

## **Act No. 91 of 5 February 1992 (Italy)**

### **Article 1**

1. The following shall be citizens by birth:

a) any person whose father or mother are citizens;

b) any person who was born in the territory of the Republic, either where both parents are unknown or stateless, or where he or she does not acquire his or her parents' citizenship according to the law of the State to which the latter belong;

2. Any person who is found in the territory of the Republic, whose parents are unknown, shall be deemed a citizen by birth, where their possession of any other citizenship cannot be proven.

### **Article 2**

1. Recognition or judicial declaration of the filiation of a minor shall determine his or her citizenship in accordance with the provisions of the present Act.

2. Where the person whose filiation is recognised or declared is an adult, he or she shall retain his or her citizenship status, but may declare, within one year of such recognition or declaration, or of the declaration that a foreign decision has effect, that he or she chooses the citizenship determined by filiation.

3. The provisions of this article shall also apply to any person whose paternity or maternity cannot be declared, provided that their right to maintenance has been legally recognised.

### **Article 3**

1. A foreign minor adopted by an Italian citizen shall acquire citizenship.

2. Paragraph 1 shall also apply to persons adopted prior to the entry into force of the present Act.

3. Where the adoption has been revoked by reason of an act committed by the adopted person, he or she shall lose Italian citizenship, provided that he or she possesses or has re-acquired another citizenship.

4. In all other instances of revocation, the adopted person retains Italian citizenship. However, where the adoption is revoked when the person is an adult, he or she may renounce Italian citizenship within one year of such revocation, provided that he or she possesses or has re-acquired another citizenship.

#### **Article 4**

1. An alien or stateless person, whose father or mother, or direct ancestors in the second degree were citizens by birth, shall become a citizen:

- a) if he or she performs military service for the Italian State, after declaring his or her intention to acquire Italian citizenship;
- b) if he or she becomes a civil servant, even abroad, and declares his or her intention to acquire Italian citizenship;
- c) if, having reached the age of majority, he or she has had legal residence for at least two years in the territory of the Republic, and declares within one year his or her intention to acquire Italian citizenship.

2. Aliens born in Italy, who have been legally resident on a continuous basis therein until they have reached the age of majority, shall become citizens where they declare their intention to acquire Italian citizenship within one year of such date.

*2a. Aliens born in Italy, who have been legally resident on a continuous basis therein until they have reached the age of majority and who have attended a school recognised by the Italian State at least until such time as the 'right-duty' to education and training has been fulfilled, shall become citizens where they declare their intention to acquire Italian citizenship within one year of reaching the age of majority. (paragraph inserted by the new Bill, Ddl Camera 103-A, replacing paragraph 2)*

#### **Article 5**

1. The foreign or stateless spouse of an Italian citizen may acquire Italian citizenship if, after the marriage, he or she has been legally resident for at least two years in the territory of the Republic, or after three years from the marriage if he or she has been residing abroad, where, upon the adoption of the decree referred to in Article 7 paragraph 1, the marriage has not been dissolved or annulled or has not ceased to have civil effects and there is no legal separation.

2. The time limits referred to in paragraph 1 shall be reduced by half where the spouses have natural or adopted children.

*(Article amended by Article 1 paragraph 11 of the Act 15 July 2009 n. 94).*

#### **Article 6**

1. The following reasons shall prevent the acquisition of citizenship, as referred to in Article 5:

- a) conviction for one of the offences provided for in Volume II, Title I, Chapters I, II and III of the Criminal Code;<sup>1</sup>
- b) conviction for an offence committed with criminal intent for which the law prescribes a statutory penalty of a maximum of at least three years imprisonment; or conviction by a foreign judicial

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<sup>1</sup> The offences referred to in this sub-paragraph are offences against the State and against the citizen's political rights.

authority for a non-political offence for which the law prescribes a custodial penalty of more than one year, when the foreign sentence has been recognised in Italy;

c) the existence, in the case concerned, of substantiated reasons relating to the Republic's national security.

