

N. R.G. [REDACTED]



ITALIAN REPUBLIC  
IN THE NAME OF THE ITALIAN PEOPLE  
COURT OF CATANIA  
FIRST CIVIL SECTION

The Court, in the person of Judge Dr. Iolanda Apostolico, has issued  
the following

**JUDGEMENT**

In the civil case as indicated in the heading, filed by:

[REDACTED], born in [REDACTED] (USA) on [REDACTED], on their  
own behalf and in their capacity as a parent exercising parental responsibility  
over the minor child

[REDACTED], born in [REDACTED] (USA), on [REDACTED], all  
represented and defended, pursuant to the attached proxy, by Attorney Salvatore  
Aprigliano (Tax ID: PRGSVT74R31F205H, PEC:  
salvatore.aprigliano@milano.pecavvocati.it), with an elected domicile at his  
law office located in Milan, Via Fabio Filzi no. 41  
-petitioners-

Against

The Ministry of the Interior, in the person of the Minister in office, domiciled at  
the office of the District State Attorney of Catania, located in Catania, Via  
Vecchia Ognina, 149 - ZIP Code 98127, PEC:



ads.ct@mailcert.avvocaturastato.it

-respondent-

With the intervention of the Public Prosecutor, who expressed a contrary opinion

## CONCLUSIONS

At the hearing on October 15, 2024, the plaintiffs requested that the case be submitted for judgment, with the acceptance of the petition and the recognition of citizenship *iure sanguinis*.

## FACTUAL AND LEGAL REASONS

(pursuant to Article 132 of the Italian Code of Civil Procedure)

By filing a petition pursuant to Article 281-decies, paragraph 1, of the Italian Code of Civil Procedure, the plaintiffs requested the recognition of Italian citizenship *iure sanguinis*, asserting that they are descendants of [REDACTED], born in [REDACTED] (NY, United States) on [REDACTED] to Italian parents, [REDACTED] and [REDACTED]. The petition states that from the union of the Italian ancestor [REDACTED], an Italian citizen *iure sanguinis*, and [REDACTED], on [REDACTED] in [REDACTED] ([REDACTED], United States), Mr. [REDACTED], the current petitioner, was born. Subsequently, the latter, together with Mrs. [REDACTED], became the parent of [REDACTED], born in [REDACTED] on [REDACTED], also a current petitioner.

All the plaintiffs, therefore, claim to be direct descendants *iure sanguinis* of the Italian ancestor [REDACTED], who, in addition to acquiring U.S.



citizenship by birth, also acquired Italian citizenship under the principle of *ius sanguinis* in force in our country, as she was born to Italian parents.

The petitioners initially attempted to initiate the administrative procedure for the recognition of their citizenship but were unable to access the reservation system. The Italian Consulate General in [REDACTED], to which the petitioners applied, did not even allow them to join the waiting list. This was due to the "Prenot@mi" service dedicated to this purpose not offering any available dates for the requested service, as evidenced by the documentation on record showing numerous booking attempts made by the current petitioners between September 2022 and November 2023.

The following documents, duly affixed with Apostille in accordance with the Hague Convention, have been submitted:

1. Transcript of the birth certificate and Extract of the birth certificate of Ms. [REDACTED], issued by the Municipality of [REDACTED] ([REDACTED]).
2. Birth certificate of Mr. [REDACTED], both in the original language and with an accompanying Italian translation, complete with Apostille.
3. Birth certificate of the minor [REDACTED], both in the original language and with an accompanying Italian translation, complete with Apostille.
4. Screenshot as proof of access to the website of the Italian Consulate General in [REDACTED] ([REDACTED], United States) – Prenot@mi service – for the purpose of booking an appointment.
5. Emails dated [REDACTED] and [REDACTED] from the Italian Consulate General in [REDACTED].

The petition was served to the respondent via certified email (PEC) by the plaintiffs on February 12, 2024, pursuant to Law No. 93/1994. The Ministry



entered an appearance in the proceedings through the State Attorney's Office on October 4, 2024, by filing a statement of defense. In this submission, the Ministry did not contest the substance of the plaintiffs' request for citizenship recognition but requested that the claims be declared inadmissible due to a lack of standing.

At the hearing on October 15, 2024, the case was reserved for judgment based on the conclusions formulated in the case files.

Preliminarily, the admissibility of the claim for the recognition of citizenship must be affirmed, as the determination of *status civitatis* falls under the jurisdiction of the Ministry of the Interior. While applicants are expected to limit themselves to requesting the issuance of the relevant certificate or, in the case of non-residents in Italy, to seeking recognition of such status from the competent consular authority for their jurisdiction, based on documentation proving descent from an Italian citizen, without the need to resort to an ordinary court, it must be noted that, pursuant to Article 2 of Law No. 241 of 1990, proceedings under the jurisdiction of state administrations must be concluded within specified and definitive time limits. For proceedings concerning the verification of Italian citizenship and the issuance of the related certification, including cases involving citizenship acquisition through *iure sanguinis* transmission, the time limit established by Presidential Decree No. 33 of January 17, 2014, is 730 days.

Therefore, according to the prevailing interpretation in case law, the petitioner has a legitimate interest in seeking judicial determination of citizenship status if they provide evidence of having unsuccessfully pursued the matter administratively by submitting a request to the competent consular authority.



