



ITALIAN REPUBLIC
IN THE NAME OF THE ITALIAN PEOPLE
ORDINARY COURT OF TURIN
Ninth Civil Section

The Turin Court, sitting as a single judge, has issued the following

JUDGMENT

PURSUANT TO ARTICLE 281-TERDECIES OF THE CIVIL PROCEDURE CODE

in the civil case registered under no. r.g. [REDACTED] filed by:

[REDACTED]

represented and defended by **lawyer Salvatore Aprigliano** as per the power of attorney on record

PETITIONER

against

MINISTRY OF THE INTERIOR represented by the Minister pro tempore

DEFENDANT IN DEFAULT

with the intervention of the Public Prosecutor of the Court of Turin

Subject: declaration of citizenship recognition *jure sanguinis*

[REDACTED]

For the petitioner:



[REDACTED]

[REDACTED]

[REDACTED]

FACTUAL REASONS

Whereas:

- the petitioner is a direct descendant of [REDACTED] born in [REDACTED]
- from [REDACTED] the [REDACTED] union [REDACTED] of [REDACTED]
- [REDACTED], a direct ancestor of the petitioner, never renounced Italian citizenship and thus transmitted it *jure sanguinis* through the paternal line to their legitimate son [REDACTED], who in turn passed on Italian citizenship *jure sanguinis* through the paternal line to his legitimate son [REDACTED].

All these events were proven with legitimate documentation translated into Italian. The petitioners brought the case to this Court seeking recognition of their right to Italian citizenship.

[REDACTED]

[REDACTED]

[REDACTED]

LEGAL REASONS

1. Regarding the jurisdiction of the Turin Court, it is noted that Article 1, paragraph 36 of the Civil Procedure Reform Law no. 206 of November 26, 2021, amended paragraph 5 of Article 4 of Decree-Law 17.02.2017 no. 13 by adding the following sentence: "When the plaintiff resides abroad, disputes over the recognition of Italian citizenship are assigned based on the place of birth of the plaintiff's father, mother, or ancestor who is an Italian citizen."

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



Paragraph 37 then established that the above provision would come into force on the 180th day after the law came into effect. Therefore, from June 22, 2022, jurisdiction is determined by referring to the birthplace of the father, mother, or, as a last resort, the ancestor of the petitioners. Regarding the functional jurisdiction of the Immigration Section, it is noted that Article 1 of Decree-Law 17.02.2017 no. 13 established specialized sections in matters of immigration, international protection, and free movement of EU citizens at ordinary courts located where the Courts of Appeal are based. The conversion law of April 13, 2017 no. 46 assigned them exclusive jurisdiction over matters concerning "the status of Italian citizenship." In this case, since the petitioners reside abroad and the ancestor was born in [REDACTED], which falls under the jurisdiction of the Court of Appeal of Turin, the competent court is the Turin Civil Court, specialized in immigration matters.

2. As for the interest to act, it is worth noting that although the law requires individuals to request and obtain recognition of Italian citizenship from the Consular Authority in their country of residence, the defense has requested judicial recognition of Italian citizenship *jure sanguinis* through the maternal line. This implies an interpretative assessment of the laws that only the judicial authority can perform. For this reason, the petitioners approached this Court.
3. In principle, the recognition of Italian citizenship *jure sanguinis* for descendants of Italian emigrants abroad consists of the acknowledgment of the uninterrupted possession of the *status civitatis* from birth of an individual as a descendant of an Italian citizen by birth (ex Article 1, paragraph 1, Law no. 91/1992: "A person is an Italian citizen by birth: a) the child of an Italian father or mother; b) a person born in the territory of the Republic if both parents are unknown or stateless, or if the child does not inherit the nationality of the parents according to the law of the state to which they belong." Italian legislation, including the previous Law no. 555/1912, has always upheld *ius sanguinis* as the fundamental principle for acquiring citizenship, emphasizing the blood relationship between parent and child.



Therefore, the requirements for recognizing Italian citizenship *jure sanguinis* for descendants of an Italian ancestor who emigrated abroad are based on two essential conditions:

- 1) Descent from the person originally holding Italian *status civitatis* (i.e., the emigrant ancestor);
- 2) Proof of the uninterrupted transmission of citizenship.
A foreigner born in a country that recognizes them as a citizen by birth and who is a descendant of an Italian ancestor can request recognition of Italian citizenship by right of blood.

4. **In the present case, the claim is well-founded.**

The petitioner has brought the action to have their status as an Italian citizen recognized by virtue of their common descent from an Italian citizen who emigrated to Argentina. The documents produced show that the Italian ancestor, [REDACTED], at the time of the birth of their legitimate child, [REDACTED], was still an Italian citizen, and therefore, was able to transmit Italian citizenship *jure sanguinis* to their descendants ([REDACTED]).

