

EXECUTIVE SUMMARY – INVESTORS’ RESIDENCE SCHEMES IN ITALY

General background

Italy operates a **residence scheme since January 2017**. Article 1(148) of Law n. 232 of 11 December 2016 (commonly known as ‘Budget Law for 2017’)¹ amended Legislative Decree n. 286 of 25 July 1998 (commonly known as ‘**Single Act on Immigration**’)(TUI)² by introducing **Article 26-bis** on ‘**Entry and residence for investors**’. Article 26-bis TUI introduced a novelty in the Italian legislative system as no other specific scheme existed in Italy targeting foreign investors. It was adopted within the overall strategy aimed to renew the economic competitiveness of the country, aiming to render Italy more attractive to foreign investments.³ Under this scheme, foreign investors need first to apply for an investors’ visa to legally enter the Italian territory and, after, they can apply for a residence permit for investors.⁴

The legal framework is completed by **two implementing regulations**: the **Inter-ministerial Decree n. 778** adopted in August 2017 by the Ministry of Economic Development, Ministry of Interior, Ministry of Foreign Affairs and International Cooperation,⁵ and the **Operative Guidelines** adopted in November 2017 by the Ministry of Economic Development, Ministry of Interior, Ministry of Foreign Affairs and International Cooperation.⁶ The aim of these implementing regulations is to further develop and provide details on the functioning of the investors’ residence scheme.

Regarding the **competent authorities**, while the **decision-making** authority to issue an **investors’ visa** is the **Italian Embassy or the Italian Consular Office** of the country of residence of the third country national, the **Police Headquarter** of the province in which the foreigner is located is the decision-making authority for the issuance of the **residence permit**.⁷ The competent authority to **verify that the legal requirements are fulfilled** (both for the visa and for the residence permit) is a **Committee** composed by members of various Ministries and other public bodies including the economic police.⁸

¹ Law n. 232 of 11 December 2016 ‘State budget for the financial year 2017 and pluriannual budget for the period 2017, OJ of 21 December 2016 n. 297 available at <http://www.gazzettaufficiale.it/eli/id/2016/12/21/16G00242/sg>. The text entered into force on 6 January 2017.

² Legislative Decree n. 286 of 25 July 1998 ‘Single Act on the discipline concerning immigration and the condition of the foreigner’, OJ of 18 August 1998 n. 191 available at https://www.esteri.it/mae/normative/normativa_consolare/visti/d_lgs_25_luglio_1998_n_286.pdf (TUI).

³ Ministry of Economic Development ‘New Visa for foreign investors, the request in few clicks’ available at <http://www.mise.gov.it/index.php/it/194-comunicati-stampa/2037505-nuovo-visto-per-investitori-stranieri-pochi-click-per-la-richiesta>.

⁴ Article 26bis TUI.

⁵ Inter-ministerial Decree adopted by the Ministry of Economic Development, Ministry of Interior, Ministry of Foreign Affairs and International Cooperation, n. 778, registered at the Court of Auditors on 17 August 2017, available at http://www.sviluppoeconomico.gov.it/images/stories/normativa/decreto_interministeriale_21_luglio_2017_ingresso_e_soggerno_investitori.pdf.

⁶ Operative Guidelines adopted on 16 November 2017 by the Ministry of Economic Development, Ministry of Interior, Ministry of Foreign Affairs and International Cooperation available at <https://investorvisa.mise.gov.it/images/documenti/Manuale-Operativo-Investor-Visa-for-Italy-ITA.pdf> (Operative Guidelines).

⁷ Ministry of Interior website, ‘Visa and Residence Permit’, available at <http://www.interno.gov.it/it/temi/immigrazione-e-asilo/modalita-dingresso/visto-e-permesso-soggiorno>.

⁸ The members are: the Director General for Industrial Policy, Competitiveness and Small and Medium Enterprises representing the Ministry of Economic Development and acting as the chairman of the Committee; a representative of the Ministry of the Interior; a representative of the Ministry of Foreign Affairs and international Cooperation; a representative of the Financial Intelligence Unit for Italy; a representative of the Italian Economic Police, Special Currency Police Unit; a representative of the Italian Revenue Agency; and a representative of the Italian Trade Agency. If the approval application relates to philanthropic donations, the Committee also includes, as full members: a representative of the Ministry of Cultural Heritage and Activities and Tourism, if the donation relates to culture or recovery of cultural or landscape heritage and a representative of the Ministry of Education, Universities and Research, if the sector concerned relates to education and scientific research.)

