

### Country Fiche for Italy

Final version (information stated as at 30.04.2021)

This country fiche is being used to collect information on residence formalities for EU citizens and their family members in selected Member States.

The information for the country fiche has been collected by the research team through desk research based on available public reports and official information.

Please note that this country fiche is only intended to address the situation of EU citizens seeking registration as workers, self-employed persons, jobseekers, together with their family members, whatever their nationality. It does not address residence formalities that apply to other categories of EU citizens such as students and self-sufficient persons.

Section A: Legal framework	Information collated for this Member State
<b>1. How has Directive 2004/38 been transposed in this Member State?</b>	The Directive has been transposed into Italian law by Legislative Decree No 30/2007 of 6 February 2007 <sup>1</sup> (hereafter referred to as 'Legislative Decree'), as well as several administrative circulars. <sup>2</sup> In addition, the Presidential Decree No 223/1989 of 23 May 1989 on the new population register <sup>3</sup> (hereafter referred to as 'Presidential Decree No 223/1989') as well as Law No 1128/54 of 24 December 1954 on the organisation of the registration of the resident population <sup>4</sup> (hereafter referred to as 'Law No 1128/54') are also relevant. These instruments have all been amended on several occasions.
<b>2. Which legal instruments regulate residence formalities in this Member State?</b>	Residence formalities are regulated by Articles 1-33 of the Legislative Decree, which transpose Articles 7 to 11 and Articles 16-20 of Directive 2004/38.
<b>3. Do the national measures explicitly extend to nationals from Iceland, Liechtenstein, Norway and Switzerland?</b>	These nationals are not explicitly included in the Legislative Decree. However, administrative guidelines confirm that such nationals are to be equated to EU citizens for the purposes of the Legislative Decree. <sup>5</sup>

<sup>1</sup> Decreto Legislativo del 6 febbraio 2007, n. 30 "Attuazione della direttiva 2004/38/CE relativa al diritto dei cittadini dell'Unione e dei loro familiari di circolare e di soggiornare liberamente nel territorio degli Stati membri" <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2007:030>>.

<sup>2</sup> Circolare del Ministero dell'Interno n. 19 del 6 aprile 2007 (hereafter referred to as 'Circular No 19/2007') <<https://dait.interno.gov.it/servizi-demografici/circolari/circolare-n19-del-6-aprile-2007>>; Circolare del Ministero dell'Interno n. 39 del 18 luglio 2007 (hereafter referred to as 'Circular No 39/2007') <<https://dait.interno.gov.it/servizi-demografici/circolari/circolare-n39-del-18-luglio-2007>>; Circolare del Ministero dell'Interno n. 45 del 8 agosto 2007 (hereafter referred to as 'Circular No 45/2007') <<https://dait.interno.gov.it/servizi-demografici/circolari/circolare-n45-dell8-agosto-2007>>; Circolare del Ministero dell'Interno n. 54 del 8 ottobre 2007 (hereafter referred to as 'Circular No 54/2007') <<https://dait.interno.gov.it/servizi-demografici/circolari/circolare-n54-dell8-ottobre-2007>>; Circolare del Ministero dell'Interno n. 9 del 27 aprile 2012 (hereafter referred to as 'Circular No 9/2012') <<https://dait.interno.gov.it/servizi-demografici/circolari/circolare-n9-del-27-aprile-2012>>.

<sup>3</sup> Decreto del Presidente della Repubblica del 30 maggio 1989, n. 223 sull'approvazione del nuovo regolamento anagrafico della popolazione residente. <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.presidente.della.repubblica:1989-05-30;223>>.

<sup>4</sup> Legge del 24 dicembre 1954, n. 1228 sul ordinamento delle anagrafi della popolazione residente <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1954-12-24;1228&vig=>>.

<sup>5</sup> Circular No 39/2007 (n 2), p. 2.

<p><b>4. Do the national measures explicitly extend to the family members of this Member State's own nationals?</b></p>	<p>Yes, family members of Italian nationals also benefit from the residence rules for EU citizens and their family members.<sup>6</sup></p>
<p><b>5. Have any problems been noted as regards the transposition of residence formalities in this Member State?</b></p>	<p>Yes. The Italian transposition of Directive 2004/38 suffered from several gaps and the presence of incorrect, ambiguous and incomplete transposing provisions<sup>7</sup> and achieved average compliance when compared to other Member States.<sup>8</sup> Problems in the transposition of provisions relating to residence formalities which were noted in 2008<sup>9</sup> led the Commission to initiate formal infringement proceedings against Italy.<sup>10</sup> The Commission's concerns related to the right of residence of non-EU family members for up to three months<sup>11</sup>, the requirement that non-EU family members should produce a visa when applying for a residence card<sup>12</sup>, and the excessive documentation required in support of applications in connection with applications made by 'other family members'.<sup>13</sup> Following the adoption of amending legislation,<sup>14</sup> the infringement case was closed in late 2013.<sup>15</sup></p> <p>However, some problems remain, most notably the absence of any transposition of the six-month deadline<sup>16</sup> for the issuance of residence cards to family members.<sup>17</sup> The Italian rules also lay down additional conditions not foreseen by the Directive, such as the requirement that EU citizens should present an identity</p>

<sup>6</sup> Legislative Decree, art. 23 provides that, where more favourable, the provisions of the Legislative Decree apply to family members of Italian citizens who do not have Italian nationality.

<sup>7</sup> Michaela Latini, 'Conformity Study for Italy - Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States' (Report for the European Commission), p. 5 <[https://200438ecstudy.files.wordpress.com/2013/05/italy\\_compliance\\_study\\_en.pdf](https://200438ecstudy.files.wordpress.com/2013/05/italy_compliance_study_en.pdf)>.

<sup>8</sup> Report from the European Commission to the European Parliament and Council on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, COM(2008) 840 final, p. 12.

<sup>9</sup> *ibid*, pp. 6-9.

<sup>10</sup> Commission, Letter of formal notice sent to the Italian Republic, SG(2011)D/18350, C(2011)7523, 28 October 2011.

<sup>11</sup> Legislative Decree, art. 6, para. 2 originally made the right of non-EU family members to reside in Italy for up to three months conditional upon having entered Italy in accordance with art. 5, para. 2, thereby imposing a condition that the entry of family members should have been under cover of an entry visa whenever required.

<sup>12</sup> Legislative Decree, art. 10, para. 3, point a) originally made the issuance of a residence card for non-EU family members conditional upon presentation of an entry visa, whenever required, in addition to a travel document.

<sup>13</sup> Legislative Decree, art. 3, para. 2, point b) originally required partners in a 'durable relationship' to demonstrate that the EU citizen's Member State of origin should have attested to the durability of their relationship.

<sup>14</sup> Decree Law 89/2011 of 29 December 2007 on urgent measures relating to the additional implementation of Directive 2004/38 on the free movement of EU citizens and for the transposition of Directive 2008/115 on the return of third country nationals unlawfully present (*Decreto-Legge del 23 giugno 2011, n. 89 "Disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari"*) <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2011:89>>.

<sup>15</sup> Commission, closure decision PV(2013)2069, 12 December 2013.

<sup>16</sup> This deadline is contained in Article 10(1) of Directive 2004/38.

