewed, for a duration equal to the extension, upon submission for the renewal of the reception agreement. While waiting for the issuing of the residence permit it is however allowed the carry out research activity. For the purposes as mentioned under article 9, the holders of the residence permit for scientific research issued on the basis of research training are subject to the provisions provided for as regards the holders of the permit for study or professional training reasons.

8. Family joining is allowed for the researcher, regardless of the duration of his residence permit, pursuant and upon the conditions provided for by article 29 **((, with the exception of the requisite as mentioned under letter a) of paragraph**

3 of the same article))). Family members are issued a residence permit with a duration equal to that of the researcher's.

9. The procedure as mentioned under paragraph 4 is applied also to the researcher legally residing on the national territory for other reasons, different from asylum or temporary protection applications. In this case, the researcher is issued the residence permit as mentioned under paragraph 7 in exemption of visa and despite the requisite of the actual residence abroad for the procedure of the issuing of the no impediment document as mentioned under paragraph 4.

10. Researchers holders of a residence permit as mentioned under paragraph 7 can be admitted, under equal conditions with Italian citizens, to carry out teaching activity connected to the research programme object of the agreement and compatible with the statutory and regulatory provisions of the research institute.

11. In compliance with international and European agreements with which Italy complies, the alien admitted as researcher in a State belonging to the European Union can enter Italy without the need of a visa to continue the research already stated in another State. For residences up to three months, a residence permit is not required and the no impediment document as mentioned under paragraph 4 is substituted by a communication submitted to the One Stop Shop of the prefecture-territorial office of the Government of the province where the research activity is carried out by the alien, within eight days from the entry. The communication is submitted together with an authentic copy of the reception agreement signed in the other State, that provides for a period of research in Italy and the availability of resources, as well as a health insurance policy valid for the period of permanence on the national territory, together with a statement of the institute where the activity is carried out. For periods above three months, the residence is subject to the signing of the reception agreement with a research institute as mentioned under paragraph 1 and the provisions applied are those as mentioned under paragraphs 4 and 7. While waiting for the issuing of the residence permit, research activity is however allowed.

Art. 27-quater

(Entry and residence for highly qualified workers. Issuing of the EU blue card)

1. Entry and residence for periods above three months are allowed, outside the shares as mentioned under article 3, paragraph 4, as regards aliens, hereinafter called highly qualified foreign workers, that intend to carry out work activities paid by or under the direction or coordination of a natural or legal person and that are in possession of what follows:

a) a higher degree issued by the cognizant authority in the Country where it was achieved certifying the completion of a higher education path lasting at least three years and **((of a))** higher professional qualification, falling within levels 1, 2 and 3 of the ISTAT classification of the CP 2011 professions and following amendments, certified by the country of provenance and recognized in Italy;

b) the requirements provided for by legislative decree n. 206 dated 6 November 2007, limitedly to the exercise of regulated professions.

2. The provision as mentioned under paragraph 1 is applied:

a) to aliens in possession of requirements as mentioned under paragraph 1, even if residing in another Member State;

b) to highly qualified foreign workers, holders of the Blue Card issued by another member State;

c) to aliens in possession of requirements as mentioned under paragraph 1, legally residing on the national territory.

3. The provisions as mentioned under paragraph 1 do not apply to aliens:

a) who reside under temporary protection, or for humanitarian reasons or have applied for relevant residence permit and are waiting for a decision concerning said application;

b) who reside in quality of benefitting party of international protection recognised pursuant to directive 2004/83/EC of the Council dated 29 April 2004, as adopted by legislative decree n. 251 dated 19 November 2007, and of directive 2005/85/EC of the Council dated 1st December 2005, as adopted by legislative decree n. 25 dated 28 January 2008, and following amendments, or have applied for the recognition of said protection and are still waiting for a definitive decision;

- c) who decide to reside in quality of researchers pursuant to article 27-ter;
- d) who are family members of citizens of the Union that have exercised or exercise their right to free circulation in compliance with directive 2004/38/EC, of the European Parliament and of the Council, dated 29 April 2004, as adopted by legislative decree n. 30 dated 6 February 2007, and following amendments;
- e) who benefit from the status of long-term resident and reside pursuant to article 9-bis for autonomous or subordinate work;
- f) who enter a member State owing to commitments provided for by an international agreement that eases the entry and the temporary residence of specific categories of natural persons connected to commerce and investments;
- g) who reside in quality of seasonal workers;
- h) who reside in Italy, in quality of transferred workers, pursuant to article 27, paragraph 1, letters a), g), and i), in compliance with directive 96/71/EC, of the European Parliament and of the Council dated 16 December 2006, as adopted by legislative decree n. 72 dated 25 February 2000, and following amendments;
- i) who, due to agreements entered into among the Third country of belonging and the Union and its member States, benefit from the right of free circulation equivalent to that of citizens of the Union;
- l) who are addressees of an expulsion measure even if suspended.

4. The application for the no impediment document to work for highly qualified foreign workers is submitted by the employer to the One Stop Shop for immigration at the *prefecture*-territorial office of the Government. The submission of the application and the issuing of the no impediment document, of entry visas and residence permits, are regulated by the provisions as mentioned under article 22, withstanding the specific conditions provided for by this article.

5. The employer, when submitting the application as mentioned under paragraph 4, besides what provided for by paragraph 2 of article 22, must indicate, penalty the rejection of the application, what follows:

- a) the proposal of the job contract or binding job offer of the duration of at least one year, for carrying out a job activity that requires the possession of a higher professional qualification, as indicated under paragraph 1, letter a);
- b) the degree and ((...)) higher professional qualification, as indicated under paragraph 1, letter a), possessed by the alien;
- c) the amount of the gross annual income, as inferable by the job contract or the binding offer, that must not be lower than the triple of the minimum level provided for as regards the exemption from the participation in health expenses.

6. The One Stop Shop for immigration summons the employer and issues the no impediment document to work within and not over ninety days from the submission of the application or, within the same term, communicates to the employer the rejection of the same. The aliens as mentioned under paragraph 2, letter c), of this article, legally residing on the national territory, access the issuing procedure of the no impediment document to work despite the requisite of the actual residence abroad.

7. The issuing of the no impediment document to work is subject to the preventive carrying out of the fulfilments provided for by article 22, paragraph 4.

8. The no impediment document to work is substituted by a communication of the employer concerning the job contract proposal or binding job offer, formulated pursuant to paragraph 5, and the provisions applied are those as mentioned under article 27, paragraph 1-ter, should the employer have signed with the Ministry of Interior, having heard the Ministry of Labour and Social Policies, a specially devoted agreement protocol, with which said employer guarantees the existence of the conditions provided for by paragraph 5 and by article 27, paragraph 1-quater. For the implementation of the provisions of this paragraph, the employer must state not to be in the conditions as mentioned under paragraph 10.

9. The no impediment document to work is rejected or, in the case it was issued, it is revoked if the documents as mentioned under paragraph 5 were obtained through fraud or were falsified or counterfeited or should the alien not go to the One Stop Shop for immigration to sign the residence contract within the term as mentioned under article 22, paragraph 6, unless the delay depended on causes of force majeure. Revocations of the no impediment document are communicated to the Ministry of Foreign Affairs via computer.

10. The no impediment document to work is also rejected if the employer results to have been sentenced in the previous five years, also with non-definitive sentence, including that adopted following the implementation of the sentence upon request pursuant to article 444 of the code of criminal procedure, for the following crimes:

a) aiding and abetting of illegal immigration toward Italy and illegal emigration from Italy to other States or for crimes aimed at the recruitment of people to destine to prostitution or the exploitation of prostitution or minors to use in illegal activities;

b) illegal intermediation and job exploitation pursuant to article 603-bis of the code of criminal procedure;

c) crimes provided for by article 22, paragraph 12.

