

**ORDINARY COURT OF GENOA****CIVIL SECTION XI****ITALIAN REPUBLIC****IN THE NAME OF THE ITALIAN PEOPLE**

The Court of Genoa, in single-judge composition under the authority of Dr. Enzo Bucarelli, in the simplified cognitive proceedings registered under case number [REDACTED], initiated by:

- **Ms.** [REDACTED], Tax Code [REDACTED], a United States citizen, born in [REDACTED] (USA) on [REDACTED], residing in [REDACTED] (USA);
- **Mr.** [REDACTED], Tax Code [REDACTED], a United States citizen, born in [REDACTED] (USA) on [REDACTED], residing in [REDACTED] (USA), in his own capacity and as a parent exercising parental authority over the minor children: [REDACTED], Tax Code [REDACTED], born in [REDACTED] (USA) on [REDACTED], [REDACTED], Tax Code [REDACTED], born in [REDACTED] (USA) on [REDACTED], [REDACTED], Tax Code [REDACTED], born in [REDACTED] (USA) on [REDACTED], and [REDACTED], Tax Code [REDACTED], born in [REDACTED] (USA) on [REDACTED];
- **Mr.** [REDACTED], Tax Code [REDACTED], a United States citizen, born in [REDACTED] (USA) on [REDACTED], residing in [REDACTED] (USA), in his own capacity and as a parent exercising parental authority over the minor son: [REDACTED], Tax Code [REDACTED], born in [REDACTED] (USA) on [REDACTED];
- **Mr.** [REDACTED], Tax Code [REDACTED], a United States citizen, born in [REDACTED] (USA) on [REDACTED], residing in [REDACTED] (USA), in his own capacity and as a parent exercising parental authority over the minor son: [REDACTED], Tax Code [REDACTED], born in [REDACTED] (USA) on [REDACTED];



ALL represented and defended, as per powers of attorney attached to this act, by Attorney Salvatore Aprigliano, Tax Code PRGSVT74R31F205H, a member of the Milan Bar, with an elected domicile in Milan at Via Fabio Filzi No. 41. For the purposes and effects of Article 125, paragraph 1, of the Italian Code of Civil Procedure, as well as Article 136, paragraph 3, of the Italian Code of Civil Procedure and following articles, the plaintiffs declare their intention to receive court communications at the following fax number: +39 02.73.95.07.15 and/or the PEC (certified email) address: salvatore.aprigliano@milano.pecavvocati.it.

Plaintiffs

VERSUS

MINISTRY OF THE INTERIOR, represented by the Minister pro tempore, domiciled by law at the District State Attorney's Office in Genoa, Via Brigate Partigiane No. 2, **Defendant**, represented, with the intervention of the

PUBLIC PROSECUTOR

Intervenor

Subject matter: recognition of Italian citizenship *iure sanguinis*.

PROCEEDINGS
FACTUAL BACKGROUND

In the introductory application brought under Articles 281-decies and 281-undecies of the Italian Code of Civil Procedure, the present petitioners **requested recognition of their status as Italian citizens *iure sanguinis***. Consequently, they sought an order compelling the Ministry of the Interior, and through it the Civil Registry Officer, to carry out the relevant registrations, transcriptions, and annotations as required by law.

The petitioners asserted that they were, each with respect to their familial relationship, all descendants of [REDACTED], an Italian citizen by birth, born in [REDACTED], who emigrated abroad.

In detail, they reconstructed their genealogical lineage, submitting specific documentation, including certificates (or extracts thereof) equipped with apostilles and sworn translations into Italian issued by civil or religious authorities. Specifically, for each ancestor and forebear, as well as for the petitioners themselves, the defense submitted certificates (or extracts) documenting births and/or baptisms, marriages, and, in the case of deceased ancestors, deaths.



Based on this documentation, they outlined the **family's genealogical lineage**, including the preparation of a detailed family tree, which is referred to in its entirety ([REDACTED]).

[REDACTED]

The **Public Prosecutor**, duly notified, intervened, requesting that the petition be upheld.

Following the discussion hearing pursuant to Article 127-ter of the Italian Code of Civil Procedure, and considering the briefs submitted by the represented parties, the case was reserved for judgment under Article 281-sexies of the Italian Code of Civil Procedure.

