

## PROCEDURE FOR THE EMERGENCE OF LABOR RELATIONS AND REGULARIZATION

Art.103 paragraph 2 of Law Decree n.34 of 19/05/2020

### **INFORMATION SHEET FOR NON-EU CITIZENS**

(already employed or seeking employment)

#### **PERIOD AND LIMITS ON LAW ENFORCEMENT**

FROM 1 JUNE 2020 TO 15 JULY 2020

There is no limit to the number of persons who can access the emergence procedure, therefore having the requirements it is possible to access the application for regularization throughout the period provided.

#### **WORKING SECTORS**

TO WHOM THE EMERGENCE/REGULARIZATION PROCEDURE IS RESTRICTED

1. Agriculture, livestock and animal husbandry, fishing and aquaculture and related activities;
2. Personal assistance for themselves or members of their family, even if not cohabiting, suffering from pathologies or disabilities that limit their self-sufficiency;
3. Domestic work to support family needs.

#### **REQUIREMENTS CONCERNING THE EMPLOYMENT STATUS**

THE EMERGENCE/REGULARIZATION PROCEDURE MAY BE ACTIVATED IF

1. It is decided to regularize the position of a worker already in force in one of the three sectors of employment concerned but currently without a regular employment contract or rather decided to establish a new employment relationship through the regular signing of an employment contract (first emergence channel);
2. It is decided to regularize the administrative status of a foreign citizen who previously had a residence permit that has now expired (second emergence channel).

#### **FIRST EMERGENCE CHANNEL**

It can be activated by employers of Italian citizen, an EU citizen or a non-EU foreign national only if he holds an EC Residence Permit for Long Term Residents (ex Residence Card) and consists of:

1. Regularization of an existing employment relationship in one of the sectors concerned but currently without a regular employment contract;
2. Establishment of a new employment relationship through regular signing of a contract.

#### **WHAT HAPPENS DURING THE EMERGENCE / REGULARIZATION PROCESS**

- a. The worker can immediately perform the work in one of the three work sectors involved in the emergence procedure;
- b. Criminal and administrative proceedings resulting to the entry and irregular stay in the territory of the State at the expense of the foreign national shall be suspended.

### WHERE TO SUBMIT THE APPLICATION

The employer and the employee must submit an application online on the website <http://nullaostalavoro.dlci.interno.it/> by authenticating through SPID (Public Digital Identity System).

Following the submission of the application, the SUI (Prefecture Immigration Helpdesk) will proceed to verify the admissibility of the application, with the acquisition of the opinion of the **Police Station**, which verifies whether there are impediments, and the opinion of the **National Labor Inspectorate**, which verifies the adequacy of the employer's income and the proposed employment contract.

If all the requirements are incorporated, the SUI summons the parties to sign the residence contract and completion of the application for a residence permit for employment reason.

### WORKER REQUIREMENTS

The application for emergence / regularization may only concern **foreign nationals who are present on Italian territory before 08 March 2020 and without ever having left the national territory after that date**.

The proof of such presence on the territory can be proved through:

1. Photodactyloscopic measurement (photosignalling) to which the citizen must have undergone before 8 March 2020;
2. Presence Declaration made prior to 08 March 2020 by the foreign national who has entered the country for short periods. This statement is made by the foreign national by the following ways:
  - a) Foreign nationals from *Schengen countries* must have made a declaration of presence to the Official Police in charge (Questore) of the province in which they are located within 8 days of entering Italy;
  - b) Foreign nationals from *non-Schengen countries* must have fulfilled the obligation of declaration of presence by presenting themselves at the border crossing points and must have the uniform Schengen stamp affixed to their travel document/passport.
3. Certifications and Documentations with specified date and coming from public bodies.

The worker shall not be subjected to the emergence procedure if:

1. He is a holder of an expulsion order ordered by the Minister of the Interior (Art. 13 co. 1 D.lgs 286/1998) or ordered by the Prefecture for "perilousness" (Art. 13 co. 3 lett. c D.lgs 286/1998);
2. Has been convicted, even if not definitive, for one of the offences provided for in art.380 of the Code of Criminal Procedure for offences against personal liberty or offences related to drugs, aiding and abetting illegal immigration and emigration or for crimes aimed at the recruitment of persons for prostitution or the exploitation of prostitution or of minors to be employed in illegal activities;
3. Has been issued a warning for the purposes of non-admission in the country;
4. Whether he is deemed a threat to public order or State security.