11. The highly qualified foreign worker authorized to carry out working activities is issued by the Questore a residence permit pursuant to article 5, paragraph 8, stating the phrase 'EU blue Card', in the section 'type of permit'. The residence permit is issued, following the signing of the residence contract for work as mentioned under article 5-bis and of the communication concerning the establishment of the job relationship as mentioned under article 9-bis, paragraph 2, of law decree n. 510 dated 1st October 1996, converted, with amendments, by law n. 608 dated 28 November 1996, with a two-year duration, in case of open-ended job contract, or with duration equal to that of the job relationship plus three months, in the other cases.

12. The residence permit is not issued or its renewal is rejected or, in the case it was granted, it is revoked in the following cases:

a) if it was obtained in a fraudulent manner or it was falsified or counterfeited;

b) if it results that the alien did not satisfy or no longer satisfies the entry and residence conditions provided for by this consolidated act or if the alien resides for purposes different from those for which the same obtained the no impediment document pursuant to this article;

c) if the alien did not comply with the conditions as mentioned under paragraph 13;

d) should the alien not have the sufficient resources to support himself and, in case, his family members, without recurring to the national social assistance regime, with the exception of the period of unemployment.

13. The holder of the EU blue Card, limitedly to the first two years of legal employment on the national territory, can exclusively exercises work activities compliant with the admission conditions provided for by paragraph 1 and limitedly to those for which the EU blue Card was issued. Changes of employer during the first two years are subject to preliminary authorization by the cognizant territorial Directorates for employment. After 15 days from the reception of the documentation concerning the new job contract or binding offer, the opinion of the cognizant territorial Directorate is considered acquired.

14. Access to work is excluded if the activities of the same entail, even occasionally, the direct or indirect exercise of public powers, or pertain the protection of national interests. Moreover, access to work is excluded even in the cases in which, compliantly with national or community laws in force, the activities of the same are reserved to national citizens, to citizens of the Union or EEA citizens.

15. The holder of the EU blue Card benefits from a treatment equal to that reserved to citizens, compliantly with the regulation in force, with the exception of access to the labour market during the first two years, as provided for by paragraph 13.

16. Family joining is allowed for the holder of the EU blue Card, regardless of the duration of his residence permit, pursuant and under the conditions provided for by article 29. Family members are issued a residence permit for family reasons, pursuant to article 30, paragraphs 2, 3 and 6, of duration equal to that of the holder of the EU blue Card.

17. After eighteen months of legal residence in another member State, the alien holder of the EU blue Card, issued by said State, can enter Italy without needing a visa, in order to carry out a work activity, under the conditions provided for by this article. Within a month from the entry in the national territory, the employer submits the application for a no impediment document to work with the

procedure provided for by paragraph 4 and under the conditions of this article. The no impediment document is issued within the term of 60 days. The application for the no impediment document can be submitted by the employer even if the holder of the EU blue Card still resides in the territory of the first member State. The highly qualified foreign worker authorized to work by the One Stop Shop is issued by the *Questore* the permit according to the modalities and the conditions provided for by this article. The member State that issued the previous EU blue Card is notified concerning the mentioned issuing. The alien whose no impediment document to work or permit was rejected or revoked or the latter was not renewed, is ordered expulsion pursuant to article 13 and the removal is carried out toward the member State of the European Union that issued the EU blue Card, even in case the EU blue Card issued by the other member State is expired or has been revoked. The holder of the EU blue Card readmitted in Italy pursuant to this paragraph is subject to the provisions provided for by article 22, paragraph 11. The family members of the alien holder of the EU blue Card in possession of a valid residence title issued by the member State of provenance and of a valid travel document, are issued a residence permit for family reasons, pursuant to article 30, paragraphs 2, 3 and 6, upon proving to have resided in quality of family members of the holder of the EU blue Card in the same member State of provenance and to be in possession of the requisites as mentioned under article 29, paragraph 3.

18. As regards what not expressly provided for by this article, the provisions implemented are those as mentioned under article 22, as they are compatible.

TITLE IV RIGHT TO FAMILY UNITY AND PROTECTION OF MINORS

Art. 28
(Right to family unity)
(Law n. 40 dated 6 March 1998, art. 26)

((1. The right to keep or re-acquire family unity as regards foreign family members is recognised, under the conditions provided for by this consolidated act, to aliens holders of residence paper or permit for a duration not inferior to a year issued for subordinate or autonomous work reasons, or for asylum, for study, for religious reasons or for family reasons.))

2. Foreign family members of Italian citizens or of a member State of the European Union continue to be subject to the provisions of decree n. 1656 of the President of the Republic dated 30 December 1965, withstanding those more favourable of this law or of the regulation implementation.

3. In all the administrative and jurisdictional proceedings aimed at implementing the right to family unity and concerning minors, it is necessary to take into consideration with priority the higher interest of the minor, compliantly with what provided for by article 3, paragraph 1, of the Convention on the rights of the child dated 20 November 1989, ratified and made executive pursuant to law n. 176 dated 27 May 1991.

Art. 29
(Family joining)

1. The alien can apply for family joining for the following family members:

- a) spouse not legally separated and not under eighteen years of age;
- b) minor children, even of the spouse or born out of wedlock, not married, upon the condition that the other parent, if existing, has given consent;
- c) dependent children of age, if for objective reasons they cannot take care of their own indispensable needs of life due to their health that entails total invalidity;
- d) dependent parents, should they not have other children in the Country of origin or provenance, or parents over sixty-five years of age, should it be impossible for their other children to support them for documented, serious health reasons.

1-bis. If the statuses as mentioned under paragraph 1, letters b), c) and d), cannot be documented in a sure way through certificates or documents issued by

cognizant foreign authorities, due to the lack of a recognised authority or however when there are founded doubts on the authenticity of the above mentioned documentation, the diplomatic or consular representatives provide for the issuing of certificates, pursuant to article 49 of decree n. 200 of the President of the Republic dated 5 January 1967, on the basis of a DNA exam (deoxyribonucleic acid), carried out at the expenses of the parties involved.

1-ter. Family joining is not allowed as mentioned under letters a) and d) of paragraph 1, when the family member for whom the joining is applied is married with a foreign citizen legally residing with another spouse on the national territory.

2. As regards joining, minors means children under eighteen years of age at the moment of the submission of the joining application. Minors adopted or under custody or subject to protection are equalled to children.

3. Withstanding what provided for by article 29-bis, the alien that applies for family joining must prove the availability of what follows:

a) a lodging compliant with hygiene-health requirements, as well as lodging eligibility, ascertained by the cognizant municipal offices. If a child is under fourteen years of age following one of the parents, it is sufficient to have the consent of the owner of the lodging where the minor will actually live;

b) a minimum annual income deriving from legal sources not inferior to the annual amount of the social cheque increased by half of the amount of the social cheque for each family member to be joined. For the joining of one or more children under fourteen years of age ((...)) it is required to have, in any case, an income not inferior to the double of the annual amount of the social cheque. In order to establish the income, also the total annual income of the family members living with the applicant is taken into account;

b-bis) a health insurance or other eligible title, so as to guarantee the covering of all risks on the national territory in favour of the ascendant over sixty-five years of age or his registration in the National health service, upon the payment of a contribution whose amount is to be established with decree of the Ministry of Labour, of Health and Social Policies, together with the Ministry of Economy and Finance, to be adopted within 30 October 2008 and to be updated every two years, having heard the permanent Conference for the relationships among State, regions and autonomous provinces of Trento and Bolzano.

4. Entry is allowed, following the alien holder of residence paper or of an entry visa for subordinate work relevant to a contract with a duration not inferior to one year, or for non-occasional autonomous work, or for study or religious reasons, for family members with whom it is possible to carry out the joining, upon the condition that the requirements of lodging availability and income are satisfied as mentioned under paragraph 3.

