



**ORDINARY COURT OF CATANZARO**

**SPECIALIZED SECTION IN IMMIGRATION, INTERNATIONAL PROTECTION, AND  
FREE MOVEMENT OF EU CITIZENS**

The Court, in a single-judge composition by Judge Dr. Graziella Costantino, has issued the following

**ORDINANCE**

in the first-degree civil case registered under no. 4294 R.G.A.C. of the year 2022, concerning  
“citizenship rights”

**BETWEEN**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

represented and defended, by proxy attached to this act, by lawyer Salvatore Aprigliano, Tax Code: PRGSVT74R31F205H, of the Milan Bar with an office in Milan, Via Fabio Filzi no. 41. The petitioner expressly declares, for the purposes and effects of Art. 125, co. 1, c.p.c. and Art. 136, co. 3 c.p.c., to receive court communications at the following fax number: 02.73.95.07.15 and/or the PEC address: salvatore.aprigliano@milano.pecavvocati.it, and elects domicile at the lawyer’s office in Milan, Via Fabio Filzi no. 41.

- PETITIONERS -

**AND**

The Ministry of the Interior in the person of the current Minister, legal representative pro tempore domiciled in Rome Via Dei Portoghesi, 12 at the General State Attorney's Office (Tax Code: 80224030587 – pec: ags.rm@mailcert.avvocaturastato.it) representing and defending, and/or at the District State Attorney's Office of Catanzaro (Tax Code 80004580793 - pec: ads.cz@mailcert.avvocaturastato.it).

- RESPONDENT -



ALSO,

The Public Prosecutor in the person of the Attorney General of the Republic.

**Subject:** Recognition of Italian citizenship “iure sanguinis.”

### PROCEEDINGS

With an application under Art. 702 bis c.p.c. duly notified, the current petitioners summoned the Ministry of the Interior before this Court seeking a declaration of their status as Italian citizens as direct descendants of an Italian ancestor, stating that the ancestor never lost Italian citizenship and validly transmitted it to his descendants.

The petitioners claimed to be direct descendants of:

[REDACTED]

Although [REDACTED] lost citizenship through his father, who naturalized before his birth, he retained Italian citizenship through his mother [REDACTED], who never naturalized as an American.



They also represented the impossibility for the petitioners to have their Italian citizenship recognized administratively before the Competent Italian Authority, as the administration's position is to deny citizenship recognition to such descendants.

The Ministry of the Interior appeared in court and, in the event of the recognition of the petition's validity, requested the costs of the trial be compensated.

The Public Prosecutor expressed a favorable opinion on the acceptance of the claim.

## REASONS FOR THE DECISION

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**On the merits, the claim is well-founded and therefore accepted.** In this case, the petitioners acted in court for the recognition of their status as Italian citizens by virtue of their common descent from an Italian citizen who emigrated to the United States.

Reference must be made here to the Constitutional Court Judgment no. 87 of 1975, which declared the constitutional illegitimacy of Art. 10, third paragraph, of Law no. 555 of June 13, 1912 (in force *ratione temporis*), insofar as it provided for the loss of Italian citizenship regardless of the woman's will.

This rule, in fact, provided for the automatic loss of a woman's citizenship by the mere fact of marriage, regardless of her will and even if she expressed a contrary will, subjecting the loss to a condition dependent on the husband's legal system and thus foreign to the Italian one, i.e., that in the foreign system there is a rule that attributes to the Italian woman the citizenship of the man by virtue of marriage. The Constitutional Court clarified that the rule in question expresses a conception of the woman as legally inferior to the man, in clear contrast with Constitutional principles that attribute equal social dignity and equality before the Law to all citizens without distinction of sex and establish marriage on the moral and legal equality of spouses, creating an unjustified disparity of treatment between men and women (contrary to Art. 3 of the Constitution), on the one hand, and not benefiting family unity as intended by Art. 29 of the Constitution, on the other hand, but rather conflicting with it, as it could induce the woman, to avoid losing a job for which Italian citizenship is required or to



avoid depriving herself of the legal protection reserved for Italian citizens or the right to access public offices and positions, not to perform the legal act of marriage or to dissolve it once performed.

