

Law No. 40 of 6th March 1998

"Provisions governing immigration and regulations concerning the status of foreigners "

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PART I

General Principles

Art. 1

Scope

1. This law, putting into effect Article 10, second paragraph, of the Constitution, applies unless otherwise specifically foreseen to the citizens of countries that are not member-nations of the European Union and to stateless persons, hereinafter termed foreigners.
2. This law does not apply to the citizens of the member-nations of the European Union, except in the case where it foresees more favourable provisions, and without prejudice to the provisions of Art. 45.
3. When other provisions of law refer to institutions concerning persons of nationality other than Italian or stateless persons, the reference must be understood to regard the institutions foreseen by this law. More favourable domestic, EEC and international provisions currently in force on any basis in Italy shall continue to be applicable.
4. In the matters comprised in the legislative sphere of competence of the regions, the provisions of this law constitute fundamental principles for the effects and purposes of Art. 117 of the Constitution. In the matters comprised in the sphere of competence of the special-statute Regions and autonomous provinces, they have the value of fundamental norms of economic and social reform of the Republic of Italy.
5. The provisions of this law do not apply where otherwise foreseen by the laws in force for times of war.
6. The regulations for the implementation of this law, hereinafter termed "implementation regulations", are issued as per Art. 17, paragraph 1, of Law No. 400 of 23rd August 1988, at the proposal of the Prime Minister, not later than one hundred and eighty days after the date on which this law comes into force.
7. Before they are issued, the draft regulations mentioned in paragraph 6 are sent to Parliament to obtain the opinion of the Committees competent on the matters concerned, which opinion is to be expressed within 30 days. Once this period has elapsed, the regulations are issued even in the absence of an opinion.

Art. 2

Rights and duties of foreigners

1. All foreigners present on whatsoever basis at the frontier or in the national territory of Italy are recognised to have the basic human rights foreseen by the provisions of domestic law, by the international conventions currently in force and by the generally recognised principles of international law.
2. Foreigners residing in Italy in compliance with the law are entitled to the civil rights foreseen for Italian citizens, unless otherwise foreseen by the international conventions in force for Italy and by this law. In the cases in which this law or the international conventions foresee reciprocal treatment, it is ascertained in accordance with the criteria and procedures foreseen by the implementation regulations.
3. Foreigners residing in Italy in compliance with the law participate in local public life
4. Foreigners are entitled to equal treatment with Italian citizens with regard to the jurisdictional protection of rights and legitimate interests, in relations with public administration and in access to public services, within the limits and in the manners foreseen by law.
5. For the purposes of informing foreigners of measures concerning entry, residence and expulsion, the relative documents are translated, even in summary form, into a language which the person concerned can understand, or when this is not possible, into French, English or Spanish, with preference to the language indicated by the person concerned.
6. Diplomatic protection is exercised within the limits and in the forms foreseen by the provisions of international law. Save for well-founded and serious reasons to the contrary pertaining to the administration of justice and the safeguarding of public order and national security, all foreigners present in Italy have the right to contact the authorities of the country of which they are citizens and to be facilitated for this purpose by all public

officials dealing with their case. Judicial authorities, police authorities and all other public officials are obliged to inform, in the manners and within the time-limits indicated by the implementation regulations, the nearest diplomatic or consular office representing the foreigner's own country in every case in which they have proceeded to adopt in relation to the latter any measures regarding personal freedom, expulsion from Italian territory, protection of minors or personal status or in the event of the death or urgent hospitalisation of the foreigner, and are also obliged to send the said representative office documents and objects belonging to the foreigner which must not be retained for reasons foreseen by law. The aforementioned information is not required in the case of foreigners who have presented a request for asylum, foreigners who have been granted refugee status, or foreigners in relation to whom temporary protection measures have been taken for humanitarian reasons.

7. The international agreements entered into for the purposes indicated in Article 9, paragraph 4, may establish more favorable juridical situations for the citizens of the countries involved in special cooperation programmes to prevent or limit clandestine immigration.

8. Foreigners present in Italy are in any case obliged to comply with the obligations foreseen by the current laws and regulations.

Art. 3

Migration policies

1. The Prime Minister, having heard the ministers concerned, the National Council for the Economy and Labour, the Permanent Conference for relations between the State, the Regions and the autonomous provinces of Trento and Bolzano, the State-Towns and autonomous local bodies Conference, the national bodies and associations most actively involved in the fields of assistance to and integration of foreigners, and the most representative national workers' and employers' organisations, prepares at three-year intervals the programmatic document on the policy with regard to immigration and foreigners in this nation's territory, which is approved by the Government and sent to Parliament. The competent Parliamentary Committees express their opinion not later than 30 days after receipt of the programmatic document. The programmatic document is issued, taking into account the opinions received, by Presidential Decree and is published in the Official Gazette of the Republic of Italy. The Minister of Internal Affairs presents an annual report to Parliament on the results achieved through the measures implementing the programmatic document.

2. The programmatic document indicates the actions and intervention measures that the Italian government, acting also in cooperation with the other member-nations of the European Union, international organisations, EEC institutions and non-governmental organisations, intends to carry out in the matter of immigration, also means of the reaching of agreements with the countries of origin. It also indicates the measures of an economic and social nature in relation to foreigners residing in Italy, in matters which need not be regulated by laws.

3. The document also identifies the general criteria for the definition of immigration flows into Italy, outlines the public intervention measures intended to assist the family relationships, social assimilation and cultural integration of foreigners residing in Italy, with due respect for the differences and cultural identities of the persons concerned, provided they do not conflict with the law, and foresees all possible instruments for favourable reintegration into their countries of origin.

4. By one or more decrees the Prime Minister, after hearing the ministers concerned and the competent Parliamentary Commissions, annually defines, on the basis of the criteria and other indications provided in the programmatic document referred to in paragraph 1, the maximum quotas of foreigners to be admitted to Italy for employment purposes, including seasonal-work requirements, and for self-employed work, taking into account family reunions and any temporary protection measures ordered pursuant to article 18. The entry visas for employment purposes, including seasonal work, and for self-employed work are issued within the limit set by the said quotas. In the event that the annual planning decrees have not been published, the determination of the quotas is regulated in accordance with the most recent decrees published pursuant to this law during the previous year.

5. In the framework of their respective spheres of competence and budgets, the Regions, provinces, municipalities and other local bodies adopt measures contributing towards the accomplishment of the objective of removing the obstacles that impede on a de facto basis the full recognition of the rights and interest to which foreigners are legally entitled in Italy, with particular regard to those pertaining to housing, language and social integration, with due respect for fundamental human rights.

6. By decree issued by the Prime Minister, to be adopted in concert with the Minister of Internal Affairs, Local Councils on immigration are instituted, consisting of representatives of the competent local administrations of the State, the Region, the local bodies, and the organisations and associations locally active in aiding and assisting immigrants, and the workers' and employers' organisations, with the task of analysing the requirements to be met and promoting the action and intervention measures to be implemented at a local level.

7. In the initial application of the provisions of this article, the programmatic document referred to in paragraph 1 is drawn up not later than 90 days after the date on which this law comes into effect. The said document indicates the date by which the decrees indicated in paragraph 4 are to be adopted.

8. The outline of the programmatic document indicated in paragraph 7 is sent to Parliament in order to obtain the opinions of the Commissions competent on the matters concerned, which is to be expressed within a period of 30 days. After this time-limit has elapsed, the decree is issued even in the absence of such opinions.

PART II

Provisions concerning admission, residence and expulsion from Italian territory

SECTION I

Provisions concerning admission and residence

Art. 4

Admission to enter Italian territory

1. Admission to enter Italian territory is granted to foreigners who are in possession of a valid passport or equivalent document and an entry visa, save in cases of exemption, and may occur, save in cases of force majeure, solely through the border-posts established for this purpose.

2. The entry visa is issued by the Italian diplomatic or consular representatives in the foreigner's country of origin or permanent residence. For temporary residence not exceeding three months, the visas issued, on the basis of specific agreements, by the diplomatic or consular authorities of other countries are considered equivalent to those issued by the Italian diplomatic and consular authorities. Simultaneously to the issue of the entry visa, the Italian diplomatic or consular authority gives the foreigner a notice written in a language he or she understands which explains the rights and duties of foreigners regarding entry and residence in Italy. Denial of an entry or re-entry visa is expressed in the form of a written decision, stating the reasons for same, and must be communicated to the person concerned together with the procedures for contesting it, in a language he or she can understand, or if this is not possible, in English, French, Spanish or Arabic. For a foreigner who holds a residence permit, a prior communication to the frontier authority is sufficient for the purposes of re-entering Italian territory.

3. Without prejudice to the provisions of Article 3, paragraph 4, in harmony with the obligations undertaken by entering into specific international agreements, Italy shall admit to its national territory foreigners who can prove to be in possession of appropriate documentation able to confirm the purpose and conditions of the intended stay, and also the availability of means of subsistence sufficient for the duration of the stay and, with the exception of residence permits for work purposes, also for the return trip to the country of origin. The means of subsistence required are defined in an ad hoc directive issued by the Ministry of Internal Affairs, on the basis of the criteria indicated in the planning document referred to in Article 3, paragraph 1. Foreigners cannot be admitted to Italy if they do not satisfy these requirements or are considered a threat to public order or to the national security of Italy or of one of the countries with which Italy has signed agreements for the elimination of internal frontier checks and the free circulation of persons, with the limits and exceptions foreseen in the said agreements.

4. Entry into Italy can be allowed with visas for brief stays, valid up to ninety days, and for long stays that entail for the holder the granting of a residence permit in Italy for a reason identical to the one mentioned in the visa. For stays of less than three months, the reasons explicitly indicated in visas issued by the diplomatic or consular authorities of other countries on the basis of specific international agreements signed and ratified by Italy or EEC regulations will also be considered valid.

5. The Ministry of Foreign Affairs takes all opportune measures, promptly informing the competent Parliamentary Committees, regarding the revision or amendment of the list of countries whose citizens are subject to the compulsory obtainment of visas, also for the purpose of implementing obligations deriving from international agreements currently in force.

6. Foreigners who have been expelled cannot enter Italian territory and are sent back from the frontier, unless they have obtained a special authorisation or the period in which their entry is prohibited has expired, nor can foreigners who are to be expelled, nor those reported, also on the basis of international conventions or agreements in force in Italy, for the purposes of rejection or non-admission for grave reasons of public order, national security and safeguarding of international relations.

7. Entry is in any case subject to compliance with the obligations and formalities prescribed by the implementation regulations.

Art. 5

Residence permit

1. Foreigners may reside in Italian territory if they entered lawfully in accordance with the provisions of Article 4, hold a residence card or residence permit issued pursuant to this law or are in possession of a residence permit or equivalent document issued by the competent authorities of a country belonging to the European Union, subject to the limits and conditions foreseen by specific agreements.

2. The residence permit must be applied for, in accordance with the procedures foreseen in the implementation regulations, to the head of police administration (*questore*) of the province in which the foreigner is staying not later than eight working days after entering Italian territory, and is issued for the activities foreseen in the entry visa or by the regulations currently in force. The implementation regulations may foresee special forms of issue

in relation to short stays for the purposes of tourism, justice, persons waiting to emigrate to another country and for the exercise of the functions of ministers of religion, and also for stays in private and public hospitals, civil and religious institutions and cohabitation of other types.

3. The duration of the residence permit is that foreseen by the entry visa, subject to the limits established by this law or pursuant to the international agreements and conventions currently in force. In any case, its duration cannot be:

- a) longer than three months, for visits, business and tourism;
- b) longer than six months, for seasonal work, or nine months, for seasonal work in the sectors that require such extension;
- c) longer than one year, in relation to attendance of a duly certified course of study or training course; the permit can however be renewed annually in the case of courses lasting several years;
- d) longer than two years, for self-employed work, for employment on a permanent basis and for family reunions;
- e) longer than the duration of the specifically documented needs, in the other cases allowed by this law or the implementation regulations.