<sup>17</sup> Art. 10, para. 1 of the Legislative Decree fails to transpose the six-month deadline. This provision is not fully in effect as its application is conditional upon the adoption of an implementing decree laying down the format of the residence card, which is yet to be adopted; see also Latini (n 7), p. 29. It should also be noted that, in theory, art. 2, para. 2 of Law No 241/1990 on administrative procedure and access to documents provides that, in the absence of any other specific timeframe set down by law, administrative authorities should take a decision on any application within 30 days. However, in practice this deadline rarely appears to be followed. Moreover, there is also confusion about the precise time limit which applies, given that prior to its amendment by Law No 69/2009 with effect from 4 July 2009, art. 2, para. 3 of Law No 241/1990 provided a longer deadline of 90 days (*Legge del 7 agosto 1990, n. 241 "Nuove norme in materia di procedimento amministrativo e di diritto di accesso ai documenti amministrativi"*) <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1990-08-07;241>>.

	document which is valid for travel abroad for the purposes of entry and residence in Italy. <sup>18</sup>
<b>6. Have any problems been noted as regards the practical application of residence formalities in this Member State?</b>	<p>Yes. Drawing upon the enquiries received by the Commission's 'Your Europe Advice' service,<sup>19</sup> the existence of several problems in the application of the Directive in Italy has been noted by the NGO ECAS in its recent report on obstacles faced by EU citizens.<sup>20</sup> EU citizens applying for residence documentation often face excessive documentary requirements,<sup>21</sup> most notably the imposition of a minimum resources requirement as a precondition to applying for a residence document.<sup>22</sup> There are also reports of excessive waiting times to secure an appointment.<sup>23</sup> Non-EU family members also face significant difficulties in having their status as the family member of EU citizens recognised<sup>24</sup> or have excessive documentary requirements imposed on them.<sup>25</sup> They also face difficulties when submitting an application for an entry visa at Italian consulates abroad.<sup>26</sup> Problems have also been identified in connection with applications for permanent residence by EU citizens and their family members.<sup>27</sup></p> <p>Where EU citizens or family members apply for residence documentation using expired travel documents, it has also been reported that they risk exposing themselves to expulsion from Italy.<sup>28</sup></p>
<b>Section B: Nature of residence formalities</b>	<b>Information collated for this Member State</b>
<b>1. Is registration compulsory for EU citizens and their family members? If registration is not obligatory, is voluntary registration possible?</b>	Registration for EU citizens and their family members is compulsory under national law. <sup>29</sup>

<sup>18</sup> Art. 5, para. 1 and art. 6, para. 1 of the Legislative Decree require an EU citizen to be in possession of an identity document which is valid for travel abroad for the purposes of entry and residence for up to three months respectively. However, in Case C-376/89 *Giagounidis* EU:C:1991:99, the Court of Justice held that Member States are required to recognise the right of residence of EU workers when they produce a valid identity card, even if that card does not authorise its holder to leave the territory of the Member State which issued the card.

<sup>19</sup> Your Europe Advice is an independent service of the European Commission managed by ECAS, which provides personalised information and advice on EU rights including residence formalities <[https://europa.eu/youreurope/advice/index\\_en.htm](https://europa.eu/youreurope/advice/index_en.htm)>.

<sup>20</sup> Anna Nicolau, 'Freedom of Movement in the EU: A look behind the curtain' (ECAS, 2018), pp. 13-14 <<https://ecas.org/wp-content/uploads/2018/03/ECAS-Long-report-final.pdf>>.

<sup>21</sup> Silvia Brunello et al, 'Obstacles to the right of free movement and residence for EU citizens and their families - Country report for Italy' (PE 556.970, European Parliament 2016), pp. 17-18 <[https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556970/IPOL\\_STU\(2016\)556970\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556970/IPOL_STU(2016)556970_EN.pdf)>.

<sup>22</sup> Nicolau (n 20) p. 48.

<sup>23</sup> Interview with Your Europe Advice, who gave the following examples: a Finnish self-employed having to wait six months before being given an appointment to register in Milan; a Belgian pensioner having to wait five months to register in Milan; a Romanian child having to wait one month before being able to register in Rome.

<sup>24</sup> Nicolau (n 20) pp. 13-14, 48-49; Brunello (n 21), p. 8.

<sup>25</sup> Brunello (n 21), p. 28.

<sup>26</sup> Nicolau (n 20) pp. 28-31; Brunello (n 21), p. 27.

<sup>27</sup> REFIT Platform Opinion on the submission of the REFIT Platform Stakeholder Group (Ms Kavrakova) on the Citizenship Directive (2017) <[https://ec.europa.eu/info/sites/info/files/xiii-10-a-social-security-coordination\\_en.pdf](https://ec.europa.eu/info/sites/info/files/xiii-10-a-social-security-coordination_en.pdf)>. For example, EU citizens have been refused the possibility of applying for permanent residence on the basis of a requirement that the five-year period of residence must have been completed immediately preceding the date of application.

<sup>28</sup> Brunello (n 21), p. 9.

<sup>29</sup> Legislative Decree, art. 9, para. 2, as regards EU citizens and EU family members and art. 10, para. 1, as regards non-EU family members.

<p><b>2. What is the deadline for EU citizens and their family members to register?</b></p>	<p>EU citizens and their family members are required to register within three months of their arrival.<sup>30</sup></p> <p>It should be noted that Italy has made use of the option contained in Article 5(5) of Directive 2004/38. EU citizens and family members may declare their presence by making a declaration of arrival at the local police station.<sup>31</sup> In the event no declaration is made, an EU citizen and their family members will be deemed to have been residing in Italy for a period exceeding three months unless proof of the contrary is provided.<sup>32</sup> Concerns have been expressed whether this legal presumption complies with the Directive.<sup>33</sup></p>
<p><b>3. What penalty applies for failure to register within the deadline?</b></p>	<p>Failure to register is sanctioned by the imposition of an administrative fine ranging from € 516 to € 5,164<sup>34</sup> which also applies to Italian citizens who fail to register their change of address.</p> <p>It has been reported that these penalties do not seem to be imposed in practice.<sup>35</sup></p>
<p><b>4. What authority makes the decision?</b></p>	<p>Applications for a registration certificate lodged by EU citizens are determined by the local municipality,<sup>36</sup> whereas the local police <i>questura</i> is tasked with deciding applications for a residence card submitted by non-EU family members.<sup>37</sup></p>

<p><b>Section C: Preparatory phase</b></p>	
<p><b>1. What on-line information is available to EU citizens and their family members?</b></p>	<p>Information on registration formalities for EU citizens and their family members is not readily available and is scattered across websites<sup>38</sup>. The main official source of centralised information appears to be the website of the Italian police<sup>39</sup>.</p> <p>The website contains a particularly useful section for foreign nationals explaining how they can leave and re-enter Italy during the time they are awaiting the issue or renewal of a residence permit.<sup>40</sup> This is considered a “best practice”.<sup>41</sup></p>

<sup>30</sup> *ibid.*

<sup>31</sup> Legislative Decree, art. 5-*bis*.

<sup>32</sup> *ibid.*

<sup>33</sup> Latini (n 7), pp. 6 and 12.

<sup>34</sup> Law No 1128/54, art. 11.

<sup>35</sup> Comment received from immigration lawyer.

<sup>36</sup> Legislative Decree, art. 9, para 1.

<sup>37</sup> Legislative Decree, art. 10, para 1.

<sup>38</sup> See for example, ICF GHK/ Milieu ‘Evaluation of EU rules on free movement of EU citizens and their family members and their practical implementation – Country Fiche for Italy’ (Report for the European Commission, 2013) pp. 2-3.

<sup>39</sup> *ibid.*, p. 7; see Polizia di Stato > Stranieri > Cittadini dell'Unione Europea <<https://www.poliziadistato.it/articolo/17985b2d0db2288ab785808552>>.

<sup>40</sup> Polizia di Stato > English > Foreign nationals > Requirements for immigrants leaving Italy temporarily <<https://www.poliziadistato.it/articolo/10722>>.

<sup>41</sup> ECAS, ‘User-friendly Gateways for Mobile EU Citizens’ <<https://ecas.org/projects/epim-project/act4freemovement-map/>>.

