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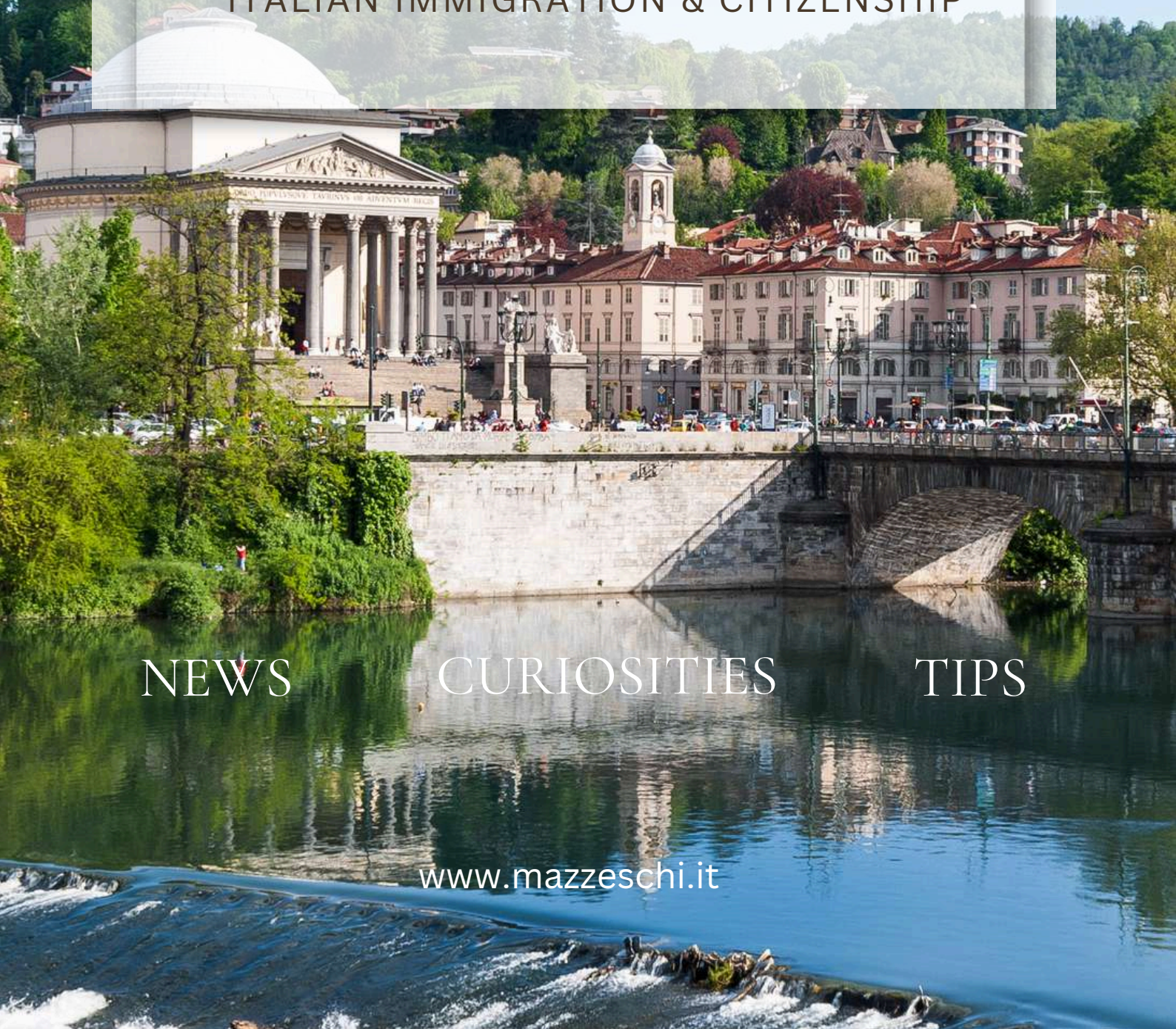

