

Judgment n. [REDACTED] published on 07/31/2025

RG n. [REDACTED]

Report. n. [REDACTED] of 07/31/2025



**ITALIAN REPUBLIC**

**IN THE NAME OF THE ITALIAN PEOPLE**

**ORDINARY COURT OF CAMPOBASSO**

**Specialized Section in 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 first-instance civil case registered under docket no. [REDACTED], brought pursuant to Article 281-decies of the Italian Code of Civil Procedure, by:

[REDACTED] born in [REDACTED] represented and defended by Attorney Salvatore Aprigliano, as per power of attorney on file, with an elected domicile at his office in Milan, Via Fabio Filzi no. 41;

***Plaintiff***

against

**MINISTRY OF THE INTERIOR (Tax Code 97149560589)**, in the person of the Minister *pro tempore*, represented and defended by law by the District State Attorney's Office of Campobasso, at whose offices it is domiciled;

***Defendant***

and with the intervention of the Public Prosecutor at the Court

***Intervenor by law***

**Subject:** Application for Citizenship.

**Conclusions:** The parties concluded as set forth in the records.

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

**Concise statement of the factual and legal grounds for the decision:** The plaintiff requests that her status as an Italian citizen be declared by virtue of her descent from [REDACTED], an Italian citizen born on [REDACTED] in [REDACTED], who subsequently emigrated to the United States of America, with an award of costs.

The Ministry of the Interior appeared in the proceedings requesting: primarily, that the application be declared inadmissible due to the absence of the conditions for bringing the action, or, in any event, that it be dismissed on the merits as unfounded; alternatively, that the legal costs be offset.

On the merits, it argued: the lack of a legal interest to act, due to the absence of proof that the plaintiff had applied to the competent Administration, initiated the administrative procedure, and waited for the expiry of the 730-day period; the absence of proof of the line of descent from the Italian ancestor, on the grounds that only the birth certificate of the ascendant had been filed, which did not contain any confirmation of his Italian citizenship.

The case was conducted based on documentary evidence and argued at the hearing of 15 July 2025, held in written form, following the filing of authorized written submissions, in which the parties specified their conclusions by referring to those set out in their respective pleadings, requesting their full acceptance.

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**The claim is well-founded and must be upheld.**

### **1) On the Failure to Initiate the Administrative Procedure**

The objection raised by the defendant is unfounded and must be rejected: the failure to wait for the 730-day period provided under Article 3 of Presidential Decree No. 362/1994, within which the Public Administration may decide, is irrelevant, since—absent an express statutory provision—it cannot be deemed that the expiry of such period is prescribed under penalty of inadmissibility. Procedural sanctions, and

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particularly those restricting the constitutionally protected right of action (Article 24 of the Constitution), are not subject to analogical application. In other words, it is not possible for case law to create grounds for inadmissibility or improcedibility that are not expressly provided by law. Furthermore, *“as a general principle, case law has excluded that the filing of an application in the administrative venue constitutes a condition of admissibility for filing a judicial claim, as the recognition of the subjective right to citizenship falls within a dual-track system (see Supreme Court of Cassation, Joint Civil Sections, Judgment No. 28873 of 2008)”* (Court of Florence, 17 January 2023). Similarly, *“the right to citizenship [...] is immediately and unconditionally enforceable, regardless of any administrative procedure,”* given that *“neither Law No. 91/1992, nor its implementing decrees, provide for any obligation to first submit an administrative application for the recognition of citizenship acquired ex lege”* (Court of Genoa, Judgment No. 802/2025). It has therefore been ruled out that such an application constitutes a procedural requirement for judicial action, expressly referring to the “dual track” principle, according to which *“the absence of administrative certification cannot preclude the judicial proceedings for the recognition of a perfect subjective right”* (Supreme Court of Cassation, Joint Civil Sections, Judgment No. 28873/2008).

## **2) On the Lack of Evidence: General Nature of the Objection**

Equally unfounded is the objection concerning the alleged lack of proof of the facts forming the basis of the claim.

According to established case law, *“under the system set out 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, and once acquired, the status of citizen is permanent, imprescriptible, and enforceable at any time, based solely on proof of the constitutive facts, namely birth to an Italian citizen. A person requesting recognition of citizenship is required to prove only the constitutive fact and the line of transmission, while it is for the opposing party, having raised the objection, to prove the* Courtesy translation, without legal validity. For all legal purposes, only the original Italian version of the judgment is valid.

*occurrence of any interruptive event*" (Supreme Court of Cassation, Joint Civil Sections, Judgments Nos. 25317/2022 and 25318/2022). In the present case, the documentation submitted in support of the claim is complete and exhaustive, and the defendant has failed to provide the necessary counterevidence.

### **3) On the Merits**

The claimant seeks a declaration of her status as an Italian citizen by virtue of her descent from [REDACTED], who subsequently emigrated to the United States of America, together with an award of costs.

The claim is well-founded and must be upheld.

The line of descent from the Italian ancestor to the present claimant is fully documented. Indeed, the claimant has discharged the burden of proof by producing the birth certificate of Mr. [REDACTED], together with the subsequent birth certificates of the descendants, up to the present claimant.

The defendant has failed to meet its burden of proof, having filed no documentation demonstrating any renunciation of Italian citizenship by the Italian ancestor—limiting itself instead to mere defensive arguments unsupported by evidence.

The claimant has also produced copies of her attempts to submit applications for recognition of Italian citizenship to the Consulate General of Italy in Los Angeles (United States of America), territorially competent for her place of residence, via the online procedure, from which it is evident that it was impossible for her to obtain an appointment with the consular authority. An examination of the documentation shows that there were no cases of citizenship transmission through the maternal line prior to the entry into force of the Italian Constitution.

Therefore, no legislative obstacle could have prevented the transmission of Italian citizenship under the law in force at the time each descendant was born; in other words, transmission occurred regardless of the subsequent developments in constitutional and supreme court case law, which removed the restrictions on the *Courtesy translation, without legal validity. For all legal purposes, only the original Italian version of the judgment is valid.*

transmission of citizenship through the maternal line and reaffirmed that the system—thus aligned with constitutional values—must also be deemed applicable to descendants born before the entry into force of the Italian Constitution.

In principle, therefore, the request, if fully substantiated, should be granted in the administrative process without the need for recourse to the courts. In this regard, it should be noted that, pursuant to Article 2 of Law No. 241 of 7 August 1990, public administrations are required to conclude proceedings within specific and certain time limits.

However, the claimant has provided evidence of attempts to submit her application for recognition of Italian citizenship through the online system of the Consulate General of Italy in Los Angeles (United States of America), territorially competent for her residence, demonstrating the impossibility of obtaining a timely decision. These circumstances have therefore justified recourse to judicial proceedings.

The legal costs may be fully offset, in view of the parties' arguments and the grounds for the decision.

### **FOR THESE REASONS**

The Court, definitively ruling, and upholding the claim,

- Declares that the claimant is an Italian citizen;
- Orders the Ministry of the Interior, and through it the competent civil status officer, to carry out the registrations, transcriptions, and annotations required by law in the civil status registers regarding the citizenship of the person indicated, making any necessary communications to the competent consular authorities;
- Orders that legal costs are fully offset between the parties.

Thus, decided in Campobasso, 31 July 2025.

Judge

Dr. Claudia Carissimi