LEGAL CONSIDERATION

[REDACTED]

The Interest to Act

Having clarified the above, it is necessary to verify the existence of the **interest to act**, based on the procedural principle established, among others, by **Article 100** of the Italian Code of Civil Procedure, which states: *"To file a claim or oppose it, one must have an interest in doing so."*

First, it should be recalled that the **Supreme Court**, in addressing the jurisdiction of the Ordinary Court over claims concerning the determination of citizenship status (as per the legal reservation under Article 9 of the Italian Code of Civil Procedure), has held that the right to citizenship—being a subjective right that can only be adjudicated by the Ordinary Court—is immediately and unconditionally enforceable. This right is **independent of any administrative procedure**, as neither Law No. 91/1992 nor its implementing decrees require the interested party to first submit an administrative application to have citizenship recognition granted by operation of law. Indeed, such a requirement would undermine the interested party's ability to immediately and at any time—given that it is an imprescriptible right—seek recognition of this status through judicial proceedings.

In light of this, it has been ruled that submitting an **administrative application is not a prerequisite** for initiating judicial proceedings. This is because the determination of the subjective right to citizenship operates **within a dual-track system**. The Supreme Court's Joint Chambers, in Judgment No. 28873 of 2008, affirmed that: *"The submission of an administrative application cannot be considered a condition for the admissibility of judicial proceedings, as the determination of a personal status right cannot be hindered by the absence of administrative certification."*



Judicial proceedings to recognize a perfect subjective right, which falls under the jurisdiction of the Ordinary Court, cannot be precluded by such absence."

[REDACTED]

In the matter of citizenship recognition, the time frame for the conclusion of the administrative procedure is established by Article 3 of Presidential Decree (D.P.R.) No. 362 of April 18, 1994 (*Regulation governing procedures for the acquisition of Italian citizenship*) as **730 days**.

Specifically, under Article 14 of Legislative Decree No. 300/1999, referenced by D.P.R. No. 398/2001, the recognition and protection of *status civitatis* falls under the responsibility of the Ministry of the Interior. With **Circular No. K.28/1 of April 8, 1991**, the Ministry stipulated that descendants of Italian citizens who emigrated abroad may apply for recognition of Italian citizenship at the Consular Authorities of their foreign country of residence, based on documentation proving their descent from an Italian citizen.

The aforementioned time frame was confirmed by **D.P.C.M. No. 33 of January 17, 2014**, which reiterated that the maximum duration of the administrative procedure for verifying possession of Italian citizenship *iure sanguinis* by Consular Offices is 730 days.

[REDACTED]

[REDACTED], according to the Supreme Court, the subjective right to citizenship constitutes a **permanent and imprescriptible status** (see Cassation No. 6205/2014, Cassation No. 20870/2011, Cassation No. 18089/2009). The uncertainty surrounding the resolution of a request for recognition of *status civitatis*, along with an unreasonable delay disproportionate to the interest at stake—which also causes harm to the interest itself—amounts to a denial of recognition of the subjective right. This justifies the interest in seeking judicial protection.

This principle is supported by the consistent stance of the Rome Tribunal, as evidenced in multiple judgments (e.g., January 11, 2012; June 28, 2016; March 8, 2017; February 24, 2017; July 11, 2018; April 17, 2018; November 15, 2018; July 3, 2019; Judgment No. 12839/2018; January 29, 2019; June 12, 2019). The Tribunal of Rome has also equated *status actions* under Article 237 of the Italian Civil Code with those seeking the recognition of citizenship. The court has concluded that such actions also meet the criteria for the interest to act when addressing a legal situation inherently subject to uncertainty (see Rome Tribunal, October 28, 2016).

Having outlined the most frequently occurring scenarios, it is now possible to assess the **interest to act** in the case at hand within **this judgment**.



The Petition for the Recognition of Italian Citizenship

Turning to **the merits of the dispute**, the petitioners seek **recognition** of citizenship *iure sanguinis*, as descendants of an Italian citizen by birth, pursuant to **Article 1, letter (a), of Law No. 91 of February 5, 1992**.

It is first necessary to recall that, under the so-called **principle of effectiveness** (widely accepted in international law), it is the **prerogative of each State** to determine the conditions that a person must meet to be considered a **citizen of that State** (see Cassation, First Section, No. 9377/11, referenced by the same territorial court, and, at the EU level, ECJ judgment of October 19, 2004, *Zhu*).

