



ITALIAN REPUBLIC
IN THE NAME OF THE ITALIAN PEOPLE
COURT OF CATANIA
IMMIGRATION SECTION

Il G.O.T. dott.ssa Giovanna Calvino della Sezione Immigrazione, ha
emesso la seguente

JUDGMENT

Rendered pursuant to Art. 281 sexies of the Italian Code of Civil
Procedure

In case no. [REDACTED] r.g.

Filed by [REDACTED] (Tax ID: [REDACTED]),
American citizen, born in [REDACTED] (USA) on [REDACTED], residing at
[REDACTED] (USA); [REDACTED] (Tax ID:
[REDACTED]), American citizen, born in [REDACTED] (USA) on
[REDACTED], residing at [REDACTED] (USA);
[REDACTED] (Tax ID: [REDACTED]), American
citizen, born in [REDACTED] (USA) on [REDACTED], residing at
[REDACTED] (USA); [REDACTED] (Tax ID:
[REDACTED]), American citizen, born in [REDACTED] (USA) on
[REDACTED], residing at [REDACTED] (USA), all represented
and defended by attorney Salvatore Aprigliano of the Milan Bar
Association

Petitioners

Against

MINISTRY OF THE INTERIOR represented and defended by the State
Attorney's Office of Catania



Respondent

And regarding the Public Prosecutor's Office of Catania

Subject: Recognition of Italian Citizenship

With written submissions pursuant to Art. 127-ter of the Italian Code of Civil Procedure, the petitioners reiterated their claims and requested a ruling on the case.

By filing a petition under Art. 281-decies and subsequent articles of the Italian Code of Civil Procedure, the petitioners sought recognition of Italian citizenship *iure sanguinis*, asserting that they are descendants of [REDACTED], an Italian citizen, born in [REDACTED] on [REDACTED], who emigrated to the United States and transmitted his citizenship to his descendants.

The Ministry of the Interior appeared in court, presenting the following conclusions:

<< This Honorable Court, in evaluating whether the conditions for recognizing Italian citizenship are met, should rule for the reimbursement of legal expenses. >>

The Public Prosecutor's Office, to whom the case files were forwarded, raised no objections.

Regarding the jurisdiction of the Court of Catania, it should be noted that Law no. 206/2021, paragraph 36, states: “At Article 4, paragraph 5, of Decree-Law No. 13 of February 17, 2017, as converted with amendments by Law No. 46 of April 13, 2017, the following sentence is added at the end: ‘When the plaintiff resides abroad, disputes regarding the verification of Italian citizenship status are assigned with reference to the municipality of birth of the father, mother, or ancestor who were Italian citizens.’”



In this case, the ancestor was born in the province of Catania, which establishes the jurisdiction of the specialized section on immigration matters of this Court.

On the merits, it should be noted that the recognition of *status civitatis* falls under the jurisdiction of the Ministry of the Interior. The applicant should limit themselves to requesting the issuance of the relevant certificate or, in the case of a non-resident in Italy, to seeking recognition of such status from the competent consular authority for the jurisdiction in which they reside, based on documentation proving descent from an Italian citizen.

Therefore, the passive legitimacy of the Ministry of the Interior must be affirmed. The plaintiff is requesting the granting of citizenship *iure sanguinis*, as a descendant of an Italian citizen by birth. In all cases, including the present one, which differ from those mentioned in paragraph 2 of Article 16 of Presidential Decree no. 572/1993 (i.e., Articles 2 paragraphs 2 and 3, 3 paragraph 4, 4 paragraph 1 letter c), 4 paragraph 2, 11, 13 paragraph 1 letters c) and d), 14, and 17 of Law no. 91/92), the authority responsible for verifying the existence of the requirements for recognizing 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 interested party to the Ministry (Art. 16, paragraph 4, Presidential Decree cited above).

Pursuant to Article 2 of Law no. 241 of 1990, proceedings under the jurisdiction of state administrations must be concluded within specific and certain time limits, in compliance with the principle of reasonable duration of the process. In the case of proceedings concerning the verification of possession of Italian citizenship and the issuance of the related certification, including cases of acquisition of Italian citizenship through *iure sanguinis* transmission, the time limit established by Presidential Decree No. 33 of January 17, 2014, is 730 days.



