

MAZZESCHI

**ITALIAN IMMIGRATION
&
CITIZENSHIP**

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NEWS, UPDATES AND CURIOSITIES ON ITALIAN
IMMIGRATION AND CITIZENSHIP

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COVID19 TRAVEL RESTRICTIONS IN THE EU

– Updates – June 24, 2021

Each EU country has adopted its own measure for the control of the spread of COVID-19, therefore, it is highly recommended to check the latest updates of your final destination.

Here you can find some of the major updates at the EU level regarding the travel restrictions:

- The Agreement on the Covid19 EU Digital Covid certificate and its implementation
- EU to allow non-essential travel from the US.
- COVID-19: England lockdown easing delayed until 19 July as Delta variant cases riseFor further information, please check: <https://www.ecdc.europa.eu/en/covid-19>



The Italian Case:

- Italy has adopted the EU Digital Covid Certificate
- Most of the Italian territory has been classified as a white region, except for Valle d'Aosta.
- If you are entering Italy, you might be required to go under a molecular and antigenic test and also to go under self-isolation for some days once you entering Italy (the length of the self-isolation will vary depending on in which countries you have stayed in the last 14 days before your arrival to Italy). For further information regarding the travel restrictions to Italy, please check:

- <http://www.viaggiasesicuri.it/home>
- <https://www.esteri.it/mae/en/ministero/normativaonline/decreto-iorestoacasa-domande-frequenti/focus-cittadini-italiani-in-rientro-dall-estero-e-cittadini-stranieri-in-italia.html>
- https://infocovid.viaggiasesicuri.it/index_en.html





ITALY'S FREELANCE VISA: NOT AS EASY AS IT SOUNDS!

Check out our latest articles on
[Medium.com!](https://medium.com/)

*SELF EMPLOYMENT VISAS ARE INCREASINGLY
POPULAR BUT VERY DIFFICULT TO OBTAIN*

Italy is a popular tourist destination and after the pandemic has become attractive also for many remote workers and “digital nomads”. There are many rural areas where living is easy and not expensive, the weather is mild all year long and — last but not least — the food is delicious.

An increasing number of people are trying to move to Italy and continue working as free-lance so that they can also enjoy the Italian “dolce vita”.

Differently from what you can read in many articles, blogs, etc. this route is not as easy as it is presented.

EU CITIZENS VS NON-EU NATIONALS

EU citizens can easily resettle in the country, they can work without need of any permits (except for regulated activities) and they just need to register with the City Hall (Comune) where they live.

For non EU citizens this choice of life is more challenging. In fact, any person who is not a citizen of a EU country cannot stay in Italy for more than 90 days any 180 period. For longer stays he/she will need a visa which will vary depending upon the intended reason of the stay.



Can you work remotely?

Be careful when you read about "remote working". Italy, like most of the other EU countries, does not have a specific program allowing remote work for non EU citizens. If you enter the country for business or tourism, technically you cannot work even though your activities are for the benefit of companies/clients located out of the country.

WHAT WORK VISAS ARE AVAILABLE?

Employees of large international groups that have a subsidiary in Italy can easily obtain an intra-company permit (ICT). Italian companies can hire highly skilled workers with no quota limitation, with the so called Blue Card permit.

AND IF I AM A FREE-LANCE?

If a person wants to work in Italy and does not have a company that can sponsor an ICT permit or cannot find an employer who wants to hire him with a Blue card, the only option left is the “self-employment visa”. Recently, there are many articles, posts and blogs advertising this visa as relatively easy to obtain, luring people to move to Italy and work as free-lancers.



IS THIS TRUE? IT IS NOT GOLD ALL THAT GLITTERS...