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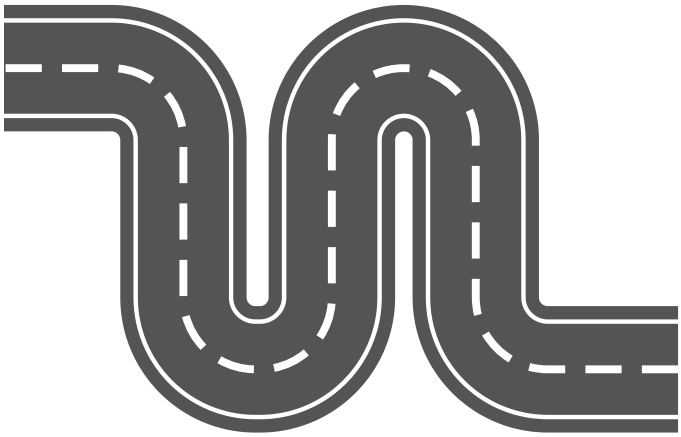
Residence Permit for De-Facto Partners of "Static" Italian Nationals: A Complex Path

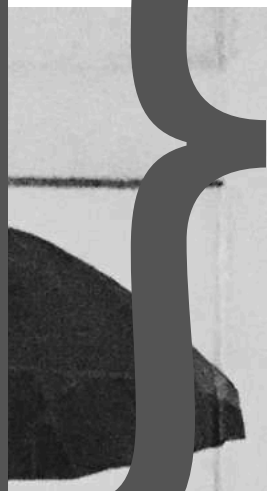
In Italy, obtaining a permit based on a de-facto partnership with an Italian citizen is quite a challenging route.

