



**ITALIAN REPUBLIC  
IN THE NAME OF THE ITALIAN PEOPLE  
THE COURT OF NAPLES**

*13th CIVIL SECTION*

**SPECIALIZED SECTION FOR IMMIGRATION,  
INTERNATIONAL PROTECTION, AND FREE MOVEMENT  
OF EUROPEAN UNION CITIZENS**

The Court of Naples, sitting in single-judge composition, in the person of Honorary Judge of the Peace, Dr. Antonietta De Simone, **having resolved the reservation made on November 27, 2023, has issued the following**

**JUDGEMENT**

in the civil proceedings conducted under the procedure pursuant to Articles 281-undecies of the Italian Code of Civil Procedure, registered under no. [REDACTED] R.G., concerning: **status of Italian citizenship**

**BETWEEN**

[REDACTED], born in [REDACTED] ([REDACTED]), on [REDACTED], [REDACTED], born in [REDACTED] on [REDACTED], [REDACTED], in their own capacity and in their role as the holder of parental responsibility over the minor child [REDACTED] born in [REDACTED] ([REDACTED]) on [REDACTED], [REDACTED] born in [REDACTED] ([REDACTED]) on [REDACTED].

**All represented and defended by Attorney Salvatore Aprigliano, pursuant to the power of attorney attached to the case records**

**PETITIONES**

AGAINST

**THE MINISTRY of the INTERIOR** in the person of the Minister in office, with legal domicile at the District Attorney's Office of the State

RESPONDENT

As well as

**The Public Prosecutor** at the Court of Naples

INTERVENING PART *EX LEGE*

The petitioners request that their status as Italian citizens be declared by virtue of their descent [REDACTED] from [REDACTED] their [REDACTED] Italian [REDACTED] ancestor.

The Ministry of the Interior has not entered an appearance in the proceedings, and its default is declared.

The Public Prosecutor has expressed a favorable opinion.

The line of descent has been duly documented through civil status certificates—where foreign, translated and apostilled. This lineage includes transmission through the maternal line. In fact, the petitioners are direct descendants in a straight line from M [REDACTED] also known in the USA as [REDACTED], an Italian citizen by birth, born in [REDACTED] (Italia) il [REDACTED] who later emigrated to the United States. From the union between Mrs. [REDACTED] and Mr. [REDACTED] was born [REDACTED] on [REDACTED], in [REDACTED] (USA), acquiring U.S. citizenship at birth by virtue of the *jus soli* principle in force there. This lineage continues unbroken to the present petitioners, as evidenced by the submitted family tree.

However, under the law in force at the time, this situation led to the interruption of the transmission of Italian citizenship *iure sanguinis*. This was due to the facts that, at that time, Italian citizenship was transmitted—except in marginal cases—exclusively through the paternal line, and also because article [specific article] of Law no. 555/1912 provided for the loss of Italian citizenship for women who married a foreign citizen.

However, the Constitutional Court, with ruling no. 30 of 1983, declared Article 1, no. 1 of Law 555/1912 constitutionally illegitimate for violating Articles 3 and 29 of the Constitution, "insofar as it does not provide that a child of a female citizen is also a citizen by birth." This ruling thus aligned the previous legislative framework on citizenship status

with constitutional values and consequently allowed for the acquisition of Italian citizenship through the maternal line. Previously, the same Court, with ruling no. 87 of April 9-16, 1975, had declared the aforementioned Article 10 of Law no. 555 of 1912 constitutionally illegitimate for violating Articles 3 and 29 of the Constitution, "insofar as it provides for the loss of Italian citizenship regardless of the woman's will."

According to an initial interpretation, the favorable effects of these rulings could only take effect from the date of the Constitution's entry into force, preserving situations that had already been settled at the time. However, this substantial disparity in treatment was later overcome by the Court of Cassation, which, ruling in a United Sections decision, affirmed that "as a result of Constitutional Court rulings no. 87 of 1975 and no. 30 of 1983, the right to Italian citizenship status must be recognized for applicants born abroad to a mother who was an Italian citizen married to a foreign citizen under the provisions of Law no. 555 of 1912, who was consequently deprived of Italian citizenship due to marriage.

While acknowledging the principle of supervening unconstitutionality, according to which the declaration of unconstitutionality of pre-constitutional norms only affects relationships and situations that had not yet been exhausted as of January 1, 1948—without retroactive effect beyond the Constitution's entry into force—the Court affirms that the right to citizenship, as a permanent and imprescriptible *status*, remains enforceable at any time. This applies even in cases where the ascendant or parent from whom the recognition derives has previously passed away, due to the ongoing effect, even after the Constitution came into force, of the unlawful deprivation caused by the discriminatory norm declared unconstitutional" (Cass. Sez. Unite, ruling no. 4466 of 25/02/2009). Furthermore, the Court states: "The status of citizen is permanent and has lasting effects over time, which manifest in the exercise of the resulting rights. As previously noted, it can only be lost through renunciation, as was also provided in prior legislation (Article 8, no. 2 of Law 555 of 1912).

Therefore, it is correctly stated that the status of citizen, as a consequence of being a child, constitutes an essential quality of the person, characterized by absoluteness, originality, inalienability, and imprescriptibility, making it enforceable at any time. As a rule, it cannot be considered exhausted or closed unless it has been denied or recognized by a final judgment.

Consequently, based on the effectiveness of the aforementioned rulings on unconstitutionality from the date of the new Constitution's entry into force, Italian citizenship must be recognized also for the children of female citizens who had not acquired it because they were born before January 1, 1948, and, as a result, for their descendants as well.

The litigation costs may be declared compensated, as the decision stems from the application of principles derived from case law.

Judgement n. [REDACTED] published on 12/27/2024

RG n. [REDACTED]

Repert. n. [REDACTED] 12/12302024

### FOR THESE REASONS

The Court, in the person of the single judge, grants the claim and, as a result, declares that the applicants, as identified in the records:

[REDACTED]  
are Italian citizens;

- Consequently, orders the Civil Status Officer of [REDACTED], as the reference municipality for the Italian immigrant [REDACTED], an Italian citizen by birth, born in [REDACTED] (Italy) on [REDACTED];
- As a result, orders the respondent Ministry of the Interior, or its representative, to proceed with the registrations, transcriptions, and legal annotations of the applicants' Italian citizenship status in the civil status registers, ensuring any necessary communications to the competent Consular Authorities.
- Litigation costs are compensated.

Thus decided in Naples on December 26, 2024

The Judge A. De Simone