2. The recognition of the foreign sentence shall be requested by the public prosecutor of the district of the Registry Office in which the marriage is registered or recorded, including cases referred to in paragraph 1, subparagraph (b).

3. Rehabilitation shall terminate the preclusive effects of the conviction.

4. The acquisition of citizenship shall be suspended until the final judgment has been communicated, where criminal proceedings have been brought for one of the offences referred to in paragraph 1, subparagraph (a) and subparagraph (b). It shall also be suspended for such time as the procedure for the recognition of the foreign sentence referred to in paragraph 1 subparagraph (b), second part is pending.

#### **Article 7**

1. *(The paragraph was repealed by Article 8 D.P.R. 18 April 1994, n. 362).*

2. The provisions of Article 3 of Act n. 13 of 12 January 1991 shall apply.

#### **Article 8**

1. The Minister for the Interior may, by a reasoned decree, reject the application referred to in Article 7 where any of the grounds provided for in Article 6 exist. Where substantiated reasons relating to the Republic's national security exist, the decree shall be issued following a favourable opinion of the Council of State. If rejected, the application may be submitted again five years after the decree has been issued.

2. A decree rejecting the application may not be issued where a period of two years has elapsed since the application, accompanied by the required documents, was made.

#### **Article 9**

1. Italian citizenship may be granted by decree of the President of the Republic, upon a proposal by the Minister of the Interior, having heard the Council of State:

a) to aliens whose father or mother or one of whose direct ancestors to the second degree were citizens by birth, or aliens who were born in the territory of the Republic and, in both cases, have been legally resident therein for at least three years, subject to the provisions of Article 4, paragraph 1, subparagraph (c);

b) to aliens who, having reached the age of majority, have been adopted by an Italian citizen and have been legally resident in the territory of the Republic for at least five years after the adoption;

c) to aliens who have worked as civil servants, even abroad, for at least five years;

d) to citizens of a Member State of the European Community who have been legally resident in the territory of the Republic for at least four years;

e) to stateless persons who have been legally resident in the territory of the Republic for at least five years;

f) to aliens who have been legally resident in the territory of the Republic for at least ten years

*f) to aliens who have been legally and permanently resident in the territory of the Republic for at least ten years, after completing the 'path to citizenship' provided for in Article 9-ter. (new Bill)*

2. By decree of the President of the Republic, having heard the Council of State and following a decision by the Council of Ministers, upon a proposal of the Minister for the Interior, in consultation with the Ministry for Foreign Affairs, citizenship may be granted to aliens where they have rendered an outstanding service to Italy, or where an exceptional interest of the State exists.

### **Article 9-bis**

1. The relevant certificates proving that the legal requirements are possessed shall be attached to the application or declaration of the person concerned for the purposes of the choice, acquisition, re-acquisition, renunciation or award of citizenship.

2. Any application or declaration relating to the choice, acquisition, re-acquisition, renunciation or award of citizenship shall be subject to the payment of a contribution amounting to €200.

3. The revenues deriving from the contribution referred to in paragraph 2 shall be paid into the State budget to be re-allocated to the budget (*stato di previsione*) of the Ministry of the Interior. The latter shall utilise half of it to support projects of the Department for civil rights and immigration aimed at international cooperation and assistance to third countries on immigration issues also through participation to programmes supported by the European Union; the other half shall be utilised to cover the expenses deriving from the procedural activities performed by the Department on issues relating to immigration, asylum and citizenship.