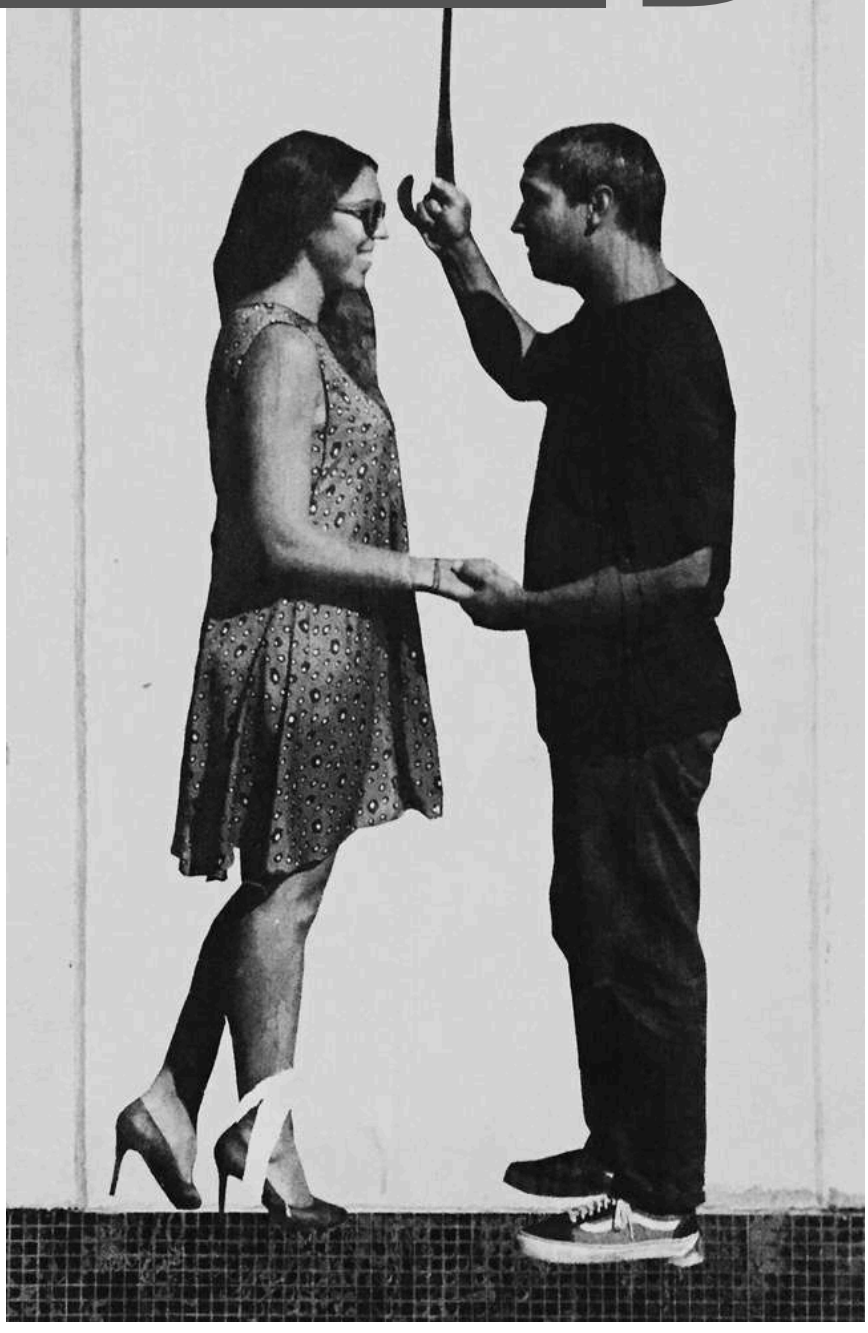


This is also due to the recent revision of Article 23 of Legislative Decree 30/2007 (which implements Directive 2004/38/EC in Italy and governs the right of EU citizens and their family members to move and reside freely within the country).

In sum, the amendment introduces a difference between the rights of family members of Italian citizens who have not exercised their right to free movement within the European Union (static citizens) and those who have exercised free movement rights within the EU (mobile citizens).

The amendment specifies that non-EU family members of “static” Italian citizens are granted a specific type of residence permit, distinct from those issued to family members of Italian citizens who have exercised free movement rights.





However, the issue is the definition of “family members” of static Italian citizens which does not seem to include “The partner with whom the Union citizen has a stable relationship duly attested (with official documentation) – which would correspond to a de-facto partner.

In order to try to follow this route and obtain a residence permit based on a de facto partnership (convivenza di fatto) in Italy, it should be necessary to draft a cohabitation agreement (contratto di convivenza) outlining the terms of the partnership. This agreement should be authenticated by a lawyer or notary then registered with the Municipality to formalize the partnership.

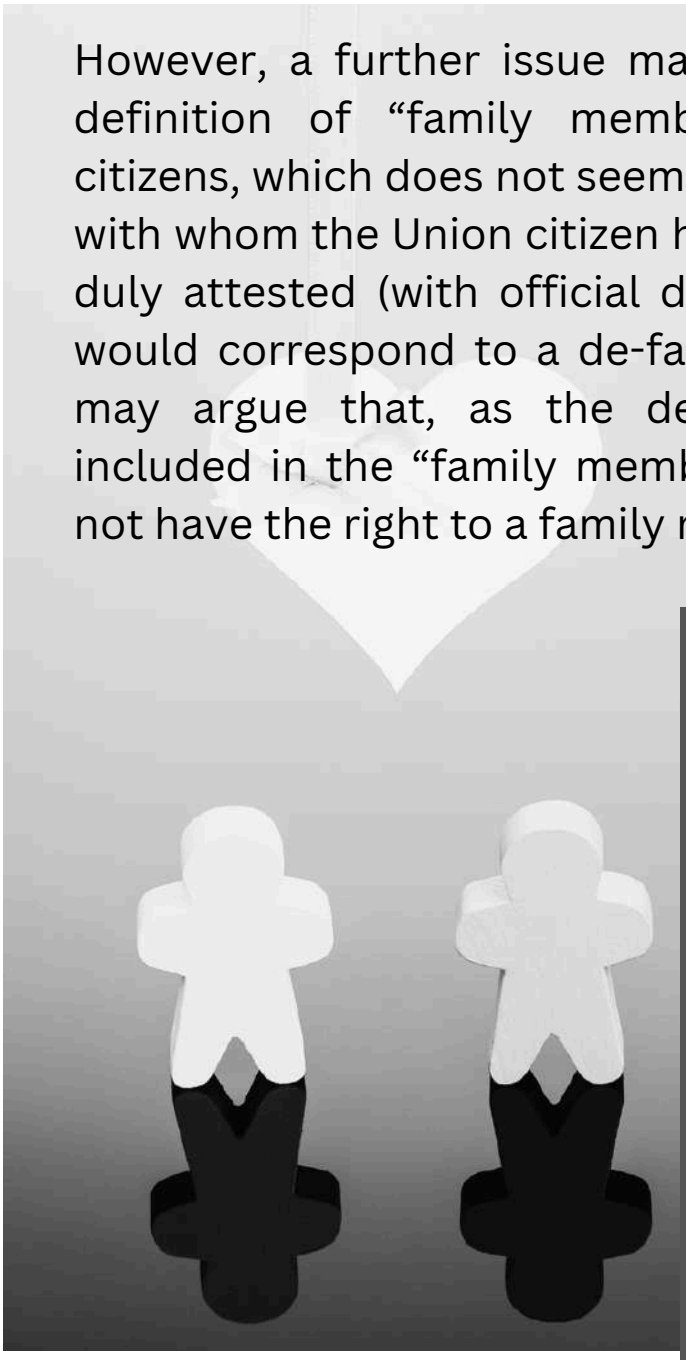
To establish the De Facto Partnership, both partners must share a stable, affectionate relationship with mutual moral and material support. Neither partner should be bound by marriage, civil union, or familial ties with each other.