Conditions and procedure

Conditions

The **entry and residence for periods longer than three months** is allowed to third country nationals who intend to:⁹

- **Invest at least EUR 2,000,000 in bonds issued by the Italian Government** and that are maintained for at least two years, but only under the condition that they prove to be holders and beneficiaries of such amount¹⁰ and that it is available and transferable to Italy; or
- **Invest at least EUR 1,000,000 in instruments representative of the capital of a company (e.g. company shares) that is operating in Italy** that are maintained for at least two years or an investment of **at least EUR 500,000**, if this **company is an innovative start-up** registered in the special section of the business register.¹¹ Also, in this case, investors need to prove to be holders or beneficiaries of at least EUR 1,000,000 and that such amount is available and transferable to Italy; or
- Make a **philanthropic donation of at least EUR 1,000,000 in support of a project of public interest**, in the areas of culture, education, management of immigration, scientific research, recovery of cultural heritage and landscape.

In addition to these conditions, the third country national should present a **written declaration** in which they undertake to use these funds to make this investment or philanthropic donation **within three months from the date of entry into Italy**. They also need to prove that they have **sufficient resources**, in addition to the abovementioned funds, which are at least above the minimum level envisaged by law for the exemption from participation in health expenditure (currently, the minimum level is at EUR 8,263 (yearly amount)¹²), for their own subsistence during their stay in Italy.¹³

Procedure for an investors' visa

The procedure for the entry and residence of third-country investors starts with the filing of an **application for an investor visa** in Italian or English, to the above mentioned Committee via internet through the standardised template available on the website investorvisa.mise.gov.it.

The application must be accompanied by a copy of a valid travel document and proof of the investment (documentation proving the availability of financial resources to cover the minimum legal amounts, certification of the origin of funds and, where the investment is a philanthropic donation, a written declaration of the characteristics and beneficiaries of the donation). The applicant must also submit his/her **criminal records** declaring his/her situation regarding any **definitive criminal convictions** and to other **pending criminal charges**.¹⁴

The Secretariat of the Committee will first assess whether the application is complete; only complete applications will be submitted for the assessment and consideration of the Committee. Where documents are missing, applicants have 30 days to provide the supplementing documentation.¹⁵

⁹ Article 26-bis(1) TUI.

¹⁰ Being a holder means that the documentary evidence required to prove the financial availability is directly associated to the applicant (e.g. s/he is the owner of the bank account in which the sum is deposited). Being a beneficiary means that s/he has the legal capacity to dispose of those funds.

¹¹ According to Article 25(8) of Law Decree n. 179 of 18 October 2012, the Chambers of commerce, industry, crafts and agriculture set up a special section of the Business Register, in which the innovative start-ups must be registered in order to be eligible for the application of the provision promoting their development.

¹² Information provided on the website www.nuovicittadini-prefto.it and update to January 2018 with regard to the entry and stay of highly qualified workers. No further information specifically concerning investors was identified.

¹³ Article 26-bis(1) TUI.

¹⁴ Operative Guidelines.

¹⁵ Information gathered through consultation with national stakeholder (Policy Advisor on Innovation and Startups, Italian Ministry of Economic Development, Directorate-General for Industrial Policy, Competitiveness and SMEs, competent authority, 5 July 2018).

In case of positive assessment, the Committee forwards, within 30 days from the day of submission of the application, the **clearance** to the competent diplomatic or consular office for the issuance of the visa for investors with the **express indication ‘investor Visa’**.¹⁶

Procedure for an investors’ residence permit

Once the investor has obtained the visa, and once s/he has entered the country, s/he has to obtain a residence permit which would **bear the words ‘for investors’ and is valid two years**.¹⁷ For such purpose, **the application must be filed within eight working days from the date of entry in Italy**.

