



•ALERT•

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New rules for the residence card for family members of EU or Italian citizens

Through Law No. 103 of 10 August 2023, the Italian government introduced a new distinction between (i) non-EU family members of EU citizens (or Italians) living in an EU country other than their country of origin and (ii) non-EU family members of EU citizens (or Italians) still living in their country of origin, effectively changing the rules on the residence card.

The distinction introduced was transposed by Article 23, par. 1*bis*, of Legislative Decree 30 of 2007, which contains the regulations on the residency card. This new discipline states that:

- on the one hand, non-EU family members of EU citizens or Italian nationals living in an EU country other than their country of origin, i.e. who have exercised the right to free circulation granted to European Union citizens, continue to be authorised to access the residency card as governed by Articles 10 and 14 of Legislative Decree No. 30 of 2007.
The original regulations remain unchanged and, therefore, the residency card may be renewed for a further 5 years or converted, if the requirements are met, into a permanent residency permit for family members of European Union citizens with a validity of 10 years (pursuant to Article 14 of Legislative Decree 30 of 2007);
- on the other hand, non-EU family members of EU citizens still residing in their country of origin (and therefore, in the Italian case, family members of Italian citizens residing in Italy), will instead be issued with a new type of residency permit for family reasons called '*static*' – to emphasise the fact that they have not exercised their right to free circulation within the European Union – which will be governed by art. 5, par. 8, of Legislative Decree No. 286 of 25 July 1998.
This new residency permit for family reasons has a standard validity of two years, in the same way as the residency permit for family members of an Italian citizen up to the 2nd degree regulated by art. 19, par. 2 of Legislative Decree No. 286 of 25 July 1998,



but which may possibly be issued for a duration of 5 years by fulfilling a series of requirements that are typical of residency permits for family reasons, such as, for example and without claiming to be exhaustive, the availability of sufficient income and, above all, having obtained the certificate of housing suitability for the accommodation where the family member will reside with the Italian citizen.

The residency permit for '*static*' family members may be renewed or converted into a residency permit for work reasons, provided that the requirements are met, but it cannot be converted into a permanent residency card for a family member of an EU citizen. The non-EU family member of an Italian citizen residing in Italy with an Italian citizen may only request an EU residency permit for long-term residents after 5 years of legal residency in the territory of the State (Art. 9 of Legislative Decree No. 286 of 25 July 1998), provided that the relevant requirements are met.

Although, as mentioned, this novelty was introduced last August, the main Italian police headquarters have only recently begun to apply this new distinction: it can therefore be said that the new rules concerning the residence card are now officially in force.

LCA's Immigration team is at your disposal for further clarifications on the above-mentioned issues and will keep you updated on the latest changes in Italian immigration law.

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