- Self-employment visas are subject to yearly quotas which are set by the Government. These quotas are usually very limited (the last Decree issued only 500 quotas for the year 2020);
- there is not a Government database where an applicant can check whether quotas are still available;
- Applicants are lured by the fact that general eligibility requirements are relatively simple: (i) a suitable accommodation; (ii) have financial resources exceeding € 8.500 Euro; (iii) obtain a Police Clearance; and (iv) obtain a certificate from a Govt. office confirming the requirements for carrying out the intended activity;
- The final decision on the visa issuance is on the Italian Consulates which have a wide discretion in approving/denying it;
- According to our experience, most Consulates have a very restrictive policy and are very cautious before issuing a visa to an applicant who cannot guarantee to have a stable occupation and substantial remuneration in the country;
- Despite obtaining the necessary clearances in Italy, we see that many applications are rejected by Consulates on various grounds.

IS THERE AN OPTION B? THE START-UP VISA

What can you do if you are denied the visa? If you are working in innovative sectors, you can apply for a “Start-up visa” which is aimed to non-EU nationals intending to set up an innovative start-up business or to join an already established start-up company.

For this visa, the applicant must:

- (i) prove the availability of at least € 50,000 to be used for the sole purpose of establishing and operating the start-up;
- (ii) submit a detailed business plan.

The key for obtaining the clearance from the Ministry is being able to submit an “innovative” project rather than the availability of funds.



WHAT DOES IT MEAN “INNOVATIVE”?

Innovative is a company whose business model is characterised by a strong technological character and with has an exclusive or prevalent corporate purpose the production, development and marketing of innovative goods or services of high technological value.



PATHWAYS TO ITALIAN CITIZENSHIP BY DESCENT

Italian citizenship is based upon the principle of "jure sanguinis". This means that a child who is born to an Italian father or mother, is also an Italian citizen, no matter where the child is born. People with an Italian ancestor may be eligible for citizenship, depending on a number of factors such as the date and place of birth of their parents, grandparents, and even great-grandparents.

1. What is the first generation limit to obtain citizenship?

An individual can apply for Italian citizenship with no limit to the number of generations.

But, Italy was unified and become Kingdom of Italy only on March 17, 1861, with the royal family of Piedmont-Sardinia as the new ruling monarchs of Italy.

Venetia was annexed in 1866 following the Austrian defeat in the Austro-Prussian War. The Papal States (in central Italy) and Rome were annexed in 1870. The north east territories (Trento and Trieste) were annexed after WW1, together with the cities of Pola (Istria) and Zara (Dalmatia). The city of Fiume (in Croatia) was annexed only in 1924.

After WW2, the territories of Istria and Dalmatia and the city of Fiume were lost and assigned to the former Yugoslavia. Italy has also possessed for some time colonies such as Eritrea and Somalia (1890–1945, Ethiopia (1936–1945) and Lybia (1912–1945).



Individuals born during the time these territories were “italian” can be also entitled, under different conditions, to citizenship. Since WW2, the territory of Italy, which on June 2 1946 changed its constitutional status from monarchy to republic, has remained unchanged.

Accordingly:

- until 1861 there was no Italian State and it is not possible to talk of Italian citizenship. **Thus, with some exceptions, the oldest Italian ancestor from whom Italian citizenship can be derived must have been a person who acquired Italian citizenship in or after 1861;**
- the fact that a territory (such as Istria and Dalmatia) was only temporarily part of the Italian territory can impact — depending of several other factors — on the possible eligibility;
- eligibility requirements have varied in consequence of the enforcement of different laws regulating the attribution and loss of citizenship (the most important being the 1865 Civil Code, Law 55/1912, 1948 Constitution and Law 91/1992).

2. Dual citizenship was not allowed until 1992

Demonstrating to be 100% Italian for ancestry (i.e. to have an Italian mother or father) is not enough to obtain citizenship. In fact, until 1992 Italian Law did not allow dual citizenship. Accordingly, citizenship was automatically lost if someone naturalized (i.e. become citizen) of another country.

Naturalization in another country can happen voluntarily, i.e. an individual who willingly accept to acquire a second citizenship, but also for other factors which can vary upon the laws of the country where the individual has moved.



