



ITALIAN REPUBLIC

IN THE NAME OF THE ITALIAN PEOPLE

The Honorary Judge of the Tribunal assigned to the First Civil Section of the Tribunal of Catania, Dr. Giulia Camilleri, has rendered the following

JUDGEMENT

PURSUANT TO ART. 281 SEXIES, 3rd PARAGRAPH, OF THE ITALIAN C.C.P

In the civil case registered under no. [REDACTED], concerning: Recognition of Italian citizenship, brought by

- 1) [REDACTED] (Tax Code [REDACTED]), U.S. citizen, born in [REDACTED] (USA) on [REDACTED], residing at [REDACTED] (USA);
- 2) [REDACTED] (Tax Code [REDACTED]), U.S. citizen, born in [REDACTED] (USA) on [REDACTED], residing at [REDACTED] (USA).

The petitioners are all represented and defended, by virtue of a power of attorney on record, by Attorney Salvatore Aprigliano, Tax Code PRGSVT74R31F205H, of the Milan Bar Association, with an elected domicile at Via Fabio Filzi no. 41, Milan.

PETITIONERS

VERSUS

MINISTRY OF THE INTERIOR (Tax Code 80009650872), represented by the Minister pro tempore, represented and defended by law by the State Legal Department of Catania, with its offices located in Catania at Via Vecchia Ognina no. 149, where it is domiciled;

RESPONDENT

By petition under Article 281 decies of the Italian Code of Civil Procedure, the petitioner requested recognition of Italian citizenship *jure sanguinis*, asserting descent from [REDACTED], born in [REDACTED] on [REDACTED], an Italian citizen who emigrated to the United States of America. From the union between [REDACTED] and [REDACTED], [REDACTED] was born on [REDACTED] in [REDACTED] (USA), [REDACTED].

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

Therefore, the petition is well-founded and must be upheld for the following reasons.

Regarding the jurisdiction of the Tribunal of Catania, it should be noted that Law No. 206/2021, under paragraph 36, stipulates: *"In Article 4, paragraph 5, of Decree-Law No. 13 of February 17, 2017, converted, with amendments, into Law No. 46 of April 13, 2017, the following sentence is added: 'When the claimant resides abroad, disputes concerning the determination of Italian citizenship status are assigned with reference to the municipality of birth of the father, mother, or ancestor who was an Italian citizen.'* In particular, jurisdiction belongs to the specialized section competent for the municipality of the ancestor's birth.

Paragraph 37 of the same law further provides that: *'The provisions of paragraphs 27 to 36 of this article apply to proceedings initiated as of the 180th day following the effective date of this law.'*

Thus, starting from June 22, 2022, for claimants residing abroad, jurisdiction lies with the Tribunal that includes the municipality of birth of the Italian ancestor, or more specifically, with the Tribunal housing the section specializing in immigration and citizenship matters.

In this case, the ancestor was born in the province of [REDACTED], which establishes the jurisdiction of this Tribunal, within the specialized section for immigration matters..." (see Tribunal of Venice, Judgment No. 573/2024, dated February 22, 2024).

It must be noted that the recognition of citizenship status is the responsibility of the Ministry of the Interior.

Applicants should limit themselves to requesting the issuance of the relevant certificate or, in the case of applicants residing outside Italy, requesting recognition of such status from the competent consular authority for the district in which they reside, based on documentation proving descent from an Italian citizen.

Consequently, the Ministry of the Interior must be deemed the proper respondent.

The petitioner is, in fact, requesting the granting of citizenship *jure sanguinis*, as a descendant of an Italian citizen by birth.

In all cases, including the present one, other than those mentioned in paragraph 2 of Article 16 of Presidential Decree No. 572/1993 (i.e., Articles 2, paragraphs 2 and 3; 3, paragraph 4; 4, paragraph 1(c); 4, paragraphs 2, 11; 13, paragraph 1(c) and (d); 14; and 17 of Law No. 91/92), the body responsible for determining whether the requirements for recognition of Italian citizenship are met is the Ministry of the Interior. The Diplomatic or Consular Authority forwards a copy of the application and the supporting documentation submitted by the applicant to the Ministry (Article 16, paragraph 4 of the aforementioned Presidential Decree).

Under Article 2 of Law No. 241 of 1990, proceedings falling under the competence of State Administrations must be concluded within specified and definite timeframes, in accordance with the principle of reasonable duration of the process.

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In cases involving the determination of Italian citizenship status and the issuance of the corresponding certification, for all instances of acquiring Italian citizenship—including its transmission *jure sanguinis*—the timeframe established by Presidential Decree No. 33 of January 17, 2014, is 730 days.

However, judicial protection appears justified, as it is unlikely that the competent Administration can adhere to this 730-day timeframe.

Requests for recognition of Italian citizenship at the relevant diplomatic representation currently have an average processing time of approximately 10 years, a duration that is unlikely to be significantly reduced.

