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ANALYSES & OPINIONS

***Perspective on “Second Generations” in Today’s Italy:
To Be or not to Be a Citizen?***

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Abstract

Access to citizenship is crucial for many children and young people with a migration background who were born and/or grew up in Italy, usually referred to as “second generations”. Shifting the discourse from migration to citizenship may have important implications for rethinking their path to this legal status in a more inclusive way. In this context, this contribution analyses the proposed Bill no. 255 of 16 January 2023, which departs both from the “organic model” that has traditionally characterised Italian law in this area and from the idea of citizenship as a “reward” for well-integrated migrants.

1. Introduction

The “second generation” is a heuristic category introduced in sociological studies to investigate the intergenerational adaptation of the children of first-generation migrants in the United States. Subsequently transposed into the multidisciplinary field of Migration Studies, this category is increasingly under critical scrutiny even within this disciplinary area, in at least two respects: the risk of overlooking the heterogeneity of the children/young people it covers¹; and the need to extend it to include both children born to migrant families in a destination country and those who arrive there before the age of eighteen. With regard to the latter, for the purpose of empirical research, some studies distinguish between second generation “in the strict sense”, with regard to the children of migrants born in the country of arrival, and “in the broad sense”, in the case of children who arrived before the age of 18 ([ISTAT 2020](#), p. 2020).

In the Italian legal-philosophical field, there is an increasing interest in taking up the broad notion of “second generations” (ROSSI 2023) and in reframing the discourse on them in terms of citizenship rather than migration (PIERINI 2022; CASADEI, PIERINI, ROSSI 2023).

Locating “second generations” within the framework of citizenship means questioning the “migrant/citizen” dichotomy based on the “mobile/stable” assumption (RIGO 2017), which does not help when it comes to second generations. In fact, many of them have never experienced or cannot remember crossing borders in their early childhood; even if they do cross geographical borders later, they grow up in the country of destination. In both cases, their secondary socialisation (i.e. through interaction with agents outside the family, such as friends and teachers) takes place in the country of arrival at an early stage of life. Consequently, they tend to develop a sense of belonging to the host society through everyday relationships and aspire to become fully-fledged members of it.

This view embraces a more inclusive understanding of citizenship for children and youth with a migration background, which appears to be reflected in the proposed [Bill no. 255](#) («Amendments to Law No 91 of 5 February 1992 concerning new provisions on citizenship»), assigned to the Constitutional Committee of the Chamber of Deputies on 16 January 2023.

Against this backdrop, after a brief description of the current legislation on access to Italian citizenship for children/young people with a migration background, this contribution aims to trace the more inclusive idea of citizenship emerging in [Bill no. 255](#).

2. The current legal landscape

¹ For the purposes of this contribution, children are defined as being under the age of eighteen ([UN Convention on the Rights of the Child](#)), while young people are defined as being aged eighteen or over.

Notwithstanding the fact that Italian society is now characterised by the structural component of young people with a migration background, born and/or raised in Italy², the division between “second generations” and their Italian counterparts is still preserved by [Law 91/92](#) («New norms on citizenship»), which is based, with few exceptions, on the *ius sanguinis* principle.

As it is well known, it is precisely for this reason that [Art. 4, paragraph 2](#), – a key provision in this respect - imposes strict conditions on the acquisition of Italian nationality by foreign children born in Italy, unless [Art. 1\(1\)\(b\) and \(2\)](#) apply: *uninterrupted legal residence* until they reach the age of majority; once they turn eighteen, they must declare their intention to acquire Italian citizenship *within one year of reaching the age of majority*.

Art. 33 of [Decree-Law no. 69/2013](#) (converted with amendments by [Law no. 98](#) of 9 August 2013) partially remedied the lack of awareness of this strict time limit for declaring the will to *be(come)* an Italian citizen and the possible *inertia* of families and/or local administrations, by simplifying the procedure for acquiring citizenship for this target group in two ways. With regard to the age limit, civil registrars are obliged to inform young people of their right to acquire Italian citizenship in the six months preceding their eighteenth birthday. In the absence of this information, which promotes knowledge of the law and therefore its effectiveness (here understood in its socio-legal meaning), the declaration can be made after the age of nineteen. Concerning adults’ *inertia*, in the event of omissions attributable to their parents or to the public administration, young people may prove their uninterrupted legal residence by means of any appropriate document, in order to prevent them from suffering a serious restriction of their fundamental rights. Significantly, in June 2023, the Tribunal of Rome ([VIII Sez. Civ., 6 June 2023, R.G. no. 14062/2021](#)), following the settled case-law, reaffirmed that the concept of residence under [Art. 43 of the Civil Code](#) should be understood as habitual abode, a *res facti*, which may be proved by any means if it does not coincide with the results of the civil register. Furthermore, it clarifies that «the right to a valid residence permit at the time of the application for citizenship by election shall not be considered as a constitutive and indispensable element for the granting of the *status civitatis*», in accordance with art. 33 of Decree-Law no. 69/2013.