5. Withstanding what provided for by article 4, paragraph 6, entry is allowed for joining to the minor child, already legally resident in Italy with the other parent, of the natural parent showing the possession of the requisites of lodging and income availability as mentioned under paragraph 3. For the existence of the requisites, the possession of said requisites by the other parent is taken into account.

6. The family member authorized to enter or to reside on the national territory pursuant to article 31, paragraph 3, is issued, in derogation to what provided for by article 5, paragraph 3-bis, a permit for minor assistance, renewable, of duration corresponding to what established by the Juvenile Court. The residence permit allows to carry out work activities but it cannot be converted into permit for work reasons.

7. The application for a no impediment document for family joining, together with the documentation related to the requirements as mentioned under paragraph 3, is submitted to the One Stop Shop for immigration at the *prefecture*-territorial office of the Government cognizant for the place where the applicant lives, that issues a copy with a stamped date and signature of the employee in charge of the reception. The office, once acquired from the *Questura* the opinion on the inexistence of reasons hindering the alien's entry in the national territory, as mentioned under article 4, paragraph 3, last period, and verified the existence of the requisites as mentioned under paragraph 3, issues the no impediment document or the denial measure of the same. The issuing of the visa for the family member for whom the no impediment document was issued is subject

to the ascertainment of its authenticity, by the Italian consular authority, with reference to the documentation proving the conditions of kinship, marriage, minor age or health conditions.

8. The no impediment document to family joining is issued within one hundred and eighty days from the application.

9. The application for family joining is rejected if it is ascertained that the marriage or the adoption took place for the sole purpose of enabling the interested party to enter or reside in the State's territory.

10. The provisions as mentioned under this article are not applied in the following cases:

a) when the residing party applies for the recognition of the status of refugee and his application has not yet been object of a definitive resolution;

b) for aliens addressees of temporary protection measures, provided for pursuant to legislative decree n. 85 dated 7 April 2003, or measures as mentioned under article 20;

c) in the hypotheses as mentioned under article 5, paragraph 6.

Art. 29-bis

(((Family joining of refugees).))

((1. The alien who is recognised the status of refugee can apply for family joining for the same categories of family members and with the same procedures as mentioned under article 29. In this case, the provisions as mentioned under article 29, paragraph 3 are not implemented.

2. Should the refugee not be able to provide official documents proving his family bonds, due to his status, or lacking a recognised authority or due to the alleged unreliability of the documents issued by the local authority, found also during the Schengen local consular cooperation, pursuant to the resolution of the European Council dated 22 December 2003, the diplomatic or consular representatives issue certifications, pursuant to article 49 of decree n. 200 of the President of the Republic dated 5 January 1967, on the basis of verifications deemed necessary, carried out at the expenses of the parties involved. Moreover, it is possible to make use of other means capable of proving the existence of the family bond, among which elements obtained from documents issued by international organisms considered eligible by the Ministry of Foreign Affairs. The rejection of the application cannot be motivated exclusively due to the absence of probative documents.

3. If the refugee is a non-accompanied minor, the direct ascendants of first degree are allowed entry and residence for family joining.))

Art. 30

Residence permit for family reasons
(Law n. 40 dated 6 March 1998, art. 28)

1. Withstanding the cases concerning the issuing or renewal of a residence paper, residence permit for family reasons is issued:

a) to the alien who has entered Italy with entry visa for family joining, or with entry visa following a family member in the cases provided for by article 29, or with entry visa for joining to a minor child;

b) to the alien legally resident with other title for at least one year married in the State's territory with an Italian citizen or in a member State of the European Union, or with a foreign citizen legally resident;

c) to the foreign family member legally resident, in possession of the requisites for joining the Italian citizen or a member State of the European Union resident in Italy, or a foreign citizen legally resident in Italy. In this case, the family member's permit is converted into residence permit for family reasons. The conversion can be applied for within one year from the expiry date of the residence title originally possessed by the family member. Should said citizen be a refugee, the family member's possession of a valid residence permit is disregarded;

d) to the foreign parent, also natural, of Italian minor resident in Italy. In this case, the residence permit for family reasons is issued also regardless of

the possession of a valid residence title, upon the condition that the applying parent has not been deprived of parental authority according to the Italian law.

1-bis. The residence permit in the cases as mentioned under paragraph 1, letter b), is immediately revoked should it be ascertained that the marriage was not followed by an actual cohabitation, unless children were born following the marriage. The application for the issuing or renewal of the alien's residence permit as mentioned under paragraph 1, letter a), is rejected and the residence permit is revoked if it is ascertained that the marriage or the adoption took place for the sole purpose to allow the party involved to reside in the State's territory.

2. The residence permit for family reasons allows access to welfare services, enrolment in study courses or professional training, registration in unemployment lists, subordinate or autonomous work, withstanding the minimum requisites of age for carrying out work activities.

3. The residence permit for family reasons has the same duration of the residence permit of the foreign family member in possession of the requisites for the joining pursuant to article 29 and it is renewable together with the latter.

4. PARAGRAPH ABROGATED BY LGS.D. N. 30 DATED 6 FEBRUARY 2007.

5. In case of death of the family member in possession of the requisites for the family joining and in case of legal separation or undoing of the marriage or, for the child that cannot obtain the residence paper, upon turning eighteen years old, the residence permit can be converted into permit for subordinate work, autonomous work or for study, withstanding the minimum requisites of age for carrying out work activities.

((6. Opposing the denial of the no impediment document to family joining and residence permit for family reasons, as well as opposing the other measures of the administrative authority as regards the right to family unity, the interested party can lodge opposition in front of the ordinary judicial authority. The opposition is regulated by article 20 of legislative decree n. 150 dated 1st September 2011))

((37))

UPDATE (37)

Lgs.D. n. 150 dated 1 September 2011, provides for as follows (with art. 36, paragraph 1): "The rules of this decree are applied to proceedings launched after the date of the entering into force of the same."

Moreover, it provides for as follows (with art. 36, paragraph 2): "The rules abrogated or amended by this decree continue to be applied to controversies pending at the date of the entering into force of the same."

Art. 31

(Provisions in favour of minors)

(Law n. 40 dated 6 March 1998, art. 29)

1. The minor child of the alien living with the latter and legally resident is registered in the residence permit or residence paper of one or both of the parents until turning fourteen years old and follows the juridical condition of the parent with whom he lives, or with the most favourable between those of the parents with whom he lives. Until the mentioned age limit, the minor resulting under custody pursuant to article 4 of law n. 184 dated 4 May 1983, is registered in the residence permit or residence paper of the alien to whom he is entrusted and follows the juridical condition of the latter, if more favourable. The occasional and temporary absence from the State's territory does not exclude the requisite of cohabitation and the renewal of the registration.

2. When the minor registered in the residence permit or residence paper of the alien parent or custodian turns fourteen years old, he is issued a residence permit for family reasons valid until turning of age, or a residence paper.

3. The Juvenile Court, for serious reasons connected to psychophysical development and keeping into account the age and health conditions of the minor

on the Italian territory, can authorize the entry or the permanence of a family member, for a fixed period of time, also in derogation to the other provisions of this law. The authorization is revoked when the serious reasons that justified its issuing cease to exist or due to activities of the family member incompatible with the minors' needs or with permanence in Italy. The measures are communicated to the diplomatic or consular representatives and to the *questore* for the fulfilments of relevant competences.

4. Should the expulsion of a foreign minor be ordered pursuant to this consolidated act, the measure is enforced, upon the *questore's* request, by the Juvenile Court.