1992

For example, in some countries a foreigner automatically acquires citizenship by (i) marrying a national; (ii) being born in the country (*ius soli*); (iii) serve in the State's Army or taking a job with the Government; (iv) taking residency and living in a country for a certain number of years.

Accordingly

an individual may be in a situation where he acquired a second citizenship (and therefore lost the Italian one) even without his knowledge or his will. The most recent example is the Australian parliamentary eligibility crisis where fifteen sitting politicians were ruled ineligible by the High Court of Australia or resigned pre-emptively. The Court in fact held that a dual citizen, irrespective of whether they knew about their citizenship status, will be disqualified from Parliament unless they are irremediably prevented by foreign law from renouncing the foreign citizenship and have taken all steps that are reasonably required to renounce that foreign citizenship

3. UNTIL 1948 WOMEN COULD NOT PASS CITIZENSHIP TO THEIR DESCENDANTS

Under the 1912 Citizenship Law, only men were able to transfer their Italian lineage to children, while women could hold but not pass citizenship to their descendants.

The principles of gender equality were laid down only on January 1, 1948 when the Italian Constitution entered into force. Unfortunately, the new legislation was not retroactive and so children born to an Italian mother before 1948 are not automatically Italian.

If you think this is discriminating between women and men, don't worry! The Italian Supreme Court agrees with you.



In 2009, it established that it is unconstitutional to discriminate between women and men even in citizenship matters. All descendants born anytime from an Italian parent, are Italian citizens by birth right

Unfortunately, this judgement did not have any consequences on the Consular behaviour and if you fall into the “1948 cases” and submit a request of recognition of Italian citizenship Jure Sanguinis, Consulates will strictly apply the Italian nationality law and will reject your application. Consequently, you can only proceed through a legal proceeding at the Italian Court in Rome.

4. CAN I OBTAIN CITIZENSHIP IF I DO NOT HAVE ITALIAN ANCESTORS?

There are other ways to obtain citizenship, the most common are by marriage and by naturalization through residency.

Marriage or same-sex civil union

Italian citizenship may be obtained by marriage to an Italian citizen. This is an actual right of all spouses and can only be denied to those who have a criminal record for a serious crime committed either in or outside of Italy. It can also be denied to those who are considered a threat to the national security and public order. Following your marriage to an Italian citizen certain requirements must be met under Italian law to enable you to obtain Italian citizenship; for instance, legal residency in Italy for a period of at least two years, or three years if you and your spouse are living abroad (both terms are halved if the couple has children). The marriage must subsist throughout the entire process of applying for citizenship and recently a language test has been introduced.



Naturalization by residency

Legal residents of Italy may be able to acquire citizenship. Procedure and time vary depending on a number of factors, such as their nationality, the length of time they have legally resided in Italy, their birthplace and the nationality of their parents and grandparents. The application can be filed:

- Immediately, for those who have held Italian citizenship at some point in the past.
- After 3 years of residency for those who were born in Italy or who have parents/grandparents that are Italian citizens.
- After 4 years of residency for European Union (EU) citizens.
- After 10 years of residency for NON-EU citizens.

5. WHAT IF MY ANCESTORS LOST THEIR ITALIAN CITIZENSHIP?

There are often situations where an Italian citizen moved to USA and naturalized as US citizen before having children. This (i.e. the acquisition of a second citizenship) caused the interruption of the Italian lineage by blood. Citizenship was not therefore automatically transferred to his descendants. .

However, do not lose any hope. Italian Law is quite benevolent with anyone who can prove to have an Italian parent or grandparent! In fact, individuals who fall within this situation are still entitled to acquire Italian citizenship by taking residency in Italy, with a reduced term of 3 years, instead of 10 years, proving to have an Italian minimum income and pass a language test.



6. CAN I MOVE TO ITALY ONLY FOR THE PURPOSE OF APPLYING FOR CITIZENSHIP?

Be aware of frauds and of people who says that you can do it quickly and you need to stay in Italy only few weeks!