In the present case, the petitioners have demonstrated that they repeatedly attempted, between September 2022 and November 2023, to submit a request for recognition of their status as Italian citizens to the competent Consular Authorities via the "Prenot@mi" service on the website of the Italian Consulate General in [REDACTED] ([REDACTED], United States). However, they were unable to do so due to the online booking system being blocked and the lack of available dates. The state of paralysis and significant delays in these procedures has, moreover, been acknowledged by the Italian Consulate in [REDACTED].

Therefore, the interest in pursuing legal action must be deemed valid.

On the merits, it is noted that, pursuant to Article 1, paragraph 1, of Law No. 91/ "A person is an Italian citizen by birth:  
a) the child of a father or mother who is an Italian citizen;  
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 citizenship of the parents under the laws of the state to which the parents belong."

Italian legislation, as highlighted in the petition, establishes *ius sanguinis* as the cornerstone principle for acquiring citizenship, emphasizing the blood relationship between parent and child.

In this regard, the United Sections of the Court of Cassation, in judgment No. 25317 of August 24, 2022, clarified:

*"In matters of Italian citizenship rights, under 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 by birth is acquired originally iure sanguinis. The status of citizen, once acquired, is permanent, imprescriptible, and enforceable at any time based on simple proof of the acquisition event,*



*integrated by being born to an Italian citizen. Consequently, those seeking recognition of citizenship need only prove the acquisition event and the transmission line, while the burden of proving any interrupting circumstances lies with the opposing party if an exception is raised.*

The case law, with Order No. 12894 of May 11, 2023, Section I, further clarified that “Article 11, No. 2 of the Civil Code of 1865, in establishing that Italian citizenship is lost by those who have 'obtained citizenship in a foreign country,' implies, for its effects on the line of transmission *iure sanguinis* to descendants, that it must be ascertained whether the person who emigrated at the time carried out a spontaneous and voluntary act aimed at acquiring foreign citizenship. The establishment of residence abroad, the stabilization of one's living conditions there, or the failure to object to a generalized naturalization decree is not sufficient to constitute the extinguishing event of citizenship status through tacit acceptance of the effects of such a decree”.

Furthermore, before the entry into force of Law No. 91/1992, the now repealed Law No. 555 of June 13, 1912, provided in Article 1 that citizenship could only be transmitted through the paternal line “*A person is an Italian citizen by birth: 1) the child of an Italian father; 2) the child of an Italian mother, if the father is unknown, does not hold Italian citizenship, or does not hold the citizenship of another state, or if the child does not inherit the citizenship of the foreign father under the laws of the state to which he belongs.*” However, with Judgment No. 30 of 1983, the Constitutional Court declared the unconstitutionality of Article 1, No. 1, of Law No. 555 of 1912, insofar as it did not provide that a child born to an Italian mother was also an Italian citizen by birth.

*In this case, the request for the recognition of citizenship is therefore well-founded.*

Indeed, the Italian citizen ancestor, as evidenced and documented in the petition, is [REDACTED], born in the United States on [REDACTED]. Her birth



was subsequently transcribed by the municipality of [REDACTED] ([REDACTED]), as she acquired Italian citizenship *iure sanguinis* by being the daughter of Italian citizens (see the transcription and extract of her birth certificate from the municipality of [REDACTED] ([REDACTED])). Being born in the United States, she also acquired U.S. citizenship; therefore, a negative naturalization certificate cannot be produced. Based on these premises, and in the absence of any opposing facts, Ms. [REDACTED] was able to transmit Italian citizenship *iure sanguinis* to her descendants. From her union with Mr. [REDACTED] on [REDACTED] in [REDACTED] ([REDACTED], United States), Mr. [REDACTED], the current petitioner, was born. He, in turn, became the parent of [REDACTED], born on [REDACTED].

Thus, the direct descent of the petitioners *iure sanguinis* from an Italian citizen is proven, as no interrupting events (such as the foreign naturalization of the ancestor before the birth of their child or the renunciation of Italian citizenship by the descendants) have been raised.

Accordingly, the petition must be granted, declaring the applicants as Italian citizens and directing the Ministry of the Interior to adopt the necessary measures.

The lack of substantive opposition by the Ministry of the Interior to the claim, combined with the reasons for the inability to address the matter within the legal timeframe at the administrative level, constitutes the exceptional and serious grounds that justify, pursuant to Article 92 of the Italian Code of Civil Procedure, the full compensation of legal costs.



FOR THESE REASONS

The Court, pursuant to Article 281-decies and subsequent articles of the Italian Code of Civil Procedure, definitively rules as follows:

- Grants the petition and, as a result, declares that [REDACTED] [REDACTED], born in [REDACTED] (USA) on [REDACTED], and the minor child [REDACTED] [REDACTED], born in [REDACTED] (USA) on [REDACTED], are Italian citizens.

- 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 concerning the citizenship of the aforementioned individuals, and to carry out any necessary communications to the competent consular authorities.

Costs compensated.

Mandates the Clerk's Office to carry out the necessary administrative tasks.

Catania, December 8th, 2024

The Judge  
*Iolanda Apostolico*

