

JUDICIAL PROCEDURE FOR RECOGNITION OF ITALIAN CITIZENSHIP BY DESCENT (IURE SANGUINIS)

12 November 2024

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Italian citizenship is currently regulated by Law No. 91 of February 5, 1992. The requirements for obtaining it vary according to the specific procedure to be followed.

Despite the clarity and definition of these requirements, merely possessing the prerequisites stipulated by law for the acquisition or recognition of Italian citizenship does not guarantee immediate recognition of citizenship status.

This document provides *(a)* a brief summary of the requirements for obtaining the recognition or reacquisition of Italian citizenship by descent, *(b)* an in-depth discussion of the legal time limits for the completion of the administrative procedure for citizenship recognition, and *(c)* an examination of the alternative possibility of a judicial appeal in cases of delay or inaction by the Italian Consulate.



(a) Requirements for Obtaining Italian Citizenship by Descent (Iure Sanguinis)

The primary requirements for being recognized as an Italian citizen by descent are as follows:

- Applicants must have an ancestor officially recognized as Italian (for example, born in Italy to Italian parents);
- Applicants must know the name, date, and place of birth of their Italian ancestor;
- The Italian ancestor must have passed away after March 17, 1861;



- Neither the Italian ancestor nor any of their direct descendants in the applicant's line of descent *voluntarily* applied for and obtained foreign citizenship (known as "naturalization") before August 5, 1992, and before the majority age of the living descendant (child or daughter). The acquisition of foreign citizenship due to a general law, without an individual and voluntary application by the person, does not result in the loss of Italian citizenship (as in the case of the "Great Naturalization in Brazil in 1889").

Additionally, Italian ancestors who obtained Argentinian citizenship after September 12, 1974 (date of entry into force of the Italy-Argentina Agreement on Dual Citizenship Maintenance), retained Italian citizenship, provided they expressly indicated their intention to adhere to the Agreement at that time.

It should be noted that in "*recognition*" procedures, the applicant is already a citizen by birth and is only requesting the formal recognition of that status.

In cases of "*naturalization*" that occurred before August 5, 1992, resulting in the loss of Italian citizenship of the minor, the naturalized person or their direct descendant may instead request the "*reacquisition*" of the lost Italian citizenship.



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(b) Administrative Procedures and the Legal deadline for the conclusion of the procedure of Recognition of Italian Citizenship Iure Sanguinis (by Descent)

The Administrative procedure for Italian citizenship may be initiated at the Italian Consulate of the applicant's country of residence or at the Italian Municipality where the applicant resides or intends to reside.

Like any other administrative procedure, an application for the acquisition or recognition of Italian citizenship must be completed within specific, legally defined time limits. Regarding the procedures for requesting/recognizing Italian citizenship, Legislative Decree No. 130/2020 (Art. 4, paragraph 5) establishes a time frame of 24 months for the conclusion of the procedure, which may be extended up to a maximum of 36 months.

(c) Judicial Procedure for Citizenship Recognition

The judicial procedure becomes necessary and is permitted in two main cases, discussed below:



1. Failure to Meet the Legal Deadlines by the Consulate in examining the Application

In the case of an application for citizenship recognition by descent (*iure sanguinis*), when the applicant resides abroad and the Italian Consulate delays processing the application beyond the 3-year period or prevents the applicant from submitting the petition for an extended period, an appeal should be filed with the Civil Court in the Court of Appeals District of the Municipality where the Italian ancestor of the applicant was born.

Extensive case law has recognized Italian citizenship by descent in place of the responsible Administration (the Consulate) when the latter has failed to complete the procedure within the prescribed time limits.

For example, in ruling No. 75639 of April 18, 2018, the Civil Tribunal of Rome ruled that: *“Uncertainty regarding the definition of the request for recognition of Italian citizenship status by descent (iure sanguinis), coupled with an unreasonable delay relative to the applicant's legitimate interest, amounts to a denial of recognition of the right, justifying the interest in pursuing judicial protection.”*

Furthermore, in cases where the applicant is unable to initiate the process due to the Consulate's extended unavailability to schedule an appointment for months or years, the ruling of the Civil Court of Rome should be noted. With judgment No. 17692 of September 21, 2017, the Court upheld the appeal of a citizen who had, for several years, been unable to secure an appointment at the Italian Consulate in Argentina and, as a result, could not initiate the procedural steps to have their Italian citizenship recognized.

2. Transmission of Citizenship from Female Ancestors Before 1948

Gender equality in matters of citizenship has evolved through judicial rulings that have amended specific provisions of previous Italian citizenship laws, which discriminated against women by creating an unequal ability for men and women to retain and transfer Italian citizenship.

Several Constitutional Court judgments contributed significantly to eliminating this disparity, including Judgment No. 87 of 1975, which declared the unconstitutionality of Article 10, paragraph 3 of Law No. 555/1912. This provision provided for the loss of Italian citizenship for a woman who married a foreign citizen and thereby automatically acquired his foreign citizenship, regardless of her intention to acquire another citizenship.

Additionally, with Judgment No. 30 of 1983, the Constitutional Court ruled that Article 1, No. 1 of Law No. 555/1912 violated Articles 3 and 29 of the Constitution. This article failed to recognize Italian citizenship by birth for the child of an Italian



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mother unless the father was unknown, stateless, or legally unable to transfer his foreign citizenship to the child.

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The United Sections of the Court of Cassation, with judgment No. 4466/2009, further affirmed the applicability of both these Constitutional Court rulings to cases arising before 1948, the year the Italian Constitution came into effect.

As a result of this final ruling, it is now possible through a judicial proceeding to obtain recognition of Italian citizenship even in cases where citizenship was transmitted by a female ancestor to a descendant before January 1, 1948, or where an Italian woman married a foreign citizen before 1948.

(d) Conclusions

The application process for Italian citizenship can be complex, with frequent cases involving non-compliance with legally established deadlines for concluding the procedure, the impossibility of applying due to prolonged waiting lists, or issues related to the transfer of citizenship from a female ancestor before 1948.

Judicial action is therefore often useful or necessary, and case law in this area has generally ruled favorably for applicants seeking citizenship, especially where the delay or inaction by the competent public administration is evident.

For more information about our legal assistance services for Italian citizenship applications, please do not hesitate to contact us.

If you wish to further understand whether you are eligible to claim recognition or re-acquisition of **Italian Citizenship by descent**, fill out our [eligibility questionnaire](#) and we will reply with a preliminary assessment and possible next steps considering the applicable procedures.

For further reading, see also:

- <https://www.italianvisa.it/en/citizenship-application-timeline-remedies/>
- <https://www.italianvisa.it/en/italian-citizenship/>
- <https://www.italianvisa.it/en/minor-issue-iure-sanguinis/>



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