Art. 32

Provisions concerning minors under custody when turning the majority age
(Law n. 40 dated 6 March 1998, art. 30)

1. When turning the majority age, as regards the alien subject to the provisions as mentioned under article 29, paragraphs 1 and 2, and, withstanding what provided for by paragraph 1-bis, the minors that were entrusted pursuant to article 2 of law n. 184 dated 4 May 1983, can be issued a residence permit for study reasons, access to work, subordinate or autonomous work, health or medical treatment reasons. The residence permit for access to work is issued regardless of the possession of the requisites as mentioned under article 23.

1-bis. The residence permit as mentioned under paragraph 1 can be issued for study reasons, for access to work or subordinate or autonomous work, upon turning the majority age, ((. . .)) to non-accompanied foreign minors, under custody pursuant to article 2 of law n. 184 dated 4 May 1983, or subject to protection, **((upon positive opinion of the Committee for foreign minors as mentioned under article 33 of this consolidated act, or to non-accompanied foreign minors))** that were admitted for a period not inferior to two years in a social and civil integration project managed by a public or private body that has national representatives and that however is registered in the registry established at the Presidency of the Council of Ministers pursuant to article 52 of decree n. 394 of the President of the Republic dated 31 August 1999.

1-ter. The body managing the projects must guarantee and prove with eligible documentation, upon the foreign minor's turning the majority age, as mentioned under paragraph 1-bis, that the party involved has been on the national territory for not less than three years, that he has followed the project for not less than two years, that he has the availability of lodging and attends study courses or carries out work activity paid in the forms and modalities provided for by the Italian law, or is in possession of a work contract even if not yet started.

1-quater. The number of residence permits issued pursuant to this article is detracted from the entry shares defined annually in the decrees as mentioned under article 3, paragraph 4.

Art. 33

(Committee for foreign minors)
(Law n. 40 dated 6 March 1998, art. 31)

1. In order to control the residence modalities of foreign minors temporarily admitted on the State's territory and coordinate the activities of the administrations involved, a Committee has been established, without further charges at the State's expense, at the Presidency of the Council of ministers composed of representatives of the Ministries of Foreign Affairs, of Interior and of Grace and Justice, of the Department for social affairs of the Presidency of the Council of ministers, as well as two representatives of the national Association of the Italian municipalities [Associazione nazionale dei comuni italiani (ANCI)], of one representative of the *Unione province d'Italia* (UPI)] and of two representatives of the organizations mostly representative operating in the sector of family issues.

((2. The decree of the President of the Council of Ministers or of the Minister delegated by the same, having heard the Ministries of Foreign Affairs, of Interior and Grace and Justice, defines the tasks of the Committee as mentioned under paragraph 1, concerning the protection of the foreign minors' rights in compliance with what provided for by the Convention on the rights of the child dated 20

November 1989, ratified and made executive pursuant to law n. 176 dated 27 May 1991. In particular, the following aspects are established:

a) the rules and the modalities for the entry and residence in the State's territory of foreign minors above six years of age, that enter Italy within the ambit of solidarity programmes of temporary reception promoted by bodies, associations or Italian families, as well as for temporary custody and for the repatriation of the same;

b) the reception modalities of non-accompanied foreign minors present on the State's territory, within the ambit of the activities of social services of local bodies and the tasks of impulse and connection of the Committee as mentioned under paragraph 1 with the administrations involved for reception, assisted repatriation and joining of the minor with his family in the Country of origin or in a third Country.)

((2-bis. The repatriation measure of the non-accompanied foreign minor for the purposes as mentioned under paragraph 2, is adopted by the Committee as mentioned under paragraph 1. Should there be jurisdictional proceedings launched against said minor, the judicial authority issues a no impediment document, unless there are imperative procedural needs.))

3. In order to carry out the activities of competence, the Committee makes use of the personnel and the means at disposal at the Department of social affairs of the Presidency of the Council of Ministers and has its head office at the mentioned Department.

TITLE V

PROVISION CONCERNING HEALTHCARE, EDUCATION, LODGING, PARTICIPATION IN PUBLIC LIFE AND SOCIAL INTEGRATION.

ITEM I

PROVISIONS CONCERNING HEALTHCARE

Art. 34

(Assistance for aliens registered at the National Health Service [Servizio sanitario nazionale])

(Law n. 40 dated 6 March 1998, art. 32)

1. Obligation to register at the National Health Service and equal treatment and full equality of rights and duties compared to Italian citizens as regards contributive obligations, assistance provided in Italy by the National Health Service and its temporal validity is all provided for as regards the following subjects:

a) aliens legally resident that are carrying out legal activities of subordinate or autonomous work or that are registered in the unemployment lists;

b) aliens legally resident or that have applied for the renewal of their residence title, for subordinate work, autonomous work, family reasons, political asylum, humanitarian asylum, asylum application, waiting for adoption, for foster care, for citizenship.

2. Health assistance is granted also to dependent family members legally resident. As regards delays in the registration to the national health service, aliens' children not of age registered at the national health service are granted from birth the same treatment of minors registered.

3. The alien legally resident, not falling within the categories indicated in paragraphs 1 and 2, must be insured against the risk of diseases, injuries and maternity by entering into a specially provided insurance policy with an Italian or foreign insurance institute, valid on the national territory, or through registration at the national health service valid also for the dependent family members. For the registration at the national health service it is necessary to pay an annual contribution for the participation in the expenses, of an amount in percentage equal to what provided for as regards Italian citizens, on the total income obtained during the previous year in Italy and abroad. The amount of the contribution is established with decree of the Ministry of Health, together with the Ministry of Treasury, of Budget and Economic Planning and it cannot be inferior to the minimum contribution provided for by the rules in force.

4. The voluntary registration at the national health service can also be requested:

- a) by aliens residing in Italy with residence permit for study reasons;
- b) by aliens legally resident au pair, pursuant to the European agreement on the au pair status, adopted in Strasbourg on 24 November 1969, ratified and made executive pursuant to law n. 304 dated 18 May 1973.

5. The subjects as mentioned under paragraph 4 must pay an annual flat-rate contribution for the registration at the national health service, for the participation in expenses, in the amounts and according to the modalities provided for by the decree as mentioned under paragraph 3.

6. The contribution for aliens indicated under paragraph 4, letters a) and b) is not valid for dependent family members.

7. The alien insured under the national health service is registered in the local health system of the municipality where he lives according to the modalities provided for by the regulation implementation.

Art. 35

(Health assistance for aliens not registered
at the National Health Service)
(Law n. 40 dated 6 March 1998, art. 33)

1. As regards health services provided to aliens not registered at the National health service it is necessary to pay, with reference to the subjects obliged to the payment of said services, the tariffs established by regions and autonomous provinces pursuant to article 8, paragraphs 5 and 7, of legislative decree n. 502 dated 30 December 1992, and following amendments.

2. The laws regulating health assistance to aliens in Italy withstand on the basis of treaties and bilateral or multilateral international agreements of reciprocity signed by Italy.

3. The aliens present on the national territory, not compliant with the rules concerning entry and residence, are insured, in the public and credited structures, as regards urgent or however essential outpatient and hospital treatment, as well as continuative, for diseases and injuries as well as programmes of preventive medicine for the protection of individual and collective health. In particular, the following aspects are guaranteed:

a) the social protection of pregnancy and maternity, with equal treatment as regards the Italian citizens, pursuant to law n. 405 dated 29 July 1975, and law n. 194 dated 22 May 1978, and of decree of the Ministry of Health dated 6 March 1995, published in the Official Gazette n. 87 dated 13 April 1995, with equal treatment as regards Italian citizens;

b) the minor's health protection implementing the Convention on the rights of the child dated 20 November 1989, ratified and made executive pursuant to law n. 176 dated 27 May 1991;

c) vaccinations pursuant to the law and within the ambit of interventions of collective prevention campaigns authorized by the regions;

d) interventions of international prophylaxis;

e) prophylaxis, diagnosis and treatment of infective diseases and possible decontamination of relevant centres of infection.