This principle was specifically clarified by the **Joint Chambers of the Supreme Court** in two rulings issued on August 24, 2022—Nos. 25317 and 25318 (the so-called **twin rulings** on Brazil's 1889 large-scale naturalization). These decisions affirmed that the principle of effectiveness **delineates**, in a negative sense, the **limits** of a **State's discretion** in granting citizenship to **individuals who lack any genuine connection to the set of relationships that constitute effective** (or substantive) **citizenship**. They further clarified that the citizenship link cannot be based on a *fictio*, as it requires a real bond between the State and the individual.

In this context, **the bloodline connection cannot be considered a mere *fictio*** and is undoubtedly a valid and substantive link.



The General Principles Governing the Matter

With the above clarified, it must be stated that **citizenship is a status** granted by law, signifying an individual's membership in a State. It entails a variable set of rights and obligations rooted in public and constitutional principles.

On this point, the Court of Cassation (in the aforementioned **twin rulings of August 24, 2022, Nos. 25317 and 25318**) emphasized that the **Italian legal system** *"traditionally maintains a conservative approach, with no substantial deviations from the predominant criterion of acquiring citizenship iure sanguinis, which has remained practically unchanged since the Civil Code of 1865. This framework was inherited first by Law No. 555 of 1912 and subsequently by the current Law No. 91 of 1992."*

The fundamental mode of **acquisition is by birth**.

Until 1992, this meant that Italian citizenship was granted to those born to an Italian father or, if the father was unknown (or stateless), to those born to an Italian mother.

This principle essentially characterized national laws throughout the relevant historical evolution: Articles 4 and 7 of the Civil Code of 1865 and Article 1 of Law No. 555 of 1912.

The framework only changed with **Law No. 91 of 1992**, which emerged from a subsequent constitutional development. However, the change was simply that today, a person is an Italian citizen by birth if they are the child of an Italian father or mother, or if they were born in the territory of the Republic and both parents are unknown or stateless (or if the person does not inherit their parents' citizenship under the law of their home country).

Examining the early expressions of legislative intent under pre-constitutional law, there is no doubt that the Italian legislator acted with **substantial continuity of purpose and intent**. Indeed, it is widely accepted that **Law No. 555 of 1912** was merely a **refinement** of the principles already embodied in the **Civil Code of 1865**.

The Applicable Legislation

[REDACTED]



As mentioned, all successive legislation over time has been based on the **principle of *iure sanguinis* transmission** of Italian citizenship, but **solely through the paternal line**.

Article 1 of Law No. 555 of June 13, 1912, reaffirmed as the primary and original basis for acquiring Italian citizenship the *iure sanguinis* transmission **exclusively through the paternal line**.

This provision **was declared unconstitutional** by the Constitutional Court with **judgment No. 30 of February 9, 1983**, in the part where it *"did not stipulate that a child born to an Italian mother would also be considered a citizen by birth."* This ruling aligned the previous legislative framework on *status civitatis* with constitutional values, thereby allowing the acquisition of Italian citizenship through the maternal line.

Previously, the same Constitutional Court, with **Judgment No. 87 of April 9, 1975**, had declared **Article 10 of Law No. 555/1912** unconstitutional for violating Articles 3 and 29 of the Constitution, in the part where it *"mandated the loss of Italian citizenship regardless of the will of a woman marrying a foreign citizen."*

Specifically:

With Judgment No. 87 of 1975, the Court, declaring the unconstitutionality of Article 10, paragraph 3, of Law No. 555 of 1912, deemed the **provision discriminatory against the principle of equality between men and women**. It violated not only Article 3 of the Constitution but also the **principles of spousal equality** and family unity under Article 29 of the Constitution. The law could compel women, to avoid losing their citizenship, *"either to forgo the legal act of marriage or to dissolve it once established."* Furthermore, the same law (in the parts not declared unconstitutional) stipulated the reacquisition of citizenship upon the dissolution of the marital bond, with the bond's continuation being the legal condition for the loss of citizenship under the prior regime.

With Judgment No. 30 of 1983, the Court declared Article 1(1) of Law No. 555/1912 unconstitutional, stating that the provision, by granting citizenship to children solely through the father, **infringed upon the mother's legal standing in her relationships with the State and the family**. The Court highlighted the legally significant interest of both parents in their children being citizens and, thus, members of the same state community to which the parents belong, allowing them to benefit from the protections associated with such membership. Additionally, the Court noted that Article 1 of the law harmed the mother's status within the family, given the equality of duties and responsibilities toward children now recognized in modern legal systems.