*(Article inserted by Article 1 paragraph 12 Act 15 July 2009 n. 94)*

### **Article 9-ter**

1. *The acquisition of citizenship in the case provided for by Article 9 paragraph 1, sub-paragraph f is subject to:*

*a) possession of a residence permit for long-term residents, referred to in Article 9 of the T.U. (testo unico) on immigration and provisions on the status of aliens, included in the legislative decree 25 July 1998 n. 286 as recently amended by Act 15 July 2009 n. 94;*

*b) attendance at a one-year course on Italian and European history and culture, civics and the principles of the Italian Constitution, for the purposes of verifying the 'path to citizenship' (percorso di cittadinanza).*

*c) an effective degree of social integration and respect for the laws of the Italian State and the fundamental principles of the Constitution, even within the family;*

*d) the respect of tax duties;*

*e) possession of the requirements relating to income, accommodation and lack of pending suits for the purposes of the residence permit for long-term residents, as provided for by the T.U. (testo unico) included in the legislative decree 25 July 1998 n. 286.*

*2. Admittance to the course referred to in paragraph 1, sub-paragraph b is allowed to aliens who have resided in the territory of the Republic for at least eight years, upon his or her application. For the purposes of admission to the course, the competent authority shall verify the requirements referred to in paragraph 1, sub-paragraph a, d and e within 120 days of the application.*

*3. The procedure relating to the 'path to citizenship' (percorso di cittadinanza) shall be completed within two years of the application for admission to the course referred to in paragraph 1, sub-paragraph b and not before ten years of legal residence in the territory of the Republic have elapsed.*

*4. For the purposes indicated in paragraph 3 the Government shall promote, in cooperation with the regions, initiatives and activities aimed to support the process of linguistic, cultural and social integration of aliens, in which aliens shall take part.*

*5. The following shall be defined within six months of the entry into force of this provision, by an implementing regulation adopted in accordance with Article 17, paragraph 1, sub-paragraph b Act 23 August 1988 n. 400, upon a proposal of the Minister for the Interior, having heard the competent Ministers: the functioning of the 'path to citizenship', the organisation and functioning of the course referred to in paragraph 1, sub-paragraph b, as well as cases of exemption from the course. The implementing regulation shall also provide for the obligations and procedures necessary to verify, on the part of the competent public authorities, that the requirements referred to in paragraph 1 exist.*

*(Article inserted in the new Bill)*

## **Article 10**

1. A decree awarding citizenship shall only have effect where the person concerned has taken an oath of allegiance to the Republic and respect for the Constitution and the laws of the State within six months of the decree being served.

*(See also D.M. 27 February 2001)*

## **Article 11**

1. A citizen who already has, or has acquired or re-acquired a foreign citizenship shall retain Italian citizenship, but may renounce the latter where he or she resides or establishes residence abroad.

## **Article 12**

1. An Italian citizen shall lose his or her citizenship where, having accepted public employment or public office from a State or foreign public body or from an international organisation of which Italy is not a member, or while performing military service for a foreign State, he or she fails to comply, within the specified period, with any request by the Italian Government to renounce the employment, office or military service.

2. An Italian citizen who, during a war with a foreign State, has accepted or not renounced a public employment or public office, or has performed military service for such State without being obliged to do so, or has voluntarily acquired the citizenship of such State, shall lose Italian citizenship upon the cessation of war.

### **Article 13**

1. Any person who has lost Italian citizenship shall re-acquire it:

a) where he or she effectively performs military service for the Italian State, having previously declared his or her intention to re-acquire it;

b) where, having taken up or while taking up a public employment as a civil servant, even abroad, declares his or her intention to re-acquire it;

c) where he or she declares his or her intention to re-acquire it and establishes or has established residence in the territory of the Republic within one year of such declaration;

d) one year after establishing residence in the territory of the Republic, unless he or she has expressly renounced citizenship within the same time limit;

e) where, having lost citizenship due to lack of compliance with an order to renounce the employment or office accepted from a foreign State, a foreign public body or an international organisation, or the military service for a foreign State, declares his or her intention to re-acquire citizenship, provided that he or she has established residency in the territory of the Republic for at least two years and proves that he or she has renounced the employment or office taken up or military service performed, notwithstanding the order referred to in Article 12 paragraph 1.