	The websites of municipalities contain information of varying usefulness on the registration formalities for EU citizens and their family members <sup>42</sup> , whereas the websites of regional authorities generally do not distinguish between EU and non-EU nationals <sup>43</sup> .
<b>2. In what language is this information available?</b>	The information relating to registration formalities for EU citizens and their family members which is contained on the website of the police is available in Italian, English <sup>44</sup> , French <sup>45</sup> and Spanish. <sup>46</sup> However, the German language version of the website does not contain this information. <sup>47</sup>  Aside from the larger cities, the information on municipal websites tends to be only available in Italian, except in municipalities where French <sup>48</sup> or German <sup>49</sup> is also in use.
<b>3. What other means of assistance are available EU citizens and their family members wanting to obtain information on registration procedures?</b>	No additional means of assistance appear to be available at national level.  At municipal level, information can sometimes be obtained in person at the town hall, by telephone or by email.

<b>Section D: Application phase</b>	<b>Information collated for this Member State</b>
<b>1. What procedure applies to the lodging of an application for registration of EU citizens and their family members?</b>	EU citizens are required to apply for a registration certificate at the local municipality, <sup>50</sup> using the municipality's application form.  A standardised application form <sup>51</sup> is available on the websites of some municipalities, together with a checklist of documents <sup>52</sup> to be presented.  Non-EU family members are obliged to apply for a residence card at immigration office ( <i>ufficio immigrazione</i> ) of the local police <i>questura</i> . <sup>53</sup>  It should be noted that EU citizens and family members also have the option of declaring their presence to the police following their arrival, <sup>54</sup> using a standard

<sup>42</sup> ICF GHK/ Milieu (n 38), p. 3.

<sup>43</sup> *ibid*, p. 3.

<sup>44</sup> Polizia di Stato > English > Foreign nationals > European Union citizens <<https://www.poliziadistato.it/articolo/10930>>.

<sup>45</sup> Polizia di Stato > Français > Etrangers > Les ressortissants de la Communauté européenne <<https://www.poliziadistato.it/articolo/10756>>.

<sup>46</sup> Polizia di Stato > Español > Ciudadanos extranjeros > Ciudadanos de la Comunidad Europea <<https://www.poliziadistato.it/articolo/17938>>.

<sup>47</sup> Polizia di Stato > Deutsch <<https://www.poliziadistato.it/archivio/category/967>>

<sup>48</sup> Namely municipalities located in the autonomous region of Valle D'Aosta.

<sup>49</sup> Namely municipalities located in the autonomous region of Trentino-Alto Adige/Südtirol.

<sup>50</sup> Legislative Decree, art. 9, para 1.

<sup>51</sup> This application form is contained in Circular No 9/2012 (n 2), Annex 1: declaration of residence (*Allegato 1: dichiarazione di residenza*) and can be found online <<https://dait.interno.gov.it/documenti/circ-009-servdemo-27-04-2012-modulo-residenza.pdf>>.

<sup>52</sup> This checklist is contained in Appendix B of Annex 1 to Circular No 9/2012 (n 2) and can be found online <<https://dait.interno.gov.it/documenti/circ-009-servdemo-27-04-2012-allegato-b.pdf>>.

<sup>53</sup> Legislative Decree, art. 10, para 1.

<sup>54</sup> Legislative Decree, art. 5, para. 5-bis.

	form. <sup>55</sup> In the event they do not do so, they are deemed to have been present on the Italian territory for more than three months. <sup>56</sup>
<b>2. Does an application for registration by EU citizens and their family members have to be made in person?</b>	This depends on the municipality. <sup>57</sup> Many municipalities require an application for registration by EU citizens to be submitted in person. Some municipalities also accept applications by email, but this has to be sent from a certified email address ( <i>posta elettronica certificata</i> ). <sup>58</sup> Non-EU family members have to apply to the police <i>questura</i> in person or through a post office. <sup>59</sup>
<b>3. Does an application for registration by EU citizens and their family members require a prior appointment to be made?</b>	Depending on the municipality, there may be a need to arrange an appointment beforehand. <sup>60</sup> In practice, EU citizens will have to visit the municipality and book an appointment. They will then be handed a list of what documents to bring at the appointment. <sup>61</sup> Waiting times to secure an appointment can often exceed a month. Some municipalities provide an on-line appointment system. <sup>62</sup>
<b>4. What is the average waiting time for obtaining an appointment for registration by EU citizens and their family members?</b>	No information on average waiting times is available. No specific problems in practice have been identified in this regard.
<b>5. What information and documentation do EU citizens and their family members have to produce to start the registration process?</b>	It is foreseen that all documents need to be submitted by EU citizens and their family members at the time an application is made. <sup>63</sup> EU citizens must present a valid passport or identity card together with proof of their right of residence as a salaried or self-employed worker, <sup>64</sup> self-sufficient person, <sup>65</sup> student, <sup>66</sup> or family member <sup>67</sup> as the case may be. Family members must also present a copy of their EU relative's registration certificate <sup>68</sup> . <i>see Section G below for further details on documents required</i>

<sup>55</sup> The form of the declaration of presence (*dichiarazione di presenza*) can be found on the website of the national police: <[https://www.poliziadistato.it/statics/39/modulo\\_dichiarazione\\_presenz\\_cittadini\\_ue.pdf](https://www.poliziadistato.it/statics/39/modulo_dichiarazione_presenz_cittadini_ue.pdf)>

<sup>56</sup> Ibid.

<sup>57</sup> ICF GHK/Milieu (n 38), p. 8.

<sup>58</sup> The system of certified electronic mail allows a person to send emails with legal value equivalent to a registered letter with recorded delivery, as regulated by Presidential Decree No 68/2005 (*Decreto del Presidente della Repubblica del 11 febbraio 2005, n. 68, Regolamento recante disposizioni per l'utilizzo della posta elettronica certificate* < <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.presidente.repubblica:2005-02-11;68>>).

<sup>59</sup> Polizia di Stato > Stranieri > Cittadini dell'Unione Europea <<https://www.poliziadistato.it/articolo/17985b2d0db2288ab785808552>>; see also Poste Italiane > Servizi al Cittadino > Permessi di soggiorno <<https://www.poste.it/prodotti/guida-rilascio-e-rinnovo-permesso-di-soggiorno.html>>.

<sup>60</sup> ICF GHK/Milieu (n 38), p. 11.

<sup>61</sup> This checklist is contained in Appendix B of Annex 1 (n 52) to Circular No 9/2012 (n 2).

<sup>62</sup> Ibid.

<sup>63</sup> Legislative Decree, art. 9, para. 3, as regards EU citizens, art. 9, para. 5 as regards family members who are also EU citizens and art. 10, para. 3, as regards non-EU family members.

<sup>64</sup> Legislative Decree, art. 9, para. 3, a).

<sup>65</sup> Legislative Decree, art. 9, para. 3, b).

<sup>66</sup> Legislative Decree, art. 9, para. 5.

<sup>67</sup> Legislative Decree, art. 9, para. 5 as regards family members who are also EU citizens and art. 10, para. 3, as regards non-EU family members.

<sup>68</sup> Ibid.

<p><b>6. Are non-EU family members required to produce an entry visa when applying for registration?</b></p>	<p>No. There is no longer an obligation on non-EU family members to furnish an entry visa when applying for registration. This requirement, which initially featured in the Legislative Decree,<sup>69</sup> was removed by the Italian authorities<sup>70</sup> following concerns raised by the European Commission in 2010.<sup>71</sup></p> <p>There is no indication that such a requirement continues to be imposed in practice.</p>
<p><b>7. Are EU citizens and their family members issued with a certificate of application?</b></p>	<p>While the transposing law provides that a registration should be issued immediately,<sup>72</sup> in practice an EU citizen will first be issued with a certificate of application at the time of submitting their application,<sup>73</sup> using the standard form.<sup>74</sup> The certificate of application has a limited validity of 90 days.<sup>75</sup></p> <p>Non-EU family members should be issued with a certificate of application immediately upon making an application for a residence card<sup>76</sup>.</p>
<p><b>8. Following the lodging of an application, do EU citizens and their family members benefit from a further deadline to submit all relevant documentation proving their right of residence?</b></p>	<p>No. It is anticipated that EU citizens and family members have to provide all supporting documents at the time they submit their application for registration.</p>

<sup>69</sup> Legislative Decree, art. 10, para. 3.