4. Renewal of the residence permit must be applied for by the foreigner to the head of police administration (*questore*) of the province in which he or she is staying at least thirty days before the expiry date, and is subject to ascertainment of the conditions foreseen for its issue or other conditions foreseen by this law. Without prejudice to other terms foreseen by this law or the implementation regulations, the residence permit can be renewed for a duration not exceeding twice the one foreseen in the permit initially issued.

5. The residence permit or its renewal are refused, and if already issued the permit is revoked when the required requisites for entry and residence in Italian territory are lacking or cease to exist, subject to the provisions of Article 20, paragraph 7, and provided in all cases that no new circumstances have occurred in the meantime that allow its issue and that it is not a case of administrative irregularities that can be remedied.

6. A residence permit can also be refused or revoked on the basis of international conventions or agreements, that are enforceable in Italy, when the foreigner does not meet the residence conditions applicable in one of the signatory countries, unless serious reasons to the contrary are present, especially of a humanitarian nature or arising out of the constitutional or international obligations of the Italian State.

7. Foreigners who hold a residence permit or equivalent document issued by the authorities of a country belonging to the European Union, valid for residence in Italy, are obliged to declare their presence to the head of police administration (*questore*) in accordance with the procedures and time-limits foreseen in paragraph 2. The said persons are issued with an appropriate receipt attesting their declaration of residence. Those who fail to comply are subject to an administrative penalty consisting of the payment of a fine ranging from 200 thousand Lire to 600 thousand Lire. If the declaration has not been made within a period of 60 days after entering Italy, administrative expulsion may be ordered.

8. The residence permit, the receipt for the declaration of residence and the residence card indicated in Article 7 are issued on printed forms, with anti-counterfeiting characteristics, in conformity with the standard models approved by the Minister of Internal Affairs pursuant to the common action measure adopted by the European Union on 16th December 1996.

9. The residence permit is issued, renewed or converted not later than twenty days after the date on which the relative application was presented, if the latter meets the requirements and conditions foreseen by this law and by the implementation regulations for the residence permit requested, or failing this, for another type of permit to be issued pursuant to this law..

Art. 6

Faculties and obligations pertaining to residence

1. Residence permits issued for reasons of employment, self-employed work and family reasons may be utilised for the other permitted activities as well. Permits issued for study and training reasons can be converted, prior to their expiry date, into residence permits for reasons of work and employment within the framework of the quotas established as per Article 3, paragraph 4, in accordance with the procedures foreseen in the implementation regulations.

2. With the exception of measures regarding sporting and recreational activities of a temporary nature and for those pertaining to civil status matters or access to public services, the documents pertaining to residence as per Article 5, paragraph 8, must be exhibited to the public administration offices for the purposes of obtaining the issue of licenses, permits, registrations and other measures in the interest of the foreigner, by whatsoever name they may be called.

3. A foreigner who fails, without good reason, to exhibit at the request of police officers and policemen his or her passport or other identification document, or residence permit or residence card, is punished by detention for up to six months and a fine of up to eight hundred thousand lire.

4. For the ascertainment foreseen pursuant to this law or the implementation regulations, the police authority, when there is good reason to do so, asks foreigners to provide information and documents proving the

availability of an income, from work or another legitimate source, sufficient for own their subsistence and that of their cohabiting family members in Italy.

5. The registration and variation entries in anagraphical records of foreigners residing in Italy on a lawful basis are effected on the conditions as in the case of Italian citizens in accordance with the procedures foreseen in the implementation regulations. In any case, the foreigner's place of abode is considered to be habitual even in the case of documented hospitality for over three months at a reception/accommodation centre. The office reports the registration or variation entry to the local police administration HQ (*questura*).

6. Apart from the cases referred to in paragraph 5, foreigners who reside in Italy must report to the head of police administration (*questore*) competent for their district any change in their habitual abode not later than fifteen days later.

7. The identification document for foreigners is issued in conformity with a standard model approved by decree issued by the Ministry of Internal Affairs. It is not valid for expatriation purposes unless otherwise foreseen by international conventions or agreements.

8. The measures indicated in Article 5 and in this article may be appealed against to the competent regional administrative tribunal.

Art. 7

Residence card

1. A foreigner who has been lawfully resident in Italy for at least five years and holds a residence permit for a reason for which an unlimited number of renewals are allowed, who provides proof of the existence of an income sufficient for the subsistence of the foreigner himself or herself, his or her spouse and family members, may apply to the head of police administration (*questore*) for the issue of a residence card for the person concerned, his or her spouse and for the cohabiting minor offspring of same. The residence card is issued for an unlimited duration.

2. A residence card may also be requested by the foreign spouse or minor offspring or parent who live with an Italian citizen or citizen of an EU country resident in Italy.

3. The residence card is issued subject to the condition that the foreigner has not been scheduled for trial for any of the crimes indicated in article 380 or, with regard solely to crimes committed with premeditation and/or criminal intent, in article 381 of the Penal Procedure Code, or been found guilty, even when the sentence is not final, unless the said foreigner has been rehabilitated. Subsequently to the issue of a residence card, the head of police administration (*questore*) orders its revocation if a sentence, including a non-final sentence, finds the holder guilty of any of the crimes indicated in this paragraph. If expulsion need not be ordered and the requisites foreseen by the law are met, a residence permit is issued. Appeal is allowed to the competent regional administrative tribunal against refusal to issue a residence card and against the revocation of same.

4. In addition to what is foreseen for foreigners lawfully resident in Italy, the holder of a residence card may :

a) enter the country without need for a visa;

b) engage in and carry out in Italy all lawful activities, except for those that the law expressly prohibits for foreigners or reserves in any case for citizens only;

c) access the services and benefits provided by public administration, unless otherwise foreseen;

d) participate in local public life, also exercising electoral rights when foreseen by law and in harmony with the provisions of Chapter C of the Convention on the participation of foreigners in public life at a local level, signed in Strasbourg on 5th February 1992.

5. Against the holder of a residence card, expulsion may be ordered only for serious reasons of public order or national security, or if the person in question belongs to one of the categories indicated in article 1 of Law No. 1423 of 27th December 1956, as replaced by article 2 of Law No. 327 of 3rd August 1988, or article 1 of Law No. 575 of 31st May 1965, as replaced by article 13 of Law No. 646 of 13th September 1982, provided that one of the measures indicated in article 14 of Law No. 55 of 19th March 1990 is applied, even on a precautionary basis.

SECTION II
Frontier control, rejection and expulsion

Art. 8
Rejection

1. The frontier police reject foreigners who present themselves at border posts without possessing the requisites foreseen by this law for admission to Italian territory.
2. Rejection and return under escort to the frontier is also ordered by the head of police administration (questore) against foreigners:
 - a) who, entering Italy in a manner intended to avoid frontier control, are stopped at entry or immediately afterwards;
 - b) who, in the circumstances indicated in paragraph 1, have been temporarily admitted into the country due to public emergency aid or rescue needs.
3. The carrier who has brought to the frontier a foreigner lacking the documents indicated in article 4 or who must in any case be rejected pursuant to this article is obliged to take the said person immediately into his charge and return him or her to the country of origin, or to the country that issued the travel document that is in the foreigner's possession, if any.
4. The provisions of paragraphs 1, 2 and 3 of this article and those of article 4, paragraphs 3 and 6, do not apply in the cases foreseen by the current provisions regulating political asylum, recognition of refugee status, or the adoption of temporary protection measures for humanitarian reasons.
5. For rejected foreigners, the necessary assistance is foreseen at border posts.
6. The rejections indicated in this article are recorded by the police authority.

Art. 9
Strengthening and coordination of frontier controls

1. The minister of Internal Affairs and the minister of Foreign Affairs adopt the general plan of action to strengthen and perfect, also through the introduction of automatic procedures, the control measures for which they are respectively competent, in the framework of compatibilities with the extra-national information systems foreseen by the international agreements or conventions in force and the provisions currently in force on the matter of the protection of personal data.
2. The parts of the plan that concern automatic information systems and the relative contracts is communicated to the Authority for informatics in public administration.
3. In the framework and in application of the directives adopted by the minister of Internal Affairs, the prefects of the provinces with land frontiers and the prefects of the capitals of the Regions with maritime frontiers promote the measures necessary for coordination of frontier controls and maritime and land vigilance, in agreement with the prefects of the other provinces concerned, after hearing the heads of police administration (questori) and officers in charge of the district frontier police, and also whatever maritime and military authorities and heads of police bodies, at not less than provincial level, are also be concerned, and superintend the implementation of the directives issued on this matter.
4. The minister of Foreign Affairs and the minister of Internal Affairs promote the necessary initiatives, in agreement with the countries concerned, for the purpose of accelerating the performance of ascertainments and the issue of whatever documents may be necessary to improve the effectiveness of the measures foreseen by this law. To this end, the cooperation agreements may foresee the transfer free of charge of movable goods and apparatus specifically identified, within the limits of the functional and financial compatibilities defined by the minister of Internal Affairs, in concert with the minister of the Treasury.
5. Reception services are foreseen at border posts for the purpose of providing information and assistance to foreigners who intend to apply for asylum or enter Italy for a stay lasting longer than three months. These services are made available, wherever possible, inside the transit area.

Art. 10
Provisions against clandestine immigration

1. Save for acts constituting more serious criminal offences, whoever performs activities aimed to assist the entry of foreigners into Italian territory in violation of the provisions of this law is punished by imprisonment for up to three years and by a fine of up to thirty million lire.
2. Without prejudice to the provisions of article 54 of the Penal Code, humanitarian rescue and assistance activities provided in Italy to foreigners in need present in whatsoever manner in Italian territory do not constitute offences.

3. If the offence referred to in paragraph 1 is committed for profit or by three or more persons acting together, or regards the entry of five or more persons, and in those cases in which the act is committed through the utilisation of international transport services or forged documents, the punishment consists of imprisonment for four to twelve years and a fine of thirty million lire for each foreigner whose entry in violation of this law has been assisted. If the offence is committed for the recruitment of persons for the purposes of prostitution or the exploitation of prostitution or regards the entry of minors to be employed in illegal activities for the purpose of fostering their exploitation, the punishment is imprisonment for five to fifteen years and a fine of fifty million lire for each foreigner whose entry in violation of this law has been assisted.
4. In the cases foreseen in paragraphs 1 and 3, the arrest of persons caught in the very act is always allowed and confiscation of the means of transport employed for the said offences is ordered, unless it is destined for a regular public transportation service or belongs to a person extraneous to the offence. In the same cases prosecution is always by means of the most rapid form of proceedings, unless special investigations are necessary.
5. Apart from the cases foreseen in the preceding paragraphs, and save for acts constituting more serious offences, whoever, for the purpose of unjustly profiting from the illegal status of foreigners or in the context of the activities punished pursuant to this article, facilitates the stay of the latter in Italian territory in violation of the provisions of this law is punished by imprisonment for up to four years and with a fine of up to thirty million lire.
6. Air, sea or ground carriers are obliged to ascertain that all foreigners carried are in possession of the documents required for admission to Italy, and also to report to the border police authority the presence of any foreigner on board their respective means of transport who is in an irregular situation. In the event of failure to comply with even one of the obligations indicated in this paragraph, an administrative penalty will be applied consisting of the payment of a sum ranging from one million lire to five million lire for each foreigner thus carried. In the most serious cases, suspension for one to twelve months or revocation of the license, permit or concession issued by the Italian administrative authority will be ordered, with regard to the professional activity performed and to the means of transport utilised. The provisions of law No. 689 of 24th November 1981 are to be applied.
7. In the course of police operations to combat clandestine immigration, ordered in the framework of the directives referred to in article 9, paragraph 3, the police officers and policemen operating in the operating in the frontier provinces and in territorial waters can proceed to check and inspect means of transport and the objects carried even if subject to special customs treatment when, also in relation to specific circumstances of time and place, there are concrete reasons to believe that they may be used for one of the offences foreseen in this article. A report on the outcome of the checks and inspections is drawn up on appropriate forms, which is sent within a period of forty-eight hours to the Public Prosecutor who, if it meets the foreseen requirements, confirms its validity within the following forty-eight hours. In the same circumstances the judicial police officers may also proceed to perform searches, in compliance with the provisions of article 352, paragraphs 3 and 4, of the Penal Procedure Code.
8. Real estate and movables registered in public registers that have been seized in the course of police operations for the prevention and repression of the offences foreseen in this article may be entrusted in judicial custody by the proceeding judicial authority to the police organs by whom such custody is requested for immediate utilisation in police activities; if this is contrary to trial requirements, the judicial authority rejects the request by means of an order stating the reasons for its rejection. Insofar as compatible, the provisions of article 100, paragraphs 2, 3 and 4, of the consolidation act concerning laws regulating narcotics and psycho-active substance, approved by Presidential Decree No. 309 of 9th October 1990.
9. The sums of money seized following sentencing for one of the offences foreseen in this article, and likewise sums of money obtained from the sale, where ordered, of the items of property seized, are to be utilised for the purposes of strengthening the activities for the prevention and repression of the said offences, also at international level through measures serving the purposes of collaboration and technical-operative assistance with the police forces of the countries concerned. To this end, the sums are entered in a specific section of national budget incomings in order to be allocated, on the basis of specific requests, to the pertinent sections of the budgetary statement of the Ministry of Internal Affairs, under the heading "Police".