4. Services as mentioned under paragraph 3 are provided without charges at the applicants' expense should they be lacking sufficient economic resources, withstanding the equal participation shares in expenses as regards Italian citizens.

5. Access to health structures of aliens not compliant with residence laws cannot entail any type of report to the authorities, excepting the cases in which the medical report is mandatory, under the same conditions of the Italian citizen.

6. Withstanding the financing of urgent hospital services or however essential at the expense of the Ministry of Interior, the charges caused by the remaining services provided for by paragraph 3, toward foreign citizens lacking sufficient economic resources, are covered within the ambit of the availability of the national health fund with relevant reduction of the programmes referred to emergency interventions.

Art. 36

(Entry and residence for medical treatment)
(Law n. 40 dated 6 March 1998, art. 34)

1. The alien who intends to receive medical treatment in Italy and his possible accompanying person can obtain a specific entry visa and relevant residence permit. To this end, those interested must submit a statement from the Italian health structure chosen indicating the type of treatment, the date of beginning of the same and the presumed duration of the therapeutic treatment; they must certify the deposit of an amount as caution money, keeping into account the presumable cost of the health services required, according to modalities established by the regulation implementation, as well as prove the availability in Italy of lodging and meals for the accompanying person and for the period of convalescence of the party involved. The application for the issuing of the visa or of the issuing or renewal of the permit can also be submitted by a family member or whoever else may be interested.

2. The transfer for treatment in Italy with issuing of residence permit for medical treatment is also allowed within the ambit of humanitarian programmes defined pursuant to article 12, paragraph 2, letter c), of legislative decree n. 502 dated 30 December 1992, as amended by legislative decree n. 517 dated 7 December 1993, upon authorization of the Ministry of Health, together with the Ministry of Foreign Affairs. The local health authorities and hospital structures, through the regions, are refunded of the expenses born, which are at the expense of the national health fund.

3. The residence permit for medical treatment has a duration equal to the presumed duration of the therapeutic treatment and is renewable until therapeutic needs are documented.

4. Provisions as regard international prophylaxis remain withstanding.

TITLE V

PROVISIONS CONCERNING HEALTHCARE, EDUCATION, LODGING, PARTICIPATION IN PUBLIC LIFE AND SOCIAL INTEGRATION.

ITEM II

PROVISIONS CONCERNING EDUCATION RIGHT TO STUDY AND PROFESSION

Art. 37
(Professional activities)
(Law n. 40 dated 6 March 1998, art. 35)

1. Aliens legally resident in Italy, in possession of professional titles legally recognised in Italy that qualify for carrying out professions, are allowed, in derogation to the provisions that foresee the requisite of Italian citizenship within one year from the entering into force of law n. 40 dated 6 March 1998, to register at the Professional Orders or Boards or, in case of professions lacking Registers, to register in special lists established at the cognizant Ministries, according to what provided for by the regulation implementation. The registration in said registers or lists is the necessary condition for carrying out professions also with subordinate work relationship. Derogation is not possible for aliens that were admitted in excess to high school, university or specialization courses, unless under the authorization of the Government of the State of belonging.

2. The modalities, conditions and time limits for the authorization to carry out professions and for the recognition of relevant qualifying titles not yet recognised in Italy are established with the regulation implementation. The provisions for the recognition of the titles shall be defined by the cognizant Ministries, together with the Ministry of University and Scientific and Technological Research, having heard the professional category orders and associations involved.

3. The aliens as mentioned under paragraph 1, starting from the expiry of the term provided for herein, can register in the Orders, Boards and special lists within the ambit of the shares defined pursuant to article 3, paragraph 4, and

according to maximum percentages of employment defined in compliance with the criteria established by the regulation implementation.

4. In case of subordinate work, equality of treatment with Italian citizens is guaranteed as regards retribution and national insurance.

TITLE V

PROVISIONS CONCERNING HEALTHCARE, EDUCATION, LODGING, PARTICIPATION IN PUBLIC LIFE AND SOCIAL INTEGRATION.

ITEM II

PROVISIONS CONCERNING EDUCATION, THE RIGHT TO STUDY AND PROFESSION

Art. 38

(Aliens' education. Intercultural education)

(Law n. 40 dated 6 March 1998, art. 36

Law n. 943 dated 30 December 1986, art. 9, paragraphs 4 and 5)

1. The foreign minors present on the territory are subject to compulsory school; they are subject to all the provisions in force as regards the right to education, access to educational services, participation in the life of the school community.

2. The actuality of the right to study is guaranteed by the State, Regions and local bodies also through the implementation of specially provided courses and initiatives for learning Italian.

3. The school community receives linguistic and cultural differences as a value to place as a foundation of mutual respect, exchange among cultures and tolerance; to said aim, it promotes and favours initiatives for reception, protection of culture and mother tongue and the realization of common intercultural activities.

4. The initiatives and activities as mentioned under paragraph 3 are realized on the basis of a survey concerning the local needs and of an integrated territorial programme, also in agreement with aliens' associations, with the diplomatic or consular representatives of the Countries of belonging and with the organizations of voluntary work.

5. School institutions, in the framework of a territorial programming of interventions, also on the basis of agreements with Regions and local bodies, promote as follows:

a) reception of foreign adults legally resident through the activation of alphabetization courses in elementary and junior high schools;

b) the realization of a cultural offer valid for foreign adults legally resident that intend to achieve a degree in the compulsory school;

c) the organisation of integrative paths as regards the studies carried out in the Country of provenance in order to achieve the compulsory degree or high school degree;

d) the realization and implementation of Italian language courses;

e) the realization of training courses, also in the framework of agreements of international collaboration in force for Italy.

6. The regions, also through other local bodies, promote cultural programmes for the various national groups, also through courses carried out at high schools or universities. Similarly to what provided for as regards the children of community workers and the children of Italian emigrants that come back to Italy, specific integrative classes are implemented, in the languages and cultures of origin.

7. The regulation adopted pursuant to article 17, paragraph 1, of law n. 400 dated 23 August 1988, establishes the provisions implementing this item, with specific indications concerning:

a) the modalities for realizing specific national and local projects, with particular reference to the implementation of intensive Italian language courses as well as training and refresher courses for the inspective, directive and

teaching personnel of schools of all orders and degrees and the criteria for the adaptation of the teaching programmes;

b) the criteria for the recognition of the degrees and studies carried out in the countries of provenance so as to be inserted in school, as well as the criteria and modalities for communicating with the families of foreign students, also with the aid of qualified cultural mediators;

c) the criteria for the enrolment and integration in class of aliens coming from abroad, for the division of the foreign students among the classes and for the implementation of specific activities for linguistic support;

d) the criteria for entering into agreements as mentioned under paragraphs 4 and 5.

Art. 39

Access to university courses

(Law n. 40 dated 6 March 1998, art. 37)

1. As regards the access to university and relevant interventions for the right to study, equal treatment is guaranteed between the foreign citizen and the Italian citizen, within the limits and according to the modalities as mentioned under this article.

2. The universities, in their autonomy and within the limits of their financial availability, take on initiatives with the purpose to achieve the aims of the programmatic document as mentioned under article 3, promoting the access of aliens to university courses as mentioned under article 1 of law n. 341 dated 19 November 1990, keeping into account the related community orientations, in particular as regards the insertion of a share of foreign university students, entering into specially provided agreements with foreign universities for student mobility, as well as organizing orientation and reception activities.