To apply for a residence permit, foreign investors must **prove** that they have a **place of residence** upon submission of the application which can be proved by for example a rent contract. Furthermore, the fact that an investors’ visa is necessary to obtain a residence permit implies that the investor must be **physically** present in the Italian territory at the time of applying for a residence permit. Italian rules also provide that, to obtain the **renewal** of the permit, **the applicant cannot abandon the Italian territory for a period longer than half of the period of validity of the residence permit**. This implies that **the physical presence** of the investor is required in Italy during the validity of the residence permit, rather than a mere formal residence (e.g. simple registration with the City Hall).¹⁸

The investor has then **three months from the date of entry into the country to make the investment**. The fulfilment of the investment in the indicated time-frame and the legal conditions will be verified by the Committee. If the Committee verifies that such requirements are not met, it will communicate it to the competent Police Headquarter and the permit may be withdrawn before the expiration of its validity.¹⁹

To obtain the residence permit the applicant has to pay the following **fees**:²⁰

- EUR 30.46 for the printing of the electronic document;
- EUR 50.00 for the issue of the residence permit;
- a revenue stamp of EUR 16.00

The **competent authority** -the **territorially competent Police Headquarter**- has 60 days from the filing of the application to issue the residence permit.²¹ However, this term can be shortened by agreement of the representative of the Ministry of Interior at the Committee and the Police Headquarters, who will indicate the specific date of issuance to the applicant. Furthermore, due to the nature of this procedure and the applicant, the procedure is normally streamlined and the term is shortened to a maximum of 30 days since the submission of the application.²²

The residence permit for investors can be **renewed** for further periods of up to **three years** subject to a positive assessment (clearance) by the Committee of the documentation proving that the **investment** has been maintained (e.g. by submitting bank documentation on maintenance of ownership of acquired State bonds, letter confirming the maintenance of the investment by the legal representative of the company in which the investment was made, statement by the done proving that the donation has not been retrieved), under the same conditions set in the law, for the whole duration of the residence permit.²³ If the investor intends to make a new investment (type and amount) replacing the previous one, s/he will have to apply for a new investor permit.²⁴

¹⁶ Article 26-bis(3) TUI.

¹⁷ Article 26-bis(5) TUI.

¹⁸ Operative Guidelines.

¹⁹ Operative Guidelines.

²⁰ Operative Guidelines.

²¹ Article 5(9) TUI.

²² Website Immigrazione, ‘Circular of 18 January 2018, Ministry of Interior. Article 26-bis of the Consolidated Law on Immigration. Entry and stay for investors’ available at <http://www.immigrazione.biz/circolare.php?id=1086>.

²³ Article 26-bis(6) TUI.

²⁴ Operative Guidelines.

The application for an investor's visa or an investor's residence permit will be **turned down** if the legal conditions regarding the investment and the information that must be supplied by the applicant (e.g. criminal background, place of residence, payment of fees, etc.) are not met. According to the general rules on residence permits, their **issuance or renewal can be refused or withdrawn**, when the requirements for entry and stay in the territory of State are missing.²⁵ It is however possible to **appeal to the competent Regional Administrative Tribunal (TAR)** against such decisions.²⁶

Security and ex-post checks

Security checks on the applicant's (criminal) background are carried out at the time of filing the application for an investors' visa. No information was retrieved on whether international databases (e.g. Schengen Information System, Europol and Interpol databases) are consulted when carrying out security checks on the background of the applicant.

At the time of filing the application for an investors' visa, the applicant must prove the **lawful origins of the investment**.²⁷ To this end, the financial institution where the resources have been deposited for the last three months before the application issues the relevant documentation proving the permanence of the money and the applicant presents a declaration attesting the licit origin of the resources. In case the resources have been deposited or invested under the name of the applicant at a financial institution for a period that does not cover all the last three months, the investor visa request must be accompanied by the documentation proving the legal origin of the funds. The **type** of documentation will vary depending on the nature of the funds used to make the investment but, in any case it must indicate the date of the transaction, the sum and the indication of the owner of the funds and of the recipient.²⁸ Such documentation will be **accompanied by the report²⁹ of an independent third-party** expert in legal or accounting matters, who certifies the veracity of the information provided.³⁰ These checks are again carried out by the Committee when an application for an investors' residence permit is filed. In this case, the Committee also verifies that the investment is made within the three months of entry into Italy.