Art. 11

Administrative expulsion

1. For reasons of public order or national security, the minister of Internal Affairs may order the expulsion of a foreigner, even if not resident in Italian territory, informing in advance the Prime Minister and the minister of Foreign affairs.
2. Expulsion is ordered by the Prefect when a foreigner: a) has entered the country by avoiding frontier control and has not been rejected as per article 8; b) has remained in the country without having requested a residence permit by the foreseen deadline, unless the delay has been due to reasons of force majeure, or when the

residence permit has been revoked or cancelled, or has expired more than sixty days previously and its renewal has not been requested; c) belongs to any one of the categories indicated in article 1 of Law No. 1423 of 27th December 1956, as replaced by Article 2 of Law No. 327 of 3rd August 1988, or in Article 1 of Law No. 575 of 31st May 1965, as replaced by Article 13 of Law No. 646 of 13th September 1982.

3. The expulsion order must in all cases state the reasons for same. When a foreigner is subject to penal proceedings, the judicial authority issues a “nulla osta” unless otherwise required by obligatory trial requirements. In the case of arrest of offenders caught in the act, the judge issues the “nulla osta” at the time of confirmation of arrest, unless he applies a detention measure pursuant to Article 391, paragraph 5, of the Penal Procedure Code. If such a measure is not applied or has ceased to apply, the head of police administration (questore) may adopt the measure indicated in article 12, paragraph 1.

4. The expulsion order is enforced by the head of police administration (questore) by having the person in question accompanied by a police escort to the frontier, when the foreigner: a) is expelled pursuant to paragraph 1 or has remained illegally in the country beyond the deadline set in the order; b) is expelled pursuant to paragraph 2, letter c), and the Prefect deems, in the light of objective circumstances, that there is a concrete danger that the foreigner will evade the execution of the order.

5. Foreigners expelled pursuant to paragraph 2, letter a) are also accompanied to the frontier under police escort when lacking any valid document attesting his or her identity and nationality and the Prefect deems, in the light of objective facts regarding his or her social, family and occupational circumstances, that there exists a concrete danger that the foreigner concerned will evade the execution of the order.

6. In the other cases, the expulsion order contains an injunction to leave the country within a period of 15 days and to comply with the instructions regarding the journey and presentation at the frontier police office. When expulsion is ordered pursuant to paragraph 2, letter b), the head of police administration (questore) may adopt the measure foreseen in article 12, paragraph 1, if the Prefect deems, in the light of objective facts regarding the foreigner’s social, family and occupational circumstances, that there exists a concrete danger that the person concerned will evade the execution of the order.

7. The expulsion order and the measure indicated in paragraph 1 of article 12, and all other documents concerning entry, residence and expulsion, are notified to the person concerned together with information on the procedures for contesting same and a translation into a language known by the said person or, when this is not possible, into French, English or Spanish.

8. Appeals against expulsion order are to be addressed solely to the competent lower court judge (*pretore*), not later than five days after notification of the order or measure. The deadline is thirty days if the expulsion is executed with immediate escort to the frontier.

9. The appeal is presented to the lower-court judge having jurisdiction for the foreigner’s place of residence or abode. In cases of expulsion with immediate escort, provided that the measure indicated in paragraph 1 of article 12 is ordered, the lower-court judge competent for convalidating the latter has jurisdiction. The judge accepts or rejects the appeal, with a single decision adopted in any case, not later than ten days after the date on which the appeal was filed, after hearing the person concerned, in the manners indicated in articles 737 et seq. of the Civil Procedure Code.

10. An appeal as per paragraphs 8, 9 and 11 may even be signed personally by the person concerned. In the case of expulsion with immediate escort, the appeal may also be presented through the Italian diplomatic or consular representative office in the country of destination, not later than thirty days after notification of the measure; in such cases, the appeal may also be signed personally by the party concerned in the presence of the diplomatic or consular officials, who certify its authenticity and have it forwarded to the judicial authority. The foreigner is entitled to free legal assistance at Government expense and, if he or she does not have a defense counsel, assistance is provided by a defense counsel nominated by the judge from amongst those registered in the role indicated in article 29 of the implementation, coordination and transitional provisions regarding the Penal Procedure Code, approved by legislative decree No. 271 of 28th July 1989 and subsequent amendments, and also, where necessary, by an interpreter.

11. Expulsion orders issued pursuant to paragraph 1 can be appealed against to the Rome office of the regional administrative tribunal of Latium.

12. Without prejudice to the provisions of article 17, expelled foreigners are sent back to the country of citizenship, or when this is not possible, to the country of origin.

13. An expelled foreigner cannot re-enter Italy without a special authorisation from the minister of Internal Affairs; in the event of transgression, he or she is punished by detention for two to six months and is then again expelled with immediate escort.

14. The prohibition indicated in paragraph 13 is effective for a period of five years, unless the lower-court judge or regional administrative tribunal, in the measure deciding upon an appeal pursuant to paragraphs 8 and 11, otherwise establish the duration for a period of not less than three years, on the basis of legitimate reasons stated by the person concerned and taking into account the overall conduct of the said person in Italy.

15. The provisions indicated in paragraph 5 do not apply to a foreigner who can prove on the basis of objective evidence that he or she arrived in Italy before the date on which this law came into force. In this case, the head of police administration (*questore*) may adopt the measure indicated in article 12, paragraph 1.

16. The overall cost resulting from paragraph 10 of this article is estimated at 4 billion lire for the year 1997 and 8 billion lire from 1998 onwards.

Art. 12 Execution of expulsion

1. When it is not possible to immediately enforce expulsion by escorting to the frontier, or rejection, because it is necessary to proceed to provide rescue aid, to carry out supplementary ascertainments regarding the foreigner's identity or nationality, or to obtain documents for the journey, or due to the non-availability of a carrier or other suitable means of transport, the head of police administration (*questore*) orders that the foreigner is to be detained for the time strictly necessary at the nearest temporary-stay and assistance facility, chosen from amongst those identified or set up by decree of the minister of Internal Affairs, in concert with the minister for Social Solidarity and the Treasury.

2. The foreigner is detained in the facility in a manner that assures the necessary assistance and full respect for his dignity. In addition to what is foreseen in article 2, paragraph 5, freedom of correspondence, including telephone calls, with the outside world is assured in all cases.

3. The head of police administration (*questore*) of the place where the said facility is located sends a copy of the records and documents to the lower-court judge (*pretore*), without delay and in any case within forty-eight hours after adoption of the measure.

4. The lower-court judge, if he finds that the pre-requisites indicated in article 11 and in this article are met, convalidates the measure ordered by the head of police administration in the manners indicated in articles 737 et seq. of the Civil Procedure Code, having heard the person concerned. The measure ceases to be effective in any way if not convalidated within the following forty-eight hours. Up to this deadline, its convalidation can be ordered even in the context of examination of the appeal against the expulsion measure.

5. Convalidation entails detention in the facility for a total period of twenty days. At the request of the head of police administration, the lower-court judge may extend the period for up to a maximum of ten more days, if elimination of the impediment to expulsion or rejection is imminent. Even before this deadline, the head of police administration enforces expulsion or rejection as soon as it is possible to do so, informing the lower-court judge without delay.

6. Against the convalidation and extension orders indicated in paragraph 5, appeal to the Court of Cassation is admissible. The relative appeal does not suspend the enforcement of the measure.

7. The head of police administration, using the police force, adopts effective vigilance measures to ensure that the foreigner does not illegally leave the facility and has the measure enforced again without delay in the event that it is transgressed.

8. For the purposes of escorting foreigners to the frontier, singly or in groups, agreements may be made with parties who operate scheduled transport services or with organisations, also of an international character, which perform activities regarding assistance to foreigners..

9. In addition to what is foreseen in the implementation regulations and by the provisions regarding jurisdiction, the minister of Internal Affairs adopts the necessary measures for the execution of what is foreseen in this article, also through conventions with other government administrations, local bodies, owners or concession-holders of site areas, structures and other installations, and also for the provision of goods and services. Any derogations from the provisions currently in force in the matter of finance and accounting are adopted in concert with the minister of the Treasury. The minister of Internal Affairs also promotes the agreements necessary for the actions falling in the spheres of competence of other ministries.

Art. 13 Expulsion by way of security measure

1. Apart from the cases foreseen in the Penal Code, a judge may order the expulsion of a foreigner who has been found guilty of any one of the crimes foreseen by articles 380 and 381 of the Penal Procedure Code, provided that the person concerned appears dangerous to society.

Art. 14 Expulsion by way of punishment in lieu of detention

1. The judge, when passing sentencing for an offence committed with criminal intent or applying the punishment requested above as per article 444 of the Penal Procedure Code against a foreigner who is in one of the situations indicated in article 11, paragraph 2, when deciding to apply the punishment of detention for not more

than two years and there exist neither the requisite conditions for ordering conditional suspension of the punishment as per article 163 of the Penal Code nor the impediments indicated in article 12, paragraph 1, of this law, may substitute this penalty with expulsion for a period of not less than five years.

2. The expulsion is executed by the head of police administration (questore) even if the sentence is not irrevocable, in accordance with the procedures indicated in article 11, paragraph 4.

Art. 15
Right of defense

1. A foreigner subject to penal proceedings is authorised to return to Italy for the time strictly necessary to exercise the right of defense, for the sole purpose of taking part in the trial proceedings or performing deeds for which his presence is required. The relative authorisation is issued by the head of police administration (questore), even through a diplomatic or consular representative, at the documented request of the defendant or defense counsel.

SECTION III
Provisions of a humanitarian nature

Art. 16
Residence for reasons of social protection

1. When, in the course of police operations, investigations or proceedings for any of the crimes indicated in article 3 of law No. 75 of 20th February 1958, or those foreseen by article 380 of the Penal Procedure Code, or in the course of assistance activities on the part of local bodies' social services, situations of violence or serious exploitation are discovered in relation to a foreigner and concrete dangers are found to exist regarding the latter's safety, as a result of attempts to escape from the thrall of an association devoted to one of the aforementioned crimes or of the statements made during the preliminary investigations or trial, the head of police administration (questore), also at the proposal of the public prosecutor, or with the favorable opinion of the said authority, issues a special residence permit to enable the foreigner to escape the violence and thrall of the criminal organisation and to participate in an assistance and social integration programme.

2. With the proposal or opinion indicated in paragraph 1, the head of police administration is informed of the circumstances that demonstrate the existence of the conditions indicated therein, with particular reference to the seriousness and present existence of the danger and the significance of the contribution provided by the foreigner for the purposes of efficaciously combating the criminal organisation, or of identifying and capturing the persons responsible for the crimes indicated in the same paragraph. The particulars of the said foreigner's participation in the assistance and social integration programme are communicated to the mayor.

