



Camera di Commercio  
Biella



**GUIDELINES FOR NON-EUROPEAN UNION CITIZENS WHO  
INTEND TO CARRY OUT A SELF-EMPLOYED ACTIVITY**

**Update May 2009**



## 1. INTRODUCTION

Hereby we intend to focus attention on the main aspects concerning the fulfilments incumbent on the Chamber of Commerce in relation with the non-European Union citizens who intend to carry out a self-employed or entrepreneurial occupation in Italy.

Non-European Union citizens are people who come from Countries not belonging to the EUROPEAN UNION that want to obtain the permit of stay in order to work in Italy or that are already resident in Italy but would like to convert their permit of stay.

The Chamber of Commerce:

- Has no competence regarding non-European Union citizens who are interested in carrying out a subordinate job.
- It is only competent to issue the declaration of the economic and financial parameters (ex art.39, par. 3, DPR 394/1999) as well as the absence of impeding grounds declaration to the carrying out of a certain job (ex art. 39, par. 1, DPR 394/1999), in terms and modalities specified below;
- The declarations are not issued in case that the non-European Union citizen already possesses:
  1. The permit of stay for self-employment.
  2. The permit of stay for political asylum (the Ministry of Productive Activities with the ministerial Memorandum dated 09/12/2002 Prot. 515321 equated this permit with the permit of stay for self-employment): in both cases the non-European Union citizen, if carrying out an entrepreneurial activity, must proceed requesting the registration in the Business Register or in the Handicraft Business Register.

## 2. CONDITIONS FOR SELF-EMPLOYED ACTIVITY

Here follows a brief indication of the necessary conditions to carry out a self-employed activity:

- 1) To have the requirements prescribed by the Italian Law for the specific activity (ex. Enrolment in registers, lists);
- 2) To have adequate resources in relation with the activity that one intends to start (the reference economic and financial parameters are specified by the Chamber of Commerce with the declaration provided for by art. 39, par. 3, DPR 394/1999, see paragraph 3.1);
- 3) To have the declaration from the competing public authority that there are no impeding grounds to the carrying out of the activity, as provided for by art. 39 par. 1, DPR 394/1999.

When the activity is subject to authorization or licence, the declaration is issued by the public administration competing to the granting of it. For example, retailing falls under the competence of

the Commune since it is the body that verifies the requirements subsistence for that activity ex D. LGS. 114/1998.

### **3. CHAMBER OF COMMERCE'S FULFILMENTS.**

The competence of the Chamber of Commerce to whom send in the request is determined on the basis of the **province where one intends to start the activity.**

The Ministry of Productive Activities' Memorandum n. 3473/C dated 29/11/1999 specified that the competence subsists even if there are activities not subject to the issue of any qualification (the Memorandum specifically refers to the economic and financial parameters declaration, see paragraph 3.1).

#### ***3.1. DECLARATION OF THE ECONOMIC AND FINANCIAL PARAMETERS - ART.39, PAR. 3, DPR 394/1999***

The Chamber of Commerce must emit **the economic and financial parameters declaration** provided for by art. 39, par. 3, DPR 394/1999, in which it declares that, in order to carry out a self-employed and entrepreneurial activity, it is necessary to have a definite funds availability.

This declaration is only issued for activities that can be registered in the Business Register or in the Handicraft Business Register.

These activities are provided by art. 2195 of Italian Civil Code: goods production or services rendering; goods circulation intermediation; transport, bank and insurance activities; activities auxiliary to the previous ones, for example, handicraft activities (tailoring and dressmaking, building trade, joinery, etc.), commercial agent or sales representative or business agent, business runner, retailer and wholesaler.

The declaration is issued even when the stated activity is subject to licences that have to be issued by other bodies different from the Chamber of Commerce. In this case the absence of impeding grounds declaration (art. 39, par. 1, DPR 394/1999) must be issued by the competent public administration, as specified at following paragraph 3.2; only to declare the economic and financial parameters rests with the Chamber of Commerce.

The Chamber of Commerce Executive Committee specified in Resolution n. 233 dated 31.07.2000 the parameters indicative amount of some main activities. It falls within the appointed Office of the Chamber of Commerce's competence to issue the declaration containing the real amount of capital required to the carrying out of the declared activity/ies, but it's not its duty to verify the actual possession of the economic resources.

At the Chamber of Commerce of Biella - Via A. Moro, 15/b apply to the Handicraft Business Register Office - first floor- telephone number 015-3599340.