To formalize the partnership, it is necessary for the non-EU national to register as a resident and submit a joint declaration to the Anagrafe (Registry Office) of the municipality where the Italian citizen is resident, stating the cohabitation (a no impediment certificate to marriage or equivalent document from authorities of the non-EU partner’s country is also generally required).

The problem is that, normally, registration at the Anagrafe for foreign nationals is only allowed if the non-EU individual already possesses a regular residence permit. Recent court rulings, however, recognized the right to register the cohabitation agreement and obtain the residency registration for the foreign partner, despite the lack of a residence permit.

In fact, to apply for the residence permit for a de facto partnership, it is necessary to obtain from the Registry Office a family status certificate (stato di famiglia) confirming the cohabitation, which can be issued only after the non-EU national has obtained residency. Then, with this document and the registered cohabitation agreement, the non-EU partner can apply for a residence permit.

However, a further issue may arise concerning the definition of “family members” of static Italian citizens, which does not seem to include “The partner with whom the Union citizen has a stable relationship duly attested (with official documentation) – which would correspond to a de-facto partner. The police may argue that, as the de-facto partner is not included in the “family member” definition, they do not have the right to a family residence permit.

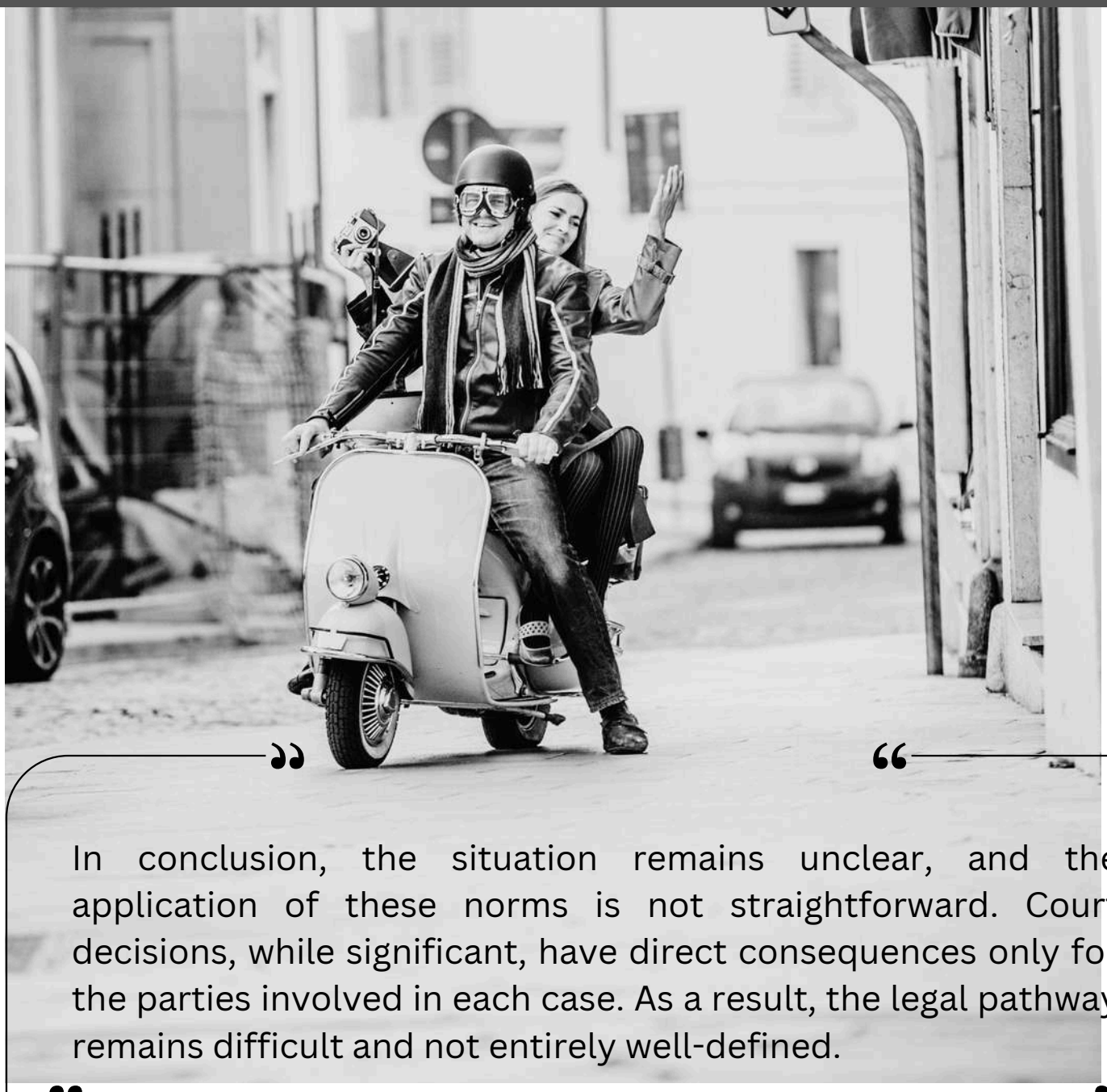


Nevertheless, a legal basis for granting residence rights to de-facto partners of static Italian citizens could come from Article 19 of the Legislative Decree No. 286/1998 – Consolidated Immigration Act (Article 19, paragraph 2, letter c) establishes that the non-EU family member within the second degree or the a spouse cohabiting with an Italian citizen cannot be expelled, unless there are reasons of public order and state security) and the ruling of the Italian Supreme Court (Corte di Cassazione) No. 44182/2016.

According to this ruling, “the cohabitation of a foreign national with an Italian citizen, recognized through a ‘cohabitation contract’ regulated by Law No. 76 of May 20, 2016, prevents expulsion [...] under Article 19, paragraph 2, letter c) of Legislative Decree No. 286/1998, [...]” (in fact equating the de-facto partner with a spouse).

Article 28 of the implementation regulation of the Consolidated Immigration Act (D.P.R. 31 August 1999, No. 394) rules that individuals who fall under the conditions outlined in Article 19, paragraph 2, letter c) should be issued a residence permit for family reasons.