3. The provisions necessary for entrusting the realisation of the programme to parties other than those institutionally responsible for the local body's social services and for the performance of the relative checks are established by the implementation regulations. The same regulations also identify the appropriate requisites to guarantee competence and the ability to foster social assistance and integration, and also the availability of adequate organisational structures on the part of the aforementioned parties.

4. The residence permit issued pursuant to this article has a duration of six months and can be renewed for one year, or for whatever greater period may be necessary for reasons of justice. It is revoked in the case of interruption of the programme or conduct incompatible with the aims of same, reported by the Public Prosecutor or, for matters in its field of competence, by the local body's social service, or in any case ascertained by the head of police administration (questore), or when the other conditions that justified its issue have ceased to exist.

5. The residence permit foreseen in this article allows access to welfare and assistance services and education, and also allows registration in the job-seekers' lists and employment, subject to the minimum age-limit requirements. If at the time of expiry of the residence permit the person in question proves to be currently employed, the permit may be further extended or renewed for the duration of the said employment relationship or, if it is of a permanent nature, in the manners foreseen for such reasons for residence. The residence permit foreseen in this article may also be converted into a residence permit for educational reasons if the holder is enrolled in a regular course of studies.

6. The residence permit foreseen in this article can also be issued, at the time of release from a prison, also at the proposal of the public prosecutor or juvenile court surveillance judge, to a foreigner who has finished serving a detentive punishment to which he or she was sentenced for offences committed while still a minor, and has given concrete proof of participation in an assistance and social integration programme.

16. The overall cost resulting from this article is estimated at 5 billion lire for the year 1997 and 10 billion lire from 1998 onwards.

Art. 17
Prohibitions regarding expulsion and rejection

1. In no case can expulsion or rejection be ordered towards a country in which the foreigner could be subject to persecution for reasons of race, sex, language, citizenship, religion, political opinions, personal or social circumstances, or could risk being sent on to another country in which he or she would not be protected from persecution.

2. Expulsion is not allowed, save in the cases foreseen in article 11, paragraph 1, against:

- a) foreigners younger than eighteen years old, without prejudice to the right to follow an expelled parent or guardian;
- b) foreigners who hold a residence card, without prejudice to the provisions of article 7;
- c) foreigners who are living with relatives within the fourth degree of kinship or a spouse who are Italian citizens;
- d) women during pregnancy or in the six months following the birth of a child they are caring for.

Art. 18

Exceptional measures for reception due to exceptional events

1. By decree issued by the Prime Minister, in agreement with the ministers of Foreign Affairs, Internal Affairs and Social Solidarity and with whatever other ministers it may concern, within the limits of the resources allocated in advance for this purpose in the framework of the Fund mentioned in article 43, temporary protection measures are established that are to be adopted, even in derogation of provisions of this law, to meet important 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 Prime Minister or a minister delegated by him reports annually to Parliament on the implementation of the measures adopted.

PART III
Provisions regulating labour

Art. 19
Establishment of incoming flows

1. Entry into Italy for reasons of employment, including seasonal employment, and self-employed work, takes place in the framework of the entry quotas established in the decrees indicated in article 3, paragraph 4. By these decrees quotas are also assigned on a preferential basis that are reserved for countries not belonging to the European Union, with which the minister of Foreign Affairs, in concert with the minister of Internal Affairs and with the minister of Labour and Social Security, have reached understandings for the purpose of regulating incoming flows and readmission procedures. In the framework of these understandings, specific agreements may be defined on the matter of incoming flows for seasonal work, with the corresponding national authorities responsible for the labour market policies of the countries of origin.
2. The annual decrees must take into account the indications provided, in a manner subdivided by skill qualifications or jobs, by the ministry of Labour and Social Security on the employment trend and unemployment rates at national and regional levels, and also on the number of non-European Union foreign citizens registered as job-seekers.
3. The bilateral understandings or agreements indicated in paragraph 1 may foresee that the foreign workers who intend to enter Italy for reasons of employment, including seasonal jobs, are to be registered in specific lists, identified in the said understandings, specifying their skill qualifications or jobs, and also the other requisites indicated by the implementation regulations. The aforementioned understandings may in addition also foresee the manner in which the lists are to be kept, for subsequent forwarding to the offices of the ministry of Labour and Social Security.
4. The implementation regulations foresee forms of institution of a computerised annual register of job requests and offers regarding the employment of foreign workers.
5. The overall cost resulting from this article is estimated at lire 350 million per year, starting from the year 1998.

Art. 20
Permanent and temporary employment

1. An Italian employer, or foreign employer lawfully resident in Italy, who intends to employ in Italy, on a temporary or a permanent basis, a foreigner resident in another country, must present to the local office of the ministry of Labour and Social Security a specific application for employment authorisation naming the worker concerned. In the cases in which the employer does not know the foreigner personally, he or she may request the employment authorisation for one or more persons registered in the lists indicated in article 19, paragraph 3, selected according to criteria defined in the implementation regulations.
2. At the time of presentation of the application for employment authorisation, the employer must exhibit appropriate documentation showing the manner in which accommodation will be available to the foreign worker.
3. The local office of the Ministry of Labour and Social Security issues the authorisation, in compliance with the numerical, quantitative and qualitative limits determined pursuant to article 3, paragraph 4, and article 19, after prior ascertainment of the terms offered by the employer to the foreigner, which cannot be lower than those established by the applicable national collective employment agreements.
4. For the purposes indicated in paragraph 3, the local office reports at monthly intervals to the Ministry of Labour and Social Security the number and type of authorisations issued, following the same classification system adopted in the decrees indicated in article 3, paragraph 4, specifically indicating those relative to non European Union countries with reserved quotas.
5. The employment authorisation must be utilised by and not later than 6 months after the date of issue.
6. The employer must also exhibit to the local office of the Ministry of Labour and Social Security a copy of the employment contract entered into with the foreigner.
7. A foreign worker who holds a residence permit for employment and loses his or her job can be registered in the lists of job-seekers for the residual period of validity of the residence permit and in any case, save in the case of a residence permit for seasonal work, for a period of not less than one year.
8. An employer who employs foreign workers who do not hold the residence permit foreseen in this article, or whose permit has expired, or been revoked or cancelled, is punished by detention for three months to a year or a fine of two million to six million lire.

Art. 21

Provision of guarantees for access to employment

1. An Italian citizen or lawfully resident foreign citizen who intends to act as guarantor for the entry of a foreigner to allow the latter to enter the job market, must present within a period of sixty days following publication of the decrees indicated in article 3, paragraph 4, a specific application naming the foreigner concerned to the police headquarters (questura) of his or her province of residence. The relative entry authorisation gives entitlement to the issue of an entry visa. The applicant must prove that he or she can effectively assure the foreigner of accommodation, coverage of subsistence costs and medical assistance for the duration of the residence permit. The entry authorisation is granted, if the other requisites for admission are met, in the framework of the quotas set and in accordance with the procedures indicated in the decrees for the implementation of the programmatic document for admissions for work purposes and must be utilised by and not later than six months after presentation of the application. It allows the obtainment, after prior registration in the job-seekers lists, a residence permit for one year for the purposes of inclusion on the labour market.
2. The following are allowed to provide the guarantees indicated in paragraph 1: the Regions, local bodies, professional and trade union associations, provided they have the financial and organisational requisites specified in regulations to be adopted by decree issued by the minister of Social Solidarity, in concert with the ministers of Internal Affairs and Labour and Social Security. The same regulations may foreseen the creation and manner of keeping a list of the bodies and associations allowed to provide the aforementioned guarantee.
3. The provision of guarantees for access to the labour market is allowed in accordance with the procedures indicated in the implementation regulations, which establish in particular the maximum number of guarantees that each party may provide in a year.
4. After a period of sixty days has elapsed since the publication of the decrees indicated in article 3, paragraph 4, within the limits and in the manners established in the said decrees, the entry visas for admission to the labour market are issued at the request of foreign workers residing abroad and registered in specific lists kept by the Italian diplomatic and consular representative offices, in order of rank based on listing seniority. The implementation regulations establish the requisites for obtaining the visa indicated in this paragraph.

Art. 22

Seasonal work

1. An Italian employer, or foreign employer lawfully resident in Italy, or the employers' associations on behalf of their members, who intend to employ a foreigner in Italy on a seasonal basis must present to the local office of the ministry of Labour and Social Security a specific application for employment authorisation naming the worker concerned. In the cases in which the Italian employer, or foreign employer lawfully resident in Italy, or the employers' associations do not know the foreigner personally, the employment authorisation may be requested for one or more persons registered in the lists indicated in article 19, paragraph 3, selected according to criteria defined in the implementation regulations.
2. The local office of the ministry of Labour and Social Security issues the authorisation, respecting the entitlements to precedence acquired, by and not later than 15 days after the date of receipt of the employer's application.
3. Authorisations for seasonal work can have a validity period ranging from a minimum of twenty days to a maximum of six months, or nine months in sectors that require such extra time, corresponding to the duration of the seasonal work requested, also with reference to groups of jobs of shorter duration to be performed for several employers.
4. A seasonal worker who has complied with the conditions indicated in the residence permit and has returned to the country of origin at the expiry of same, has the right of precedence for re-entering Italy in the following year for seasonal work reasons, in relation to citizens of his or her country who have never lawfully entered Italy for work reasons, and may in addition convert the residence permit for seasonal work into a residence permit for temporary or permanent employment, if the relative conditions are met.
5. The regional employment committees may stipulate with the most representative trade union and employers' organisations at regional level, with the Regions and with the local bodies specific agreements aimed to facilitate the access of foreign workers to the seasonal jobs identified. These agreements may specify the applicable wage rates and regulations, which must in any case not be inferior to those foreseen for Italian workers, and the measures to assure suitable working conditions for the labour force, and also possible direct or indirect incentives to foster the activation of incoming and outgoing seasonal-labour flows and the complementary measures relative to reception.
6. An employer who employs on work of a seasonal nature one or more foreigners with no residence permit for seasonal work, or whose permit has expired or been revoked or cancelled, is punished as per article 20, paragraph 8.

Art. 23

Social security and assistance for seasonal workers

1. In consideration of the limited duration of their contracts and of their specific nature, the following forms of social security and compulsory assistance apply to foreigners who hold a residence permit for seasonal work, according to the regulations in force in the various sectors of activity:
 - a) insurance for disablement, old age and survivors' benefits;
 - b) insurance against accidents at work and occupational diseases;
 - c) sickness insurance;
 - d) maternity insurance.
2. Instead of the contributions for the family allowance and for insurance against involuntary unemployment, the employer is obliged to pay to the national social security institute (INPS) a contribution of the same amount as that of the said contributions and on the basis of the same terms and conditions established for the latter. These contributions are destined for social assistance measures in favour of the workers indicated in article 43.
3. The requisites, contexts and manners of performance of the measures indicated in paragraph 2 are defined in the decrees implementing the programmatic document.
4. On the contributions indicated in paragraphs 1 and 2, the social charge reductions foreseen for the work sector concerned are applied.
5. The contributions indicated in paragraph 1, letter a), are subject to the provisions of article 3, paragraph 13, of law No. 335 of 8th August 1995, concerning the transfer of same to the insurance institute or body of the employee's country of origin, or in cases in which this matter is not regulated by international agreements or conventions, their payment to the workers who leave this country, without prejudice to the possibility of reconstructing the social-security contribution situation in the event of successive re-entry.