These measures certainly help the “second generations” of children born in Italy to find their way through the legal and bureaucratic labyrinth that prevents them from acquiring citizenship before the age of eighteen (and even after). Moreover, the aforementioned provisions exclude those who have arrived in the country as minors (with or without their

² According to the data available (1 January 2018), there are 1,316,000 second-generation minors in Italy, including foreigners or Italians by acquisition, representing 13% of the underage population. 75% of them were born in Italy (991,000; second generation “in the strict sense”), [ISTAT 2020](#), p. 11. Data on unaccompanied minors are available on the website of the [Italian Ministry of Labour and Social Policies](#) and are updated twice a year.

families), as their participation in school, training courses, traineeships or other activities bears no relevance. In any case, they spend their childhood and adolescence as “foreigners”, unless one of their parents obtains Italian citizenship and they live together. Moreover, due to the length of the naturalization procedure, which often exceeds the legal time-limit of maximum 3 years, young people turning eighteen are caught in a limbo for years before they (legally) belong to the country and can exercise the full range of rights and duties accorded to citizens.

At the time of writing, four new proposals have been tabled, namely the aforementioned Bill no. 255, which will be analysed below; [Bill no. 314](#), on the initiative of Matteo Orfini; [Bill no. 20](#) (submitted by Simona Malpezzi *et al.*) and [Bill no. 70](#) (submitted by Francesco Verducci *et al.*). None of these proposals have been scheduled for discussion so far and it seems unlikely to happen in the near future, despite a number of social actors (see [here](#) and [here](#)) are calling on political representatives to take action.

De jure condendo, Bill no. 255 is worth analysing as it affords an opportunity to dwell on possible ways of conceiving and realizing a more inclusive idea of citizenship for children/young people with a migration background, and on some tensions with the current understanding of citizenship in Italy.

3. A more inclusive idea of citizenship

The “new” idea of citizenship suggested by Bill no. 255 marks a departure from the traditional Italian view of the recognition of this legal *status* as a “reward” for well-integrated migrants. Rather, it embraces the notion of citizenship as an “incentive” for the process of integration. It also moves away from the “organic model”, evolving from an almost deterministic membership of the community on the basis of blood and descent.

These shifts are reflected in the main changes to Law 91/92 that directly affect children/young people’s access to citizenship and will be analysed in the following. Firstly, the Bill proposes multiple ways of acquiring Italian citizenship for minors present on the territory; secondly, it simplifies requirements and procedures, expressed in different formulas of the *ius soli* and *ius culturae* principles; thirdly, it requires a short period of residence in the country of the applicant’s migrant parents; fourthly, it allows the access to this legal *status* under the age of eighteen; lastly, it does not request the successful completion of primary education in the case of *ius culturae*.

Among the various ways of facilitating the access to citizenship, children born in Italy shall be citizens if one of the parents had a residence permit «[for at least one year at the time of the birth](#)». The short duration of the residence permit would have a significant impact on the most vulnerable children whose parents lack a residence permit of greater duration.

This proposal may raise objections based on concerns about new pull factors for migration, welfare burdens and the idea that a longer period of legal residence is an indicator of a sufficiently stable relationship between the migrant family and Italian society.

Regarding the former two concerns, empirical studies show that prospective migrants tend to prioritise democratic governance and education or employment opportunities, followed by the availability of social services (e.g. Ferwerda and Gest 2021). In its analysis of the financial impact of the proposal discussed during the XVIII legislature, the [Parliamentary Budget Office](#) in 2022 highlighted that previous measures (laws and proposals) regulating the acquisition of Italian citizenship have a negligible impact on the public accounts. Also the impact on welfare would be minimal, as the enjoyment of social and welfare benefits is largely linked to the residence permit to stay in Italy.

