



ITALIAN REPUBLIC

IN THE NAME OF THE ITALIAN PEOPLE

The Honorary Justice of the Peace at the First Civil Section of the Court of Catania, Dr. Giulia Camilleri, has issued the following

JUDGEMENT

in the civil case registered under no. [REDACTED] R.G., concerning: Recognition of Italian citizenship
filed by

- 1) [REDACTED] ([REDACTED]), U.S. citizen, born in [REDACTED] (USA), on [REDACTED] residing at [REDACTED] (USA), in their own capacity and as the parent exercising parental responsibility over the minor child:
- 2) [REDACTED] ([REDACTED]), U.S. citizen, born in [REDACTED] (USA), on [REDACTED].

The petitioners are represented and defended, pursuant to the power of attorney in the case records, by Attorney Salvatore Aprigliano, Tax ID PRGSVT74R31F205H, of the Milan Bar Association, with an elected domicile in Milan at Via Fabio Filzi no. 41.

PETITIONERS

VERSUS

THE MINISTRY OF THE INTERIOR (Tax ID 80009650872), in the person of the Minister pro tempore, represented and defended by law by the District Attorney's Office of the State of Catania, with an elected domicile at its offices in Catania, Via Vecchia Ognina no. 149;

RESPONDENT

With an appeal pursuant to Article 281-decies of the Italian Code of Civil Procedure, the petitioners requested the recognition of Italian citizenship *iure sanguinis*, claiming to be descendants of

[REDACTED], born in [REDACTED] on [REDACTED], an Italian citizen who emigrated to the United States of America.

The Ministry of the Interior entered an appearance in the proceedings, stating that it did not intend to challenge the potential recognition of Italian citizenship, as it had not received any opposing elements from the competent authorities. It requested, in the event of recognition of the citizenship, that the court order the costs of the proceedings to be offset.

The Public Prosecutor submitted their memorandum, concluding as follows: *"Having read the judgment of the Court of Cassation, Civil Joint Sections, no. 25317/2022, according to which, when citizenship is claimed by a descendant, nothing else—under the current legislation—must be demonstrated by them except the following: that they are indeed a descendant of an Italian citizen; while the burden of proof of an event interrupting the line of transmission falls on the opposing party, should they raise such an objection;"*

At the hearing on 12/12/2024, the case was submitted for decision.

That said, the appeal is well-founded and must be upheld for the following reasons.

Regarding the jurisdiction of the Court of Catania, it should be noted that Law no. 206/2021 provides, in paragraph 36, that "in Article 4, paragraph 5, of Decree-Law no. 13 of February 17, 2017, converted, with amendments, by Law no. 46 of April 13, 2017, the following sentence is added: 'When the plaintiff resides abroad, disputes concerning the recognition of Italian citizenship are assigned based on the municipality of birth of the father, mother, or Italian ancestor.'" Specifically, jurisdiction lies with the specialized section competent for the municipality of the ancestor's birth.

Additionally, paragraph 37 of the aforementioned law states that "the provisions of paragraphs 27 to 36 of this article apply to proceedings initiated from the 180th day following the date of entry into force of this law."

Therefore, as of June 22, 2022, for petitioners residing abroad, jurisdiction is assigned to the Court that includes the municipality of birth of the Italian ancestor, or more precisely, to the Court hosting the specialized section for immigration and citizenship matters.

In the present case, the ancestor was born in the province of [REDACTED], which establishes the jurisdiction of this Court, specifically the section specialized in immigration matters..." (see Court of Venice, Judgment no. 573/2024 of 22-02-2024).

As a preliminary matter, it should be noted that the recognition of *status civitatis* falls within the competence of the Ministry of the Interior.

Applicants should limit themselves to requesting the issuance of the relevant certificate or, in the case of applicants who do not reside in Italy, to seeking recognition of such status from the consular

authority competent for the district in which they reside, based on documentation proving their descent from an Italian citizen.

It must therefore be affirmed that the Ministry of the Interior has standing as the defendant in this case.

The petitioners are requesting the granting of citizenship *iure sanguinis*, as descendants of an Italian citizen by birth.

In all cases, including the present one, that are not among those mentioned in Article 16(2) of D.P.R. no. 572/1993 (namely Articles 2(2) and (3), 3(4), 4(1)(c), 4(2), 11, 13(1)(c) and (d), 14, and 17 of Law no. 91/92), the authority responsible for verifying the existence of the requirements for the recognition of Italian citizenship is the Ministry of the Interior. The Diplomatic or Consular Authority forwards a copy of the application and the documentation submitted by the applicant to the Ministry (Article 16(4) of the aforementioned D.P.R.).

Pursuant to Article 2 of Law no. 241 of 1990, proceedings under the jurisdiction of state administrations must be concluded within specified and certain timeframes, in accordance with the principle of reasonable duration of the process.

For proceedings concerning the verification of possession of Italian citizenship and the issuance of the related certification, including cases of acquisition of citizenship *iure sanguinis*, the timeframe set by D.P.R. no. 33 of January 17, 2014, is 730 days.

The recourse to judicial protection appears justified, as it seems unlikely that the competent Administration can comply with the aforementioned 730-day limit.

Requests for the recognition of Italian citizenship submitted to the competent diplomatic representation face a processing time of approximately 10 years, a timeframe that is unlikely to be significantly reduced.