3. The regulation implementation regulates as follows:

a) the fulfilments required for aliens in order to obtain the entry visa and residence permit for study reasons also with reference to the modalities of providing the guarantee of economic coverage by bodies or Italian citizens or foreign citizens legally resident on the State's territory proving the foreign student's availability of sufficient means of support;

b) the renewability of the residence permit for study reasons, also in order to continue the study path by enrolling in a university course different from the one for which the foreign student entered, upon the university's authorization, and so that the foreign citizen holder of said permit may carry out subordinate or autonomous activities;

c) the providing of scholarships, aids and bonuses to foreign students, also starting from the years following the first year of course, in coordination with the granting of the measures provided for by the laws in force as regards the right to university studies and without obligation of reciprocity;

d) the criteria for evaluating the economic conditions of the alien for uniformity of treatment as regards the granting of the measures as mentioned under letter c);

e) the realization of Italian language courses for aliens that intend to access university in Italy;

f) the recognition of the degrees achieved abroad.

4. **((PARAGRAPH ABROGATED BY L.D. N. 145 DATED 23 DECEMBER 2013, CONVERTED WITH AMENDMENTS BY L. N. 9 DATED 21 FEBRUARY 2014)).**

4-bis. In compliance with the international and European agreements into which Italy has entered, the alien in possession of a residence permit for study reasons issued by a State belonging to the European Union, enrolled in a university course or another institute of higher education, can enter Italy for residences above three months without needing a visa to continue the studies already started in the other State or to integrate them with a study programme connected to the same, as long as he has the necessary residence requisites pursuant to this consolidated act and as long as he jointly undertakes:

a) to participate in a community or bilateral exchange programme with the State of origin or where he was authorized to reside for study reasons in a State belonging to the European Union at least for two years;

b) to add, to the residence application, the documentation provided by the academic authorities of the Country of the Union where he carried out his studies,

certifying that the new programme of studies to be carried out in Italy is actually complementary to the programme already carried out.

4-ter. The conditions as mentioned under paragraph 4-bis, letter a) are not required should the alien's study programme oblige for part of it to be carried out in Italy.

5. However, access to university courses and specialization schools is allowed under equal conditions compared to Italian students, as regards foreign students holders of residence paper, or residence permit for subordinate or autonomous work, for family reasons, for political asylum, for humanitarian asylum, or for religious reasons, or as regards aliens legally resident for at least one year in possession of a high school degree achieved in Italy, as well as aliens, wherever they are resident, holders of final diplomas of Italian schools abroad or foreign or international schools, operating in Italy or abroad, object of bilateral agreements or special rules for the recognition of degrees and satisfy the general conditions required as regards entry for study reasons.

Art. 39-bis

**((Residence of students,
exchange of students, professional apprenticeship).))**

((1. Entry and residence for study reasons is allowed, pursuant to the modalities established in the regulation implementation, with reference to aliens:

a) of age admitted to attend study courses in institutes of higher secondary education and education courses and higher technical training;

b) admitted to attend training and professional courses within the ambit of the annual contingent established with decree of the Ministry of social solidarity, together with the Ministries of Interior and Foreign Affairs, having heard the permanent Conference for the relationship among State, regions and autonomous provinces of Trento and Bolzano, as mentioned under legislative decree n. 281 dated 29 August 1997;

c) minors not under fifteen years of age in the presence of adequate forms of protection;

d) minors not under fourteen years of age that participate in exchange programmes or cultural initiatives approved by the Ministry of Foreign Affairs, by the Ministry of public education, by the Ministry of University and Research or by the Ministry for cultural heritage and activities for the attendance of courses at institutes and state or national secondary schools on equal terms or at academic institutions.))

TITLE V

PROVISIONS CONCERNING HEALTHCARE, EDUCATION LODGING, PARTICIPATION IN PUBLIC LIFE AND SOCIAL INTEGRATION.

ITEM III

PROVISIONS CONCERNING LODGING AND WELFARE SERVICES

Art. 40

Reception centres. Access to lodging
(Law n. 40 dated 6 March 1998, art. 38)

1. The regions, in collaboration with the provinces and municipalities and with the associations and organizations of voluntary work, organize reception centres destined to host, even in structures hosting Italian citizens or citizens from other Countries of the European Union, aliens legally resident for reasons different from tourism, who are temporarily unable to take care autonomously of their lodging and basic needs. PERIOD SUPPRESSED BY L. N. 189 DATED 30 JULY 2002.

1-bis. Access to social integration measures is reserved to aliens not belonging to Countries of the European Union that prove to be compliant with the rules that regulate residence in Italy pursuant to this consolidated act and the relevant laws and regulations in force.

2. Reception centres camps are aimed at making the aliens hosted self-sufficient in the shortest time frame possible. Reception centres provide for, when possible, social and cultural services fit for favouring the autonomy and social insertion of the aliens hosted. Each region establishes the management and structural requisites of the centres and allows agreements with private bodies and financings.

3. Reception centres are lodging structures that, even free of charge, take care of the immediate needs for lodging and meals, as well as, when possible, the possibility to learn the Italian language, professional training, cultural exchanges with the Italian population, and welfare-healthcare services for the aliens unable to take care of themselves autonomously for the time strictly necessary for reaching personal autonomy as regards meals and lodging in the territory where the alien lives.

4. The alien legally resident can access social, collective or private lodging, organized, pursuant to the criteria provided for by regional laws, by the municipalities with the higher presence of aliens or by associations, foundations or organizations of voluntary work, or by other public or private bodies, within the ambit of lodging structures, mainly organized as hostels, open to Italians and foreigners, aimed at offering a decorous lodging for a fee, according to pegged shares, while waiting to find an ordinary definitive lodging.

5. PARAGRAPH ABROGATED BY L. N. 189 DATED 30 JULY 2002.

6. The aliens holders of residence paper and the aliens legally resident in possession of a residence permit with at least a two-year validity and that carry out legal subordinate or autonomous work have the right to access, in conditions of equality with Italian citizens, public residential lodging and intermediation services of the social agencies possibly organized by every region or by local bodies to ease the access to lodging and subsidized loan as regards building, recovery, purchase and tenancy of the first house. **(53)**

UPDATE (53)

Lgs.D. n. 251 dated 19 November 2007, as amended by Lgs.D. n. 18 dated 21 February 2014, provides for as follows (with art. 29, paragraph 3-ter):
"Access to the benefits concerning lodging provided for by article 40, paragraph 6, of legislative decree n. 286 dated 25 July 1998, is allowed to holders of the status of refugee and subsidiary protection, in conditions of equality with the Italian citizens."

Art. 41
(Welfare services)
(Law n. 40 dated 6 March 1998, art. 39)

1. The aliens holders of residence paper or residence permit with a duration not inferior to one year, as well as minors registered in their residence paper or in their residence permit, are equalled to Italian citizens as regards welfare services and social assistance, also economic, including those provided for who suffers from Hansen disease or tuberculosis, for the deaf-mute, for the civil blind, the disabled and the poor.