On the basis of these Judgements, In line with the decisions outlined above and incorporated into the new citizenship law, the following principles have been established: **A wife retains her Italian**



citizenship even if she marries a foreign citizen, and a child has the right to acquire citizenship through their mother.

Two judicial approaches emerged regarding the application of these principles: According to **the First Approach** the "favorable" effects of the judgments could only take effect from the date of the Constitution's enactment (January 1, 1948). **The Second Approach** allowed no temporal limitation could be imposed, even retroactively before the Constitution's adoption.

In 2009, the **Supreme Court of Cassation (Judgments Nos. 4466 and 4467)** clarified that even pre-constitutional situations must be considered under the framework of citizenship as a *permanent* and *imprescriptible* status. This status is actionable at any time if its illegitimate deprivation continues beyond the Constitution's enactment due to a discriminatory law subsequently declared unconstitutional.

The Court emphasized that the rulings in question only apply to situations that were unresolved as of January 1, 1948, the date when the Italian Constitution came into effect, and thus cannot have retroactive application beyond that point. The Court confirmed **that citizenship, being a permanent and imprescriptible status (except in cases of voluntary renunciation), is actionable at any time—even posthumously for ancestors or parents through whom citizenship recognition is claimed. This allows for legal action in cases where the unlawful deprivation of citizenship, stemming from a discriminatory rule later declared unconstitutional, persists after the Constitution's enactment.**

Specifically, the United Sections of the Court declared that *"citizenship status is permanent, with lasting effects over time that manifest in the exercise of the associated rights. It can only be lost through renunciation, as was the case in the previous legislation (Article 8, Law No. 555/1912)... Therefore, it is correctly affirmed that citizenship status, as an effect of filiation, constitutes an essential personal quality, characterized by absoluteness, originality, indisposability, and imprescriptibility, making it actionable at any time and generally not definable as concluded, except when it is denied or recognized by a final judgment."*

The Court further ruled that *"the entitlement to Italian citizenship must be recognized judicially, regardless of the declaration made by the interested party pursuant to Article 219 of Law No. 151 of 1975, for a woman who lost it by marrying a foreign national before January 1, 1948. The loss of citizenship without the woman's consent is a continuing effect, post-1948, of an unconstitutional law, which conflicts with the principle of gender equality and the legal and moral equality of spouses (Articles 3 and 29 of the Constitution). For the same reason, the child of such a woman, born before that date and under the law in force at the time (Law No. 555/1912), also regains Italian citizenship from January 1, 1948. The relationship of filiation, after the Constitution's enactment, ensures the*



child's right to citizenship, which they would have automatically been entitled to, had it not been for the discriminatory law."

Thus, **pre-constitutional norms** that were declared unconstitutional by the aforementioned rulings are **no longer applicable and have no effect from January 1, 1948**, in cases where they continue to create discriminatory consequences. This includes cases where the gender-based discrimination or the husband's dominance in family matters persists, **provided that there are individuals still affected by unjust consequences**, which are subject to legal protection and can be remedied judicially.

In 1992, the legislator repealed the 1912 law and reformed the entire legal framework with **Law No. 91 of February 5, 1992, titled "New Rules on Citizenship."**

Article 1 of this law establishes that *"a person is a citizen by birth: a) the child of a father or a mother who are citizens [...]"*. This provision, confirming a principle already set forth by Article 1 of the previous Law No. 555 of June 15, 1912, and later corrected by the Constitutional Court's decision of February 9, 1983, No. 30, **recognizes citizenship *iure sanguinis* (by birth) in favor of direct descendants of Italian citizens**, whether male or female, **even if they have emigrated** abroad. It also provides that a person born in the territory of the Republic may acquire citizenship if both parents are unknown, stateless, or if the individual does not follow their nationality under the laws of their country of origin.

As affirmed by the **Court of Cassation in its "twin rulings"** of 2022, *"the weight of the choice based on blood ties (i.e., *iure sanguinis*), as compared to other links between a person and the territory (such as *iure loci* or, as it is sometimes called, *iure soli*, with various additional requirements), has justified (and still partially justifies, under Law No. 91 of 1992) a **clear restriction** on the acquisition of citizenship for **individuals who do not have Italian ancestors**. It has also led to a similarly clear restriction on cases where the citizenship of Italians abroad could be extinguished."*

It is entirely clear, from this perspective, that **the loss of Italian citizenship can only depend on national legislation**, according to the provisions available at the time, and cannot be determined by decisions made within foreign legal systems.