Art. 24

Entry and residence for self-employed work

1. The admission to Italy of foreign workers not belonging to the European Union who intend to engage in Italy in self-employed work activities on a non-occasional basis can be allowed on the condition that the activity in question is not reserved by law for Italian citizens, or for citizens of one of the member-nations of the European Union.
2. In any case, a foreigner who intends to carry out in Italy an industrial, professional, artisan or commercial activity, or to set up a share company or partnership firm or hold corporate offices, must also prove that he or she possesses adequate resources for the activity to be carried out in Italy; that he or she possesses the requisites required by Italian law for the performance of the particular activity, including, where required, the requisites for registration in professional rolls and registers; that he or she is in possession of a certificate issued by the competent authority and dated not more than three months earlier and stating that there are no impediments to the issue of the authorisation or license foreseen for the performance of the activity in which the foreigner intends to engage.
3. The worker from a non European Union country must in any case demonstrate that he or she has adequate accommodation and an annual income, from lawful sources, amounting to a sum higher than the minimum level foreseen by law for exemption from contributing to health expenses or a corresponding guarantee from Italian bodies or Italian or foreign citizens lawfully resident in Italy.
4. These provisions are without prejudice to more favourable conditions foreseen in international agreements in force in Italy.
5. The diplomatic or consular representative, having ascertained possession of the requisites indicated in this article and obtained the "nulla osta" of the ministry of Foreign Affairs, the ministry of Internal Affairs and any other ministry having competency in relation to the activity that the foreigner intends to perform in Italy, issues the entry visa for self-employed work, expressly indicating the activity to which the visa refers, subject to the numerical limits established as per article 3, paragraph 4, and article 19.
6. The procedures indicated in paragraph 5 are followed in accordance with the indications provided in the implementation regulations.
7. The entry visa for self-employed work must be issued or refused not later than one hundred and twenty days after the date of presentation of the application and relative documentation and must be utilised not later than one hundred and eighty days after the date of issue.

Art. 25

Entry for work purposes in special cases

1. Apart from the admissions for work purposes indicated in the preceding articles, authorised in the framework of the quotas indicated in article 3, paragraph 4, the implementation regulations foresee special procedures and terms for the issue of work authorisations, entry visas and residence permits for employment, for each of the following categories of foreign workers:

- a) managers or highly specialised personnel of companies with registered office or branch offices in Italy or representation offices of foreign companies whose head office is located in a member-country of the World Trade Organisation, or managers of main offices in Italy of Italian companies or companies belonging to other member-countries of the European Union;
- b) university lecturers in exchange programmes or as native speakers of foreign languages;
- c) university professors and researchers appointed to carry out in Italy an academic assignment or paid research activity at universities, educational and research institutes operating in Italy;
- d) translators and interpreters;
- e) domestic helpers who have been regularly engaged abroad, for at least a year, as full-time domestic workers employed by Italian citizens or citizens of one of the European Union member-countries resident abroad, who move to Italy, for continuation of the domestic employment relationship;
- f) persons who, holding residence permits for professional or vocational training reasons, carry out temporary training periods with Italian employers, also performing activities falling in the context of employees' work;
- g) workers employed by organisations or enterprises operating in Italy, who have been temporarily admitted, at the employer's request, to perform specific functions or tasks, for a limited or temporary period, and are obliged to leave Italy when these tasks or functions are completed;
- h) maritime workers employed to the extent and in accordance with the procedures established in the implementation regulations;
- i) employed workers regularly paid by employers, whether physical or legal persons, resident or having a registered office abroad and directly paid by them, who have been temporarily transferred from another country to work on the premises of physical or legal persons, whether Italian or foreign, resident in Italy, in order to perform in Italy specific services for which a contract has been entered into between the aforementioned physical or legal persons resident or having a registered office in Italy and those resident or having their registered office abroad, in compliance with the provisions of article 1655 of the civil code, law No. 1369 of 23rd October 1960, and the international and EEC regulations;
- l) workers employed by circuses or shows traveling abroad;
- m) artistic and technical personnel for opera, theatre, concert or ballet shows;
- n) dancers, performing artists and musicians to be employed in entertainment establishments;
- o) performing artists to be employed by theatrical or motion-picture bodies or by public or private radio or television enterprises, or by public bodies, in the framework of cultural or folk-culture events;
- p) foreigners who are to perform any kind of professional sports activity with Italian sports clubs or associations as per law No. 91 of 23rd march 1981;
- q) journalists officially accredited as correspondents in Italy and employees regularly receiving salaries from daily newspapers or periodicals, or from foreign radio or television stations;
- r) persons who, according to the provisions of international agreements in force for Italy, perform in Italy research or occasional work activities in the framework of youth exchange programmes or youth mobility programmes or are persons placed as "au pairs".

2. The regulations referred to in article 1 also contains provisions for the implementation of the international conventions and agreements currently in force regarding the entry and residence of foreign workers employed by diplomatic or consular representative offices or bodies operating under international law with offices in Italy.

3. The entry and residence of frontier workers not belonging to the European Union is regulated by the special provisions foreseen in the international agreements in force with the bordering countries.

PART IV
Right to family unity and protection of minors

Art. 26
Right to family unity

1. The right to maintain or restore family unity in relation to foreign family members is recognised, on the conditions foreseen by this law, for foreigners who hold a residence card or residence permit with a duration of at least one year issued for employment or self-employed work or for asylum, education or religious reasons.
2. The provisions of Presidential Decree No. 1656 of 30th December 1965 continue to apply to the foreign family members of Italian citizens or citizens of a European Union member-country, without prejudice to more favourable provisions of this law or the implementation regulations.
3. In all administrative and jurisdictional procedures having the object of putting into effect the right to family unity and involving minors, it is necessary to take into account, as a priority matter, the best interest of the minor in accordance with the provisions of article 3, paragraph 1, of the Convention on the rights of children dated 20th November 1989, ratified and brought into effect pursuant to law No. 176 of 27th March 1991.

Art. 27
Family reunion

1. Foreigners may request reunion for the following family members:
 - a) spouse unless legally separated;
 - b) dependent minor offspring, including those of the spouse or born outside wedlock, even if not married or legally separated, on the condition that the other parent, if any, has given consent;
 - c) dependent parents;
 - d) relatives within the third degree of kinship, unfit for work according to Italian legislation.
2. For the purposes of family reunion, offspring less than eighteen years old are considered minors. Minors adopted or fostered or entrusted as wards are considered equivalent to offspring.
3. Save in the case of a refugee, a foreigner who applies for reunion must demonstrate the availability:
 - a) of accommodation not inferior to the minimum parameters set by the regional law on housing in public residential building projects, and/or in the case of a child below the age of fourteen years following a parent, the consent of the title-holder to the abode where the minor will actually dwell;
 - b) of an annual income from lawful sources that is not less than the annual amount of the social-welfare allowance if reunion is requested for one family member only, or twice the annual amount of the social-welfare allowance if reunion is requested for two or three family members, or triple the annual amount of the social-welfare allowance if reunion is requested for four or more family members. For the purposes of determining such income, the overall annual income of the family members who live with the applicant is also taken into account.
4. Entry is allowed, following a foreigner who holds a residence card or an entry visa for employment involving a contract of not less than one year's duration, or for non-occasional self-employed work, or for educational or religious reasons, for family members with whom reunion can be effected, provided that the requisites regarding available accommodation and income as per paragraph 3 are met.
5. In addition to what is foreseen in article 26, paragraph 2, entry is allowed, following an Italian or European Union citizen, of family members with whom reunion can be effected.
6. Without prejudice to the provisions of article 4, paragraph 6, entry is allowed, for the purposes of reunion with a minor child lawfully residing in Italy, of a natural parent (parent of a child born out of wedlock) who can prove, not later than one year after entering Italy, to possess the requisites regarding available accommodation and income indicated in paragraph 3.
7. The application for a "nulla osta" to family reunion, accompanied by the required documentation, is presented to the police headquarters ("questura") of the applicant's place of abode, which issues a copy bearing the date-stamp and signature of the officer who received it. The head of police administration (questore), after checking that the requisites indicated in this article are present, issues the requested measure or a measure refusing the "nulla osta".
8. Once ninety days have elapsed after the date of application for the nulla osta, the person concerned may obtain the entry visa directly from the Italian diplomatic and consular representatives, upon exhibition of the copy of the documents stamped by the police headquarters to show the date of presentation of the application and relative documentation.
9. The Italian diplomatic and consular representatives also issue the entry visa for admission of following family members in the cases foreseen in paragraph 5.

Art. 28

Residence permit for family reasons

1. Without prejudice to the cases of issue or renewal of residence cards, a residence permit for family reasons is issued:

a) to foreigners who have entered Italy with an entry visa for family reunion, or with an entry visa to follow a family member in the cases foreseen in article 27, or with an entry visa for reunion with a minor son or daughter;

b) to foreigners who have been lawfully residing in Italy on another basis for at least one year and have married in Italy an Italian citizen or a citizen of a European Union country, or a lawfully resident foreign citizen;

c) to foreign family members lawfully residing in Italy, who possess the requisites for reunion with an Italian citizen or European Union citizen resident in Italy, or with a foreigner lawfully residing in Italy. In this case the family member's permit is converted into a residence permit for family reasons. Its conversion can be requested not later than one year after the expiry date of the residence document originally held by the family member. In the case that the said citizen is a refugee, the requirement of possession of a valid residence permit by the family member is waived;

d) to the foreign parent of an Italian minor resident in Italy, including a "natural" parent (of an Italian minor born out of wedlock). In this case the residence permit for family reasons is issued even without requiring possession of a valid residence document, provided the applicant parent has not been deprived of parental authority under Italian law.

2. The residence permit for family reasons allows the holder to access assistance and welfare services, to enroll in educational or professional/vocational training courses, to be registered in job-seekers lists, and to work as an employee or self-employed worker, provided the minimum working-age requirements are met.

3. The residence permit for family reasons has the same duration as the residence permit of the foreign family member in possession of the requisites for reunion as per article 27 and is renewable together with the latter.

4. A foreigner who is reunited with an Italian citizen or European Union citizen, or with a foreigner who holds a residence card as per article 7, is issued with a residence card.

5. In the case of legal separation or divorce or, for offspring who cannot obtain a residence card, upon reaching the age of eighteen, the residence permit can be converted into a permit for employment, self-employed work or education, subject to the minimum working-age requirements.

6. Against refusal of a "nulla osta" for family reunion and for a residence permit for family reasons, and also against other measures on the part of the administrative authority on the matter the right to family unity, the person concerned may appear to the lower-court judge (pretore) of his or her place of abode, who proceeds, after hearing the person concerned, in the manners foreseen in articles 737 et seq. of the civil procedure code. The decree accepting the appeal may order that a visa be issued even without a "nulla osta". The documents pertaining to this procedure are exempt from stamp tax and all other taxes. The overall cost resulting from the application of this paragraph is estimated at 150 million lire per year from 1998 onwards.

Art. 29

Provisions in favour of minors

1. The minor child of a foreigner who lives with the latter and, being lawfully resident, is entered in the residence permit or residence card of one or both parents up to the age of fourteen follows the legal status of the parent with whom the said child lives, or the most favourable of those of the parents with whom the child lives. Up to the same age-limit a minor who has been entrusted to a foster-parent as per article 4 of law No. 184 of 4th May 1983 is entered in the residence permit or residence card of the foreigner who is the said child's foster parent and follows the legal status of the latter, if more favourable. Occasional and temporary absence from Italy does not exclude the requisite of cohabitation and renewal of entry.

2. Upon reaching the age of fourteen, the minor entered on the residence permit or residence card of the parent or foster-parent is issued with a residence permit for family reasons valid until the said child comes of age, or with a residence card.

3. The juveniles' court, for serious reasons regarding psychological and physical development and taking into account the age and state of health of a minor who is in Italy, may authorise the entry or temporary stay of a family member, for a specific period of time, even in derogation of the other provisions of this law. The authorisation is revoked when the serious reasons which justified its issued cease to exist or due to activities on the part of the family member incompatible with the minor's needs or with continuation of the latter's stay in Italy. The measures taken are reported to the diplomatic or consular representative and to the head of police administration (questore) for the formalities in their respective spheres of competence.

4. If pursuant to this law it is necessary to order the expulsion of a foreign minor, the measure is adopted, at the request of the head of police administration (questore), by the juveniles' court.

Art. 30

Provisions concerning minors entrusted to foster-parents when they come of age

1. Upon coming of age, a foreigner to whom have been applied the provisions indicated in article 29, paragraphs 1 and 2, and minors fostered on any basis as per article 2 of law No. 184 of 4th May 1983 may be issued with a residence permit for reasons of education, access to the job market, employment or self-employed work, or for health or treatment needs. The residence permit for access to the job market does not require possession of the requisites indicated in article 21.

