

De Tullio

INTERNATIONAL LAW FIRM

Italian Citizenship



Italian Citizenship

Our clients are increasingly asking how to apply for and obtain Italian citizenship.

Unlike some countries where citizenship is obtained through a significant financial investment, Italian citizenship can only be obtained in the following ways:

- a) Italian Citizenship by Descent.
- b) Italian Citizenship by Marriage.
- c) Italian citizenship by naturalization and law benefits.

For minor children residing with the applicant, Italian citizenship is automatically extended to them upon the parent's acquisition of citizenship, provided they are living together.

Applications for Italian citizenship *jure sanguinis* can be pursued in two ways:

- a. Through administrative or judicial channels. Administrative applications are submitted to the Consular Authority if residing abroad, or to the mayor of the municipality if living in Italy.
- b. Alternatively, judicial applications can be made by initiating a case in the Civil Court where the Italian ancestor was born or last resided in Italy. Legal representation may be necessary, particularly for cases involving maternal lineage or when administrative processing times are lengthy, as seen in certain consulates. In such instances, seeking legal recourse through the courts ensures the preservation of the applicant's rights. For example, the consulate in São Paulo has an approximate processing time of 12 years for such requests, prompting applicants to pursue judicial remedies.

2) "A person born in the territory of the Republic is considered a citizen if both parents are unknown or stateless, or if the child does not have the same citizenship as the parents according to the law of the country to which the parents belong."

Italian citizenship by birth, based on the principle of "*ius soli*" or territory-based citizenship, is conferred upon individuals born in the territory of the Republic under specific circumstances.

This provision of the law applies the principle of *ius soli* in limited cases, primarily targeting those who, due to various reasons, are unable to acquire citizenship by descent. Automatic citizenship by birth on Italian territory for children of non-Italian citizens is permitted only in two distinct scenarios:

- a. When both parents are unknown or stateless: The term "unknown" refers not only to biological parentage but also to a legal unknown status. Similarly, being "stateless" must be officially confirmed, either through a legal process overseen by a competent judge or

administratively by the Ministry of the Interior in accordance with Article 17 of Presidential Decree No. 572/1993.

- b. When the child does not possess the same citizenship as their parents according to the laws of the country to which the parents belong: In this case, the parents of the minor must provide evidence of the child's citizenship status in accordance with the laws of the foreign country. However, Italian citizenship will not be granted if the child could have obtained their parents' citizenship through a declaration or administrative action by the parents themselves.

3) "A child found in the territory of the Republic who is of unknown parents is considered a citizen by descendant, unless another citizenship is proven."

Children found within Italian territory of unknown parentage are considered citizens by descent unless proven otherwise.

4) "Recognition or judicial declaration of parentage during the child's minority determines their citizenship according to the norms of this law."

Citizenship is conferred upon a child when parentage is recognized or judicially declared during their minority. Adults recognized as children of an Italian citizen can only acquire citizenship through self-declaration within one year of recognition.

5) "Acquiring citizenship from birth is also possible for minors in cases of adoption by an Italian citizen mother and/or father."

Minors adopted by Italian citizens can acquire citizenship from birth.

c) Italian Citizenship by Naturalisation

Italian citizenship through naturalization is attainable for foreigners who have legally resided in Italy for a specific period, contingent upon their qualifications or status. This process is subject to discretion, relying on legal requirements and the absence of disqualifying factors. The competent authority, underscored by the Council of State, must evaluate not only legal prerequisites but also the alignment of the naturalization request with the public interest. Factors such as the applicant's behaviour, level of social integration, financial status, tax compliance, and genuine desire to become part of the Italian community are considered.

Citizenship is granted via a decree from the President of the Republic, following consultation with the State Council and based on the Minister of the Interior's recommendation. Applicants should submit their application to the Prefecture of their residence province. It's essential to maintain the conditions set by law for granting citizenship until the oath is taken, which must be done within six months of receiving the citizenship grant decree.

