



**ITALIAN REPUBLIC**  
**IN THE NAME OF THE ITALIAN PEOPLE**  
**COURT OF CALTANISSETTA**  
**SECTION FOR HUMAN RIGHTS AND IMMIGRATION**

Dr. Marcello Testaquatra, acting as a Sole Judge at the **Court of Caltanissetta**, Specialized Section on Immigration, has pronounced the following

**JUDGMENT**

*pursuant to Article 281 sexies of the Italian Civil Procedure Code.*

In the civil case registered under no. [REDACTED], regarding:  
"**Recognition of Italian citizenship**" initiated

BY

[REDACTED]  
[REDACTED] (USA), represented and defended by **Attorney Salvatore Aprigliano** from the Milan Bar and electively domiciled in Milan at Via Fabio Filzi no. 41, at the office of Attorney Salvatore Aprigliano, as per the attached notarial power of attorney to the introductory application pursuant to Article 281 decies of the Italian Civil Procedure Code.

APPELLANT

AGAINST

Ministry of the Interior, located in Rome, Piazza del Viminale 1, represented by the Minister in office (C.F. 97149560589), represented and defended by the District Attorney's Office of the State of Caltanissetta, whose offices are located in Caltanissetta at Via Libertà no. 174.

RESPONDENT

With the intervention of the Public Prosecutor

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



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## BRIEF EXPLANATION OF THE FACTS AND LEGAL REASONS FOR THE DECISION

By a duly notified application to the opposing party, the above-named appellant has sued the Ministry of the Interior, asking the Court to ascertain and declare Italian citizenship by virtue of descent *iure sanguinis* from [REDACTED] who subsequently emigrated to the United States of America, where she married [REDACTED] and died there.

The Ministry has appeared, believing that the legal principles established by the United Sections of the Court of Cassation in Judgment no. 4466 of February 25, 2009, should be applied, also requesting the compensation of costs due to its substantial lack of opposition.

[REDACTED]

\*\*\*

[REDACTED]

[REDACTED]

[REDACTED]

In the system outlined by the Civil Code of 1865, the subsequent citizenship law no. 555 of 1912, and the current law no. 91 of 1992, citizenship acquired by birth is obtained as an original title *iure sanguinis*, and the status of citizen, once acquired, is permanent, unprescriptable, and justiciable at any time based on simple proof of the acquisition fact established by birth to an Italian citizen, requiring only that the chain of transmission of citizenship has not been interrupted by naturalization or renunciation of an ancestor before the birth of the child to whom citizenship is to be transmitted.

In particular, the acquisition of citizenship is automatic in the case of birth within marriage where at least one of the parents is an Italian citizen, while in the case of birth outside of marriage, pursuant to Article 2 of Law no. 91 of 1992, recognition or judicial declaration of filiation is required.



Those requesting recognition of citizenship must prove only the acquisition fact and the transmission line, while the opposing party that has raised an exception bears the burden of proof for any interruptive fact.

From the documents produced, it appears that the Italian ancestor, Mrs. [REDACTED], naturalized as a U.S. citizen on February 14, 1939, which was after the birth of her child, Mr. [REDACTED], thus managing to transmit to him Italian citizenship “*iure sanguinis*” and consequently to the rest of her descendants, up to the current appellant, with no further acts of renunciation within the line of descent, thus no interruption of the chain of transmission of Italian citizenship as proven by specific certificates issued by the competent authorities and apostilled.

It is worth noting that in the line of descent indicated in the application, there is a marriage celebrated in [REDACTED] on January 20, 1923, thus before the Constitution, between an Italian citizen and a foreign citizen, specifically, the Italian ancestor, [REDACTED], who became a U.S. citizen on November 25, 1927, and as already noted previously, there is a generational passage through the female line, also occurring before the Constitution, from [REDACTED] to her son, [REDACTED].

This sequence, based on the law in force at the time, determined the interruption of the transmission of citizenship *iure sanguinis*, as it was only permitted through the paternal line, with few exceptions, and because Article 11 of Law no. 555/1912 established the loss of Italian citizenship for a woman married to a man who subsequently naturalized as a foreign citizen.

However, the Constitutional Court, with Judgment no. 30 of 1983, declared Article 1 no. 1 of Law 555/1912 unconstitutional for violating Articles 3 and 29 of the Constitution “*in the part that does not provide that a child born to a citizen mother is also a citizen by birth,*” thus allowing the possibility of acquiring Italian citizenship through the maternal line.

Previously, the same Court, with Judgment no. 87 of 1975, declared unconstitutional, for violating Articles 3 and 29 of the Constitution, the aforementioned Article 10 of Law no. 555 of 1912 “*in the part that provides for the loss of Italian citizenship regardless of the woman’s will.*”



According to a first orientation, the favorable effects of these rulings could only take effect from the date of the entry into force of the Constitution, with the “safeguarding” of situations already defined at the time.

This substantial disparity in treatment was subsequently overcome by the Court of Cassation, which, sitting in Joint Sections, affirmed that *“while sharing the principle of subsequent unconstitutionality, according to which the declaration of unconstitutionality of pre-constitutional norms produces effects only on relations and situations not yet exhausted as of January 1, 1948, and cannot retroact beyond the entry into force of the Constitution, the Court states that the right to citizenship, as a ‘status’ that is permanent and unprescriptable, save for extinction due to renunciation by the applicant, is justiciable at any time (even in the case of the prior death of the ancestor or parent from whom recognition derives) for the enduring effect, even after the entry into force of the Constitution, of the illegitimate deprivation due to the discriminatory norm declared unconstitutional.”* (Cass. United Sections Judgment no. 4466 of 25/02/2009). Furthermore, *“the status of citizen is permanent and has enduring effects over time that manifest in the exercise of the resulting rights; it can only be lost through renunciation, as was also the case under the previous legislation (Article 8 no. 2 of Law 555 of 1912) [...]. Therefore, it is correctly asserted that the status of citizen, as an effect of the condition of being a child, constitutes an essential quality of the person, with characteristics of absoluteness, originality, unavailability, and unprescriptability, which make it justiciable at any time and normally not definable as exhausted or closed, except when it is denied or recognized by a final judgment.”*

Therefore, based on the effectiveness of the pronouncement of the aforementioned United Sections, from the date of the entry into force of the new Constitution, the ownership of Italian citizenship must be considered recognized for Mr. [REDACTED], as the child of a citizen mother who had not acquired it because he was born before January 1, 1948, and consequently for his descendants.

It follows that the application must be granted with the recognition of Italian citizenship for the appellant [REDACTED] as the child of a citizen mother who had not acquired it because he was born before January 1, 1948, and consequently for his descendants.

**It follows that the application must be granted with the recognition of Italian citizenship for the appellant.**



[REDACTED]

## FOR THESE REASONS

The Court, acting as a Sole Judge, definitively pronouncing, having dismissed all contrary requests, exceptions, and defenses, hereby rules:

- grants the application and, as a result, declares that [REDACTED] is an Italian citizen;
- orders the Ministry of the Interior and, on its behalf, the competent civil status officer, to proceed with the registrations, transcripts, and legal annotations in the civil status registers of the citizenship of the indicated persons, providing for any communications to the competent consular authorities;
- court costs are to be borne equally. Notify the parties.

**Caltanissetta, July 20, 2023**

**The Judge**

***Dr. Marcello Testaquatra***