In this case, the regulations set forth in Legislative Decree 30/2007 concerning EU citizens would not apply. Instead, the provisions of the Consolidated Immigration Act (Testo Unico Immigrazione) would regulate the matter.



In conclusion, the situation remains unclear, and the application of these norms is not straightforward. Court decisions, while significant, have direct consequences only for the parties involved in each case. As a result, the legal pathway remains difficult and not entirely well-defined.

Revised Timeline for EES and ETIAS Implementation

European Union Home Affairs Ministers have officially endorsed a revised schedule for the roll-out of two key border security systems: the Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS).

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Under the updated timeline, the EES is set to become operational in October 2025, with ETIAS expected to follow in 2027.

The European Commission will determine the official launch date of the progressive EES implementation after the regulation is adopted and all participating States confirm their readiness.

Entry and Exit System (EES): Definition and Participating States

The Entry and Exit System (EES) is a new electronic system of the European Union established by Regulation (EU) 2017/2226. The EES will register the entry and exit times and locations of travelers entering the territory of European countries participating in the system. Additionally, it will automatically calculate the duration of each traveler's authorized stay.

This new system is expected to become operational by October 2025. The implementation of the EES aims to enhance border management and security across the European Union by providing more accurate tracking of third-country nationals' movements and duration of stay.

Which European Countries will be using EES?

So far there are 29 European Countries that will be using the EES.

Austria, Belgium, Bulgaria, Croatia, Czech Rep., Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and Switzerland.

What kind of information does the EES register?

The EES system will register a range of personal information for each traveler, including:

- Full name
- Type of travel document
- Biometric data (fingerprints and facial images).
- Date and location of the traveler's entry into and exit from the European countries participating in the system.

The implementation of the EES will replace the current requirement for border authorities to manually stamp travelers' passports or travel documents. This shift towards an electronic registration system aims to streamline border crossing procedures and enhance the overall efficiency of border management across the EU.

Marco or Mario? Italian citizenship and name discrepancies

Name discrepancies: why immigrants changed their names?