<sup>70</sup> Decree Law 89/2011 (n 14), art. 1, para. 1, d), point 1) removed the offending wording from art. 10, para. 3, a) of the Legislative Decree.

<sup>71</sup> Commission, closure decision PV(2013)2069, 12 December 2013.

<sup>72</sup> Legislative Decree, art. 9, para. 2.

<sup>73</sup> Circular No 19/2007 (n 2), p. 4; Circular No 45/2007 (n 2), p. 2.

<sup>74</sup> Circular No 19/2007 (n 2), Annex 1: Certificate of application for registration of an EU citizen (*Allegato 1: Attestazione di richiesta di iscrizione anagrafica di cittadino dell'Unione europea*); Circular No 45/2007 (n 2), Annex 1: Certificate of application for registration of an EU citizen (*Allegato 1: Attestazione di richiesta di iscrizione anagrafica di cittadino dell'Unione europea*).

<sup>75</sup> This 90-day period of validity corresponds to the former deadline of 90 days contained in art. 2, para. 3 of Law No 241/1990 (n 17) on administrative procedure and access to documents in which administrative authorities should take a decision on any application submitted to them where no specific timeframe is set down by legislation. However, following its amendment by Law No 69/2009 with effect from 4 July 2009, art. 2, para. 2 of Law No 241/1990 now provides a shorter deadline of 30 days, but the standard form certificate of application has not been revised accordingly.

<sup>76</sup> Legislative Decree, art. 10, para. 3. This is referred to as '*ricevuta della richiesta di rilascio della carta di soggiorno di familiare di cittadino dell'UE*'.

Section E: Verification of domicile	
1. Does the registration process involve a physical verification of the domicile of the EU citizens and their family members?	Yes. The Italian rules on the population register also apply to EU citizens. <sup>77</sup> Following submission of an application for registration, the municipality must process a request for registration on the population register within 45 days of submission of an application. <sup>78</sup> The registry officer is required to verify the existence of the applicant's habitual residence. <sup>79</sup> The physical verification of the domicile <sup>80</sup> is performed by the municipal police. <sup>81</sup>
2. In practice, how long does the verification of domicile typically take to complete?	This depends on the municipality.

Section F. Registration phase	
1. What is the deadline for making decisions of applications?	Although the Legislative Decree provides that a registration should be issued immediately, <sup>82</sup> in practice an EU citizen will only be issued with a registration certificate after they have submitted their application and the municipality has verified all requirements are met. <sup>83</sup> According to the rules relating to the population register, the municipality must process a request for registration on the population register within 45 days of submission of an application. <sup>84</sup> The Italian rules fail to transpose the requirement contained in Directive 2004/38 that a residence card should be issued to non-EU family members within six months of their application being submitted.
2. In practice, how long does the registration procedure typically take to complete? Have any specific problems been identified in practice?	No information on average processing times is available. Delays have been reported as regards the issuance of registration certificates to EU citizens <sup>85</sup> and residence cards to family members. <sup>86</sup>
3. What kind of residence documentation is issued to EU citizens and their family members?	Following the processing of their application, EU citizens are issued a registration certificate (' <i>attestazione di iscrizione anagrafica di cittadino dell'Unione europea</i> ') which contains their name, date of birth, nationality, address and date of

<sup>77</sup> Legislative Decree art. 9, para. 1 provides that Law No 1128/54 (n 4) and Presidential Decree No 223/1989 (n 3) are to apply to EU citizens who intend on residing in Italy for periods exceeding three months.

<sup>78</sup> Presidential Decree No 223/1989 (n 3), art. 18-bis, para. 1.

<sup>79</sup> Presidential Decree No 223/1989 (n 3), art. 19, para. 2.

<sup>80</sup> This is referred to as '*accertamento della dimora abituale*' in Circular No 19/2007 (n 2), p. 8.

<sup>81</sup> Presidential Decree No 223/1989 (n 3), art. 19, para. 2.

<sup>82</sup> Legislative Decree, art. 9, para. 2.

<sup>83</sup> Circular No 19/2007, p. 8; Circular No 45/2007 (n 2), p. 2.

<sup>84</sup> Presidential Decree No 223/1989 (n 3), art. 18-bis, para. 1.

<sup>85</sup> ICF GHK/Milieu (n 38), p. 12.

<sup>86</sup> Xavier Le Den and Janne Sylvest, 'Understanding Citizens' and Businesses' Concerns with the Single Market: a View from the Assistance Services' (Report for Commission, Ramboll 2011), p.

41 <[http://publications.europa.eu/resource/ellar/b3ba6227-05fb-409f-a95a-74bd04d712ca.0001.01/DOC\\_1](http://publications.europa.eu/resource/ellar/b3ba6227-05fb-409f-a95a-74bd04d712ca.0001.01/DOC_1)>.



	<p>registration<sup>87</sup> (no photo is included).<sup>88</sup> The registration certificate is valid for an unlimited period.<sup>89</sup> This is issued in paper format.<sup>90</sup></p> <p>Non-EU Family members should be issued with a residence card labelled '<i>Carta di soggiorno di familiare di un cittadino dell'Unione/residence card of a family member of a Union citizen</i>'.<sup>91</sup> This label is repeated on the back cover in Italian, English, French and Spanish.<sup>92</sup> The residence card is issued in paper format<sup>93</sup> and is valid for five years.<sup>94</sup> The document contains the family member's name, place and date of issue, nationality, date of first entry in Italy and a photo.<sup>95</sup></p> <p>Once registered, EU citizens and their non-EU family members also have the option to request an identity card which is in the same format as that issued to Italian nationals.<sup>96</sup></p>
<p><b>4. What additional functions (if any) do the different types of residence documents have in relation to public services</b> (e.g. in relation to tax, health, social security, use as an electoral card)?</p>	<p>None. The residence documentation issued to EU citizens and their family members serves no additional functions in respect of public services<sup>97</sup>.</p>
<p><b>5. What additional functions (if any) do the different types of residence documents have in relation to private-sector services</b> (e.g. in relation to the right to work, access to banking or transport services)?</p>	<p>None. The residence card serves no additional functions in respect of private-sector services<sup>98</sup>.</p>
<p><b>6. What is the cost to the individual citizen applying for residence documents?</b></p>	<p>No application fee is payable as such.<sup>99</sup> However, it appears that some communes are charging processing fees.<sup>100</sup> In addition, stamp duty (<i>marca da bollo</i>) of €16<sup>101</sup> is payable for the issuance of a registration certificate to EU citizens<sup>102</sup> and</p>

<sup>87</sup> Legislative Decree, art. 9, para. 2.

<sup>88</sup> See Circular No 45/2007 (n 2), Annex 2: Certificate of registration of an EU citizen (*Allegato 2: Attestazione di iscrizione anagrafica di cittadino dell'Unione europea*).

<sup>89</sup> *ibid.*

<sup>90</sup> CSES, 'Study to Support the Preparation of an Impact Assessment on EU Policy Initiatives on Residence and Identity Documents to Facilitate the Exercise of the Right of Free Movement' (Report for European Commission, 2017), p. 19 <[https://ec.europa.eu/info/sites/info/files/dg\\_just\\_final\\_report\\_id\\_cards\\_and\\_residence\\_docs\\_cses\\_28\\_august\\_2017\\_2.pdf](https://ec.europa.eu/info/sites/info/files/dg_just_final_report_id_cards_and_residence_docs_cses_28_august_2017_2.pdf)>.