The facsimile of the application is enclosed with this guide (enclosure n. 1)

### **3.1.1. CASES WHERE THE DECLARATION OF THE ECONOMIC AND FINANCIAL PARAMETERS IS NOT ISSUED**

The declaration **cannot be granted:**

- To those non-E.U. citizens who already possess a permit of stay for subordinate employment or for whatever allows them to carry out a working exercise.
- To those non-E.U. citizens who intend to carry out counselling activity, even with a coordinated continuative collaboration contract. This is easily intuitable in case of self-employed professional activities, such as engineers, architects, doctors, etc...; the distinction is quite complex as regards to professional activities not included in regulated Registers or Rolls: it is necessary to understand if they have the entrepreneurial activity features, as it usually is for the services rendering;
- In case of self-employed activity carried out as working partner of a company or a cooperative society formed from less than three years.
- To those non-E.U. citizens who intend to get the position of simple partner or managing director of a company that already started its activity; in this case the Chamber of Commerce - in accordance with the procedures followed for the certificates - issues the company registration certificate in the Business Register, which reports the participation of that partner in the company activity. The Ministry of Foreign Affairs, with a letter dated 13/12/2002 addressed to the Ministry of Productive Activities, specified that in order to obtain the issue of entry visa for self-employed job, the copy of the last company financial report is required.

The emission procedures of this declaration as well as the cases in which it cannot be issued are specified in the Ministry of Productive Activities' Memorandum n. 3484/C dated 04/04/2000.

### **3.2 DECLARATION OF IMPEDING GROUNDS ABSENCE - ART.39, PAR. 1, DPR 394/1999**

When a non-European Union citizen intend to carry out a free activity that is not subject to an authorized certificate from other bodies, the declaration of subsistence of requirements ex art. 39, par. 1, DPR 394/1999 is issued by the Chamber of Commerce.

Through this declaration the Chamber of Commerce attests that there are not impeding grounds to the carrying out of activity (see point n. 3, par. 2).

It is issued by the Chamber of Commerce also when the activity is subject to enrolment in Chamber of Commerce's Rolls, Registers, Lists and the like. In this case, the declaration request must be sent in to the Handicraft Business Register Office, which will issue the permit, in some case also consulting other Chamber of Commerce's Offices.

Obviously, to obtain the declaration, the activity must be of entrepreneurial nature.

In case of activity subject to requirements that have to be verified by the Chamber of Commerce (for example, wholesale trade, car repair, cleaning and the like), the Chamber of Commerce issues the declaration only after the positive check of requirements result (for example, a wholesaler must comply with moral and professional requirements established by art. 5 D. LGS. 114/1998).

It's important to highlight that the declaration ex art. 39, par. 1 is valid for three months from the date of issue, as specified by Ministerial directives.

The facsimile of the application is enclosed with this guide (Enclosure n. 2).

#### **4. CONVERSION OF THE PERMIT OF STAY**

The permit of stay for tourism, business, medical treatment, missions and the like, does not allow to work, but it can be converted into another typology of permit, such as self-employment permit of stay, presenting the request to the Police Headquarters with the certificate of the District Work Direction attesting that the request falls into the limits of entry quotas fixed for the current year (art. 39 par. 7 DPR 394/1999).

Even in case of permit of stay conversion, the Chamber of Commerce must emit the economic and financial parameters declaration (provided by art. 39 par. 3. DPR 394/1999) and, when it falls within its competence, the absence of impeding grounds declaration to the carrying out of the activity (ex art. 39 par. 1 DPR 394/1999, see paragraph 3.1 and paragraph 3.2).

On this subject see art. 14 DPR 394/1999.

#### **5. PHASES OF THE PROCEEDINGS UNDER THE CHAMBER OF COMMERCE COMPETENCE**

The request for the economic and financial parameters declaration (art.39 par. 3. DPR 394/1999) and the absence of impeding grounds declaration (art.39 par. 3 DPR 394/1999) are sent in to the Handicraft Business Register Office.

As above specified, when the activity is subject to enrolment in rolls, registers, lists and the like kept by the Chamber of Commerce, the Office will consult the Business Register Office/ Rolls Office/REC Office.

If the non-E.U. citizen only sends in the request for the economic and financial parameters declaration, a fee of € 3,00- must be paid, while if he sends in both requests (the one for the economic and financial parameters declaration and the one for absence of impeding grounds declaration), he only pays the first one's fee of € 3,00-.