Moreover, the Supreme Court of Cassation in Joint Sections, with judgment no. 4466/2009, definitively clarified that “Italian citizenship must be recognized, in judicial settings, to a woman who lost it under Art. 10 of Law no. 555 of 1912, for having married a foreign citizen before January 1, 1948, regardless of the declaration made by the interested party pursuant to Art. 219 of Law no. 151 of 1975.”

With this decision, the Court of Cassation clarified that the loss of Italian citizenship, in the absence of the will of the citizen herself, is an effect that contrasts with the principle of gender equality and the moral and legal equality of spouses (Arts. 3 and 29 of the Constitution).

[REDACTED]

The circumstance that the facts concerning the loss of Italian citizenship occurred before 1948, the year of the Constitution's entry into force, is not an obstacle to acquiring citizenship, given what was stated by the Supreme Court in Joint Sections decision no. 4466/2009, according to which, “as a result of the judgments of the Constitutional Court no. 87 of 1975 and no. 30 of 1983, the Italian citizenship is reacquired from January 1, 1948, also by the child of a woman in the described situation, born before that date and under the Law no. 555 of 1912, determining the parent-child relationship, after the Constitution came into force, the transmission to him of the status of citizen, which would have been hit by right without the discriminatory law” and this regardless of the declaration made by the interested party pursuant to Law no. 151 of 1975, Art. 219, which is declaratory in nature and not constitutive of status.

Furthermore, recent twin judgments of the Joint Sections of the Supreme Court of Cassation no. 25317/2022 and no. 25318/2022, published on August 24, 2022, which the Court itself defined as “epochal” considering the wide range of affected subjects, should also be recalled here.

In these twin judgments, the Joint Sections of Cassation ruled on the effects of the so-called “*great naturalization*” decree of 1889, which had attributed Brazilian citizenship to the ancestors and their descendants who settled in Brazil with a massive provision. The Court, reversing the judgment of the Rome Court of Appeal, definitively resolved the question of whether the status of citizen can be waived merely by belonging to another country and in the absence of an expression of will, or whether the waiver must be expressly manifested, establishing the following legal principles:

Courtesy translation, without legal validity. For all legal purposes, only the original Italian version of the judgment is valid.



Citizenship by birth is acquired as an original right “*iure sanguinis*”, and the status of citizen, once acquired, is permanent, imprescriptible, and justiciable at any time based on the simple proof of the acquisition fact integrated by birth from an Italian citizen. The burden of proving the acquisition fact and the transmission line is on the applicant. This status cannot be lost unless through voluntary renunciation or the operation of a legal cause resulting from an actual and concrete act of will or the acceptance of conditions determined by other States (naturalization).

The principle established by the Italian law, including Law no. 91 of 1992, is that the acquisition of foreign citizenship does not automatically imply the loss of Italian citizenship unless the naturalization process has required the formal renunciation of the previous citizenship.

This legal orientation now consolidated in the jurisdiction allows for the recognition of citizenship rights to all descendants of emigrated Italians whose ancestors never formally renounced their original citizenship, whether through the administrative or judicial path.

Therefore, this Court, applying the aforementioned principles, recognizes the petitioners as Italian citizens by descent from their Italian ancestors who emigrated abroad and never lost their Italian citizenship, and declares the Ministry of the Interior's plea for costs' compensation.

### FOR THESE REASONS

The Court of Catanzaro, Section specialized in immigration, international protection, and free movement of EU citizens, pronouncing definitively on the application under Art. 702 bis c.p.c. filed by:

[REDACTED]

### AGAINST

The Ministry of the Interior, as stated in the epigraph,  
and with the intervention of the Public Prosecutor,

1) ACCEPTS the petition and consequently declares the Italian citizenship status of

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 2) DECLARES that the petitioners are Italian citizens by “*iure sanguinis*.”
- 3) FIXES the court costs according to the following criteria:



Catanzaro, 5 February 2024

The Judge

Dr. Graziella Costantino