<sup>91</sup> Legislative Decree, art. 10, para. 2.

<sup>92</sup> See sample ITA-HO-02001 available on the Council's Public Register of Authentic travel and identity Documents Online (PRADO) <<https://www.consilium.europa.eu/prado/en/ITA-HO-02001/index.html>>.

<sup>93</sup> *ibid.*

<sup>94</sup> Legislative Decree, art. 10, para. 4.

<sup>95</sup> See sample ITA-HO-02001 (n 92).

<sup>96</sup> See sample ITA-BO-03001 available on PRADO <<https://www.consilium.europa.eu/prado/en/ITA-BO-03001/index.html>>.

<sup>97</sup> CSES, (n 90), p. 62.

<sup>98</sup> *ibid.*, p. 64.

<sup>99</sup> Legislative Decree, art. 10, para. 6 provides that the residence card should be issued free of charge to non-EU family members, except that a fee may be imposed to cover the costs of printing and materials used for the document. Legislative Decree, art. 9 does not contain any corresponding provision as regards registration certificates issued to EU citizens.

<sup>100</sup> ICF GHK/Milieu (n 38), pp. 11-12.

<sup>101</sup> Note that the amount of stamp duty (*marca da bollo*) payable was increased from €14.62 to €16.00 by Law No 71/2013; see also Circular No 21843/2013 (*Circolare del Ministero dell'Interno n. 21842 del 27 giugno 2013* <<http://permessidisoggiorno.anci.it/Normativa.aspx?nid=771>> (no official source available)).

<sup>102</sup> Circular No 54/2007 (n 2); see also Resolution No 279/2007 of the Italian tax authority (*Agenzia dell'Entrate, Risoluzione n. 279/E del 4 ottobre 2007*

	residence cards to non-EU family members. <sup>103</sup> Non-EU family members who apply through a post office will have to pay a processing fee of €30. <sup>104</sup>
<b>7. Can the registration procedure be completed on-line?</b>	No. However, many municipalities make available a standardised application form <sup>105</sup> on their website. Some municipalities allow EU citizens to apply for a registration certificate by certified email address ( <i>posta elettronica certificata</i> ). <sup>106</sup>
<b>8. Is there an expedited registration procedure or premium service available?</b>	No expedited or premium application service exists.

<b>Section G: Documentary requirements</b>	<b>Information collated for this Member State</b>
<b>1. What documentation is required from EU citizens and their family members in order to prove their identity? Have any specific problems been identified in practice?</b>	EU citizens must provide a valid passport or national identity card when applying for a registration certificate. <sup>107</sup> Non-EU family members must present a valid passport or other equivalent document when applying for a residence card. <sup>108</sup> The checklist of documents contained in the administrative guidelines on the population register <sup>109</sup> indicates that EU citizens are required to present an identity document which is valid for travel abroad. <sup>110</sup> Such a requirement is likely to be considered contrary to Directive 2004/38. <sup>111</sup>
<b>2. What documentation is required from EU citizens applying to register as workers? Have any specific problems been identified in practice?</b>	An EU citizen applying as a salaried worker must provide documentation demonstrating their salaried employment. <sup>112</sup> While the Legislative Decree does not specify what documentation is acceptable, Administrative guidelines provides further examples of what documentation is acceptable for the purposes of registration as a worker, namely the last few

<[https://www.agenziaentrate.gov.it/portale/documents/20143/306321/Risoluzione+n+279+del+4+ottobre+2007\\_ris+n279e+del+4+ottobre+2007.pdf/4cb1042b-46e3-1f8e-f214-4102dad3ad5a](https://www.agenziaentrate.gov.it/portale/documents/20143/306321/Risoluzione+n+279+del+4+ottobre+2007_ris+n279e+del+4+ottobre+2007.pdf/4cb1042b-46e3-1f8e-f214-4102dad3ad5a)>.)

<sup>103</sup> *ibid.*

<sup>104</sup> see *Poste Italiane > Servizi al Cittadino > Permessi di soggiorno* <<https://www.poste.it/prodotti/guida-rilascio-e-rinnovo-permesso-di-soggiorno.html>>; see also, for example, the websites of the police *questura* in Catanzaro and Arezzo

<<https://questure.poliziadistato.it/it/Catanzaro/articolo/12365943fb9ee2aeb814823864>> <<https://questure.poliziadistato.it/it/Arezzo/articolo/1104593ea4aa58f21620540594>>.

<sup>105</sup> This application form is contained at Annex 1 (n 51) of Circular No 9/2012 (n 2).

<sup>106</sup> See explanation at n 58.

<sup>107</sup> Presidential Decree No 223/1989 (n 3), art. 14, para. 1. as regards EU citizens, which refers to a passport or other equivalent document, and Legislative Decree, art. 9, para. 5 as regards family members who are also EU citizens. A list of documents considered equivalent to a passport can be found on the website of the Polizia di Stato

<<https://www.poliziadistato.it/statics/39/documenti-di-viaggio-equivalenti-al-passaporto.pdf>>.

<sup>108</sup> Legislative Decree, art. 10, para. 3, point a).

<sup>109</sup> This checklist is contained in Appendix B of Annex 1 (n 52) to Circular No 9/2012 (n 2).

<sup>110</sup> This requirement is also found in the Legislative Decree, art. 5, para. 1 and art. 6, para. 1 oblige an EU citizen to be in possession of an identity document which is valid for travel abroad for the purposes of entry and residence for up to three months respectively.

<sup>111</sup> In Case C-376/89 *Giagounidis* EU:C:1991:99, the Court of Justice ruled that Member States are obliged to recognise the right of residence of EU workers when they produce a valid identity document, even if that document is not valid for travel abroad.

<sup>112</sup> Legislative Decree, art. 9, para. 3, point a).

	<p>payslips, proof of payment of social security contributions to the <i>Istituto Nazionale di Previdenza Sociale</i> (INPS), contract of employment with details of the employer's registration numbers with social security bodies (INPS and <i>Istituto nazionale Assicurazione Infortuni sul Lavoro</i>), or other documentation origination from INPS confirming employment.<sup>113</sup></p> <p>It should be noted that, in addition to this documentation, EU workers who are temporarily posted to Italy from another EU country will often be required by most municipalities to supply Portable Document A1 confirming their affiliation to the social security system of the country from which they are being posted, as well as Portable Document S1 confirming healthcare coverage in the country of social security affiliation.</p> <p>It has been reported that workers on fixed-term contracts may be refused registration.<sup>114</sup> In addition, it appears that workers may sometimes be required to demonstrate they have a minimum level of monthly income.<sup>115</sup> Some problems have also been identified as regards the registration of frontier workers who reside in Italy but work in a neighbouring Member State.<sup>116</sup></p>
<p><b>3. What documentation is required from EU citizens applying to register as self-employed persons?</b> <b>Have any specific problems been identified in practice?</b></p>	<p>An EU citizen applying as a self-employed worker must provide documentation demonstrating their self-employment.<sup>117</sup></p> <p>While the Legislative Decree does not specify how proof of such activity is to be adduced, Administrative guidelines provide examples of what documentation is acceptable for the purposes of registration as a self-employed person, namely proof of registration with the business registry or attribution of a VAT number by the Italian tax authority and, if exercising a profession, proof of registration with the relevant professional body.<sup>118</sup></p>
<p><b>4. What documentation is required from EU citizens applying to register as jobseekers?</b> <b>Have any specific problems been identified in practice?</b></p>	<p>The situation of jobseekers is not explicitly addressed by the Italian rules<sup>119</sup>. It is not clear whether a jobseeker applying for registration would be treated as a worker or as a self-sufficient person required to hold sufficient economic resources and comprehensive sickness insurance.<sup>120</sup></p>

<sup>113</sup> Circular No 45/2007 (n 2), p. 3.