Among the reasons for the "incorrect" names were the immigrant's using:

- A fictitious name
- The name of another person
- The true name in a misspelled form
- The surname of the stepfather instead of the natural father
- The surname of a putative father in the case of an illegitimate child
- A nickname
- The name used according to custom, such as the given name of the father (with or without prefix or suffix) for the surname, the name of the farm, or some other name formulated by custom
- The maiden name instead of the married name
- The maiden name of the mother instead of the father's surname

The famous Italian actor and Latin Lover, RODOLFO VALENTINO, changed his name for other reasons.

His name was definitively too long and difficult to pronounce. The hard-to-remember “Guglielmi” was shed in favor of “di Valentini,” but that was put through a veritable wringer of different spellings: “di Valentina,” “De Valentina,” “Volantino,” “Valentine” and “De Valentine,” all of which might be paired with “Rodolfo,” “Rudolpho,” “Rodolph,” or “Rudolf” with careless abandon.

Eventually he settled on “Rudolph Valentino,” which certainly had flair, and asked that his friends call him Rudy.

How a name change or discrepancy can impact a citizenship application?

Individuals who are applying for Italian citizenship by descent are required to produce many documents, such as birth certificates, marriage certificates, death certificates.

In fact, they need to prove that the ancestor who expatriated and his/her direct descendants maintained their right to Italian citizenship (aka never renounced Italian citizenship) and, in the event that their Italian parent was a naturalized citizen, were born before that parent renounced Italian citizenship via naturalization.

These vital records have often names or dates discrepancies, not only because many immigrants changed their names but also because their name was mistakenly recorded. In many cases, the mistake was done not upon arrival but at the shipping line's station in Europe, by clerk who wrote the passenger's name in the ship's manifest.

What happens if there are discrepancies or incorrect names?

Italian law is quite formal and does not leave much flexibility or discretion to the the Office that need to decide upon the adjudication, in case submitted documents have discrepancies or mistakes. In fact, any documents containing:

- errors (misspellings, incorrect dates, incorrect boxes checked, etc), must be corrected/amended BEFORE submitting the citizenship application
- discrepancies on ancestral documents: discrepancies should be corrected when and where possible so that the documents reflect the same information on the ancestor's birth certificate.
- discrepancies on applicant's documents: applicant's vital records (marriages and births of any children under 18) must reflect his/her information (first name, any middle names, last name, and date of birth) as it appears on his/her original birth certificate. Any discrepancies or errors must be corrected BEFORE submitting documentation.

How to obtain the correction of mistakes or name discrepancies?

Procedure to obtain the correction of a certificate or vital record change from country to country. Italian offices generally do not accept affidavits or sworn self-declarations. In some cases, correction can be done directly by the Office of Vital Statistics but when this is not doable the correction shall be obtained through a Court proceeding, which can be lengthy (expensive!) and the outcome unpredictable.

What can you do if you cannot find your ascendants' certificates?

Consulates suggest the applicant to obtain a written statement from the vital records office where the certificate was requested stating that the document does not exist. The statement must clearly explain the reason why the record does not exist. The office where application is filed will discretionary assess whether the statement can be taken into account and be considered as validly replacing the missing certificate. However, this is not often achievable.

The COURT OF CASSATION (decision n. 14194/2024) has recently ruled that the proof of the Italian lineage, in the absence of a birth certificate- can be given by the applicant also with any other means. The Court pointed out that articles 236, paragraph 2 and art. 237 Civil Code must be applied and the proof of filiation can be provided with any means, such as written documents, photograph and witnesses.

But the Court ruling is not binding: it is therefore possible (if not likely) that Consulates and other offices that are submitted with documents different from the ones specifically listed in Circular K.28/1991 will deny citizenship alleging that the applicant has not provided the required documents and the denial will need to be challenged in Court.

Can you submit a baptismal certificate or christening record?

If there were no registries in existence at the time of your ancestors' birth, applicant can submit:

- a baptismal certificate issued by the Parish with the authentication of the pastor's signature by the authorised bishop's office;
- the written response from the town hall (Comune) in Italy confirming the non-existence of a registry office on the date in question.

Last: better safe than sorry!

Accurate documentation is essential for legal processes, particularly in citizenship applications. Name discrepancies, clerical errors, or missing records can create significant obstacles, potentially delaying or even preventing an application from being approved. Understanding the historical reasons for name changes, the importance of document consistency, and the legal procedures for correcting errors is crucial for those seeking Italian citizenship by descent. Applicants should take the necessary steps to verify, correct, and compile their documents well in advance to ensure a smoother process.