Secondly, regarding the impact of the so-called *grande naturalizzazione* of 1889 in cases of recognition of citizenship *iure sanguinis*, the Court of Cassation, Civil Joint Sections, in Judgment no. 25318/2022, established the following principles:

“(i) According to Italian legal tradition, under the framework 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 as an original title *iure sanguinis*, and the status of citizen, once acquired, is permanent, imprescriptible, and enforceable at any time upon simple proof of the acquisition event, namely, birth to an Italian citizen. The party requesting the recognition of citizenship is required to prove only the acquisition event and the line of transmission, while the burden of proving any event interrupting the transmission lies with the opposing party that raises such an objection;

(ii) The institution of the loss of Italian citizenship, as regulated by the Civil Code of 1865 and Citizenship Law no. 555 of 1912, when considered in relation to the phenomenon of the *grande naturalizzazione* of foreigners in Argentina/Brazil/America at the end of the 19th century, requires a restrictive interpretation of the relevant rules within the context of subsequent constitutional principles, as citizenship is considered one of the fundamental rights. From this perspective, Article 11(2) of the 1865 Civil Code, which provides that Italian citizenship is lost by anyone who “has obtained citizenship in a foreign country,” implies, for the purposes of *iure sanguinis* transmission to descendants, that there must be verification of a voluntary and deliberate act by the emigrated individual aimed at acquiring foreign citizenship—for example, by submitting a request for registration on electoral rolls in accordance with the local laws. Merely establishing residence abroad, or even stabilizing one’s life abroad, is insufficient, and the lack of reaction to a generalized naturalization measure cannot be deemed to constitute tacit acceptance of the effects of such a measure, thereby extinguishing the status.”.

On the merits, the claim is well-founded based on the documentation submitted, which has been translated and apostilled. The petitioner has provided documentation proving direct descent from the Italian ancestor, which has not been contested by the opposing party, nor has any evidence to the contrary been provided.

This position has recently been confirmed by the Supreme Court in Joint Sections, which ruled that: “(i) According to Italian legal tradition, under the framework 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 as an original title *iure sanguinis*, and the status of citizen, once acquired, is permanent, imprescriptible, and enforceable at any time upon simple proof of the acquisition event, namely, birth to an Italian citizen. The party requesting the recognition of citizenship is required to prove only the acquisition event and the line of transmission, while the burden of proving any event interrupting the transmission lies with the opposing party that raises such an objection” (*Cass. SSUU Judgment no. 25317 of 24.08.2022* and *Cass. SSUU Judgment no. 25318 of 24.08.2022*).

From the documentation on file, it is evident that the Italian ancestor never lost Italian citizenship and transmitted it *iure sanguinis* to their descendants, including the current petitioners.

It should be noted that the Constitutional Court, in Judgment no. 30 of February 9, 1983, declared Article 1 of Law no. 555/1912 unconstitutional insofar as it did not recognize as Italian by birth the child of an Italian mother, in violation of Articles 3 and 29 of the Constitution. This decision paved the way for the equal treatment of men and women in matters of citizenship.

The principle of equality between men and women in matters of citizenship was first established legislatively with Law no. 123 of April 21, 1983, Article 5 (“A minor child, including an adopted child, of an Italian father or mother is an Italian citizen”), and was subsequently reinforced by Law no. 91/1992, which further consolidated this principle by establishing that “a child of an Italian father or mother is an Italian citizen by birth.”.

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

This is the current rule in force, according to the interpretation followed by the Ministry of the Interior, which, in Circular no. 9 of July 4, 2001, maintains that the equality of treatment between men and women applies only to individuals born after January 1, 1948.

However, the Court of Cassation, in a 2009 ruling, recognized the right to Italian citizenship also for descendants through the maternal line born before 1948, who can request it through judicial proceedings.

As is well known, the Court of Cassation in Joint Sections, overturning its previous position with the landmark judgment no. 4466 of 2009, held that, as a result of Constitutional Court judgments no. 87 of April 9, 1975, and no. 30 of February 9, 1983, the *iure sanguinis* recognition of Italian citizenship can also be obtained by children or descendants of women who had lost their Italian citizenship pursuant to Article 10(3) of the previous Law no. 555/1912, following marriage to a foreign citizen entered into before January 1, 1948.

Thus, descendants of Italian women born before 1948, as well as those born to Italian women who married a foreigner before 1948 (and thereby lost their citizenship under Law no. 555/1912 before the Constitution came into effect), can seek recognition of *iure sanguinis* citizenship exclusively through the so-called "maternal judicial route.". The historical reconstruction clearly establishes a direct *iure sanguinis* line of descent from the Italian ancestor, Concetto Di Pace, who never lost his Italian citizenship and, consequently, transmitted it to all his descendants, including the present petitioners.

The direct descent from an Italian citizen has therefore been proven.

The uncertainty regarding the resolution of the request for recognition of *status civitatis* as Italian *iure sanguinis* and the unreasonable length of time elapsed in relation to the interest at stake amount to a denial of the recognition of the right, thereby justifying the interest in seeking judicial protection.

Therefore, the petition 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 peculiarity of the issues addressed, it is appropriate to order the costs of the proceedings to be offset between the parties involved.

FOR THESE REASONS

The Court of Catania, sitting in single-judge composition, definitively rules as follows:

1. Upholds the petition and, as a result, declares that the petitioners are Italian citizens *iure sanguinis* by virtue of direct descent from their common Italian ancestor.
2. Orders the Ministry of the Interior, and through it the competent Civil Registry Officer, to proceed with the registrations, transcriptions, and annotations required by law in the Civil Status Registers concerning the citizenship of the individuals indicated, including any necessary communications to the competent consular authorities.
3. Orders the costs of the proceedings to be offset between the parties.

Catania, January 13th, 2025

The Judge

Dott.ssa Giulia Camilleri