Secondly, with regard to the impact of the so-called “Great Naturalization” of 1889 in cases involving recognition of *jure sanguinis* citizenship, the Italian Supreme Court of Cassation, United Civil Sections, established the following principles in Judgment No. 25318/2022:

- (i) In Italian legal tradition, under the framework outlined in the Civil Code of 1865, the subsequent citizenship law No. 555 of 1912, and the current law No. 91 of 1992, citizenship by birth is acquired *jure sanguinis* as an original right. Once acquired, citizenship status is permanent, imprescriptible, and can be asserted at any time. Based solely on proof of acquisition by birth from an Italian citizen, the claimant seeking recognition of citizenship must only prove the acquisition event (birth from an Italian citizen) and the line of transmission. It is the responsibility of the opposing party, if they raise objections, to demonstrate any potential interrupting circumstances.
- (ii) The loss of Italian citizenship, as governed by the Civil Code of 1865 and Law No. 555 of 1912, when related to the phenomenon of the Great Naturalization of foreigners in Argentina, Brazil, or America in the late 19th century, must be interpreted restrictively in light of modern constitutional principles. Citizenship is considered a fundamental right. Article 11(2) of the Civil Code of 1865 states that Italian citizenship is lost by those who "have obtained citizenship in a foreign country." For this to affect the *jure sanguinis* transmission line to descendants, it must be proven that the emigrant intentionally and voluntarily performed an act to acquire foreign citizenship—such as applying for inclusion in electoral rolls under the laws of the foreign country. Simply residing abroad, establishing a stable life there, or failing to react to generalized naturalization measures cannot suffice to constitute tacit acceptance of such measures and extinguish citizenship status.

This interpretation reaffirms the robust protections of citizenship rights and clarifies the burden of proof regarding loss of citizenship in cases of naturalization.

This position has been recently reaffirmed by the Supreme Court of Cassation in United Civil Sections, which ruled:

"(i) In accordance with Italian legal tradition, as outlined in the Civil Code of 1865, the subsequent Citizenship Law No. 555 of 1912, and the current Law No. 91 of 1992, citizenship by birth is acquired as an original right *jure sanguinis*. Once acquired, citizenship status is permanent, imprescriptible, and can be asserted at any time based solely on proof of the acquisition event, namely, birth from an Italian citizen. Those seeking recognition of citizenship are required only to prove the acquisition event and the line of transmission, while the burden of proving any potential interrupting circumstances lies with the opposing party who raises such objections."

This principle is established in Cassation United Civil Sections, Judgment No. 25317 of August 24, 2022, and Cassation United Civil Sections, Judgment No. 25318 of August 24, 2022.

It is evident from the documentation on record that the Italian ancestor never lost Italian citizenship and transmitted it *jure sanguinis* to his son, [REDACTED], born in [REDACTED] (USA) on [REDACTED], and subsequently to his descendants, including the current petitioners.

The Constitutional Court, in Judgment No. 30 of February 9, 1983, declared unconstitutional Article 1 of Law No. 555/1912 insofar as it did not recognize as an Italian citizen by birth the child of an Italian mother, thereby violating Articles 3 and 29 of the Constitution. This paved the way for the equal treatment of men and women in matters of citizenship.

The principle of gender equality in citizenship was first legislatively established with Law No. 123 of April 21, 1983, Article 5, which states: "*A minor child, including an adopted child, of an Italian father or mother is an Italian citizen.*". This principle was further reinforced by Law No. 91/1992, which established: "*A child born to an Italian father or mother is an Italian citizen by birth.*"

Under the *ius sanguinis* principle, Italian citizenship can be transmitted by an Italian mother to her descendants provided they were born after January 1, 1948, the date when the Constitution came into force, and on the condition that the mother was an Italian citizen at the time of the child's birth.

This is the current rule, following the interpretation by the Ministry of the Interior, which in Circular No. 9 of July 4, 2001, maintained that the equality between men and women applies only to individuals born after January 1, 1948.

Tuttavia, la Corte di Cassazione, con una sentenza del 2009, ha riconosciuto il diritto alla cittadinanza italiana anche per i discendenti per via materna nati prima del 1948, che possono richiederla in sede giudiziaria.

However, in a 2009 ruling, the Court of Cassation recognized the right to Italian citizenship for descendants through the maternal line born before 1948, allowing them to claim it through judicial proceedings.

Notably, the Supreme Court of Cassation, United Civil Sections, overturned its prior stance with Judgment No. 4466 of 2009. In light of Constitutional Court rulings No. 87 of April 9, 1975, and No. 30 of February 9, 1983, the Court determined that descendants of women who had lost their

Italian citizenship under Article 10, paragraph 3, of Law No. 555/1912 due to marriage to a foreign citizen before January 1, 1948, could also obtain recognition of Italian citizenship *jure sanguinis*.

Thus, descendants born to an Italian mother before 1948, or to a woman who married a foreigner and lost citizenship before 1948, may seek citizenship recognition through the so-called "maternal judicial pathway."

Historical analysis confirms the direct *jure sanguinis* lineage from the Italian ancestor [REDACTED], who never lost his Italian citizenship and, consequently, transmitted it to all his descendants, including the current petitioners.

The direct descent from an Italian citizen is therefore duly established.

The uncertainty surrounding the resolution of the request for recognition of Italian citizenship status *jure sanguinis* and the passage of an unreasonable amount of time in relation to the interest at stake amount to a denial of the recognition of the right. This justifies the petitioners' interest in seeking judicial protection.

Therefore, the claim must be upheld, declaring the petitioners to be Italian citizens and ordering the Ministry of the Interior to adopt the necessary consequential measures.

Given the novelty and specificity of the issues addressed, it is deemed appropriate to order the mutual offsetting of legal costs between the constituted parties.

FOR THESE REASONS

The Court of Catania, sitting as a single judge, hereby rules as follows:

1. Upholds the claim and, consequently, declares that the petitioners are Italian citizens *jure sanguinis* by direct descent from their common Italian ancestor.
2. Orders the Ministry of the Interior, and through it the competent Civil Status Officer, to proceed with the registrations, transcriptions, and annotations required by law in the Civil Status Registers regarding the citizenship of the individuals indicated, and to make any necessary communications to the competent consular authorities.
3. Orders the mutual offsetting of legal costs between the parties.

Catania, November 20, 2024

The Judge

Dr. Giulia Camilleri