2. Citizenship may not be re-acquired by a person who has lost it under the provisions of Article 3 paragraph 3 or Article 12 paragraph 2.

3. In the cases referred to in paragraph 1, sub-paragraph c, d and e, the re-acquisition of citizenship shall not take effect where it has been prohibited by a decree of the Ministry for the Interior, on serious and substantiated grounds and following an opinion of the Council of State. Such prohibition may take place within one year of the occurrence of the prescribed conditions.

### **Article 14**

1. Minor children of a person who acquires or re-acquires Italian citizenship shall acquire such citizenship where they live with that person, but may renounce it after reaching the age of majority, provided that they have the citizenship of another country.

### **Article 15**

1. The acquisition or re-acquisition of citizenship shall take effect, save where provided for by Article 13, paragraph 3, on the day following that on which the required conditions and formalities have been complied with.

## **Article 16**

1. Any stateless person who is legally resident in the territory of the Republic shall be subject to Italian law insofar as the exercise of civil rights and the performance of military duties are concerned.
2. Any alien who has been recognised as a refugee by the Italian State in accordance with the provisions of domestic law or international conventions shall be regarded as a stateless person for the purposes of the present Act, save insofar as military duties are concerned.

## **Article 17**

1. Any person who has lost Italian citizenship under the provisions of Articles 8 and 12 of the Act 12 June 1912 n. 555, or for not having made the choice provided for by Article 5 of the Act 21 April 1983 n. 123, may re-acquire it by making a declaration to that effect within two years of the entry into force of the present Act.

*(This time limit was postponed by Article 1 of the Act 22 December 1994, n. 736 and thereafter up until 31 December 1997 by Article 2, paragraph 195 of the Act 23 December 1996, n. 662)*

2. The provisions of Article 219 of the Act 19 May 1975, n. 151 shall continue to apply.

## **Article 17-bis**

1. The right to Italian citizenship shall be recognised:
  - a) to any person who was an Italian citizen and already resided within the portion of the territory belonging to the Italian State that was later ceded to the Yugoslav Republic either under the Peace Treaty signed in Paris on 10 February 1947, made enforceable by the temporary Head of State's legislative decree 28 November 1947, n. 1430, ratified by the Act 25 November 1952, n. 3054, or by virtue of the Treaty of Osimo of 10 November 1975, made enforceable by the Act 14 March 1977, n. 73, in line with the conditions prescribed and the requirements to exercise the right of option provided for by Article 19 of the Peace Treaty signed in Paris as well as by Article 3 of the Treaty of Osimo.
  - b) to any person who has knowledge of Italian language and culture and is the child or direct descendant of any individual who satisfies the requirements provided for by sub-paragraph b.

*(Article inserted by Article 1 Act 8 March 2006, n. 124)*

## **Article 17-ter**

1. The right to have Italian citizenship recognised, as provided for by Article 17-bis, shall be exercised by the person concerned by filing an application to the local authority that has territorial competence on the basis of the residence of the applicant, or, where the requirements have been met, to the consular authority, after producing the relevant documents, in accordance with what is provided for by a circular letter of the Ministry for the Interior, issued in agreement with the Ministry for Foreign Affairs.

*(Concerning the circular letter referred to by this paragraph, see Article 1 paragraph 2 of the Act 8 March 2006, n. 124)*

2. In order to confirm that the requirements referred to by Article 17-bis paragraph 1 sub-paragraph a exist, a certificate shall be attached to the application, proving both Italian citizenship and residency in the portion of territory that belonged to the Italian State at that time and was thereafter ceded to the Yugoslav Republic under the Treaties referred to by Article 17-bis paragraph 1.