<sup>114</sup> Latini (n 7), p. 9.

<sup>115</sup> *ibid.*, p. 53.

<sup>116</sup> Nicolau (n 20), pp. 52-53; Brunello (n 21), p. 18.

<sup>117</sup> Legislative Decree, art. 9, para. 3, point a).

<sup>118</sup> Circular No 45/2007 (n 2), pp. 3-4.

<sup>119</sup> Network on the Free Movement of Workers, Italy Country Report 2019-2010, p. 4 <[https://www.ru.nl/publish/pages/608499/italy\\_2009-10.pdf](https://www.ru.nl/publish/pages/608499/italy_2009-10.pdf)>. It should be noted that Art. 14(4)(b) of Directive 2004/38 on protection from expulsion for jobseekers has been transposed by Legislative Decree, art. 13, para. 3, point b) without the requirement to demonstrate 'a genuine chance of being engaged'.

<sup>120</sup> *ibid.*

	It has been reported that jobseekers are only granted a period of six months in order to find work. <sup>121</sup>
<p><b>5. What documentation is required from family members to prove the existence of a family relationship?</b>  <b>Have any specific problems been identified in practice?</b></p>	<p>Family members must provide a document attesting to the existence of a family relationship and, depending on the circumstances, they will also have to provide proof of dependence on their EU relative or proof of being members of the household.<sup>122</sup> Where the family member is the unmarried partner with whom the EU citizen has a durable relationship, they must provide official documentation attesting to the existence of a lasting relationship.<sup>123</sup> All family members must also provide the certificate of application for registration of their EU relative who has a primary right of residence.<sup>124</sup> Non-EU family members also have to provide four passport-sized photographs.<sup>125</sup></p> <p>Guidelines confirm that a sworn declaration<sup>126</sup> from the EU citizen as to the existence of a state of material dependence, membership of the household or dependence on health grounds is sufficient.<sup>127</sup></p> <p>It has been reported that unmarried partners in a durable relationship are sometimes refused registration.<sup>128</sup> Furthermore, the Italian rules require that the documentation attesting to the existence of a family relationship must be issued by the country of origin or from the country where the family members are travelling from.<sup>129</sup> This adds a limitation not foreseen by Directive 2004/38. Problems have also been reported by non-EU family members when applying for an entry visa that would allow them to join their EU relative in Italy.<sup>130</sup></p>

<sup>121</sup> Charlotte O'Brien, Eleanor Spaventa and Joyce De Coninck, 'FRESCO Comparative Report 2015, The concept of worker under Article 45 TFEU and certain non-standard forms of employment', Report for the European Commission (2015), p. 32.

<sup>122</sup> Legislative Decree, art. 9, para. 5, point b) as regards family members who are EU citizens and art. 10, para. 3, point c) as regards non-EU family members.

<sup>123</sup> Legislative Decree, art. 9, para. 5, point c-bis) as regards family members who are EU citizens and art. 10, para. 3, point d-bis) as regards non-EU family members.

<sup>124</sup> Legislative Decree, art. 9, para. 5, point c) as regards family members who are EU citizens and art. 10, para. 3, point c) as regards non-EU family members.

<sup>125</sup> Legislative Decree, art. 10, para. 3, point d).

<sup>126</sup> This is known as "*autodichiarazione*" and refers to a declaration in lieu of a certificate (*dichiarazioni sostitutive di certificazioni*) or a declaration in lieu of an act of notoriety (*dichiarazioni sostitutive dell'atto di notorietà*) as provided by arts. 46 and 47 respectively of Presidential Decree No 445/2000 (*Decreto del Presidente della Repubblica del 28 dicembre 2000, n. 445 "Testo unico delle disposizioni legislative e regolamentari in materia di documentazione amministrativa"* <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.presidente.della.repubblica:2000-12-28;445!vig=>>) and is generally used to certify the existence of facts.

<sup>127</sup> Circular No 19/2007, (n 2) p. 14; Circular No 39/2007, (n 2) p. 4. A model form of sworn declaration is contained in Circular No 45/2007 (n 2), Annex 4 (*Allegato 4: Dichiarazioni sostitutive di certificazione*).

<sup>128</sup> ICF GHK/Milieu (n 38), p. 14.

<sup>129</sup> Legislative Decree, art. 9, para. 5, point b) as regards family members who are EU citizens and art. 10, para. 3, point b) as regards non-EU family members.

<sup>130</sup> Nicolau (n 20) pp. 28-31; Brunello (n 21), p. 27.

<p><b>6. What requirements apply as regards translation and legalisation? Have any specific problems been identified in practice?</b></p>	<p>As a matter of Italian law, any official civil status certificate drawn up abroad is required to bear an apostille<sup>131</sup> or to be legalised<sup>132</sup> (unless exempted under an international agreement).</p> <p>Documents drawn up in a language other than Italian need to be accompanied by an official translation certified by the competent consulate or issued by a certified translator.<sup>133</sup></p> <p>It has been reported that non-EU family members face significant difficulties in having their status as the family member of EU citizens recognised due to problems in having civil status documents recognised.<sup>134</sup></p>
<p><b>7. Have any other specific problems been noted as regards the documentary requirements concerning residence formalities in this Member State?</b></p>	<p>Municipal authorities have been reported to request documents which are not contemplated by the EU rules, such as a birth certificate, even in circumstances where the EU citizen concerned is not applying for registration as a family member.<sup>135</sup></p>

Section H: Permanent residence	Information collated for this Member State
<p><b>1. Is permanent residence recognized to EU citizens and their family members in this Member State?</b></p>	<p>Yes. Article 16(1) of Directive 2004/38 has been transposed. EU citizens acquire a right of permanent residence after a continuous period of five years of lawful residence in Italy<sup>136</sup>. Non-EU family members also acquire a right of permanent residence after a continuous period of five years of lawful residence with their EU relative in Italy.<sup>137</sup></p>
<p><b>2. Is permanent residence documentation automatically issued, or must EU citizens and their family members make a specific request for such documentation?</b></p>	<p>No. EU citizens and their family members who want to obtain a permanent residence document must apply for it.<sup>138</sup></p>

<sup>131</sup> This is the means of officially certifying public documents pursuant to the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, which Italy has ratified <<https://www.hcch.net/en/instruments/conventions/full-text/?cid=41>>.

<sup>132</sup> Presidential Decree No 445 (n 126), art. 33, para. 2.

<sup>133</sup> *ibid*.

<sup>134</sup> Nicolau (n 20) pp. 13-14, 48-49, 54, reporting on instances where the Italian authorities require civil status documents issued to have been registered in the Member State of the EU citizen's nationality or where they impose that foreign documents be accompanied by an official translation issued by a notary, which is not contemplated by art. 33, para. 2 of Presidential Decree No 445 (n 126); Brunello (n 21), p. 27, reporting on refusal of Italian authorities to accept marriage certificates issued in a third country on the grounds that they are not legalised by the competent Italian consulate, drawing on cases handled by the Commission's Your Europe Advice service.

<sup>135</sup> Nicolau (n 20), p. 54.

<sup>136</sup> Legislative Decree, art. 14, para. 1.

<sup>137</sup> Legislative Decree, art. 14, para. 2.

<sup>138</sup> Legislative Decree, art. 16, para. 1 for EU citizens and art. 17, para. 2 for non-EU family members.