Now, let's explore the required qualifications:

1) Residence

The duration of residence in Italy is the pivotal requirement mandated by law for a foreign citizen's pursuit of citizenship through naturalization. This residency must remain uninterrupted, devoid of any instances of residing abroad or being untraceable within Italy. Non-EU foreigners are obliged to maintain legal residency in Italy for a minimum of ten years, while EU citizens must fulfil a residency period of at least four years.

Legal residency is conferred upon registration with a municipality's resident population registry. It's crucial to distinguish this from a foreign citizen's regular stay in Italy, which is authorized via a residence permit issued by the police headquarters in their residing area. While holding a residence permit is necessary for residency in a municipality, the duration of the permit itself does not affect eligibility for citizenship through naturalization.

However, certain circumstances warrant different periods of legal residence:

- Three years for individuals with Italian ancestry, such as those whose father, mother, or grandparents were Italians by descent, or individuals born in Italy.
- Five years for foreign adults adopted by Italian citizens. To prevent disparity compared to a foreign citizen's adult child gaining Italian citizenship through naturalization, this benefit extends to cases of adoption. Hence, in such instances, the five-year period begins from when the parent acquires Italian citizenship.
- Five years for individuals recognized as stateless persons or political refugees.

This benefit does not apply to those eligible for subsidiary protection.

It's important to note that this benefit doesn't extend to individuals under subsidiary protection.

In contrast, the residency requirement doesn't apply to foreigners who have served the Italian State, even abroad, for a minimum of five years.

2) Knowledge of the Italian language (level L2 B1)

Granting Italian citizenship depends on the applicant having adequate knowledge of the Italian language, not lower than B1 level as per the Common European Framework of Reference for Languages (CEFR).

Applicants who haven't signed the integration agreement as stipulated in Article 4-bis of the Unified Text of the legislative decree of July 25, 1998, no. 286, or those lacking an EU long-term residence permit according to Article 9 of the aforementioned Unified Text, must demonstrate their Italian language proficiency at the time of application.

This can be achieved by presenting either an educational qualification from a public or equivalent educational institution recognized by the Ministry of Education, University and Research, or the Ministry of Foreign Affairs and International Cooperation, or by providing a specific certification issued by a recognized Certification Body.

4) No criminal convictions and no social danger

Italian citizenship may be denied due to previous criminal convictions. However, each case undergoes individual evaluation by the authority, considering the severity of offenses committed and the social danger posed by the applicant. Adhering to these qualifications enhances the likelihood of a successful application for Italian citizenship through naturalization, reflecting a genuine commitment to becoming an integral part of Italian society.

Qualifying for Italian Citizenship: Descent and Birth Considerations

A foreigner or stateless person with a direct Italian lineage up to the second degree, whose ancestor was an Italian citizen by descent but subsequently lost Italian citizenship, has the opportunity to acquire Italian citizenship under specific conditions:

1. Serving in the Italian military and declaring in advance the intention to acquire Italian citizenship.
2. Employment in public service for the Italian State, even abroad, while declaring the intention to acquire Italian citizenship.
3. Legal residence in Italy for a minimum of two years upon reaching adulthood, with a declaration of intent to acquire Italian citizenship made before turning nineteen. The residency must be continuous and maintained until the declaration of intent.

Additionally, a foreigner born in Italy to foreign parents who have legally and continuously resided in Italy until the child reaches adulthood may acquire Italian citizenship. However, this acquisition is contingent upon the individual's declaration of intent within one year of reaching adulthood. Therefore, in both cases, the expressed will of the individual plays a crucial role in the acquisition of Italian citizenship.

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Buying or inheriting property in Italy can be a real maze – especially if you don't speak Italian or know the Italian legal system. Italian law can be confusing and navigating it alone can be frustrating and even dangerous.

Whether you need assistance with your property project in Italy or you need to arrange an inheritance, the team at De Tullio Law Firm will help you understand the processes and the pitfalls. Let us answer your questions and remove the worry of making costly and time-consuming mistakes.

Get in touch to arrange your FREE, no obligation consultation in your chosen language at a time to suit you.

About us

Since 1965, we have been providing legal services to clients at an international and local level, gaining an enviable reputation for quality, expertise, and professionalism.

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