



ITALIAN REPUBLIC

IN THE NAME OF THE ITALIAN PEOPLE

The Honorary Judge of the Tribunal at the Immigration Section of the Court of Catania, Dr.

Maria Mottese, has pronounced the following

JUDGMENT

PURSUANT TO ART. 281 SEXIES, THIRD PARAGRAPH, C.P.C.

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

brought by

[REDACTED], born on [REDACTED] in [REDACTED] (USA), Tax Code [REDACTED],
[REDACTED], electively domiciled in Milan, Via Fabio Filzi no. 41, at the
office of Attorney Salvatore Aprigliano (Tax Code PRGSVT74R31F205H, PEC:
salvatore.aprigliano@milano.pecavvocati.it), who represents and defends him pursuant to a
special power of attorney on file;

PETITIONER

AGAINST

MINISTRY OF THE INTERIOR (Tax Code 80009650872), in the person of the Minister pro tempore, represented and defended ex lege by the District State Attorney's Office of Catania, domiciled at its offices in Catania, Via Vecchia Ognina no. 149;

RESPONDENT

With the intervention of the PUBLIC PROSECUTOR.

By petition pursuant to Art. 281 decies of the Code of Civil Procedure, the petitioner requested the recognition of Italian citizenship *iure sanguinis*, alleging to be the direct descendant of the Italian citizen [REDACTED], born in [REDACTED] on [REDACTED], who later emigrated to the United States of America, without ever renouncing Italian citizenship.

The petitioner submitted the following conclusions:

“May it please this Hon. Court, rejecting all contrary claims:

- *to ascertain and declare the existence of the conditions set forth in Art. 281 decies, first paragraph, c.p.c., and, consequently, that the case is suitable to be decided under the forms of Art. 281 decies et seq. c.p.c.;*

- *to ascertain that the first appearance hearing does not require the presence of parties other than counsel, the parties themselves, the Public Prosecutor, and the Judge’s auxiliaries, and consequently, pursuant to Art. 127 ter c.p.c., to order that the first hearing be replaced by the filing of written notes;*

1) to ascertain and declare that Mr. [REDACTED] is an Italian citizen;

2) to order the Ministry of the Interior and, on its behalf, the competent Civil Status Officer, to proceed with the registrations, transcriptions, and legal annotations in the civil status registers of the citizenship of the aforementioned persons, and to provide any necessary communications to the competent consular authorities.

With full reservation to further submit evidence and produce documents within any deadlines that may be granted during the course of the proceedings, in the unlikely event that the case should proceed under the ordinary procedure.

In any event, with an award of legal costs, fees, and expenses in favor of the petitioner.”

The Ministry of the Interior entered an appearance in the proceedings, not opposing the claim and submitting the following conclusions:

“May this Hon. Court please:

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

- *Declare the opposing party's claims inadmissible for lack of standing to be sued;*
- *In the alternative, on the merits, evaluate the claim in light of the evidence submitted by the opposing party;*
- *Consequently, in the event of a declaration of inadmissibility for lack of standing to be sued, order the opposing party to pay the costs of this stage of the proceedings, which, in accordance with the parameters set forth in Ministerial Decree No. 55/2014, and having regard to the complexity of the issues dealt with, are requested to be liquidated at the average values;*
- *In the event of full or partial acceptance of the opposing party's claims, offset the costs of the proceedings."*

The Public Prosecutor raised no objections.

By order pursuant to Article 127-ter of the Italian Code of Civil Procedure, a hearing was scheduled for 27 June 2024 for the decision. The claimant's counsel filed written submissions within the time allowed, reiterating the conclusions already made and requesting a ruling on the case.

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

With regard to the jurisdiction of the Court of Catania, it should be noted that Law No. 206/2021 provides, in paragraph 36, that *Article 4, paragraph 5, of Decree-Law No. 13 of 17 February 2017, converted, with amendments, by Law No. 46 of 13 April 2017, is supplemented at the end with the following sentence: "When the claimant resides abroad, disputes concerning the determination of Italian citizenship status shall be assigned with reference to the municipality of birth of the father, the mother, or the Italian ancestor."*

In particular, jurisdiction lies with the Specialized Section competent for the municipality of birth of the ancestor. Paragraph 37 of the same law further provides that *the provisions*

of paragraphs 27 to 36 of this Article shall apply to proceedings initiated as of the one hundred eightieth day following the date of entry into force of this law.

Therefore, as of 22 June 2022, in the case of applicants residing abroad, jurisdiction lies with the Court in which the municipality of birth of the Italian ancestor is located, or more precisely with the Court hosting the section specialized in immigration and citizenship matters (cf. Court of Venice, Judgment No. 573/2024 of 22.02.2024).

Preliminarily, it must be noted that the recognition of citizenship status (*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 not residing in Italy, to requesting the recognition of such status from the competent consular authority for the district in which they reside, on the basis of documentation proving their descent from an Italian citizen.

It must therefore be affirmed that the Ministry of the Interior has passive standing.

The claimant is in fact seeking the recognition of citizenship *iure sanguinis*, as a descendant of an Italian citizen by birth.

In all cases, including the one at issue here, other than those mentioned in paragraph 2 of Article 16 of Presidential Decree 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. 91/1992), jurisdiction over verifying the existence of the requirements for the recognition of Italian citizenship lies with the Ministry of the Interior, to which the diplomatic or consular authority transmits a copy of the application and the documentation submitted by the applicant (Art. 16(4) of the aforementioned Presidential Decree).

Pursuant to Article 2 of Law No. 241 of 1990, proceedings falling under the competence of State Administrations must be concluded within specific and certain time limits, also in accordance with the principle of reasonable duration of the process.