Family members

Within the context of investors schemes, entry into the Italian territory is allowed to the family members of the third country national who holds an investor visa. Family members who can benefit from family reunification are:³¹ a spouse not legally separated; dependent children, including those of the spouse or born out of wedlock, unmarried or legally separated, provided that the other parent, if any, has given his consent; dependent parents; relatives within the third degree, dependent, unable to work according to Italian law; and the natural parent to reunite with his/her minor child legally residing in Italy, who proves, within one year after his/her entry into Italy, that they meet the requirements set below on accommodation and income.

Family members must prove that they have an accommodation (or, in the case of a child under the age of 14 following one of the parents, the consent of the owner of the accommodation in which the child will actually live) and that they have an annual income deriving from lawful sources not less than the annual amount of the social allowance.³²

²⁵ Article 5(5) TUI.

²⁶ Article 6(10) TUI.

²⁷ The lawfulness of the origins of the investment is considered under the Italian legislation standards to consider an investment lawful. Source: Operative Guidelines.

²⁸ Operative Guidelines.

²⁹ The information on the content of this report is not in the legislation nor could it be ascertained due to the impossibility to obtain stakeholder input on this issue.

³⁰ Operative Guidelines.

³¹ Article 29(1) TUI.

³² Article 29(3) TUI. The annual income requirement is increased exponentially depending of the number of family members for whom reunification is requested: the amount is equivalent to once the annual amount of the social allowance if the applicant requests the reunification of one family member, twice if the applicant requests the reunification of two or three family members, three times if the applicant requests the reunification of four or

To enter the Italian territory legally, such **family members** must first obtain **family reunification visa** according to the general rules foreseen in the TUI: the application for a visa to reunite the family, accompanied by the required documentation, is presented to the police station of the place of residence of the investor. The competent police officer, having verified the existence of the requisites above, issues the corresponding decision.³³ After 90 days from the application, the person concerned can obtain an entry visa directly from the Italian diplomatic and consular offices, upon presentation of the copy of the documents marked by the police station, which shows the date of submission of the application and related documentation.³⁴ Once the family member has legally entered territory with a visa, they can obtain the corresponding **residence permit**, following the same procedure examined above. The residence permit granted for family reason has the same length as the residence permit of the investor and it can be renewed together with it.³⁵

Monitoring of the proceedings and the authorities involved

There is **no cap** to the applications that can be filed for residence by investors under the Italian legal framework.

Regarding the **monitoring** system in Italy, the electronic platform through which applications are lodged allows to track all data concerning the programme. Such data is registered by the Italian Ministry of Economic Development. Regarding the **scrutiny** of the authorities involved in the application procedure, every single member of the Committee in charge of assessing the application is subject to the internal control mechanism of the Ministry they are appointed by.³⁶

Rights

Foreign investors who reside in Italy enjoy the **right** to equal treatment.³⁷ Pursuant to Title V of the TUI, third-country nationals that are regularly residing in Italy have the right to: recognition for professional qualification, professional development, education and access to universities, social integration, and social assistance. It is assumed that the rules relating to other fields e.g. access to labour market, social welfare, rights arising from pension, health insurance that are applicable to third country nationals who are employees or self-employed may also be applied to investors.

Under Article 29 TUI, the following **family members** may apply for family reunification of their spouse, their dependent children, dependent parents, relatives within the third degree who are unable to work according to the Italian law. If applicable, family members must first request an entry visa and, once they have obtained it, they can apply for a residence permit. The residence permit granted for family reasons has the same length as the residence permit of the investor and it can be renewed together with it.³⁸ The residence permit for family reasons allows access to welfare services, schools and professional training, registration in employment lists and the performance of subordinate or autonomous employment positions.³⁹ The same right to equal treatment applies.⁴⁰

more family members. For the purposes of determining income, the total annual income of family members living with the applicant is also taken into account

³³ Article 29(7) TUI.

