



ITALIAN REPUBLIC

IN THE NAME OF THE ITALIAN PEOPLE

ORDINARY COURT OF CAMPOBASSO

**Specialized Section for Immigration, International Protection and
Free Movement of European Union Citizens**

The Court, in the person of Judge Dr. Claudia Carissimi, has delivered the following

JUDGMENT

In the civil case of first instance registered under docket no. [REDACTED], filed pursuant to Article 281-decies of the Italian Code of Civil Procedure by:

[REDACTED] (Tax Code [REDACTED]), born in [REDACTED] (USA) on [REDACTED], represented and defended by Attorney Salvatore Aprigliano, pursuant to power of attorney filed in the records, with elected domicile at his law office located in Milan, Via Fabio Filzi No. 41;

Claimant

against

MINISTRY OF THE INTERIOR

Respondent

and with the intervention of the Public Prosecutor at the Court

Statutory intervenor

Subject matter: citizenship petition

Final submissions: the party concluded as set out in the records.

Brief statement of the factual and legal grounds for the decision

The petitioner requests that her status as an Italian citizen be recognized by virtue of her descent from [REDACTED], an Italian citizen born on [REDACTED] in [REDACTED] ([REDACTED]), who later emigrated to the United States of America. The Ministry, duly summoned as evidenced by the notifications on record, did not enter an appearance.

Il Ministero ritualmente convenuto, come da notifiche in atti, non si è costituito.

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

The case was instituted through documentary proceedings and discussed at the hearing of February 25, 2025, held in written form, following the authorized filing of written submissions, in which the parties confirmed their conclusions by referring to those set out in their respective pleadings, requesting full acceptance thereof.

The petition is well-founded and must be upheld.

The line of descent from the Italian ancestor to the present petitioner is fully documented, despite the absence of marriage certificates.

Indeed, the petitioner fulfilled the burden of proof by submitting [REDACTED], along with the birth certificates of the descendants up to the present petitioner, which made it possible to reconstruct the line of descent through the identification of the parents' names appearing on each descendant's birth certificate.

Although the petitioner did not submit any documentation relating to [REDACTED], the respondent failed to meet its burden of proof by not filing any documentation demonstrating that the Italian ancestor had renounced her Italian citizenship.

From the examination of the documents submitted, it appears that the transmission of citizenship, according to the law in force at the time, was interrupted due to a generational passage through the maternal line (indeed, [REDACTED], an ancestor of the present petitioner, could not have transmitted Italian citizenship to her children as a result of the involuntary loss of such citizenship following her marriage to a U.S. citizen by birth, presumably prior to the entry into force of the Constitution, given the date of birth of her daughter in 1932, even in the absence of an express declaration of intent in that regard).

At that time, *jure sanguinis* transmission was generally allowed—except in marginal cases—only through the paternal line, and furthermore, Article 10 of Law No. 555 of 1912 provided for the loss of Italian citizenship by a woman who married a foreign national.

However, the Constitutional Court, with Judgment No. 30 of 1983, declared Article 1(1) of Law No. 555/1912 constitutionally illegitimate for violating Articles 3 and 29 of the Constitution, “*insofar as it did not provide that a child born to an Italian mother is also an Italian citizen by birth.*” This decision thus aligned the former legislative

framework on citizenship status with constitutional values and made it possible to acquire Italian citizenship through the maternal line.

According to an initial interpretation, the beneficial effects of those rulings could only arise from the date of the Constitution's entry into force, thereby preserving previously settled legal situations. This substantial disparity in treatment was later overcome by the Court of Cassation, which, ruling in Joint Sections, held that *"as a result of Constitutional Court Judgments No. 87 of 1975 and No. 30 of 1983, the right to Italian citizenship status must be recognized to a petitioner born abroad to the child of an Italian woman who had married a foreign citizen while Law No. 555 of 1912 was in force, and who was thus deprived of her Italian citizenship as a result of that marriage."* While acknowledging the principle of supervening unconstitutionality—according to which declarations of unconstitutionality of pre-constitutional norms only affect legal relationships that had not been exhausted as of January 1, 1948, and cannot retroact prior to the Constitution's entry into force—the Court affirmed that citizenship, as a status that is permanent and imprescriptible (barring renunciation by the petitioner), may be asserted judicially at any time (even if the ancestor or parent from whom it derives is deceased). This is due to the continuing effect, even after the Constitution came into force, of the unlawful deprivation resulting from the discriminatory norm later declared unconstitutional (Cass. Joint Sections, Judgment No. 4466 of February 25, 2009). The Court further stated: *"citizenship status is permanent and has lasting effects over time, manifesting in the exercise of related rights. As noted, it can only be lost through renunciation, even under prior legislation (Art. 8(2) of Law No. 555 of 1912). [...]* Therefore, it is correctly stated that citizenship status, as an effect of one's status as a child, constitutes an essential quality of the person, characterized by absoluteness, originality, unavailability, and imprescriptibility, which makes it judicially enforceable at any time and, as a rule, not considered extinguished or closed unless it is expressly denied or recognized by a final judgment. Accordingly, by virtue of the effectiveness of the above-mentioned rulings of unconstitutionality from the date of the Constitution's entry into force, Italian citizenship must be considered recognized also to the children of Italian mothers who did not acquire it because they were born before January 1, 1948, and consequently, to their descendants as well.

Indeed, no legal obstacle can be opposed to the transmission of Italian citizenship under the law in force at the time each descendant was born; in other words, the transmission occurred regardless of the subsequent developments in constitutional and ordinary case law, which struck down the limitations on transmission through the maternal line and affirmed that the

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legal system—as thus aligned with constitutional values—must also apply to descendants born before the Italian Constitution came into effect.

Nor would different conclusions arise if the absence of marriage certificates were due to the marriage never having taken place: the petitioner should nonetheless be recognized as an Italian citizen, since the ancestor, at the time of her daughter's birth, was not married to a foreign citizen and therefore, under the applicable law at the time, did not lose the capacity to transmit citizenship—and would thus have passed it on to her descendants.

Legal costs may be fully offset between the parties, given the Administration's substantial lack of opposition.

FOR THESE REASONS

The Court, definitively ruling,

- declares the default of the Ministry of the Interior;
- orders the Ministry of the Interior, and on its behalf the competent civil registrar, to carry out the registrations, transcriptions, and annotations required by law in the civil status registers regarding the citizenship of the persons indicated, and to proceed with any necessary communications to the competent consular authorities;
- offsets the legal costs between the parties.

Thus decided in Campobasso, on March 5 2025

Il Giudice

Dott.ssa Claudia Carissimi