Art. 31

Committee for foreign minors

1. For the purpose of exercising vigilance over the manner of residence of foreign minors temporarily admitted to Italy and continuing the activities of the administrations concerned, a Committee is set up, without additional costs to the national budget, based in the Prime Minister's Office and consisting of representatives of the ministries of Foreign Affairs, Internal Affairs, Justice and the Social Affairs Department of the Prime Minister's Office, as well as two representatives of the National Association of Italian Municipalities (ANCI), a representative of the Union of Italian Provinces (UPI) and two representatives of the most representative organisations operating in the field of family problems.

2. A decree signed by the Prime Minister or the minister delegated by him, after hearing the ministers of Foreign Affairs, Internal Affairs and Justice, defines the tasks of the Committee concerning the protection of the rights of foreign minors in accordance with the provisions of the Convention on the rights of the child dated 20th November 1989, ratified and brought into effect as per Law No. 176 of 27th May 1991, and establishes the rules and procedures for entry and residence in Italy by foreign minors, with regard only to those over six years old who enter Italy in the framework of solidarity programmes for temporary reception promoted by Italian bodies, associations or families, and also for the temporary fostering and repatriation of same.

3. The Committee, for the performance of the activities in its sphere of competence, utilises the personnel and resources allocated to the Social Affairs Department of the Prime Minister's Office, and has its seat on the premises of the said Department.

PART V

Provisions on the matter of health, and also education, accommodation, participation in public life and social integration

SECTION I

Provisions on the matter of health

Art. 32

Assistance for foreigners registered with the National Health Service

1. The following persons are obliged to register with the National Health Service and are entitled to equal treatment and full equality of rights and duties in relation to Italian citizens as regards compulsory contributions, the assistance provided in Italy by the National Health Service and the duration of same:

a) lawfully resident foreigners who are working in regular employment or self-employed work activities or are registered in the job-seekers lists;

b) foreigners who are lawfully resident or have requested renewal of their residence document for employment, self-employed work or family reasons or for political asylum, humanitarian asylum, application for asylum, expected adoption, fostering, or obtainment of citizenship.

2. Lawfully resident dependent family members are also entitled to health assistance. While awaiting registration with the National Health Service, the minor offspring of foreigners registered with the National Health Service are assured, from birth onwards, of the same treatment as registered minors.

3. Lawfully resident foreigners who are not comprised in the categories indicated in paragraphs 1 and 2 are obliged to insure themselves against the risks of sickness, accidents and maternity by taking out an appropriate insurance policy with an Italian or foreign insurance institution that is valid in Italy, or by registration with the National Health Service, valid also for dependent family members. For registration with the National Health Service they must pay by way of sharing expenses an annual contribution, in the same percentage amount as foreseen for Italian citizens, on the overall income obtained in the previous year in Italy and abroad. The amount of the contribution is determined by decree issued by the Minister of Health, in concert with the Minister of the Treasury, and cannot be less than the minimum contribution foreseen by the regulations currently in force.

4. Voluntary registration with the National Health Service can also be requested:

a) by foreigners resident in Italy who hold a residence permit for educational reasons;

b) by lawfully resident foreigners who are placed in "au pair" positions, as per the European agreement on "au pair" positions adopted in Strasburg on 24th November 1969, ratified and brought into effect as per Law No 304 of 18th May 1973.

5. The persons indicated in paragraph 4 are obliged to pay for registration with the National Health Service, by way of sharing its cost, a lump-sum annual contribution in accordance with the amounts and procedures foreseen by the decree indicated in paragraph 3.

6. The contribution by foreigners indicated in paragraph 4 letters a) and b) is not valid for dependent family members.

7. The foreigners insured with the National Health Service are registered with the local health board of the municipality in which they are resident, in accordance with the procedures foreseen by the implementation regulations.

Art. 33

Health services for foreigners not registered with the National Health Service

1. For the health services provided to foreign citizens not registered with the National Health Service payment must be made, by the persons required to pay for such services, at the rates established by the Regions and autonomous provinces as per article 8, paragraphs 5 and 7, of legislative decree No. 502 of 30th December 1992 and subsequent amendments.

2. The provisions hereof are without prejudice to the provisions regulating health assistance to foreign citizens in Italy on the basis of bilateral or multilateral reciprocal agreements signed by Italy.

3. Foreign citizens present in Italy, but in an irregular situation in relation to the regulations concerning entry and residence, are assured, in public and accredited health facilities, of urgent or in any case essential, even in continuous, out-patient and/or hospital treatment in the case of sickness or accident and are also comprised in the preventive medicine programmes for the protection of individual and collective health. In particular, the following are guaranteed:

a) the social protection of pregnancy and maternity, with equal treatment in relation to Italian citizens, pursuant to Laws No. 405 of 29th July 1975 and No. 194 of 22nd May 1978, and the Ministry of Health decree of 6th

March 1995, published in Official Gazette No. 87 of 13th April 1995, with equal treatment in relation to Italian citizens;

b) the protection of the health of minors in application of the Convention on the rights of the child dated 20th November 1989, ratified and brought into effect as per Law No. 176 of 27th May 1991;

c) vaccinations in accordance with the regulations and in the framework of the collective prevention campaigns authorised by the Regions;

d) international prophylactic measures;

e) prophylaxis, diagnosis and treatment of infectious diseases and disinfection of the relative sources of contagion, if necessary.

4. The services indicated in paragraph 3 are provided at no cost to those requesting them if the said persons lack sufficient financial resources, save for cost-sharing contributions on an equal footing with Italian citizens.

5. Access to health facilities by foreigners in an irregular situation in relation to the residence regulations cannot give rise to any form of reporting of same to the authorities. save in cases in which a report is compulsory, on an equal footing with Italian citizens.

6. Without prejudice to the financing of urgent or in any case essential hospital services by the Ministry of Internal Affairs, the costs arising from the other services foreseen in paragraph 3, in relation to foreigners lacking sufficient financial resources, are provided for in the framework of the resources available in the National Health Fund, with corresponding reduction of the programmes regarding emergency action measures.

Art. 34

Entry and residence for medical treatment

1. A foreigner who intends to receive medical treatment in Italy and the person accompanying the latter, if any, may obtain a specific entry visa and relative residence permit. To this end, the persons concerned must present a declaration stating the Italian health facility chosen and indicating the type of treatment, the date of commencement of same and the presumed duration of the therapeutic treatment, and must attest having deposited a sum of money by way of security, taking into account the presumable cost of the medical services requested, in accordance with the procedures established by the implementation regulations, and also provide documentary proof of the availability in Italy of board and lodgings for the accompanying person and for the convalescence period of the person concerned. The application for issue of the visa or issue or renewal of the permit may also be presented by a family member or by any other person in any way concerned.

2. Travel to Italy for treatment with the issue of a residence permit for medical treatment is also allowed in the framework of the humanitarian programmes defined as per article 12, paragraph 2, letter c) of legislative decree No. 502 of 30th December 1992, as amended by legislative decree No. 517 of 7th December 1993, subject to prior authorisation by the ministry of health, in agreement with the ministry of Foreign Affairs. The local health boards and hospital boards, through the Regions, are refunded the costs borne, which are to the charge 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 for as long as is required for the documented therapeutically needs.

4. The provisions hereof are without prejudice to the provisions on the matter of international prophylaxis.

SECTION II

Provisions on the matter of education and right of study and profession

Art. 35

Professional activities

1. Foreigners lawfully resident in Italy who hold professional qualifications legally recognised in Italy as valid for the purposes of practicing professions, are allowed, in derogation of the provisions that foresee the requisite of Italian citizenship, within one year commencing from the date on which this law comes into effect, to register with the relative professional Orders or Colleges or, in the case of professions lacking a Professional Roll, to register in special lists to be instituted with the competent ministries, in accordance with the provisions of the implementation regulations. Registration in the aforementioned Rolls is a necessary condition for practicing a profession even as an employee. The above derogation cannot apply to foreigners who have been admitted in excess of the numerical limit to diploma, degree or specialisation courses, unless authorised by the Government of the country of citizenship.

2. The manners, conditions and time-limits for authorisation to practice professions and for recognition of the relative qualifications not yet recognised in Italy are established in the implementation regulations. The provisions for recognition of qualifications will be defined by the competent ministers, in concert with the minister for Universities and Scientific and Technological Research, after consulting the professional Orders and the pertinent associations.

3. The foreigners indicated in paragraph 1, from the expiry of the foreseen time-limit onwards, may register with the Orders, Colleges and special lists in the framework of the quotas defined as per article 3, paragraph 4, and in accordance with maximum utilisation criteria defined in accordance with the criteria established in the implementation regulations.

4. In the case of employment, equal treatment with Italian citizens in terms of salary and social security conditions is guaranteed

Art. 36

Schooling of foreigners. Intercultural education

1. The foreign minors present in Italy are subject to the compulsory school attendance obligations and to the application of all provisions currently in force regarding the right to education, access to educational services, and participation in the life of the school community.

2. The effective implementation of the right to education is guaranteed by the State, the Regions and the other local bodies, also through the activation of specific courses and initiatives for the purpose of learning the Italian language.

3. The school community welcomes language and cultural difference as a positive value upon which are to be founded mutual respect, intercultural exchange and tolerance; to this end, it promotes and fosters initiatives with a view to hospitable reception, the protection of the culture and language of origin, and the realisation of joint intercultural activities.

4. The initiatives and activities indicated in paragraph 3 are conducted on the basis of a survey of local needs and an integrated local planning scheme, also through agreements with the foreigners' associations, the diplomatic or consular representatives of the countries of origin, and volunteer organisations.

5. The school institutions, in the framework of a local action programme, also on the basis of agreements with the Regions and local bodies, promote:

a) the reception of lawfully resident foreign adults by instituting basic literacy courses in elementary and intermediate schools;

b) the realisation of a culturally valid educational scheme for lawfully resident adult foreigners who wish to obtain the compulsory-schooling leavers' certificate;

c) the preparation of supplementary educational itineraries to complete the schooling received in the country of origin for the purposes of obtaining the compulsory-schooling leavers' certificate or higher secondary school diploma;

d) the realisation and activation of Italian language courses;

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

6. By regulations adopted pursuant to article 17, paragraph 1, of law No. 400 of 23rd August 1988, the implementation provisions for this section are established, specifically indicating:

a) the procedures for the realisation of specific national and local projects, with particular reference to the activation of intensive Italian language courses, and also training and refresher courses for the inspectors, directors and teaching personnel of schools of all types and levels, and the criteria for the adaptation of teaching programmes;

b) the criteria for the recognition of the educational qualifications obtained and studies carried out in the countries of origin with a view to integration in the Italian school system, and also the criteria and procedures for communication with the families of foreign pupils, also with the assistance of qualified cultural intermediators;

c) the criteria for enrolment and inclusion in classes of foreigners arriving from other countries, for the distribution of the foreign pupils in the classes and for the activation of specific linguistic support activities;

d) the criteria for the stipulation of the agreements indicated in paragraphs 4 and 5.

Art. 37

Access to university courses

1. In the matter of access to university education and relative measures in favour of the right to education, equal treatment is assured between foreigners and Italian citizens, within the limits and in the manners foreseen in this article.

2. The universities, in the framework of their autonomy and within the limits of their available financial resources, undertake initiatives addressed to the accomplishment of the objectives of the programmatic document indicated in article 3, by promoting the access of foreigners to the university courses indicated in article 1 of law No. 341 of 19th November 1990, taking into account the EEC guidelines in this matter, in particular with regard to the inclusion of a quota of foreign university students, stipulating appropriate agreements with foreign universities for student mobility, and organising orientational guidance and reception activities.