In order to have access to the emergence/regularization procedure, the employee must have a passport or equivalent title.

## EMPLOYER REQUIREMENTS

The employer can be an **Italian citizen, an EU citizen or a non-EU foreign national, who is solely the holder of an EC Residence Permit for Long Term Residents** (ex Residence Card) as per art. 9 of Legislative Decree 286/1998.

The employer must prove that he has the economic capacity to hire the worker; the relative income limits will be established with a specific Ministerial Decree.

To activate the emergence/regularization procedure, the employer will have to pay a flat-rate contribution of EUR 500 for each worker relating to the costs of procedure.

The employer will then have to pay an additional lump-sum payment as remuneration, contributions and taxes. This amount will be established by a specific Ministerial Decree.

The employer CANNOT file an application for emergence if he has been convicted, even if not definitive, in the last 5 years for:

1. Aiding and abetting illegal immigration to Italy and from Italy to other countries;
2. For offences aimed at the recruitment of persons for prostitution or exploitation of prostitution or of minors to be employed in illegal activities;
3. For the offence of imposition or maintenance of a condition of servitude or slavery;
4. For illicit intermediation and exploitation of labour (Art. 603 bis Penal Code);
5. For having employed workers without a residence permit (Art. 22 co. 12 Legislative Decree 286/1998).

### Note

Hiring an irregular worker without a Residence Permit, the proceedings for illegal employment of labour relating to persons involved in emergence procedure are suspended. Such proceedings will be archived even if the procedure should not be successful for reasons not attributable to the employer.

## WHAT YOU GET AFTER BEING REGULARIZED

The worker who accesses the emergence / regularization procedure obtains a Residence Permit for Employment Purposes of the same duration as the employment contract.

## CASES OF CLOSURE AND REJECTION OF THE APPLICATION

### THE APPLICATION MAY BE ARCHIVED AND REJECTED IF

1. The parties (employer and worker) fail to appear without justified reason to the call (motion to dismiss);
2. The employer does not sign the residence contract or does not proceed with the hiring of the worker (rejection of the application), except that the failure to sign or recruitment is not due to force majeure not attributable to the employer.

### **SECOND EMERGENCE CHANNEL**

It can only be activated only if you are a foreign national who has already been granted a Residence Permit and the following conditions exists:

1. The Residence Permit must have expired on 31 October 2019, without having been obtained renewal or conversion (means that regularization can be accessed if the request for renewal or conversion has not yet been concluded with the release of the residence permit);
2. The foreign national must be present on Italian territory on the date of 08 March 2020, without ever having left the national territory after that date;
3. The foreign national must have worked before 31 October 2019 in one of the three work sectors involved in the regularization. This work must be proven by providing documentation verifiable by the National Labour Inspectorate.

If the above conditions are met, the foreign national will be able to activate the application procedure for the issuance of a **six-month Residence Permit**, upon payment of a flat-rate contribution of 130 euro for the costs of procedure, to which an additional fee will be added to the maximum extent of 30 euro defined by special Ministerial Decree. The Temporary Residence Permit will be valid only in the national territory and will allow you to perform work activity only in the work sectors concerned to regularization.

### **WHERE TO APPLY**

The application must be submitted to the territorially competent Police Stations.

The foreign national requests the issuance of the temporary Residence Permit for a period of six months, enclosed with the application are the documentation proving his work prior to the date of 31 October 2019 in the three work sectors concerned. The request will also be sent to the National Labour Inspectorate who checks the documentation provided.

At the time of filing the application, the Police Station issues to the foreign national a certificate that certifies the correct submission of the application. The certificate allows the foreign national to stay in the national territory and to work in the three work sectors concerned. Again with the certificate, the foreign national can then request the conversion of the temporary residence permit.

### **WHAT HAPPENS AFTER THE EXPIRY OF THE TEMPORARY RESIDENCE PERMIT**

Upon the expiry of the Temporary Residence Permit, the foreign national can request the conversion if one of the following conditions exists:

1. You can prove to have engaged work in one of the three work sectors concerned during the period of validity of the temporary residence permit;
2. May show a regularly established employment contract;
3. It is in the conditions referred to in art. 30 paragraph 1 lett. c D.lgs 286/1998 and can therefore obtain a Residence Permit for Family Reasons.