Procedural Principles on the Burden of Proof



The burden of proof for those seeking the recognition of Italian citizenship is therefore focused on demonstrating the continuous line of transmission, with extinction only occurring through voluntary renunciation (as confirmed in Cass. Sez. U n. 4466-09).

When citizenship is claimed by a descendant, according to the principles of burden of proof allocation, it is up to the claimant to prove only that they are a descendant of an Italian citizen. Conversely, it is the responsibility of the state party, if it raises a specific objection, to prove the event that interrupted the transmission line.

As briefly explained by the Court of Cassation in its 2022 ruling by the United Sections:

Citizenship by birth is acquired as an original title.

Once acquired, the status of a citizen is permanent and imprescriptible.

It is actionable at any time based on the simple proof of the acquiring event, which is the birth of a child to an Italian citizen.

Therefore, the proof lies in the transmission line.

Only renunciation leads to extinction (see Cass. Sez. U n. 4466-09).

Hence, when citizenship is claimed by a descendant, the only thing they must prove, unless there has been a change in the law, is that they are indeed a descendant of an Italian citizen. The state, if it challenges the claim, bears the burden of proving the interruption of the transmission line.

The case at hand

By producing the birth, marriage, and death certificates of all the ancestors and forebears, the defendant has fulfilled the burden of proof resting upon them, proving the direct descent of the plaintiffs from the Italian citizen ancestor who emigrated abroad.

In fact, the defendant has documented, with the submission of certificates and/or extracts of birth, baptism, marriage, and death, that the plaintiffs all descend through multiple lines of transmission from [REDACTED], the progenitor who emigrated to the USA [REDACTED].

In light of the documentation provided, the plaintiffs have thus proven the continuity of the line of descent and, therefore, the transmission of Italian citizenship *ius sanguinis*, as referred to in the premise of this decision.



The **defendant**, for its part, **did not contest** the genealogical reconstruction above and, therefore, **the continuous line of transmission**, limiting itself to inviting the Court to verify it, also with regard to the evidence provided, and only requesting, in the event the petition is upheld, to have the legal costs be borne by the plaintiffs.

As is evident, there are **no instances of citizenship transmission** through the female line in the **pre-constitutional period within the line of descent**.

Therefore, **no legal obstacle** could have **opposed the transmission of Italian citizenship** based on the law in effect at the time each descendant was born. In other words, the transmission of Italian citizenship in this case occurred independently of the Constitutional Court rulings no. 30/1983 and no. 87/1975, which declared articles 1 and 10 of Law no. 555/1912 unconstitutional.

Considering the above, it must be **concluded** that the **plaintiffs have proven the continuity of the transmission line** (as indicated above), while **none of the elements that would characterize a case for the extinction of Italian citizenship** have been **proven by the defendant** (see in this regard, Cassazione Civil, Section I, 11 February 2020 no. 3175; Cassazione Civil, United Sections, 24 August 2022 no. 25317) nor do they emerge from the case records.



In particular, it is not established that the plaintiffs or their ancestors **have ever renounced** their **Italian citizenship**, thereby interrupting the genealogical chain of transmission (in this regard, reference is made to the certificates issued by the competent diplomatic and consular authorities, which have been legalized and whose authenticity is not in doubt).

Therefore, the plaintiffs' request must be upheld, and it must be declared that they are Italian citizens, with the Ministry of the Interior being ordered to adopt the subsequent measures.

Given the nature of the dispute, the resolution of which also depends on the application of judicial principles that are not always uniform, there are valid reasons to fully **compensate the legal costs**.

FOR THESE REASONS

The Court of Genoa, in a single-judge composition, issuing a final judgment:

- **Declares that** [REDACTED], as fully listed in the header, **are Italian citizens**;
- Orders, as a consequence, the Ministry of the Interior, represented by the Minister pro tempore and, on their behalf, the competent civil status officer – specifically, the **Civil Status Officer of the Municipality of LICCIANA NARDI (MS)**, to proceed with the necessary registrations, transcription, and legal annotations in the civil status registers of the individuals listed, also making any necessary communications to the relevant consular authorities for them to carry out the required registrations, transcriptions, and legal annotations in the relevant registers.

[REDACTED]

It is ordered to communicate this to the parties and the interested subjects.

Si comunichi alle parti e ai soggetti interessati.

Genoa, November 12th 2024

THE JUDGE

Dott. Enzo BUCARELLI



