



ITALIAN REPUBLIC

IN THE NAME OF THE ITALIAN PEOPLE

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

noting that the decision is rendered following the hearing of 13.09.2024, set for oral discussion and decision according to Article 281 sexies of the Italian Code of Civil Procedure, replaced pursuant to Articles 127, last paragraph, and 127 ter of the Code of Civil Procedure, by the electronic filing of written notes, as previously ordered with a decree duly communicated to the constituted Defenders;

JUDGMENT

in the proceedings registered under No. [REDACTED] R.G., concerning the recognition of Italian citizenship, brought by:

[REDACTED], (C.F. [REDACTED]), born in [REDACTED] (USA) on [REDACTED];

[REDACTED], (C.F. [REDACTED]), born in Washington (USA) on [REDACTED], in her own right and as a parent exercising parental responsibility over the minor children: [REDACTED], C.F. [REDACTED], born in [REDACTED] (USA) on [REDACTED] and [REDACTED], C.F. [REDACTED], born in [REDACTED] (USA);

[REDACTED], (C.F. [REDACTED]), born in [REDACTED] (USA) on [REDACTED], in his own right and as a parent exercising parental responsibility over the minor children: [REDACTED], C.F. [REDACTED], born in [REDACTED] (DE) on [REDACTED] and [REDACTED], C.F. [REDACTED], born in [REDACTED] (USA) on [REDACTED];

all represented and defended by lawyer Salvatore Aprigliano, as per the power of attorney on file;

- plaintiff - against

MINISTRY OF THE INTERIOR, represented by the Minister pro tempore, legally represented and defended by the State Attorney's Office of Bari;

- defendant -

and with the intervention of the

PUBLIC PROSECUTOR'S OFFICE AT THE COURT OF BARI

- intervener ex lege -

PROCEEDINGS AND REASONS FOR THE DECISION

I.1 - With a petition, under Article 281 undecies bis of the Code of Civil Procedure, filed on 27.11.2023, the plaintiffs, as identified in the heading, after claiming to be direct descendants of their common ancestor, [REDACTED], an Italian citizen by birth, born in [REDACTED] ([REDACTED]) on [REDACTED] ([REDACTED]), sought recognition of Italian citizenship *iure sanguinis*.¹

I.2 - By decree issued on 11.01.2024, the hearing for the parties' appearance was set for 22.04.2024, replaced according to Article 127 ter of the Code of Civil Procedure by the filing of written notes, as previously ordered with a decree duly communicated to the constituted Defenders, in relation to which only the plaintiff exercised their right of defense by filing written notes on 17.01.2024, insisting on the acceptance of the claim.

I.3 - The Ministry of the Interior appeared through the State Attorney's Office of Bari, with a defense memorandum filed electronically on 26.04.2024, in which, without contesting

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

the factual and legal grounds for the recognition of Italian citizenship in favor of the plaintiffs, it merely requested, in the event of the claim's acceptance, the reimbursement of court costs.

I.4 - The Public Prosecutor's Office did not intervene nor communicated any objections to the acceptance of the claim.

II.1 - On the merits, the claim, being well-founded, must be accepted for the following reasons.

II.2 - As per Article 1 of Law No. 555 of 13.06.1912, repealed by Article 26 of Law No. 91 of February 5, 1992, in force when the ancestor of the plaintiffs fathered the first descendant, "*A child born to an Italian father is an Italian citizen by birth.*"

II.3 - Therefore, it must be highlighted that for the recognition of citizenship *iure sanguinis*, it is sufficient to prove direct descent from the Italian citizen ancestor, while it is the responsibility of the Administration to demonstrate the existence of any interruptions, such as the loss of citizenship or the naturalization of the ancestor or any of the ascendants.

II.4 - See, most recently, Cass. Joint Sections No. 25317/2022: "*Since Italian citizenship by birth is acquired iure sanguinis and the status of citizenship, once acquired, is permanent, imprescriptible, and claimable at any time, anyone who has an interest in obtaining citizenship is only required to prove the acquisition and the line of transmission; conversely, it is up to the opposing party, who has raised an exception, to demonstrate any interruption in the line of transmission iure sanguinis stemming from the ancestor.*"

I.5 - In this case, it should be noted that the documentation submitted, whose content was not specifically contested by the Administration, shows that the plaintiffs are direct descendants of their common ancestor, [REDACTED], an Italian citizen by birth, born in [REDACTED] (Italy) on [REDACTED] ([REDACTED]), who later emigrated to the United States.