The procedure requires the applicant to have an accommodation in Italy (it can be a rented apartment/room) and register with the local City Hall.

But is not enough to declare the intention of residing in a particular place: residency is a serious matter in Italy and is based on objective grounds, i.e. the place must become the person's main centre of interests.

Moving residency to Italy brings also some tax consequences which must be carefully evaluated.



All fans of the TV series “Game of Thrones” will surely know about the Titan of Braavos, an imposing statue of a huge warrior guarding the entrance to the port, unsettling all those who are forced to pass beneath it to gain entry to the city.

Yet, probably they didn’t know that the Titan of Braavos is based on a real statue that stood in Rhodes thousands of years ago: the Colossus of Rhodes was built at the entrance to the city as a deterrent to anyone thinking of invading the island.

THE COLOSSUS OF RODHES

Imagine arriving in the port of a small island with your boat and find yourself in front of a huge statue of a warrior about 110 feet tall atop a 50-foot platform to welcome you.

|....It would definitely be exiting!

This was what the ancients found arriving to the Island of Rhodes.

Known as One of the Seven Wonders of the Ancient World, the Colossus of Rhodes was a massive statue of a male figure built around 280 B.C. and erected on the Greek island of Rhodes.

Much about the monument remains shrouded in mystery, as it was destroyed in an earthquake in 226 B.C. However, ancient accounts hold that the Colossus of Rhodes was created in honour of the sun god Helios and to commemorate the Rhodians' successful defence of their island against a siege led by Macedonian leader Demetrius Poliorcetes in 305 B.C.

RHODES, A GREEK ISLAND WITH A MULTINATIONAL PAST. THE ITALIAN OCCUPATION AND THE “SMALL CITIZENSHIP”



Rhodes, like the entire Dodecanese, belonged to the Ottoman Empire, and was occupied and annexed by Italy during the Italian-Turkish War in 1912. The Italian illegal occupation of Dodecanese lasted until 1920.

Even before the Italian occupation, in the Aegean Islands, emigration was a widespread phenomenon and had accelerated during the Great War, when one third of the people stated in the Islands emigrated in search of better living conditions.



It is important to emphasise that this exodus was also possible because, although their citizenship was still Ottoman, the granting of Italian passports, travel sheets and protection certificates, which began in 1912, allowed the Aegean people not to be considered as enemy subjects in the Allied countries and in their colonies: these countries become the main emigration destinations.

This kind of Italian policy led to the creation, for the first time, of the so called "small citizenship" of Dodecanese (r.d.l. 10 September 1922, no. 1387).

THE RECOGNITION OF ITALIAN CITIZENSHIP

The Italian sovereignty on the Aegean Islands was confirmed by the Treaty of Sèvres (10 August 1920) and internationally recognized by the subsequent Peace of Lausanne of 24 July 1923.

The Treaty of Lausanne of 1923 also regulated the recognition of Italian citizenship to the dodecanesian people: article 30 of the mentioned treaty stated that Turkish subjects settled in the islands at the time of the entry into force of the treaty (6 August 1924) would become Italian, while in article 31 guaranteed that all persons over the age of 18 could return to Turkish citizenship within a period of three years.



Article 34, instead, regulated the right of option for dodecanesians living abroad. As per this provision, Ottoman subjects over 18 years of age who originated from the Aegean Islands and who on the date of 6 August 1924 were settled abroad (and therefore did not fall within the case provided for in Article 30) could opt for Italian citizenship with the allowance of the Italian government. The deadline for exercising this right of option was two years.

The Italian presence in Rhodes lasted until September 8, 1943, then it was under German occupation until April 1945 and then British occupation until 1947, when it was handed over to Greece.

Even if Rhodes belonged to Italy for a short period of time, the recognition of Italian citizenship to its inhabitants and to those who, living abroad, had decided to opt for it within two years from the entry into force of the treaty of Lausanne, allowed many descendants of the Rhodians to apply for recognition of Italian citizenship by descent.