3. The implementation regulations establish the rules applying to:

- a) the formalities required of foreigners in order to obtain the entry visa and residence permit for educational reasons, also with reference to the procedures for guaranteeing financial coverage on the part of Italian or lawfully resident foreign bodies or persons in lieu of proof of the availability of sufficient means of support by the foreign student,
- b) the renewability of the residence permit for educational reasons and the possibility of working as an employee or on a self-employed basis during its validity on the part of the foreigner concerned;
- c) the provision of scholarships, subsidies and awards for the foreign students, even starting from years other than the first year of the course of studies, in coordination with the granting of the aid foreseen by the current regulations on the matter of the right to university education and without any requirement for reciprocity;
- d) the criteria for evaluating the foreigners' financial situation for the purposes of uniform treatment with regard to the granting of the aid indicated under letter c);
- e) the conducting of Italian language courses for foreigners who desire access to university education in Italy;
- f) the recognition of educational qualifications obtained in other countries.

4. Pursuant to the provisions of this article and the implementation regulations, on the basis of the availability data communicated by the universities, the maximum number of entry visas and residence permits for access to university education by foreign students resident abroad is set by decree by the minister of Foreign Affairs, in concert with the minister for Universities and Scientific and Technological Research and with the minister of Internal Affairs. An outline of the decree is sent to Parliament to obtain the opinion of the competent Committees, which is to be expressed within the following thirty days.

5. Access to university courses, on equal terms with Italian students, is in any case allowed for foreigners who hold a residence card or a residence permit for employment or self-employed work, for family reasons, political asylum, humanitarian asylum, or religious reasons, and for foreigners lawfully resident in Italy who hold a diploma for higher studies awarded in Italy, or the equivalent if obtained abroad.

SECTION III

Provisions on the matter of accommodation and social assistance

Art. 38

Reception centres. Access to housing

1. The Regions, in collaboration with the Provinces and Municipalities and with volunteer associations and organisations, set up reception centers destined to provide accommodation, also in structures that accommodate Italian citizens or citizens of other European Union countries, for foreigners lawfully resident for reasons other than tourism, who are temporarily unable to provide by their own means for their accommodation and subsistence needs. The mayor, when emergency situations are found to exist, may arrange for accommodation to be provided in the reception centres for foreigners not in compliance with the regulations on entry and residence in Italy, without prejudice to the provisions regarding the expulsion of foreigners in such situations.

2. The reception centers aim to make the foreigners they accommodate become self-sufficient in the shortest possible time. The reception centers provide, wherever possible, appropriate social and cultural services to foster the self-sufficiency and social integration of their guests. Each Region determines the operational and structural requirements for the centers located in its territory and allows agreements with private bodies and funding.

3. The term "reception centers" is understood to mean accommodation structures which, on a gratuitous basis or otherwise, provide for the immediate food and accommodation needs, and also, where possible, provide opportunities for learning the Italian language, vocational training, cultural exchanges with the Italian population and social and medical assistance for foreigners who are unable to provide autonomously for such needs, for the time strictly necessary to achieve self-sufficiency in terms of food and lodgings needs in the territory where the foreigner lives.

4. Lawfully resident foreigners can have access to social, collective or private accommodation made available, in accordance with the criteria foreseen by the regional laws, by the Municipalities in which the foreign population is highest or by associations, foundations or volunteer organisations, or by other public or private bodies, in the framework of accommodation structures, organised predominantly in the form of boarding-houses open to both Italians and foreigners, intended to offer a dignified accommodation solution for payment at controlled rates, while waiting to find ordinary accommodation on a permanent basis.

5. The Regions grant contributions to Municipalities, Provinces, groups of Municipalities or public or private non-profit bodies, for works of hygienic and sanitary rehabilitation on housing owned by them or of which they have legal possession for at least fifteen years, to be used as housing for foreigners who hold a residence card or residence permit for reasons of employment, self-employed work, education, family reasons, political asylum or humanitarian asylum. The contributions can be by way of capital loans or non-refundable loans and entail tying the use of the housing concerned to the provision of emergency accommodation or renting it to lawfully resident

foreigners. The allocation and utilisation of the contributions and housing units structured in this manner is effected on the basis of the criteria and procedures foreseen in the relative regional legislation.

6. Foreigners who hold a residence card and lawfully resident foreigners registered in the job-seekers lists or who work as employees or self-employed workers are entitled to access, on equal terms with Italian citizens, to public residential housing, and to the intermediation services of whatever social agencies may have been set up by each Region or by local bodies to facilitate access to rented housing and to facilitated loans in the fields of the construction, rehabilitation, purchasing and leasing of first homes.

Art. 39
Social assistance

1. Foreigners who hold a residence card or a residence permit with a duration of not less than one year, and the minors listed on their residence card or residence permit, are considered equivalent to Italian citizens for the purposes of entitlement to receive aid and services, including financial assistance, of a social nature, including those foreseen for persons suffering from Hansen's disease or tuberculosis, for the deaf and dumb, for blind civilians, disabled civilians and for the destitute.

SECTION IV

Provisions concerning social integration, discrimination and the institution of the fund for migration policies

Art. 40

Social integration measures

1. The Italian Government, Regions, Provinces and Municipalities, in their respective spheres of competence, also in collaboration with the foreigners' associations and with the organisations permanently operating in favour of foreigners, and also in collaboration with the authorities or public and private bodies of the countries of origin, foster:

- a) the activities undertaken in favour of foreigners lawfully resident in Italy, also for the purposes of conducting courses on their languages and cultures of origin, by foreign schools and cultural institutions lawfully operating in Italy pursuant to Presidential decree No. 389 of 18th April 1994 and subsequent amendments and additions;
- b) the diffusion of all information that can be useful for the successful integration of foreigners in Italian society, in particular with regard to their rights and duties, the various opportunities for integration and personal and community growth afforded by public administrations and associations, and all the possibility of successful reintegration in their countries of origin;
- c) knowledge and valorisation of the cultural, recreational, social, economic and religious expressions of the foreigners lawfully resident in Italy and all informative initiatives on the causes of immigration and prevention of racial discrimination or xenophobia, also through the collection by school and university libraries of books, periodicals and audiovisual material produced in the native language of the countries of origin of the foreigners resident in Italy or made in these countries.
- d) the reaching of agreements with associations duly listed in the register indicated in paragraph 2 for employment in their structures of foreigners who hold a residence card or residence permit having a duration of at least two years, as intercultural mediators for the purposes of facilitating relations between the various administrations and foreigners belonging to the various ethnic, national, linguistic and religious groups;
- e) the organisation of training courses inspired by the principles of friendly coexistence in a multicultural society and the prevention of discriminatory, xenophobic or racist behaviour, addressed to the personnel of the public agencies and offices and private bodies that habitually deal or maintain relations with foreigners or have significant responsibilities in their sphere of competency in the matter of immigration.

2. For the purposes indicated in paragraph 1, a register of associations selected in accordance with the criteria and requisites foreseen in the implementation regulations is instituted at the Prime Minister's Office.

3. Without prejudice to the initiatives promoted by the Regions and local bodies, for the purposes of identifying, with the participation of the foreign citizens, appropriate initiatives to remove the obstacles that impede the effective exercise of the rights and duties of foreigners, a national coordination body is instituted at the National Economics and Labour Council. The National Economics and Labour Council, in the framework of its attributions, performs the tasks of studying and promoting activities aimed to foster the participation of foreigners in public life and the circulation of information on the application of this law.

Art. 41

Discrimination for racial, ethnic, national and religious reasons

1. For the purposes of this section, discrimination consists of any form of behaviour that entails, directly or indirectly, a distinction, exclusion, restriction or preference based on race, colour, national or ethnic descent or origin and/or religious convictions and practices, and has the purpose or effect of destroying or prejudicing the recognition, enjoyment or exercise, on equal terms, of human rights and fundamental freedoms in the political, economic, social and cultural field and in all other sectors of public life.

2. In any case, the following constitute acts of discrimination:

- a) a public official or person responsible for a public service or person operating a service of public necessity who, in the performance of his or her functions, performs or omits acts in relation to a foreign citizen, solely because he or she is a foreigner or belongs to a certain race, religion, ethnic group or nationality, unfairly discriminate against the said foreign citizen;
- b) whoever imposes more disadvantageous conditions or refuses to provide goods or services offered to the public to a foreigner solely because he or she is a foreigner or belongs to a certain race, religion, ethnic group or nationality;
- c) whoever unlawfully imposes more disadvantageous conditions or refuses to provide access to employment, accommodation, education, training and social and social-assistance services to a foreigner lawfully resident in Italy solely because he or she is a foreigner or belongs to a certain race, religion, ethnic group or nationality.

d) whoever prevents, by acts or omissions, the performance of an economic activity lawfully undertaken by a foreigner lawfully residing in Italy, solely because he or she is a foreigner or belongs to a certain race, religion, ethnic group or nationality;

e) an employer or his agents who, for the effects and purposes of article 15 of Law No. 300 of 20th May 1970, as amended and completed by Law No. 903 of 9th December 1977 and by Law No. 108 of 11th May 1990, perform any act or behave in any manner that produces a detrimental effect by discriminating, even indirectly, against workers by reason of their race, ethnic or linguistic group, religious faith or citizenship. Indirect discrimination is constituted by prejudicial treatment of whatsoever kind consequent to the adoption of criteria that disadvantage to a proportionately greater extent workers belonging to a certain race, to a certain ethnic or language group, a certain religious faith or a certain nationality and regard requisites not essential to the performance of the working activity.

3. This article and article 42 apply also to xenophobic, racist or discriminatory acts performed against Italian citizens, stateless persons and citizens of other European Union countries present in Italy.

Art. 42

Civil action against discrimination

1. When the behaviour of a private individual or public administration gives rise to discrimination for racial, ethnic, national or religious reasons, the judge may, at the request of a party concerned, order the cessation of the prejudicial behaviour and adopt all other measures deemed suitable, depending upon the circumstances, to remove the effects of such discrimination.

2. The request is made by filing a petition, even personally by the party concerned, at the records office of the lower-court judge (pretore) of the place of abode of the petitioner.

3. The lower-court judge, having heard the parties, omitting all formalities not essential to the discussion of the case, proceeds in the manner that he deems most opportune with the preliminary investigation activities indispensable in relation to the prerequisites and purposes of the measure requested.

4. The lower-court judge issues an order agreeing to or rejecting the petition. If he agrees to it, he orders the requested measures which are immediately enforceable.

5. In urgent cases, the lower-court judge proceeds by motivated decree, after obtaining summary information when necessary. In this case he sets, by the same decree, the date of the hearing at which the parties are to appear before him within a time-limit not exceeding fifteen days, giving the petitioner a deadline of not more than eight days for notification of the petition and decree. At this hearing the lower-court judge, by order, confirms, alters or revokes the measures issued in the decree.

6. The measures ordered by the lower-court judge may be appealed against to the tribunal within the deadlines and in the manner foreseen in article 739, second paragraph, of the Civil Procedure Code. Insofar as applicable, articles 737, 738 and 739 of the Civil Procedure Code apply.

7. In the decision that defines the decision, the judge may also sentence the defendant to pay damages and/ or compensate for loss and damage, including damage of a non-financial nature.

8. Whoever evades the execution of measures ordered by the lower-court judge as per paragraphs 4 and 5 and by the tribunal as per paragraph 6 is punished in accordance with article 388, first paragraph, of the Penal Code.

9. The petitioner, in order to demonstrate the existence to his detriment of discriminatory behaviour on the basis of race, ethnic or language group, geographic origin, religious faith or citizenship may provide as evidence elements of fact even of a statistical nature regarding the personnel hirings, contribution schemes, assignment of jobs and grades, transfers, career advances and layoffs of the firm concerned. The judge evaluates the facts presented within the limits indicated in article 2729, first paragraph, of the Civil Code.

10. In the event that an employer engages in discriminatory action or behaviour of a collective nature, even in cases in which it is not possible to identify in an immediate and direct manner the workers harmed by such discrimination, the petition may be presented by the local representatives of the trade-union organisations most representative at national level. The judge, in the sentence that ascertains the discriminations on the basis of the petition presented pursuant to this article, orders the employer, to establish, after hearing the aforementioned parties and organisations, a plan for the elimination of the discriminations found to exist.

