

Civil registry documentation – Italy

Introduction

- 2.1 Article 116 of the Italian Civil Code provides that a foreigner who wishes to marry in Italy has to lodge a declaration by the competent authority of his or her country saying that there are no impediments to the marriage.¹
- 2.2 As no single agency exists in Australia that can provide such a statement², an alternative was established ‘whereby the requirements of the Italians can be met without the declaration.’³

Origin and features of the agreement

- 2.3 The Committee was told that Italy is a popular choice for Australians wishing to marry overseas.⁴ The Committee understands that the impetus for the Agreement was the number of problems experienced by Australians who had arrived in Italy wishing to marry, and had found that there were problems in complying with the Italian Civil

1 Mr Russell Wild, *Transcript of Evidence*, 13 February 2004, p. 1.

2 National Interest Analysis (NIA), para. 4.

3 Mr Russell Wild, *Transcript of Evidence*, 13 February 2004, p. 1.

4 Mr Russell Wild, *Transcript of Evidence*, 13 February 2004, p. 1.

Code⁵; couples had then approached the Australian Embassy for assistance. This

has caused quite a workload for [Australia's] embassy in Rome, both in dealing with inquiries from Australians who get over there not understanding the situation properly and also in dealing with the various marriage offices in Italy when problems arise.⁶

- 2.4 The Committee understands that this Agreement will simplify the procedure, such that Australians wishing to marry in Italy are required to submit the following documents to the appropriate Italian registrar:
- A statutory declaration made by the Australian citizen, in the presence of the appropriate Australian Consular Officer in Italy, stating that according to the laws of Australia, there are no impediments to the marriage he/she intends to make in Italy.⁷
 - Documents which may indirectly prove that according to the laws of Australia, there are no impediments to the marriage. If no such documents are available, in addition to the above statutory declaration, the Australian citizen must produce an 'atto notorio' (a sworn declaration made by the applicant in the presence of four witnesses) which states that according to the laws of Australia, there are no impediments to the marriage that he/she intends to make. The 'atto notorio' should be made in the presence of a competent Italian authority, that is, an Italian registrar (in Italy) or an Italian consular authority (overseas).⁸
- 2.5 The four witnesses required for the 'atto notorio' must be known to the applicant and have no 'direct interest' in the marriage.⁹
- 2.6 The National Interest Analysis states that there are no financial costs to Australia that will arise as a result of this agreement.¹⁰
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5 Mr Russell Wild, *Transcript of Evidence*, 13 February 2004, p. 2: 'Because of [Australia's] federal structure, and the responsibility for the register of marriages, which I understand is with the states, it has not proved possible for Australians to produce a declaration from a single competent authority.'

6 Mr Russell Wild, *Transcript of Evidence*, 13 February 2004, p. 1.

7 Exchange of letters between Australia and Italy concerning Australian citizens wishing to marry in Italy.

8 Exchange of letters between Australia and Italy concerning Australian citizens wishing to marry in Italy.

9 Department of Foreign Affairs and Trade, *Submission*.

10 NIA, para. 8.

Future action

- 2.7 The Committee was advised that the general policy of the Department of Foreign Affairs is that agreements regarding Australians marrying overseas generally have less than treaty status.¹¹ Thus, Australia is not a Party to any other treaties of this type and no further agreements of this nature are anticipated with any other country.¹²

Conclusion and Recommendation

- 2.8 The Committee agrees that this Agreement will simplify the process for Australians wishing to marry in Italy and reduce the workload of the Australian embassy in Rome in dealing with the relevant Italian authorities regarding this matter.

Recommendation 1

The Committee supports the *Exchange of letters constituting an Agreement between the Government of Australia and the Government of the Italian Republic on the Civil Registry Documentation to be submitted by Australian Citizens Wishing to Marry in Italy, done at Rome on 10 February and 11 April 2000* and recommends that binding treaty action be taken.

11 Mr Alan Fewster, *Transcript of Evidence*, 13 February 2004, p. 2.

12 Mr Russell Wild, *Transcript of Evidence*, 13 February 2004, p. 2.