Italian citizenship and residency rights to same-sex partners

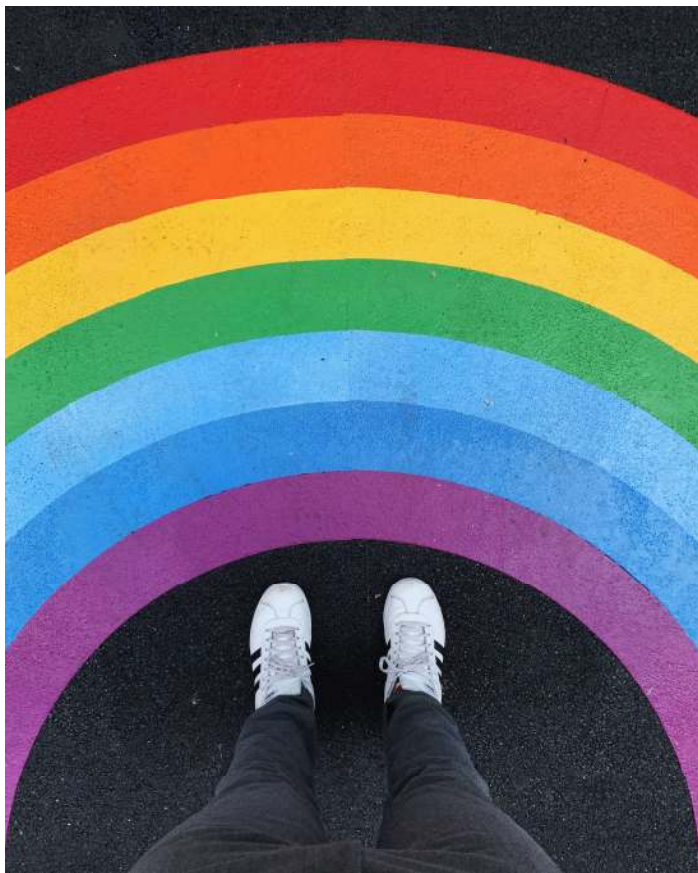
Since 2016 Italy has allowed civil partnerships “Formazioni Sociali Specifiche” between same-sex couples. The rights and obligations for such partnerships are very similar to those of marriage, with the exception of adoption (stepchild adoption) which is prohibited.

Same-sex spouses of foreign national have residency rights in Italy

The foreign same-sex spouse of a foreign national normally resident in Italy is entitled to obtain a residence permit for family reasons as long as the relationship is well-established and registered.

Non-EU same-sex spouse of an Italian citizen has the right to obtain Italian citizenship

Non-EU nationals who have entered into a legally registered civil partnership with an Italian national can also apply for Italian Citizenship. An application can be made 2 years after the marriage if residing in Italy or 3 years after if residing abroad. The law also requires knowledge of Italian to at least B1 level of the Common European Framework of Reference for Languages (CEFRL). Those who have a long-term EU residence permit, those who comply with the Integration Agreement provisions or those who have a qualification from an Italian state school or state-recognized private school, are exempt from this requirement.



Same-sex marriages celebrated abroad

Civil unions/partnerships/marriages celebrated abroad can be registered with the Italian authorities and are considered valid as long as they are legally recognized in the country where they have been celebrated.

Same-sex domestic partnerships

Couples (including same-sex couples) in a “marriage-like relationship”, who currently live together and support each other personally and materially, are considered domestic partners. To formalize the relationship, one of the partners needs to send a declaration form to the Office for National Statistics in the district in which they wish to establish joint residence, specifying that they wish to apply for a “Convivenza per vincoli affettivi” (common law partnership). Domestic partners are not able to get a family permit or citizenship. However, domestic partners of EU/Italian citizens may, under certain circumstances, obtain a family permit.

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