The applications are recorded. From this moment proceedings are open.

Proceedings must be closed as soon as possible, but not later than 30 days from their opening.

After the proceedings positive result, the Office Supervisor issues the declarations. (Enclosures n. 3 and n. 4).

A stamp worth € 14,62 is needed for every declaration issued; therefore, if both attestations are requested, two stamps worth € 14.62 are needed.

## 6. APPLICATION/S ENCLOSURE/S

### 6.1. APPLICATIONS SENT IN BY A NON-EUROPEAN UNION CITIZEN IN ITALY

The non-European Union citizen already in Italy must enclose a valid permit of stay (not expired) in the application form/s.

The Chamber of Commerce doesn't go deeply into the stay reason since it just needs to verify its validity.

The enclosing of the renewal of the expired permit of stay request does not legitimate the non-European Union citizen application for the declaration/s, being necessary the enclosing of the renewed permit.

#### 6.1.1. DEFINITIVE PERMIT OF STAY

The features of the definitive permit of stay are the following:

- It's a light blue paper on which data are typewritten.
- The heading reports: "*Ministry of the Interior; Public Security Administration; Turin Headquarters*".
- It shows the Italian Republic coat of arms.
- It reports the reason of stay, the date of issue, the date of expiry and the date of renewal.

The name of the form is **Mod207** (see on top).

The permit can also be made of rosy paper, reporting the expiry date "0000"; this means that it is an open-ended permit of stay, permanently valid.

The name of the form is **Mod207bis**.

#### 6.1.2. TEMPORARY PERMIT OF STAY OR POLICE HEADQUARTERS RECEIPT

The Chamber of Commerce cannot issue the declarations provided for by art. 39 par. 1 and 3 DPR 394/1999 when a temporary permit of stay is enclosed in the application (for example a passport with a "blue stripe", which only attests that the request to obtain the permit has been sent in).

Other examples of temporary permit of stay are:

- The receipt issued by the Police Station;

– The form Mod209, ex 178bis, where data are handwritten, the expiry date is not reported and the date of presentation is stamped by Police Headquarters.

## **6.2. NON-EUROPEAN UNION CITIZEN ABROAD: THE PROXY**

If the non-European Union citizen is not in Italy, a solicitor, who signs the application forms and encloses a valid identification document, must send in the application.

The proxy must be produced in original, must be translated into Italian and include the authentication of the Italian Diplomatic Authority Abroad. With regard to the proxy authentication, it can only be made as here explained and not through sworn translation of the Italian Court.

The Office functionary photocopies the proxy, then writes "true copy", the date and his own signature on it.

## **7. OTHER NON-E.U. CITIZENS FULFILMENTS NOT PERTAINING TO THE CHAMBER OF COMMERCE**

Here follow some fulfilments regarding non-E.U. citizens and not pertaining to the Chamber of Commerce.

- ✓ **The non-European Union citizen who has not the permit of stay**, after having sent in the Chamber of Commerce Declaration to the Police Headquarters, has to:
  - 1) Apply to the Italian Embassy or Consulate in his native or residence country for the temporary entry permit.
  - 2) Apply to the Italian Embassy abroad for the entry visa. The entry visa is only granted where there are all aforesaid conditions for self-employed work (the Embassy/Consulate will issue the certification ex art. 26 D.LGS. 286/1998) and only after having acquired the permit from the Ministry of the Interior, from the Ministry of Foreign Affairs and from the Ministry under whom falls the competence of controlling the activity that the non-European Union citizen intends to carry out in Italy.
  - 3) Apply to the Police Headquarters for the permit of stay for self-employment within eight days from the entry in Italy.
- ✓ **The non-European Union citizen who has already got the permit of stay for reasons different from self-employment but intends to carry out a self-employed activity** has to apply to the Police Headquarters for the conversion of the permit of stay.

The conversion can be:

- From a permit of stay for study or professional training;

- From a permit of stay that does not allow to carry out a working activity (for ex. tourism, business...).

## **8. ENCLOSED FORMS**

1. Request for the declaration of the economic and financial parameters (art. 39 par. 3 DPR 394/1999).
2. Request for the declaration of absence of impeding grounds "*nulla ostd*"(art. 39 par. 3 of DPR 394/1999).
3. Declaration of the economic and financial parameters (art. 39 par. 3 of DPR 394/1999)
4. Declaration of the absence of impeding grounds (art. 39 par. 3 of DPR 394/1999).