**TITLE V
PROVISIONS CONCERNING HEALTHCARE,
EDUCATION, LODGING, PARTICIPATION IN PUBLIC LIFE
AND SOCIAL INTEGRATION.
ITEM IV
PROVISIONS CONCERNING SOCIAL INTEGRATION,**

DISCRIMINATIONS AND ESTABLISHMENT OF A FUND FOR MIGRATORY POLICIES

Art. 42

(Social integration measures)

(Law n. 40 dated 6 March 1998, art. 40;

Law n. 943 dated 30 December 1986, art. 2)

1. The State, the regions, the provinces and the municipalities, within the ambit of their own competences, also in collaboration with the aliens' associations and with the organizations steadily operating in their favour, as well as in collaboration with the authorities or with the public and private bodies in the Countries of origin, favour as follows:

a) activities carried out in favour of aliens legally resident in Italy, also with reference to courses as regards the language and culture of origin carried out by schools and foreign cultural institutions legally operating in the Republic pursuant to decree n. 389 of the President of the Republic dated 18 April 1994, and following amendments and integrations;

b) the spreading of information useful for the positive insertion of the aliens in the Italian society in particular as regards their rights and duties, various opportunities of integration and personal and community growth offered by the public administrations and the forming of associations, as well as the possibility of a positive reinsertion in the Country of origin;

c) the knowledge and enhancement of the cultural, recreational, social, economic and religious expressions of the aliens legally resident in Italy and every initiative providing information on the causes of immigration and prevention of racial discriminations or xenophobia, also through the collection of books, magazines and audio-visual material at school and university libraries, produced in the language of the Country of origin of the aliens resident in Italy or coming from said Countries;

d) the entering into agreements with associations legally registered in the registry as mentioned under paragraph 2 for the employment within its structures of aliens, holders of a residence paper or residence permit with a duration not inferior to two years, in quality of intercultural mediators so as to ease the relationships between the single administrations and the aliens belonging to the various ethnic, national, linguistic and religious groups;

e) the organization of training courses, inspired to criteria of cohabitation in a multicultural society and of prevention of discriminatory, xenophobic or racist behaviours, addressed to operators of public bodies and offices and of private bodies that have habitual relationships with aliens or that carry out relevant competences within the ambit of immigration.

2. For the purposes indicated under paragraph 1, the Presidency of the Council of Ministers - Department of social affairs has provided a list of associations selected according to criteria and requisites provided for by the regulation implementation.

3. Withstanding the initiatives promoted by the regions and local bodies, in order to identify, with the participation of aliens, initiatives fit for removing hindrances that impede the actual exercise of the alien's rights and duties, the National Council of Economy and Labour has established a national coordination organism.

The National Council of Economy and Labour, within the ambit of its attributions, carries out studies and promotes activities aimed at favouring the participation of aliens in the public life and the circulation of information on the implementation of this consolidated act.

4. In order to acquire the observations of the most active national bodies and associations as regards the assistance and integration of immigrants as mentioned under article 3, paragraph 1, and for the connection with the territorial Councils as mentioned under article 3, paragraph 6, as well as for the examination of the issues concerning the condition of immigrant aliens, the Presidency of the Council of Ministers has established the *Consulta* [Constitutional Court] for issues concerning immigrant aliens and their families, chaired by the President of the

Council of Ministers or by a Minister delegated by the same. The *Consulta*, with decree of the President of the Council of Ministers, is composed of:

((a) representatives of the associations and bodies present in the organism as mentioned under paragraph 3 and representatives of the associations that carry out activities particularly relevant in the sector of immigration, not less than ten;))

b) non-EU representatives **((of aliens))** appointed by the most representative associations operating in Italy, not less than six;

c) representatives appointed by the workers' national trade union confederations, not less than four;

d) representatives appointed by the employers' national trade union organizations within the various economic sectors, not less than three;

e) **((eight))** experts appointed respectively by the Ministry of Labour and National Insurance, Public Education, the Interior, **((Grace and Justice,))** Foreign Affairs, Finance and by the Departments of social solidarity and equal opportunities;

((f) eight representatives of the local autonomies, of which two appointed by the regions, one by the National Association of the Italian Municipalities (ANCI), one by the Union of the Italian Provinces (UPI) and four by the Unified Conference as mentioned under decree n. 281 dated 28 August 1997;)).

g) two representatives of the National Council of Economy and Labour (CNEL).

((g-bis) experts concerning immigration issues, not more than ten.))

5. A deputy is appointed for each regular member of the *Consulta*.

6. The Regions' right withstands to establish, in compliance with what provided for by paragraph 4, letters a), b), c), d) and g), with competence within the ambits which they are appointed by the Constitution and by the laws of the State, a regional *consulta* for issues concerning non-EU workers and their families.

7. The regulation implementation provides for the *Consulta's* establishment and functioning modalities as mentioned under paragraph 4 as well as those concerning the territorial councils.

8. The participation in the *Consulta* as mentioned under paragraphs 4 and 6 of the members as mentioned under this article and of the deputies is free, with the exclusion of the refund of possible travel expenses for those who are not public administration employees and do not reside in the municipality where the above mentioned bodies are located.

Art. 43

(Discrimination for racial, ethnic, national or religious reasons)

(Law n. 40 dated 6 March 1998, art. 41)

1. For this item, discrimination is any behaviour which, directly or indirectly, entails a distinction, exclusion, restriction or preference based on race, colour, ancestors or national or ethnic origins, religious beliefs and practices, and that has the aim or the effect to destroy or compromise the recognition, the benefit or the exercise, in conditions of equality, of human rights and fundamental freedoms in economic, social and cultural ambits and in any other ambit of public life.

2. In any case, acts of discrimination are those carried out by:

a) public officials or persons in charge of public services or persons carrying out a service of public need who, while exercising their functions, carry out or omit acts toward an alien that, only due to his condition of alien or person belonging to a specific race, religion, ethnic group or nationality, is unfairly discriminated;

b) whoever imposes more disadvantageous conditions or refuses to provide goods or services offered to the public to an alien only due to his condition of alien or person belonging to a specific race, religion, ethnic group or nationality;

c) whoever illegally imposes more disadvantageous conditions or refuses to provide access to employment, lodging, education, training and social and welfare services to the alien legally residing in Italy only due to his condition of alien or person belonging to a specific race, religion, ethnic group or nationality;

d) whoever impedes, through actions or omissions, the exercise of an economic activity carried out lawfully by an alien legally residing in Italy, only due to

his condition of alien or person belonging to a specific race, religion, ethnic group or nationality

e) the employer or his persons in charge who, pursuant to article 15 of law n. 300 dated 20 May 1970, as amended and integrated by law n. 903 dated 9 December 1977, and by law n. 108 dated 11 May 1990, carries out any act or behaviour that produces a damaging effect discriminating, also indirectly, workers due to their belonging to a race, an ethnic or linguistic group, a religious group, a citizenship. Indirect discrimination is caused by any damaging treatment following the adoption of criteria that create a disadvantage proportionally greater for workers belonging to a specific race, ethnic or linguistic group, a specific religious group or citizenship and concern requisites not essential for carrying out the job.

3. This article and article 44 are enforced also as regards xenophobic, racist or discriminatory acts carried out against Italian citizens, stateless persons and citizens of other Member States of the European Union present in Italy.

Art. 44

Civil action against discrimination
(Law n. 40 dated 6 March 1998, art. 42)

((1. When the behaviour of a private or public administration produces a discrimination for racial, ethnic, linguistic, national, geographical provenance or religious reasons it is possible to refer to the ordinary judicial authority asking for the termination of the damaging behaviour and the removal of the effects of the discrimination.)) ((38))

((2. The controversies provided for by this article are regulated by article 28 of legislative decree n. 150 dated 1st September 2011.)) ((38))

3. ***((PARAGRAPH ABROGATED BY LGS.D. N. 150 DATED 1 SEPTEMBER 2011)). ((38))***

4. ***((PARAGRAPH ABROGATED BY LGS.D. N. 150 DATED 1 SEPTEMBER 2011)). ((38))***

5. ***((PARAGRAPH ABROGATED BY LGS.D. N. 150 DATED 1 SEPTEMBER 2011)). ((38))***

6. ***((PARAGRAPH ABROGATED BY LGS.D. N. 150 DATED 1 SEPTEMBER 2011)). ((38))***

7. ***((PARAGRAPH ABROGATED BY LGS.D. N. 150 DATED 1 SEPTEMBER 2011)). ((38))***

((8. Whoever eludes the execution of measures, different from the sentence to compensation of damages, ordered by the judge in the controversies provided for by this article is punished pursuant to article 388, first paragraph, of the code of criminal procedure.)) ((38))

9. ***((PARAGRAPH ABROGATED BY LGS.D. N. 150 DATED 1 SEPTEMBER 2011)). ((38))***

10. Should the employer carry out a discriminatory act or behaviour of collective nature, also in cases in which it is not possible to identify immediately and directly the workers damaged by the discriminations, the claim can be submitted to the local representatives of the trade union organizations mostly representative at national level. ***((PERIOD SUPPRESSED BY LGS.D. N. 150 DATED 1 SEPTEMBER 2011)). ((38))***

11. Any ascertainment of discriminatory acts or behaviours pursuant to article 43 carried out by enterprises to which benefits have been given pursuant to the laws in force of the State or of the Regions, or that have entered into contracts for the execution of public works, services or supplies, is immediately communicated by the pretore, according to the modalities provided for by the regulation implementation, to the public administrations or public bodies that provided for the granting of the benefit, including the financial or credit facility, or of the contract. Said administrations or bodies revoke the benefit and, in the most serious cases, they provide for the exclusion of the person in charge for two years from any further granting of financial or credit facility, or any contract.

