



REPUBLIC OF ITALY

IN THE NAME OF THE ITALIAN PEOPLE

The Court of Bari, Specialized Section in Immigration, International Protection, and Free Movement of EU Citizens, in the person of Magistrate Dr. Enzo Davide Ruffo;

Acknowledging that the ruling is issued following the hearing on 22.02.2024, replaced by the deposit of written submissions, as previously ordered by decree duly communicated to the appointed Defenders; having read the written submissions and completed the preliminary procedural checks; verified the regular constitution of the parties; examined the results of the evidentiary activities; has issued the following

JUDGMENT

In the proceeding registered under no. 5051/2023 R.G., regarding the recognition of Italian citizenship, promoted by:

1. [REDACTED]
2. [REDACTED]

all represented and defended by lawyer Salvatore Aprigliano, as per the power of attorney in the records

Petitioners

MINISTRY OF THE INTERIOR, in the person of the current Minister, represented and defended ex lege by the District Attorney's Office of Bari;

Respondent

And with the intervention of
the Public Prosecutor at the Court of Bari

FACTS AND REASONS FOR THE DECISION

- I. With an application, ex art. 281 undecies bis c.p.c., filed on 06.04.2023, the petitioners, indicated in the preamble, after stating that they are direct descendants of their common ancestor, [REDACTED], an Italian citizen born [REDACTED] (Italy) on [REDACTED], who subsequently emigrated to the United States and never naturalized as an American citizen, requested the recognition of Italian citizenship by iure sanguinis.
- II. [REDACTED]
- III. Therefore, the petition must be accepted, declaring the petitioners Italian citizens and ordering the Ministry of the Interior to take the consequent measures.
- IV. Therefore, pursuant to Article 1 of Law No. 555 of June 13, 1912, repealed by Article 26 of Law No. 91 of February 5, 1992, which was in force when the ancestor of the petitioners married, "A person is a citizen by birth if their father is a citizen."
- V. Given this, it must be emphasized that for the recognition of citizenship by iure sanguinis, it is sufficient to demonstrate direct descent from the Italian citizen ancestor. On the other hand, it is the responsibility of the Administration to prove the existence of any interrupting circumstances, such as the loss of citizenship or the naturalization of the ancestor or one of the ascendants.
- VI. [REDACTED]
- VII. In the present case, it should be noted that from the documentation produced by the petitioner, which was not specifically contested by the Administration, it is evident that the petitioners are direct descendants of their common ancestor, [REDACTED], an Italian citizen, born [REDACTED], who subsequently emigrated to the United States and never naturalized as a U.S. citizen, a circumstance claimed by the petitioner and also not contested by the Ministry.
- VIII. [REDACTED]

[REDACTED]

- IX. On this point, see Cass. 22271/2016: "*Pursuant to Article 11 of Law No. 91 of 1992, the acquisition of foreign citizenship, even if accompanied by the transfer of residence abroad, does not necessarily imply the loss of Italian citizenship unless the individual renounces it with a conscious and voluntary act. Indeed, as can be seen from Article 4 of the Constitution, Article 15 of the Universal Declaration of Human Rights of December 10, 1948, and the Treaty of Lisbon of December 13, 2007, every person has a permanent and inalienable subjective right to the status of citizen, which can be judicially asserted at any time and can only be lost by renunciation.*"
- X. See also Cass. 6220/1981: "THE ACQUISITION OF FOREIGN CITIZENSHIP, EVEN IF ACCOMPANIED BY THE TRANSFER OF RESIDENCE ABROAD, DOES NOT NECESSARILY IMPLY THE LOSS OF ITALIAN CITIZENSHIP, WHICH, PURSUANT TO ARTICLE 8 OF LAW NO. 555 OF JUNE 13, 1912, REQUIRES THAT SUCH ACQUISITION WAS 'SPONTANEOUS', OR, IF IT OCCURRED 'WITHOUT THE WILLINGNESS' OF THE INDIVIDUAL, THAT IT WAS FOLLOWED BY A DECLARATION OF RENUNCIATION OF ITALIAN CITIZENSHIP. THEREFORE, THE SUBSEQUENT ACQUISITION OF FOREIGN CITIZENSHIP CANNOT BE INVOKED BY ITSELF AS A CAUSE OF THE LOSS OF ITALIAN CITIZENSHIP, REQUIRING THE ALLEGATION AND PROOF OF THE AFOREMENTIONED CIRCUMSTANCES."
- XI. Ultimately, on one hand, the petitioners have proven direct descent from their common ancestor [REDACTED], an Italian citizen, and on the other hand, the Administration, which did not contest the legitimacy of the petition, has neither alleged nor proven the existence of interrupting or prohibitive circumstances to the acquisition of citizenship *iure sanguinis* by the petitioners. **Therefore, the petitioners must be declared Italian citizens.**
- XII. Regarding the regulation of expenses, considering, on one hand, the particularity of the legal issues addressed and, on the other hand, the procedural attitude adopted by the Administration, which, although it appeared in court, did not oppose the petition, and considering, as noted by the Ministry, the high number of applications submitted administratively—a well-known fact that makes it practically impossible for the Administration to process all applications within the time limits set by law—there are other serious and exceptional reasons, pursuant to Article 92, paragraph 2, c.p.c., as rewritten by the Constitutional Court with judgment No. 77/2018, to order the full compensation of costs between the parties.

FOR THESE REASONS

The Court of Bari, Specialized Section in Immigration, International Protection, and Free Movement of EU Citizens, definitively ruling on the application filed by the petitioners on 06.04.2023, decides as follows:

A. ACCEPTS the application and DECLARES that:

1. [REDACTED]
2. [REDACTED]

are Italian citizens by descent from their Italian ancestor who emigrated abroad and never lost Italian citizenship.

B. ORDERS, consequently, the Ministry of the Interior and the Civil Status Officer territorially competent to proceed with the registrations, transcriptions, and annotations in the civil status registers, of the citizenship of the persons indicated in section A), and to make any necessary communications to the competent consular authorities;

C. COMPENSATES the legal costs entirely between the parties.

Thus decided in Bari on 29.02.2024.

The Judge

Enzo Davide Ruffo