As regards to the contention relating to duration of legal residence, there is a strong argument to suggest that a longer period ensures closer ties to State and society. However, [advocates for the rights of migrants](#) have criticised children's access to citizenship being dependent on their parents' length of legal residence. They have particularly objected to the criterion of a [regular permit of at least five years](#) and, even more so, [the EU long-term residence permit](#) (see [here](#) and [here](#)), contained in past bills (e.g., see [here](#)), as well as in pending ones ([Act no. 314](#); [Act no. 70](#)). More specifically, the requirement of a long-term EU residence permit would make access to citizenship for children born in Italy dependent on the economic capacity of their families to meet the strict income and/or housing conditions for obtaining such permit.

Bill no. 255 also proposes the unconditional application of the principle of *ius soli* to children born in Italy to a non-Italian parent who was born in Italy. This provision would help to regularise the legal situation of the descendants of the "second generations" who are currently struggling to obtain citizenship. Since this situation should in itself denote a strong link with the territory, this change in the law may be less opposed.

Furthermore, according to Bill no. 255, Art. 4, paragraph 2, of Law 91/92 should be amended to allow children who have arrived in the country before the age of ten, the possibility to acquire citizenship, even if they were born abroad.

In the same way as those born in Italy, they must have resided legally in the country until they reach the age of majority and can declare their willingness to acquire Italian citizenship within two years of reaching that age, regardless of the schooling criteria.

This would help those who arrived in Italy under the age of ten and who do not meet the criteria for citizenship on the basis of the *ius culturae* (or *ius scholae*) principle to obtain it, as [ASGI](#) recommended in the past.

As for the principle of *ius culturae*, regardless of the *status* of the parents, citizenship would be acquired by anyone – born in Italy or arriving in Italy – who has followed the education or training process described in [Art. 2-bis](#) of the Bill, without the requirement of a minimum period of attendance or successful completion in the case of primary education.

The latter requirement, in relation to children born in Italy or who arrived before the age of twelve, was included in the text discussed in June 2022 and still appears in other bills currently presented, while [Bill no. 70](#) also requires the successful completion of a school cycle in Italy for those who arrived before the age of eighteen. Making the recognition of citizenship dependent on a meritocratic criterion may have the effect of excluding the most vulnerable children, taking into account the much-discussed structural shortcomings of the Italian school system and the concrete support that children may receive from their families at school.

As for the procedural aspects, up to the age of eighteen, citizenship is acquired through a declaration made by a parent or a person with parental responsibility to the civil registrar of the child's place of residence. Within one year of reaching the age of majority (in the case of acquisition under the *ius soli* principle) and within two years (in the case of acquisition under the *ius culturae* principle), young people may renounce Italian citizenship if they hold another citizenship. In the absence of a declaration of will by the parents or the persons exercising parental responsibility, at the age of eighteen they acquire citizenship without further conditions if they request it (in the case of *ius soli*) or if they declare their intention to acquire Italian citizenship (in the case of *ius culturae*), within two years of reaching the age of majority (in both cases).

It is foreseeable that these provisions may encounter the same reluctance as in the past, articulated around the children's lack of awareness of *becoming* Italian citizens through an act that necessarily cannot be carried out in the first person until they reach the age of eighteen.

Lastly and on different note, this bill, like [Acts no. 314](#) and [no. 70](#), proposes to allow foreign parents who have acquired Italian citizenship to transfer it to their children, provided that they have not lost parental responsibility over them, and on condition that the children reside in the country (but irrespective of actual cohabitation).

4. Concluding remarks

If adopted, the ambitious bill examined above would represent a turning point for many children and young people born and/or raised in Italy, including a certain percentage of unaccompanied foreign minors³. On the one hand, it would reduce the risk of differentiating

³ A diachronic reading of the available data shows that unaccompanied minors who arrive in Italy as adolescents represent an increasingly higher percentage than those who arrive earlier: see <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/pagine/dati-minori-stranieri-non-accompagnati>

children's access to citizenship on the basis of their parents' legal *status*. On the other hand, it would allow children who would not meet the criteria of the *ius scholae* to acquire it.

Even if provisions based on citizenship as an "incentive" for the process of integration of young people can help them to *be(come)* members of Italian society with their own perspectives and plans, such a law should be supported by policy measures that effectively enable the socialisation of these new citizens in school and out-of-school settings.

A number of good practices carried out within the civil society (see [here](#) and [here](#)) in recent years are proving useful in promoting and/or reinforcing the active participation and social inclusion of the second generation (in the broad sense), thus encouraging "citizenship practices". On the basis of these initiatives, strengthening cooperation between the State and the intermediate space of civil society should be a major policy concern, as it can increase the opportunities for second generations to share a common project of citizenship and to exercise their rights and duties.

FURTHER READINGS

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