<p><b>3. What is the procedure that applies when EU citizens and their family members request permanent residence documentation?</b></p>	<p>Applications for permanent residence documents must be submitted by EU citizens at the municipality,<sup>139</sup> whereas non-EU family members must apply at the immigration office (<i>ufficio immigrazione</i>) of the local police <i>questura</i><sup>140</sup> or through a post office.<sup>141</sup></p> <p>There is no deadline within which EU citizens should apply for a permanent residence document,<sup>142</sup> whereas non-EU family members are required to apply before expiry of their residence card.<sup>143</sup></p>
<p><b>4. What documentation is required to apply for permanent residence documentation?</b></p>	<p>EU citizens and family member who are themselves EU citizens who apply for a document certifying permanent residence must provide proof of lawful residence for a continuous period of five years.<sup>144</sup> In addition, non-EU family members must also demonstrate residence with their EU relative.<sup>145</sup></p> <p>Guidance states that the documents must show that, during the relevant five-year period, the applicant met the conditions for having a right of residence in accordance with the Legislative Decree, but it does not specify further what documentation is required.<sup>146</sup></p>
<p><b>5. Are EU citizens and their family members issued with a certificate of application?</b></p>	<p>The Italian rules do not provide for the issue of a certificate of application to EU citizens or non-EU family members who apply for a document attesting permanent residence document.</p>
<p><b>6. What is the deadline for making decisions of applications?</b></p>	<p>EU citizens should be issued with a document attesting permanent residence within thirty days of their application being submitted.<sup>147</sup></p> <p>A permanent residence card should be issued to non-EU family members within 90 days of their application being submitted.<sup>148</sup></p>
<p><b>7. In practice, how long does an application for permanent residence typically take to complete?</b></p>	<p>No information is available on average processing times.</p>

<sup>139</sup> Legislative Decree, art. 16, para. 2.

<sup>140</sup> Legislative Decree, art. 17, para. 2.

<sup>141</sup> Polizia di Stato > Stranieri > Cittadini dell'Unione Europea <<https://www.poliziadistato.it/articolo/17985b2d0db2288ab785808552>>; see also Poste Italiane > Servizi al Cittadino > Permessi di soggiorno <<https://www.poste.it/prodotti/guida-rilascio-e-rinnovo-permesso-di-soggiorno.html>>.

<sup>142</sup> Legislative Decree, art. 16, para. 1.

<sup>143</sup> Legislative Decree, art. 17, para. 1.

<sup>144</sup> Legislative Decree, art. 16, para. 1 referring back to the conditions contained in art. 14, para. 1.

<sup>145</sup> Legislative Decree, art. 14, para. 2.

<sup>146</sup> Circular No 19/2007 (n 2), p. 10.

<sup>147</sup> Legislative Decree, art. 16, para. 1.

<sup>148</sup> Legislative Decree, art. 16, para. 2.

<p><b>8. What kind of permanent residence documentation is issued to EU citizens and their family members?</b></p>	<p>EU citizens will be issued with a document certifying permanent residence (<i>'attestazione di soggiorno permanente per i cittadini dell'Unione europea'</i>),<sup>149</sup> which contains their name, date of birth, nationality, address and date of registration<sup>150</sup> (no photo is included).<sup>151</sup></p> <p>The rules provide that a permanent residence card should be issued to non-EU family members bearing the label <i>'Carta di soggiorno permanente per familiari di cittadini europei'</i>.<sup>152</sup> The card is issued in plastic format with no biometric identifiers.<sup>153</sup></p> <p>However, problems have been reported suggesting that the permanent residence card issued does not bear the specified label.<sup>154</sup> Furthermore, the requirements that a permanent residence card should be valid for ten years and renewable upon request have not been transposed.<sup>155</sup></p>
<p><b>9. What is the cost to the individual citizen applying for permanent residence documents?</b></p>	<p>No application fee is payable as such.<sup>156</sup> However, it appears that some communes are charging processing fees.<sup>157</sup> In addition, stamp duty (<i>marca da bollo</i>) of €16 is payable for the issuance of a document certifying permanent residence to EU citizens<sup>158</sup> and permanent residence cards to non-EU family members.<sup>159</sup> Non-EU family members who apply through a post office will have to pay a processing fee of €30.<sup>160</sup></p>
<p><b>10. Can the application be completed on-line?</b></p>	<p>No. EU citizens and their family members are required to apply for permanent residence document in person.<sup>161</sup> Some municipalities also accept applications by</p>

<sup>149</sup> See Circular No 19/2007 (n 2), Annex 2: Document attesting to permanent residence (*Allegato 2: Attestazione di soggiorno permanente per i cittadini dell'Unione europea*); Circular No 45/2007 (n 2), Annex 3: Document attesting to permanent residence (*Allegato 3: Attestazione di soggiorno permanente per i cittadini dell'Unione europea*).

<sup>150</sup> *ibid.*

<sup>151</sup> *ibid.*

<sup>152</sup> Legislative Decree, art. 17, para. 2.

<sup>153</sup> Commission Staff Working Document, 'Impact Assessment accompanying the Proposal for a Regulation of the European Parliament and of the Council on strengthening the security of identity cards of union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement' (SWD(2018) 110 final), p. 109 <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0110&from=EN>>.

<sup>154</sup> Brunello (n 21), p. 27.

<sup>155</sup> Latini (n 7), p. 36.

<sup>156</sup> Legislative Decree, art. 17, para. 3 provides that the permanent residence documents should be issued free of charge to non-EU family members, except that a fee may be imposed to cover the costs of printing and materials used for the document. Legislative Decree, art. 16 does not contain any corresponding provision as regards the issue of permanent residence documents to EU citizens.

<sup>157</sup> ICF GHK/ Milieu (n 57), pp. 11-12.

<sup>158</sup> Circular No 54/2007 (n 2). Note that the amount of stamp duty (*marca da bollo*) payable was increased from €14.62 to €16.00 by Law No 71/2013.

<sup>159</sup> Circular No 54/2007 (n 2); see also Circular No 21843/2013 (*Circolare del Ministero dell'Interno n. 21842 del 27 giugno 2013* <<http://permessidisoggiorno.anci.it/Normativa.aspx?nid=771>> (no official source available)).

<sup>160</sup> see Poste Italiane > Servizi al Cittadino > Permessi di soggiorno <<https://www.poste.it/prodotti/guida-rilascio-e-rinnovo-permesso-di-soggiorno.html>>; see also, for example, the websites of the police *questura* in Catanzaro and Arezzo <<https://questure.poliziadistato.it/it/Catanzaro/articolo/12365943fb9ee2aeb814823864>> <<https://questure.poliziadistato.it/it/Arezzo/articolo/1104593ea4aa58f21620540594>>.

<sup>161</sup> *ibid.*

	email, but this has to be sent from a certified email address ( <i>posta elettronica certificata</i> ). <sup>162</sup> There does not appear to be any standardised application form, but several municipalities make it available on their websites.
<b>11. Is there an expedited registration procedure or premium service available?</b>	No expedited or premium application service exists.
<b>12. Have any other problems been noted as regards applications for permanent residence in this Member State?</b>	Yes. It has been reported that EU citizens and their family members often face additional requirements when applying for a permanent residence documents <sup>163</sup> and in some cases they have been refused the right to submit an application. <sup>164</sup>

<b>Section I: Appeals</b>	<b>Information collated for this Member State</b>
<b>1. In case of a refusal, can EU citizens and their family members have recourse to an administrative review process? If so, what administrative authority is competent to conduct such a review? What is the deadline for requesting administrative review?</b>	Yes. The law on administrative procedure and access to documents allows for the possibility to request reconsideration of an administrative decision where new facts or circumstances come to light. <sup>165</sup> Such a request for reconsideration should be lodged within 30 days of the decision being taken before the provincial head of government ( <i>prefetto</i> ). <sup>166</sup> A request for administrative reconsideration does not suspend the deadline for lodging a judicial appeal.  There is also the possibility to complain to the regional ombudsmen concerning instances of maladministration.
<b>2. In case of a refusal, can EU citizens and their family members have recourse to a judicial appeal process?</b>	Yes. An administrative decision may be challenged directly before the ordinary civil courts. <sup>167</sup>
<b>3. What judicial authority is competent to hear such appeals?</b>	A judicial appeal against a decision refusing the issue of a residence document lies before the specialised immigration chamber <sup>168</sup> of the tribunal with civil

<sup>162</sup> For further explanation, see n 58.