3. In order to confirm that the requirements referred to by Article 17-bis paragraph 1 sub-paragraph b exist, the following documents shall be attached to the application:

- a) a birth certificate confirming the line of descent between the applicant and the parent or ancestor;
- b) as required by Article 17-bis paragraph 1 sub-paragraph a for the purposes of exercising the right of option provided for, a certificate confirming the Italian citizenship of the applicant's parent or direct ancestor, as well as their residence within the portion of territory that belonged to the Italian State and was thereafter ceded to the Yugoslav Republic under the Treaties referred to by Article 17-bis paragraph 1;
- c) the relevant documents proving knowledge of Italian language and culture by the applicant.

*(Article inserted by Article 1 of the Act 8 March 2006, n. 124)*

## **Article 18**

*(Article repealed by Article 1 of the Act 14 December 2000, n. 379)*

## **Article 19**

1. The present Act shall not affect the provisions of the Act 9 January 1956, n. 27 on the recording in the civil register of decisions recognising options for Italian citizenship, made in accordance with Article 19 of the Treaty of Peace between the Allied and Associated Powers and Italy, signed in Paris on 10 February 1947.

## **Article 20**

1. Except where otherwise expressly provided, the citizenship status acquired prior to the present Act shall only be modified by events subsequent to the entry into force of the Act.

## **Article 21**

1. For the purposes of and in accordance with the provisions of Article 9, Italian citizenship may be granted to any alien adopted ('*affiliato*')<sup>2</sup> by an Italian citizen prior to the entry into force of the Act 4 May 1983, n. 184 and who has resided legally in the territory of the Republic for at least seven years following the adoption.

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<sup>2</sup> '*Affiliazione*' was abolished by Article 77 of the Act 4 May 1983 n. 184. It was a special form of adoption concerning *inter alia* minors abandoned or whose parents were unknown. See e.g. C. Cost. 9 April 1970 n. 57.

## **Article 22**

1. Military service obligations shall cease for any person who, on the date of the entry into force of the present Act, has already lost Italian citizenship under Article 8 of the Act 13 June 1912, n. 555.

## **Article 23**

1. Declarations for the purposes of acquiring, retaining, re-acquiring and renouncing citizenship, as well as the oath, as provided for by the present Act, shall be made or taken before the civil registrar of the local authority in the area where the applicant resides or intends to establish residence, or, where he or she resides abroad, before the diplomatic or consular authority of the place of residence.

2. Any declaration referred to in paragraph 1, as well as any document or decision relating to the loss, retention and re-acquisition of Italian citizenship shall be recorded in the citizenship registers and an annotation shall be made in the margin of the birth certificate.

## **Article 24**

*(Article repealed by Article 110 D.P.R. 3 November 2000, n. 396, with effect from 30 March 2001)*

## **Article 25**

1. The necessary provisions for the implementation of the present Act shall be promulgated within one year of its entry into force by a decree of the President of the Republic, having heard the Council of State and following a decision of the Council of Ministers, upon a proposal by the Minister for Foreign Affairs and the Minister for the Interior, in consultation with the Minister of Justice.

*(See D.M. 22 May 1992; Act 26 July 1993, n. 306; D.P.R. 12 October 1993, n. 572)*

## **Article 26**

1. Act 13 June 1912 n. 555, Act 31 January 1926, n. 108, Royal decree 1 December 1934, n. 1997, converted into Act 4 April 1935, n. 517, Article 143-ter of the Civil Code, Act 21 April 1983, n. 123, Article 39 of the Act 4 May 1983, n. 184, Act 15 May 1986, n. 180, as well as any other provision in contrast with the present Act shall hereby be repealed.

2. The obligation to exercise an option as provided for by Article 5, paragraph 2, of the Act 21 April 1983, n. 123, as well as by Article 1, paragraph 1, of the Act 15 May 1986, n. 180, shall hereby be repealed.

3. Any provision of international agreements in contrast with the present Act shall not be affected.

## **Article 27**

1. The present Act shall enter into force six months after its publication in the Official Journal (*Gazzetta Ufficiale*).

Note on translation:

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