International adoption: historic ruling allows single parents to adopt foreign minors

Court paves the way for single individuals to adopt abroad

A historic turning point in adoption law comes from the Constitutional Court, which, with ruling 33 dated March 20th, 2025, declared Article 29-bis, paragraph 1 of Law 184/1983, unconstitutional in so far as it excluded single individuals from the possibility of adopting foreign minors residing abroad (check out the offical communication from the Constitutional Court).

The Court, taking into account the best interests of the child, established that single parents can access the same adoption procedures as married couples, who were previously the only ones allowed to apply for international adoption.

Furthermore, the Court believes that *"in the current legal and social context, characterized by a significant reduction in adoption applications, the absolute ban imposed on single individuals risks negatively impacting the actual effectiveness of the child's right to be welcomed into a stable and harmonious family environment."*

The decision follows a question of constitutionality raised by a judge of the Court in Florence, who emphasized that that family harmony does not necessarily require the presence of a married couple.

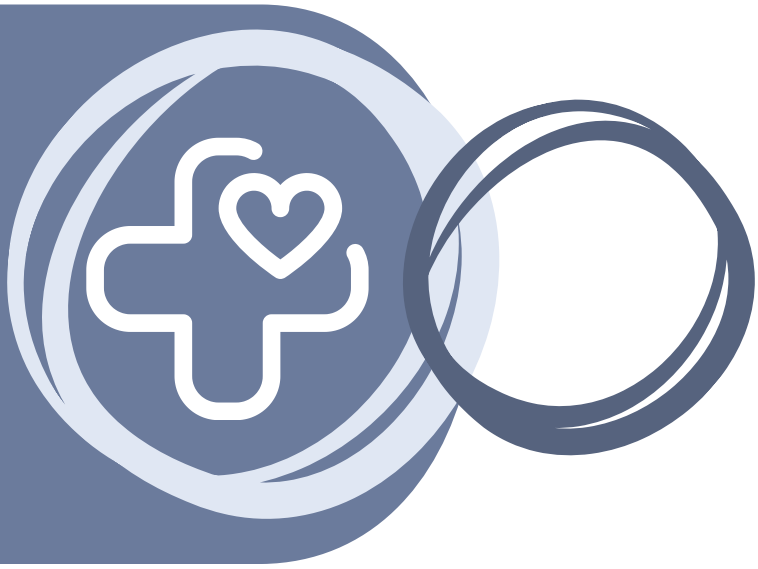
Once the application is submitted, it will still be the judge's function to verify the actual parent's suitability.

Italian Citizenship Language Test Exemption for Individuals with Disabilities: Constitutional Court Judgment 25/2025

Court Ruling Strikes Down Language Requirement for Applicants with Certified Limitations, Promoting a More Inclusive Path to Citizenship

The Italian citizenship language test exemption has been reinforced by the Constitutional Court with judgment 25/2025, declared the requirement to prove knowledge of the Italian language (level B1) for obtaining citizenship, whether through residence or marriage, to be unlawful for applicants with severe, certified limitations in language learning due to age, illness, or disability.

The provision, introduced in 2018 and widely debated, excluded individuals from submitting an application for Italian citizenship if they were unable to pass the language test, without taking into account their personal, medical, or any certified learning disabilities.



Prior to this ruling, exemptions from presenting the B1 language certificate were only granted to holders of an EU long-term residence permit valid for Italy, those who met the requirements of the Integration Agreement, and individuals with a qualification issued by Italian public schools or state-recognized private institutions.

Through this ruling, the Court has established a precedent for a more inclusive process for granting citizenship, affirming that language barriers arising from physical or mental conditions shall not obstruct the recognition of Italian citizenship. Applicants with certified limitations will no longer be subject to the language test requirement in order to obtain citizenship.

This decision represents a significant advancement toward more equitable legislation, upholding individual rights and enhancing the integration process for those seeking Italian citizenship, even in the presence of language-related challenges caused by disabilities.

MAZZESCHI

Contact information

Mazzeschi SRL
www.mazzeschi.it
info@mazzeschi.it

Writers & Editors

Marco Mazzeschi
Giuditta Petreni
Yuu Shibata
Chiara Faggioli
Giuditta De Ricco
Greis Muca
Irene Lauretta

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