The circular no. K. 28.1 of April 8, 1991, on the "Recognition of the possession of Italian *status civitatis* by foreign citizens of Italian descent" establishes in section b, point 5 that requests for recognition of Italian citizenship must be accompanied by the following documentation: "*a certificate issued by the competent authorities of the foreign country of emigration, translated into Italian, certifying that the Italian ancestor who emigrated from Italy did not acquire the nationality of the foreign country before the birth of the applicant's ancestor.*"

The petitioner's lineage is precisely documented in the records, showing the transmission through the maternal line from [REDACTED] to their legitimate son, [REDACTED], who in turn transmitted Italian citizenship *jure sanguinis* through the paternal line to their legitimate son, [REDACTED], **the current petitioner.**

5. Regarding the transmission of citizenship through the female line, the landmark ruling of the Constitutional Court no. 30 of 1983 declared Article 1, no.1, of Law 555/1912



constitutionally illegitimate for violating Articles 3 and 29 of the Constitution, *"insofar as it does not provide that a child born to an Italian mother is also a citizen by birth."* This ruling thus brought the previous legislative discipline on citizenship into line with constitutional values, allowing the possibility of acquiring Italian citizenship through the maternal line. Earlier, the same Court, with Judgment no. 87 of April 9-16, 1975, declared Article 10 of Law 555 of 1912 constitutionally illegitimate for violating Articles 3 and 29 of the Constitution, *"insofar as it provided for the loss of Italian citizenship regardless of the woman's will."*

Furthermore, the Court of Cassation, in a ruling by the United Sections, stated that *"as a result of the Constitutional Court's rulings no. 87 of 1975 and no. 30 of 1983, the right to the 'status' of an Italian citizen must be recognized for applicants born abroad to an Italian woman married to a foreign citizen under the Law 555 of 1912, who was consequently deprived of Italian citizenship due to the marriage."* The Court further ruled that *"although the principle of supervening unconstitutionality dictates that the declaration of unconstitutionality of pre-constitutional laws affects only unresolved situations as of January 1, 1948, without retroacting beyond the entry into force of the Constitution, the Court affirms that citizenship rights, as a permanent and imprescriptible 'status,' are justiciable at any time (even in cases of prior death of the ancestor or parent from whom recognition derives) due to the continuing illegitimate deprivation under the unconstitutional rule"* (Cass. United Sections Judgment no. 4466 of 25/02/2009).

As a result of these rulings, since the new Constitution came into force, the right to Italian citizenship has also been recognized for children of Italian mothers who had not acquired it because they were born before January 1, 1948, and consequently for their descendants. Regarding the transmission of citizenship through the male line, Italian law stipulates that citizenship is transmitted by descent *jure sanguinis*, so at birth, one acquires the citizenship of their parent, as per Article 1 of Law no. 91/92: *"A child of an Italian father or mother is an Italian citizen"*, confirming the principle of recognizing Italian citizenship through paternal descent, regardless of the place of birth.



Therefore, in the present case, [REDACTED] was able to transmit Italian citizenship *jure sanguinis* to their legitimate son [REDACTED], who in turn transmitted Italian citizenship *jure sanguinis* to their legitimate son [REDACTED].

Thus, in light of the current abundant jurisprudence, if the Italian ancestor was never naturalized as a citizen of the country of emigration or did not acquire foreign citizenship before the birth of the applicant's ancestor, and if the direct ancestors never renounced Italian citizenship, the petitioner's right to be recognized as an Italian citizen is well-founded, and the petition must be granted.

In this case, the requirements for recognizing Italian citizenship in favor of the petitioners have been fully proven (through duly apostilled certificates issued by the competent Italian diplomatic and consular authorities), and therefore the petition must be granted, declaring the petitioners Italian citizens and ordering the Ministry of the Interior to take the necessary consequential measures.

6. [REDACTED]
[REDACTED]

FOR THESE REASONS

The Court, sitting as a single judge, having dismissed, or absorbed all other claims, objections, and defenses, definitively rules as follows:

- **Grants the petition and consequently recognizes the petitioner [REDACTED] the right to Italian citizenship, given the legal requirements outlined in the narrative;**
- Orders the Ministry of the Interior, through the competent Civil Registrar, to proceed with the registration, transcription, and annotation of the petitioners' Italian citizenship in the civil status registers, making the necessary communications to the competent Consular Authorities.
- Fully compensates the parties for the costs of these proceedings.
- **So ruled in Turin on July 19, 2024**



Judge

Fabrizio Alessandria