II.6 - It should be particularly noted that from the records produced by the plaintiff, it emerges that:

- 1) from the union between [REDACTED] and [REDACTED], a son, [REDACTED] ([REDACTED]), was born in [REDACTED] on [REDACTED];
- 2) this son later fathered the current plaintiff, [REDACTED], with Ms. [REDACTED], born in [REDACTED] on [REDACTED] ([REDACTED]);

- 3) [REDACTED], during the relationship with Ms. [REDACTED], gave birth to the current plaintiffs [REDACTED] ([REDACTED]), who took the surname [REDACTED] after marrying [REDACTED], and also [REDACTED] ([REDACTED]);
- 4) [REDACTED], after marrying [REDACTED], fathered the current plaintiffs [REDACTED] and [REDACTED], born respectively on [REDACTED] ([REDACTED]) and [REDACTED] ([REDACTED]);
- 5) Finally, [REDACTED], with [REDACTED], gave birth to the current plaintiffs [REDACTED] and [REDACTED] on [REDACTED] ([REDACTED]) and [REDACTED] ([REDACTED]), respectively.

II.7 - It should also be emphasized that the fact that the descendants of the ancestor [REDACTED] later settled in the United States and acquired U.S. citizenship does not preclude the recognition of Italian citizenship. To determine the loss of Italian citizenship and thus interrupt the acquisition *iure sanguinis* in favor of the renouncer of Italian citizenship, it is necessary that the interested party consciously and voluntarily renounced their citizenship, a circumstance that, in this case, was the responsibility of the Administration to allege and prove.

II.8 - See Cass. 22271/2016 on this matter: “According to Article 11 of Law No. 91 of 1992, the acquisition of foreign citizenship, even if accompanied by the relocation of residence abroad, does not necessarily imply the loss of Italian citizenship, unless the individual voluntarily and knowingly renounces it. In fact, as derived 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 imprescriptible subjective right to citizenship, which can be asserted through legal action at any time and can only be lost through renunciation.”

II.9 - Also see Cass. 6220/1981: “THE ACQUISITION OF FOREIGN CITIZENSHIP, EVEN IF ACCOMPANIED BY THE RELOCATION OF RESIDENCE ABROAD, DOES NOT NECESSARILY IMPLY THE LOSS OF ITALIAN CITIZENSHIP, WHICH REQUIRES, UNDER ARTICLE 8 OF LAW JUNE 13, 1912 NO. 555, THAT SUCH ACQUISITION OCCURS 'SPONTANEOUSLY' OR, IF IT OCCURS 'WITHOUT THE WILL' OF THE INDIVIDUAL, THAT IT IS FOLLOWED BY A DECLARATION OF RENUNCIATION OF ITALIAN CITIZENSHIP. THEREFORE, THE SUBSEQUENT ACQUISITION OF FOREIGN CITIZENSHIP CANNOT IN ITSELF BE INVOKED AS A CAUSE FOR THE LOSS OF

ITALIAN CITIZENSHIP, REQUIRING THE ALLEGATION AND DEMONSTRATION OF THE SPECIFIED CIRCUMSTANCES.”

II.10 - In conclusion, given that the plaintiffs have proven their direct descent from the common ancestor [REDACTED], an Italian citizen, and the Administration has neither contested the merits of the claim nor demonstrated any interruptions or obstacles to the acquisition of citizenship **iure sanguinis** by the plaintiffs, the latter must be declared Italian citizens.

III.1 - As for the regulation of costs, considering, on the one hand, the procedural attitude of the Administration, which, while appearing in court, did not oppose the claim, and considering, on the other hand, 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 proceedings within the deadlines provided by law—there are other serious and exceptional reasons, pursuant to Article 92, paragraph 2, of the Code of Civil Procedure, as amended by Constitutional Court decision No. 77/2018, to order the complete reimbursement of costs between the parties.

FOR THESE REASONS

The Court, Specialized Section in Immigration, International Protection, and Free Movement of European Union Citizens, definitively deciding on the request for recognition of citizenship *iure sanguinis*, filed on 27.11.2023, orders:

A. GRANTS the request, DECLARING that:

- a. [REDACTED], (C.F. [REDACTED]), born in [REDACTED] (USA) on [REDACTED];
- b. [REDACTED], (C.F. [REDACTED]), born in [REDACTED] (USA) on [REDACTED];
- c. [REDACTED], (C.F. [REDACTED]), born in [REDACTED] (USA) on [REDACTED];
- d. [REDACTED], (C.F. [REDACTED]), born in [REDACTED] (USA) on [REDACTED];
- e. [REDACTED], (C.F. [REDACTED]), born in [REDACTED] (USA) on [REDACTED];
- f. [REDACTED], (C.F. [REDACTED]), born in [REDACTED] (DE) on [REDACTED];

g. [REDACTED], (C.F. [REDACTED]), born in
[REDACTED] (USA) on [REDACTED];

are all Italian citizens;

B. ORDERS, therefore, the Ministry of the Interior and, for it, the Civil Status Officer, territorially competent, to proceed with the registrations, transcriptions, and annotations of the law, in the civil status registers, of the citizenship of the individuals indicated in section A), making any necessary communications to the competent consular authorities;

C. REIMBURSES the legal costs between the parties in full.

Decided in Bari, on 02.10.2024.

Judge

Enzo Davide Ruffo