12. The regions, in collaboration with the provinces and with the municipalities, with the associations of immigrants and of social voluntary work, for the implementation of the rules of this article and the study of the phenomenon, organise observation, information and legal assistance centres for aliens, victims of discriminations for racial, ethnic, national or religious reasons.

UPDATE (38)

Lgs.D. n. 150 dated 1 September 2011 provides for as follows (with art. 36, paragraphs 1 and 2): "1. The rules of this decree are applied to the proceedings launched after the date of the entering into force of the same.

2. The rules abrogated or amended by this decree continue to be applied to the controversies pending at the date of the entering into force of the same."

Art. 45

(National Fund for migratory policies)

(Law n. 40 dated 6 March 1998, art. 43)

1. The Presidency of the Council of Ministers has established the National Fund for migratory policies, destined to the financing of initiatives as mentioned under articles 20, 38, 40, 42 and 46, inserted in the annual or long-term programmes of the State, of the Regions, of the provinces and of the municipalities. The Fund, net of the amounts deriving from the contribution as mentioned under paragraph 3, is established in the amount of 12,500 million Liras for year 1997, 58,000 million Liras for year 1998 and 68,000 million liras for year 1999.

The establishment of the Fund for the following years is provided for pursuant to article 11, paragraph 3, lett. d), of law n. 468 dated 5 August 1978, and following amendments and integrations. The Fund is also composed of the amounts deriving from contributions and donations possibly provided by privates, bodies, organizations, also international, by organisms of the European Union, that are paid into the State's budget to be appointed to said Fund. The Fund is divided annually with decree of the President of the Council of Ministers, together with the Ministries interested. The regulation implementation regulates the modalities for the submission, examination, payment, verification, accounting and revocation of the financing of the Fund.

2. The State, the regions, the provinces and the municipalities adopt, within the ambits of their own competence, annual or long-term programmes as regards their initiatives and activities concerning immigration, with particular reference to the actual and complete operational implementation of this consolidated act and regulation implementation, to the cultural, training, informative, integration and promotion activities as regards equal opportunities. The programmes are adopted according to the criteria and modalities indicated by the regulation implementation and indicate the overriding public and private initiatives to be financed by the Fund, including the payment of contributions to local bodies for the implementation of the programme.

3. With effect from the month following the date of the entering into force of this law n. 40 dated 6 March 1998, and however from date not following 1 January 1998, 95 per cent of the amounts deriving from the yield of the contribution as mentioned under article 13, paragraph 2, of law n. 943 dated 30 December 1986, is destined to the financing of the Fund's policies as mentioned under paragraph 1. With effect from the month following the date of the entering into force of this consolidated act, said destination is provided for as regards the whole amount of the above mentioned sums. To said end, the above mentioned sums are paid into the State's budget by INPS to be appointed to the Fund. The contribution as mentioned under article 13, paragraph 2, of law n. 943 dated 30 December 1986, shall be suppressed starting from 1 January 2000.

Art. 46

(Commission for integration policies)

(Law n. 40 dated 6 March 1998, art. 44)

1. The Presidency of the Council of Ministers - Department for Social Affairs has established a Commission for integration policies.

2. The Commission's task is to submit, also due to the obligation to report to the Parliament, an annual report to the Government on the state of implementation of the policies concerning immigrant integration, proposals as regards interventions for the adaptation of said policies as well as provide answers to

questions posed by the Government concerning immigration and intercultural policies, and interventions against racism.

3. The Commission is composed of representatives of the Department for Social Affairs **((and the Department for equal opportunities))** of the Presidency of Ministers and of the Ministries of Foreign Affairs, of Interior, **((of Grace and Justice,))** of Labour and National Insurance, of Health, of Public Education, as well as a maximum of ten experts, with qualified experience in the field of social, juridical and economic analysis concerning issues on immigration, appointed with decree of the President of the Council of Ministers, having heard the Minister for social solidarity. The president of the Commission is chosen among the tenured lecturers expert in the above mentioned subjects and placed in a non-tenured position at the Presidency of the Council of Ministers. The representatives of the permanent Conference for the relationship among State, regions and autonomous provinces of Trento and Bolzano can be invited to participate in the Commission's meetings, as well as the representatives of the Conference State-city and local autonomies and of other public administrations interested in the single matters object of examination.

4. The decree as mentioned under paragraph 3 establishes the organization of the Commission's secretariat, with office at the Department for Social Affairs of the Presidency of the Council of Ministers, as well as the refunds and remunerations due to the members of the commission and to the experts of whom the commission intends to make use for carrying out the various tasks.

5. Within the limits of the annual allocation provided for, as regards the functioning of the Commission, by the decree as mentioned under article 45, paragraph 1, the Commission can entrust the carrying out of studies and researches to public and private institutions, to groups or single researchers through agreements resolved by the Commission and signed by the president of the same, and purchase publications or material necessary for carrying out the various tasks.

6. In order to fulfil its tasks, the Commission can make use of the collaboration of all the administrations of the State, also under autonomous regulations, of public bodies, of Regions and local bodies.

TITLE VI FINAL RULES

Art. 47

(Abrogations)

(Law n. 40 dated 6 March 1998, art. 46)

1. As of the entering into force of this consolidated act, the following are abrogated:

a) articles 144, 147, 148 and 149 of the consolidated act of laws of public security, approved with royal decree n. 773 dated 18 June 1931;

b) provisions of law n. 943 dated 30 December 1986, with the exception of art. 3;

c) paragraph 13 of article 3 of law n. 335 dated 8 August 1995.

2. The following provisions remain abrogated:

a) article 151 of the consolidated act of laws of public security, approved with royal decree n. 773 dated 18 June 1931;

b) article 25 of law n. 152 dated 22 May 1975;

c) article 12 of law n. 943 dated 30 December 1986;

d) article 5, paragraphs 6, 7 and 8 of law decree n. 663 dated 30 December 1979, converted, with amendments, by law n. 33 dated 29 February 1980;

e) article 2 and following of decree-law n. 416 dated 30 December 1989, converted, with amendments, by law n. 39 dated 28 February 1990;

f) article 4 of law n. 50 dated 18 January 1994;

g) article 116 of the consolidated act approved with legislative decree n. 297 dated 16 April 1994.

3 Under art. 20, paragraph 2, of law n. 390 dated 2 December 1991, the following words remain suppressed:

"provided that there are treaties or bilateral or multilateral international agreements of reciprocity between the Italian Republic and the States of origin of the students, withstanding the various provisions provided for within the ambit of programmes in favour of developing Countries."

4. Starting from the date of the entering into force of the regulation implementation of this consolidated act, abrogation is carried out as regards the provisions still in force of Title V of the regulation executing the Consolidated act n. 773 dated 18 June 1941, as regards the laws of public security, approved with royal decree n. 635 dated 6 May 1940.