



## FOREIGNERS

In accordance with art. 16 of the "general legal provisions" envisioned in Royal Decree No. 262 dated March 16<sup>th</sup>, 1942, "Foreigners are allowed to enjoy the civil rights granted to citizens under condition of reciprocity and without prejudice to provisions envisioned in special laws. This provision also applies to foreign legal persons".

In accordance with Legislative Decree No. 286 dated July 25<sup>th</sup>, 1998, the following parties are equivalent to Italian citizens and consequently exempted from assessment of the condition of reciprocity:

- citizens (individuals or legal persons) belonging to the other member states of the EU as well as citizens of the EEA countries (Iceland, Liechtenstein and Norway);
- non EU nationals residing in the Italian territory and holders of a residence card or a valid residence permit issued for work reasons (employed or self-employed) for running a business, for family reasons, for humanitarian reasons and for study purposes;
- stateless persons resident in Italy for at least three years;
- refugees resident in Italy for at least three years;

## RECIPROCITY PRINCIPLE

According to this principle a foreign citizen not legally residing in Italy can only carry out a deed in Italy if an Italian citizen is permitted to carry that deed in the country from which the foreigner comes.

Art. 17 of the EEC Treaty establishes European Union citizenship which is given to anyone who has the citizenship of a Member State.

EU membership entails prohibition of discriminations based on citizenship and the principle of the primacy of Community Law.

Assessment of the condition of reciprocity, under foreseen circumstances, concerns property aspects and, mostly: real estate purchases, incorporation of companies, company rental and sale, etc.

Assessment is not required for foreign citizens holding a residence card or a valid residence permit as specified above.

The Ministry of Foreign Affairs, in a special area of its website, publishes the list of treaties and agreements between Italy and various countries that govern the rights of their respective citizens (so-called bilateral agreements on the promotion and protection of investments).

## INTERNATIONAL PRIVATE LAW

Law No. 218 dated May 31<sup>st</sup>, 1995 (reform of international private law) governs the personal, family and property relationships of foreign persons who, on many an account, enter into relations with Italian citizens, stipulating that even foreign laws can be applied in the presence of specific conditions and referrals.

Therefore, when Italian and/or foreign citizens linked by marital, family, hereditary relationships etc. take part in deeds the applicable law, which may even be a foreign law, must be assessed.

## FOREIGN DEED

It may be that a foreign citizen must carry out a notarial deed in Italy in which it is impossible for him to participate.

He shall send a power of attorney which may be drawn up in a foreign language.

In this case before it can be used in Italy it must be legalized or provided with Apostille.

The power of attorney must then be accompanied by a translation certified by the Italian consular or diplomatic authorities or by an official translator (usually a translator registered in the Court registers).

If the power of attorney is drawn up by consulates or Italian diplomatic authorities abroad, with the foreign parties in the Italian language, then no other action shall be required. Otherwise it needs, if in a foreign language, to be translated into the Italian language.