In cases concerning the verification of possession of Italian citizenship and the issuance of the related certification, for all forms of acquisition of Italian citizenship, including transmission *iure sanguinis*, the time limit established by Presidential Decree No. 33 of 17/01/2014 is 730 days.

In the present case, the claimant has shown evidence of having repeatedly attempted to make an appointment with the Consulate General of Italy in [REDACTED] via the dedicated portal, without success, as “*Given the high demand, the available slots for the chosen service are fully booked*”.

Such conduct by the administrative apparatus results in the passing of an unreasonable period of time for the claimant and establishes their interest in bringing an action before the Judicial Authority to obtain recognition of their subjective right.

It is therefore justified to resort to judicial protection, since it appears implausible that the competent Administration could comply with the aforementioned 730-day limit.

Secondly, it must be noted, with reference to the impact of the so-called *Great Naturalization* of 1889 in cases of recognition of citizenship *iure sanguinis*, that the Court of Cassation, Joint Civil Sections, in judgment No. 25318/2022, established the following principles:“(i) According to Italian legal tradition, within the system laid down 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 the status of citizen has been acquired, it has a permanent nature, is imprescriptible, and may be asserted at any time on the basis of simple proof of the acquisitive circumstance, namely birth from an Italian citizen. The applicant seeking recognition of citizenship is required only to prove the acquisitive fact and the line of transmission, while the burden rests on the opposing party, should it raise an objection, to prove the occurrence of any event interrupting the line of transmission; (ii) The institution of loss of Italian citizenship, as governed by the Civil

Code of 1865 and by Law No. 555 of 1912, when interpreted in relation to the phenomenon of the so-called *Great Naturalization* of foreigners in *Argentina* at the end of the nineteenth century, requires a restrictive interpretation of the relevant provisions, in light of the subsequent constitutional principles, since citizenship is to be considered among fundamental rights. From this perspective, 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 the purposes of the transmission of citizenship iure sanguinis to descendants, that it must be verified whether the emigrant at the time carried out a spontaneous and voluntary act aimed at acquiring citizenship – for example, through an application for inclusion on electoral rolls in accordance with local law – whereas the mere establishment of residence abroad, or even the stabilization of life conditions abroad, cannot be deemed sufficient, together with the lack of opposition to the generalized measure of naturalization, to constitute the extinguishment of status through tacit acceptance of the effects of that measure*”.

On the merits, the claim is supported by the documents on file, duly translated and apostilled.

The documentation shows that the Italian ancestor transmitted Italian citizenship *iure sanguinis* to his son [REDACTED] and, in turn, to the descendants up to the present applicant.

It further appears from the documents that the line of descent from the Italian ancestor does not include maternal transmissions that occurred prior to the entry into force of the Italian Constitution.

It should nevertheless be noted that the Constitutional Court, with judgment No. 30 of 9 February 1983, declared unconstitutional Article 1 of Law No. 555/1912 insofar as it did not provide that the child of an Italian mother was an Italian citizen by birth, in violation of

Articles 3 and 29 of the Constitution, thus paving the way for equality between men and women in matters of citizenship.

The principle of equality between men and women in matters of citizenship was first affirmed at the legislative level by Law No. 123 of 21 April 1983, Article 5 (“The minor child, including an adopted child, of an Italian father or mother is an Italian citizen”), and subsequently by Law No. 91/1992, which further consolidated this principle by establishing that “the child of a father or mother who are Italian citizens is an Italian citizen by birth”.

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

This is the rule currently in force, according to the orientation followed by the Ministry of the Interior. However, the Court of Cassation, with a judgment in 2009, recognized the right to Italian citizenship also for descendants in the maternal line born before 1948, who may request it in judicial proceedings.

The line of descent from the ancestor is documented as follows:

Mr. [REDACTED] (ancestor), born in [REDACTED] on [REDACTED], married [REDACTED] on [REDACTED], and subsequently emigrated to the United States of America, never renouncing Italian citizenship.

From the marriage of [REDACTED] and [REDACTED], on [REDACTED], their son [REDACTED] was born in [REDACTED] (USA), who on [REDACTED] married [REDACTED].

From their union, on [REDACTED], their son [REDACTED] was born.

From the union of [REDACTED] and [REDACTED] (later married), on [REDACTED], their son [REDACTED], the present applicant, was born

Thus, direct paternal descent from an Italian citizen is proven.

The uncertainty regarding the decision on the request for recognition of Italian citizenship status *iure sanguinis* and the passage of an unreasonable amount of time with respect to the very interest at stake amount to a denial of the recognition of the right, thereby justifying the interest in seeking judicial protection.

Therefore, he claim must be upheld, declaring the applicant an Italian citizen and ordering the Ministry of the Interior to adopt the consequent measures. The Ministry has raised no objections to the recognition of Italian citizenship requested by the applicants and, therefore, in the absence of losing party liability, and given the essentially non-contentious nature of the matter, legal costs are to be offset between the parties.

FOR THESE REASONS

The Court of Catania, sitting as a single judge, definitively ruling, hereby states:

1. Upholds the claim and, as a consequence, declares that the applicant [REDACTED], born on [REDACTED] in [REDACTED] (USA), is an Italian citizen *iure sanguinis* by direct descent from the common ancestor [REDACTED], Italian citizen;
2. Orders the Ministry of the Interior and, on its behalf, the competent Civil Status Officer, to proceed with 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;
3. Offsets legal costs between the parties.

Catania, 05 July 2025

The Honorary Judge

Dr. Maria Mottese