<sup>163</sup> Nicolau (n 20), p. 54, reporting on cases handled by the Commission's Your Europe Advice service in which EU citizens applying for permanent residence documents have been required to show residence for ten years rather than five, demonstrate continuous employment (payslips or employment contracts) or proof of payment of social security contributions for the past five years and non-EU family members who have been required to attend Italian language courses; see also Brunello (n 21), p. 27.

<sup>164</sup> *ibid*, citing a case in which permanent residence has been refused to an EU citizen who was unemployed when she applied.

<sup>165</sup> Law No 241/1990 (n 17), art. 21-quinquies.

<sup>166</sup> Circular No 19/2007 (n 2), p. 6.

<sup>167</sup> Legislative Decree, art. 8.

<sup>168</sup> This is referred to as '*sezione specializzate in materia di immigrazione, protezione internazionale e libera circolazione dei cittadini dell'Unione europea*' as created by art. 1 of Decree-Law No 13/2017 as converted by Law No 46/2017 (Decreto-Legge 17 febbraio 2017, n. 13, coordinato con la legge di conversione 13 aprile 2017, n. 46 "Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale" <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13!vig=>> ).



	jurisdiction <sup>169</sup> in summary proceedings. <sup>170,171</sup> A subsequent right of appeal lies before a three-judge panel <sup>172</sup> of the same tribunal ( <i>tribunale in composizione collegiale</i> ). <sup>173</sup> A final appeal on points of law would lie before the Supreme Court ( <i>Corte di Cassazione</i> ). <sup>174</sup>
<b>4. In case of a refusal, what is the deadline for lodging a judicial appeal?</b>	There is no specific deadline laid down within which a judicial appeal against a decision refusing the issue of a residence document must be brought. <sup>175</sup> As a result, the ordinary limitation period of 10 years would apply. <sup>176</sup>
<b>5. What is the nature of the judicial review process? Does it suspend the effects of the decisions under appeal? What are the fees for lodging a judicial appeal?</b>	The tribunal has the power to remake administrative decisions. <sup>177</sup> A judicial appeal does not suspend the decision under challenge. <sup>178</sup> A fee of € 98 <sup>179</sup> and stamp duty of € 27 <sup>180</sup> are payable for lodging a judicial appeal.

<b>Section J: Impact of residence formalities on equal treatment</b>	<b>Information collated for this Member State</b>
<b>Has Article 25 of Directive 2004/38, which provides that the exercise of a right or completion of an administrative formality should not be conditional upon possession of a residence document, been accurately transposed in this Member State?</b>	This provision has not been explicitly transposed. <sup>181</sup>
<b>Have any problems been noted as regards the impact of residence formalities on equality of treatment for EU citizens and their family members?</b>	Significant problems have been reported as regards access to healthcare. <sup>182</sup> In theory, equal treatment should enable EU citizens to be able to access the Italian national health service ( <i>'Servizio Sanitario Nazionale'</i> ) under the same conditions

<sup>169</sup> This is referred to as *'tribunale, sezione civile'*.

<sup>170</sup> Legislative Decree, art. 8, which refers to art. 16 of Legislative Decree No 150/2011 (*Decreto Legislativo del 1 settembre 2011, n. 150 "Disposizioni complementari al codice di procedura civile in materia di riduzione e semplificazione dei procedimenti civili di cognizione, ai sensi dell'articolo 54 della legge 18 giugno 2009, n. 69"* <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2011-09-01;150!vig=>>>).

<sup>171</sup> Summary proceedings (*"rito sommario di cognizione"*) are governed by the Italian Code of Civil Procedure, art. 702-bis.

<sup>172</sup> Code of Civil Procedure, art. 50-bis.

<sup>173</sup> Code of Civil Procedure, art. 702-quater.

<sup>174</sup> Code of Civil Procedure, art. 360. For an overview of the Italian judicial system, see <[https://e-justice.europa.eu/content\\_ordinary\\_courts-18-it-en.do?member=1](https://e-justice.europa.eu/content_ordinary_courts-18-it-en.do?member=1)>.

<sup>175</sup> Giuseppe Buffone, Emilio Curtò and Giusi Ianni, *Rito sommario e ordinario di cognizione* (Giuffrè editore 2013), p. 114.

<sup>176</sup> Civil Code, art. 2946; but see Buffone et al (n 175), p. 114 who argue the action is not covered by any limitation period.

<sup>177</sup> Code of Civil Procedure, art. 702-ter.

<sup>178</sup> Buffone et al (n 175), p. 114.

<sup>179</sup> Presidential Decree No 115/2002 containing the consolidated law relating to court costs, art. 13(1)(b) (*Decreto del Presidente della Repubblica 30 maggio 2002, n. 115, Testo Unico delle disposizioni legislative e regolamentari in materia di spese di giustizia* <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:presidente.repubblica:decreto:2002-05-30;115!vig=>>>). The fee is referred to as *"contributo unificato"*.

<sup>180</sup> *ibid*, art 30. Stamp duty is referred to as *"imposta da bollo"*.

<sup>181</sup> Latini (n 7), p. 38 reports that *"transposition is incomplete. The Italian provision therefore does not clearly establish that possession of the document may not be a precondition. As this is the most relevant part of the provision the incompleteness represents an important gap since it does not ensures the right given by the Directive (e.g., if a Union citizen goes to the administration to request a loan, the possession of the documents listed in the Directive may under no circumstances be made precondition for the exercise of the right to obtain a loan)"*.

<sup>182</sup> Problems with access to healthcare have been reported in Neva Cocchi et al, 'Citizens Without Borders: Free movement and residence in the European Union a challenge for European citizenship' (2013) 41-42 <[https://www.meltingpot.org/IMG/pdf/citizien\\_inglese.pdf](https://www.meltingpot.org/IMG/pdf/citizien_inglese.pdf)>; Brunello (n 21), pp. 19-20.

that apply to Italian citizens.<sup>183</sup> However, the existing rules guaranteeing access to healthcare for non-nationals<sup>184</sup> only extends to non-EU citizens.<sup>185</sup> The conditions under which EU citizens have access to the Italian national health service are instead the subject of a circular from the Health Ministry.<sup>186</sup> This provides that only EU citizens who work or study in Italy or those who produce proof of social security coverage in another Member State are entitled to access SSN services. Alternatively, they must hold a permanent residence card. As a result, there are reports of EU citizens being denied access to healthcare, particularly jobseekers and those who become unemployed.<sup>187</sup> This problem is exacerbated by the absence of transposition of Article 25 of the Directive, which provides that the exercise of a right is not conditional upon holding a residence document.

---

<sup>183</sup> Article 32 of the Italian Constitution recognises 'health as a fundamental right of the individual and as a collective interest, and guarantees free medical care to the persons in need'.

<sup>184</sup> Law of 6 March 1998 regulating immigration and the status of foreigners, art 32 (*Legge del 6 marzo 1998, n 40 'Disciplina dell'immigrazione e norme sulla condizione dello straniero'* (GU n 59 del 12-3-1998 - Suppl Ordinario n 40) <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:1998;40>>.

<sup>185</sup> *ibid*, art 1, 2), which provides that the law does not apply to EU citizens unless it provides for more favourable treatment, but without specifying further what this might entail.

<sup>186</sup> Ministry of Health, Circular of 3 August 2007 'Right of residence for EU citizens' (*Ministero della Salute, Circolare del 3 agosto 2007 'Diritto di soggiorno per i cittadini comunitari'*) <<https://www.trovanorme.salute.gov.it/norme/renderNormsanPdf?anno=0&codLeg=25353&parte=1%20&serie=>>>.

<sup>187</sup> Brunello (n 21), pp. 19-20.