³⁴ Article 29(8) TUI.

³⁵ Article 30(3) TUI.

³⁶ Information gathered through consultation with national stakeholder (Policy Advisor on Innovation and Startups, Italian Ministry of Economic Development, Directorate-General for Industrial Policy, Competitiveness and SMEs, competent authority, 5 July 2018).

³⁷ Article 43(1) TUI. Information gathered through consultation with national stakeholder (Policy Advisor on Innovation and Startups, Italian Ministry of Economic Development, Directorate-General for Industrial Policy, Competitiveness and SMEs, competent authority, 5 July 2018).

³⁸ Article 30(3) TUI.

³⁹ Article 30(2) TUI.

⁴⁰ Article 43(1) TUI. Information gathered through consultation with national stakeholder (Policy Advisor on Innovation and Startups, Italian Ministry of Economic Development, Directorate-General for Industrial Policy, Competitiveness and SMEs, competent authority, 5 July 2018).

Third-country nationals who fall under the investors' residence scheme and that are resident in Italy may benefit from the **special tax regime for new residents** (non-necessarily investors) holding substantial sources of income abroad.⁴¹ This regime allows new residents to substitute regular taxation on their entire income generated outside Italian territory by paying, once a year, a EUR 100,000 lump sum. The new regime is applicable, upon request, to anybody who is willing to move their tax residence to Italy, but only if they have not been resident in Italy for at least 9 out of the last 10 years.⁴²

Other matters

Link to citizenship

The Italian legal framework provides that holders of a residence permit can obtain the **Italian citizenship**. According to Law n. 91 of 5 February 1992 setting up new rules on citizenship,⁴³ Italian citizenship can be granted to a third country national who has legally resided in Italy for at least 10 years. This is a general rule and it also applies to investors holding a residence permit. Therefore, there is **no specific interlink between investors' residence and** obtaining the Italian **citizenship**; they must comply with the general naturalisation rules (10 years of lawful, uninterrupted residence; clean criminal record; sufficient subsistence means; and oath of allegiance)⁴⁴ without any waiving or alleviation of the conditions.

The citizenship request is submitted to the territorially competent Prefect of the place where the third country national is resident. The request must contain the description of the fulfilment of the general naturalisation criteria described above and all needed authentic documents (proving the fulfilment of such general conditions).⁴⁵

Statistics and economic impact

The research did not identify any legal obligation to disclose information about successful applicants. **No statistical data** on total number of investors' applications for visas and residence permits received, approved and refused is available to date, as the programme was only introduced in the Italian legal system in 2017, thus, less than a year since the drafting of this Report. As soon as data becomes statistically significant, the Ministry plans to release periodic monitoring reports.⁴⁶

There are **no legal or policy measures establishing a mechanism to monitor the economic impact and financial efficiency** of residence permits for foreign investors in Italy. Furthermore, there are no studies on this field either. No estimates and conclusions on the efficiency of investors' residence schemes in Italy can be drawn due to the scarcity of information and the impossibility to obtain input from stakeholders.

⁴¹ Information gathered through consultation with national stakeholder (Policy Advisor on Innovation and Startups, Italian Ministry of Economic Development, Directorate-General for Industrial Policy, Competitiveness and SMEs, competent authority, 5 July 2018).

⁴² Ministry of Economic Development, 'Investor visa for Italy', available at <https://investorvisa.mise.gov.it/index.php/en/home-en/special-tax-regime-for-new-residents>.

⁴³ Law 5 February 1992, n. 91 'New rules on citizenship', OJ n. 38 of 15 February 1992, available at https://www.esteri.it/mae/doc/191_1992.pdf.

⁴⁴ Language and integration are not tested in the procedure for naturalisation. Rather they are required for obtaining a long-term resident status.

⁴⁵ Article 1, Decree of the President of Republic 18 April 1994, n. 362 'Rules on the proceedings for the acquisition of Italian citizenship'.

⁴⁶ Information gathered through consultation with national stakeholder (Policy Advisor on Innovation and Startups, Italian Ministry of Economic Development, Directorate-General for Industrial Policy, Competitiveness and SMEs, competent authority, 5 July 2018).