11. All findings of discriminatory actions or behaviour for the effects and purposes of article 41 engaged in by enterprises which have been allowed benefits pursuant to national or regional laws currently in force, or who have signed works contracts regarding the execution of public works, services or supplies, is immediately reported by the lower-court judge, in accordance with the procedures foreseen in the implementation regulations, to the public administrations or public bodies that granted the benefit, including financial or credit facilitations, or contract. Such administrations or bodies revoke the benefit, and in the most serious cases, ensure that the party responsible be excluded for two years from any further granting of financial or credit facilitations, or from any work or supply contract.

12. The Regions, in collaboration with the Provinces and Municipalities, and with the immigrants' and social volunteers' associations, for the purposes of the application of the provisions of this article and study of the

phenomenon concerned, set up observation, information and legal assistance centers for foreigners who are victims of discrimination on racial, ethnic, national or religious grounds.

Art. 43

National Fund for migration policies

1. The National Fund for migration policies is instituted in the Prime Minister's Office, for the purpose of financing the initiatives indicated in articles 18, 36, 40 and 44 included in the annual or multi-annual programmes of the Italian Government, Regions, Provinces and Municipalities. The Fund's endowment, net of the amounts from the contribution indicated in paragraph 3, is established as Lire 12,500 million for the year 1997, 58,000 million for the year 1998 and 68,000 million for the year 1999. The amount of the Fund for subsequent years will be established as per article 11, paragraph 3, letter d) of Law No. 468 of 5th August 1978 and subsequent amendments and additions. The Fund also received the monies from any contributions and donations that may be made to it by private individuals, bodies, organisations, including international organisations and European Union bodies, which are entered in the State budget for assignment to the aforementioned Fund. The Fund is allocated annually by decree issued by the Prime Minister, in concert with the various ministers concerned. The implementation regulations establish the procedures for presentation, examination, disbursement, checking, reporting and revocation of financing by the Fund.

2. The Government, Regions, Provinces and Municipalities adopt, in the matters in their respective spheres of competence, annual or multi-annual programmes regarding their own initiatives and activities concerning immigration, with particular regard to the effective and complete operative implementation of this law and of the implementation regulations, cultural, training, information, integration and equal opportunities promotion activities. The programmes are adopted in accordance with the criteria and procedures indicated in the implementation regulations and indicate the public and private initiatives that have priority for financing by the Fund, including the provision of contributions to the local bodies for the implementation of the programme.

3. With effect from the month following the one in which this law comes into effect, any in any case from a date not later than 1st January 1998, 95 percent of the sums from the proceeds of the contribution charged as per article 13, paragraph 2, of Law No. 943 of 30th December 1986 is destined to finance the policies of the Fund as indicated in paragraph 1. To this end, the aforementioned sums are paid by the INPS (National Social Security Institute) into the State budget to be assigned to the said Fund. The contribution indicated in article 13, paragraph 2, of Law No. 943 of 30th December 1986 is abolished as from 1st January 2000.

Art. 44

Integration Policies Committee

1. The Integration Policies Committee is instituted in the Prime Minister's Office – Social Affairs Department.

2. The tasks of the Committee are to prepare for the Government, also for the purposes of the obligation to report to Parliament, the annual report on the state of implementation of the policies for the integration of immigrants, to formulate proposals for ameliorations to be made to such policies and to reply to questions asked by the Government concerning immigration and intercultural policies and action against racism.

3. The Committee is composed of representatives of the Social Affairs Department of the Prime Minister's Office and of the ministries of Foreign Affairs, Internal Affairs, Labour and Social Security, Health and Public Education, and also includes a maximum of ten experts, with qualified experience in the field of the social, legal and economic analysis of immigration problems, appointed by decree by the Prime Minister, after hearing the minister for Social Solidarity. The chairman of the Committee is chosen from amongst university professors with tenure who are experts on the above subjects and is placed on the payroll of the Prime Minister's Office on a supranumerary basis. The following may be invited to attend the Committee's meetings: the representatives of the Permanent Conference for relations between the Government, the Regions and the Autonomous Provinces of Trento and Bolzano, of the Government-Towns and Local Bodies Conference and those of other public administrations concerned with individual issues to be examined.

4. The decree indicated in paragraph 3 establishes the organisation of the Committee's secretarial office, set up in the Department of Social Affairs of the Prime Minister's Office, and also the expenses and remuneration to payable to the members of the Committee and to experts whom the Committee intends to consult in the performance of its tasks.

5. Within the limits of the annual allocation foreseen for the Committee's operation in the decree indicated in article 43, paragraph 1, the Committee may entrust the performance of studies and research to public and private institutions, groups or individual researchers by agreements decided upon by the Committee and signed by its chairman, and purchase publications or material necessary for the accomplishment of its tasks.

6. For the accomplishment of its tasks the Committee may avail itself of the collaboration of all governmental administrations, including those having autonomous status, public bodies, Regions and local bodies.

TITOLO VI

Disposizioni concernenti i cittadini degli stati membri dell'Unione europea

Art. 45

Delega legislativa per l'attuazione delle norme comunitarie in materia di ingresso, soggiorno e allontanamento dei cittadini degli Stati membri dell'Unione europea

1. Il Governo e' delegato ad emanare, entro il termine di un anno dalla data di entrata in vigore della presente legge, un decreto legislativo contenente la disciplina organica dell'ingresso, del soggiorno e dell'allontanamento dei cittadini degli altri Stati membri dell'Unione europea.

2. Il decreto legislativo deve osservare i seguenti principi e criteri direttivi:

- a) garantire piena ed integrale attuazione alle norme comunitarie relative alla libera circolazione delle persone in materia di ingresso, soggiorno, allontanamento, con particolare riferimento alla condizione del lavoratore subordinato e del lavoratore autonomo che intenda stabilirsi, prestare o ricevere un servizio in Italia;
- b) assicurare la massima semplificazione degli adempimenti amministrativi richiesti ai cittadini degli altri Stati membri dell'Unione europea per la documentazione del diritto di ingresso e soggiorno in Italia, nonche' per l'iscrizione anagrafica nelle liste della popolazione residente, con eliminazione di ogni atto o attivita' non essenziale alla tutela dell'ordine pubblico, della sicurezza nazionale e della sanita' pubblica;
- c) garantire il diritto all'impugnativa giurisdizionale degli atti amministrativi restrittivi della liberta' di ingresso e soggiorno dei cittadini degli altri Stati membri dell'Unione europea mediante ricorso al giudice ordinario. Gli atti concernenti tale procedimento giurisdizionale saranno esenti da ogni tributo o prelievo di natura fiscale;
- d) assicurare in ogni caso che, nella materia trattata, la disciplina posta sia pienamente conforme alle norme comunitarie rilevanti, tenuto conto delle eventuali modificazioni intervenute fino al momento dell'esercizio della delega e della giurisprudenza della Corte di giustizia delle Comunita' europee;
- e) provvedere all'esplicita abrogazione di ogni disposizione legislativa e regolamentare previgente in materia di ingresso, soggiorno e allontanamento dei cittadini degli altri Stati membri dell'Unione europea;
- f) assicurare il necessario coordinamento degli istituti previsti nel decreto legislativo con analoghi istituti previsti dalla presente legge e dal suo regolamento d'attuazione;
- g) prevedere ogni disposizione necessaria alla concreta attuazione del decreto legislativo, nonche' le norme di coordinamento con tutte le altre norme statali ed eventualmente norme di carattere transitorio.

3. Lo schema di decreto legislativo, previa deliberazione preliminare del Consiglio dei ministri, sara' trasmesso, almeno sessanta giorni prima della scadenza del termine di cui al comma 1, al Parlamento per l'acquisizione del parere delle Commissioni competenti per materia, che devono esprimersi entro quarantacinque giorni; trascorso tale termine il parere si intende acquisito. Con le medesime modalita' ed entro lo stesso termine lo schema di decreto legislativo e' trasmesso alla Commissione delle Comunita' europee.

PART VII
Final Provisions

Art. 46
Cancellations

1. The following legislative provisions are cancelled:

- a) article 151 of the Police Laws Consolidation Act approved by Royal Decree No. 773 of 18th June 1931;
- b) article 25 of Law No. 152 of 22nd May 1975;
- c) article 12 of Law No. 943 of 30th December 1986;
- d) article 5, paragraphs six, seven and eight, of decree law No. 663 of 30th December 1979, converted with amendments by Law No. 33 of 29th February, 1980;
- e) articles 2 et seq. of decree law No. 416 of 30th December 1986, converted with amendments by Law No. 39 of 28th February 1990;
- f) article 4 of Law No. 50 of 18th January 1994;
- g) article 116 of the Consolidation Act approved by legislative decree No. 297 of 16th April 1994.

2. In article 20, paragraph 2, of law No. 390 of 2nd December 1991, the following words are cancelled: ", provided that there exist bilateral or multilateral reciprocity treaties between the Republic of Italy and the countries of origin of the students, without prejudice to any other provisions foreseen in the framework of the programmes in favour of developing countries ".

Art. 47
Consolidation Act – Corrective provisions

1. The Government is delegated to issue, not later than one hundred and twenty days after the date on which this law comes into force, a legislative decree containing the Consolidation Act on provisions concerning foreigners, in which the following must be gathered together and coordinated with each other and with the provisions of this law, with the amendments necessary for this purpose:

- a) the provisions in force on the matter of foreigners and not incompatible with the provisions of this law contained in the Police Laws Consolidated Act, approved by Royal Decree No. 773 of 18th June 1931;
- b) the provisions of law No. 943 of 30th December 1986, and those of article 3, paragraph 13, of Law No. 335 of 8th August 1995, compatible with the provisions of this law.

2. The Government is also delegated to issue, not later than two years after the date on which this law comes into force, one or more legislative decrees bearing the corrective provisions that prove necessary to fully accomplish the principles of this law or to assure their most successful implementation. In the same manner, the other provisions of law regarding the legal status of foreigners will likewise be harmonised with the provisions of this law.

3. The draft legislative decrees, following their preliminary approval by the Cabinet, are sent at least sixty days before the expiry of the time limits indicated in paragraphs 1 and 2, to Parliament to obtain the opinion of the Committees competent on the matters involved, which must be expressed within forty-five days; once this deadline has elapsed, the opinion is deemed to have been given.

Art. 48
Financial coverage

1. The costs arising from the implementation of this law, estimated at lire 42,500 million for the year 1997 and lire 124,000 million per year for 1998 and 1999, are covered:

- a) in the amount of lire 22.500 million for the year 1997 and lire 104.000 million per year for 1998 and 1999, by reducing the appropriation entered, for the purposes of the three-year budget for 1997-1999, in section 6856 of the Treasury forecast statement for the year 1997, for this purpose partially utilising, in the amount of lire 22,500 million for the year 1997 and lire 29,000 million per year for 1998 and 1999, the appropriation relative to the Treasury; in the amount of lire 50,000 million per year for 1998 e 1999, the appropriation relative to the Prime Minister's Office; in the amount of lire 20,000 million per year for 1998 e 1999, the appropriation relative to the Ministry of Public Education; in the amount of lire 5,000 million per year for 1998 and 1999, the appropriation relative to the Ministry of Foreign Affairs;
- b) in the amount of lire 20,000 million per year for 1997, 1998 and 1999, by reducing the appropriation entered for the purposes of the 1997-1999 three-year budget, in section 9001 of the Treasury forecast statement for the year 1997, to this end partially utilising the appropriation relative to the Ministry of Internal Affairs.

2. The minister of the Treasury is authorised to make, by his own decrees, the necessary budgetary amendments arising from application of this law.

Art. 49
Final provisions

1. In the initial application of the provisions of this law, action will be taken to provide the technological apparatus necessary for the telematic transmission of personal identity data to any local police headquarters (questura) not yet equipped with same, and carry out the necessary operations to assure connection between the various local police headquarters and the Criminal Police Department information system.

2. The cost arising from the application of paragraph 1, estimated at lire 8.000 million for the year 1998, is covered out of the resources indicated in article 48 and in any case subject to observance of the expenditure ceiling foreseen therein.

This law, bearing the national seal, will be included in the Official Collection of Legislative Acts of the Republic of Italy. It is obligatory for all concerned to obey it and ensure that it is obeyed by others.