In this case, the petitioners have demonstrated that they attempted to book an appointment at the Italian Consulate in the United States through the Prenot@mi platform, without success.

Therefore, the recourse to judicial protection is justified, as it appears unlikely that the competent administration, which is unable to provide an appointment, could meet the aforementioned 730-day time limit.

On the merits, the claim is supported by the documentation on file, which has been translated and apostilled.

It should be noted that the petitioners did not submit a negative naturalization certificate for their ancestor. However, the Supreme Court has established that *"where citizenship is claimed by a descendant, there is nothing else – under unchanged legislation – for them to demonstrate except this: that they are indeed a descendant of an Italian citizen; whereas the burden of proof of any interrupting event in the line of transmission lies with the opposing party, if such an exception is raised"* (Cass. Civ. No. 25317/2022). On this point, the Ministry of the Interior has raised no objections.

It is therefore evident that the Italian ancestor did not lose their Italian citizenship and transmitted it *iure sanguinis* to their child, [REDACTED], and subsequently to the descendants, including the current petitioners..

Furthermore, the documentation shows that the line of descent from the Italian ancestor does not involve any female lineage prior to the entry into force of the Italian Constitution.

It should also be noted that the Constitutional Court, with judgment No. 30 of February 9, 1983, declared Article 1 of Law No. 555/1912 unconstitutional insofar as it did not provide that the child of an Italian mother was an Italian citizen by birth. This was found to be in violation of Articles 3 and 29 of the Constitution, paving the way for gender equality in matters of citizenship.



This equality between men and women in matters of citizenship was first affirmed at a legislative level by Law No. 123 of April 21, 1983, Article 5, which states: "A minor child, including an adopted one of an Italian father or mothers is an Italian citizen." Subsequently, Law No. 91 of 1992 further reinforced this principle, establishing that "a child of an Italian father or mother is an Italian citizen by birth".

According to the principle of *ius sanguinis*, Italian citizenship can be transmitted to descendants of an Italian mother, 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 rule currently in force, as interpreted by the Ministry of the Interior.

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

In particular, the Joint Sections of the Court, departing from the precedent set by ruling No. 3331 of 2004, established that, as a result of the decisions of the Constitutional Court (No. 87 of 1975 and No. 30 of 1983), the right to Italian citizenship status must be recognized for an applicant born abroad to a child of an Italian woman married to a foreign citizen during the enforcement of Law No. 555 of 1912, who was consequently deprived of Italian citizenship due to the marriage.

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

- Ancestor: [REDACTED], an Italian citizen, born in [REDACTED] (Italy) on [REDACTED], who emigrated to the United States and married [REDACTED];
- From this union, on [REDACTED], in [REDACTED] (USA), Mr. [REDACTED] was born, who later married [REDACTED];



From this marriage, the following were born: [REDACTED] on [REDACTED] in [REDACTED] (USA), [REDACTED] on [REDACTED] in [REDACTED] (USA), and [REDACTED] on [REDACTED] in [REDACTED] (USA);

- From the union of [REDACTED] and [REDACTED], two daughters were born: [REDACTED] on [REDACTED] in [REDACTED] (USA) and [REDACTED] on [REDACTED] in [REDACTED] (USA);
- From the union of [REDACTED] and [REDACTED], [REDACTED] was born on [REDACTED] in [REDACTED] (USA).

Thus, direct descent from the common Italian ancestor through the paternal line is conclusively established.

The uncertainty surrounding the resolution of the request for recognition of Italian citizenship *iure sanguinis*, combined with the unreasonable delay in addressing the matter, is tantamount to a denial of the right to recognition, thereby justifying the petitioners' interest in seeking judicial protection.

Therefore, the petition must be granted, declaring the petitioners as Italian citizens and directing the Ministry of the Interior to take the necessary subsequent measures.

The Ministry has raised no objections to the recognition of Italian citizenship as requested by the petitioners. Consequently, as there is no opposition and the matter is essentially non-contentious, there is no order as to costs.

FOR THESE REASONS

The Court of Catania, sitting as a single judge, definitively rules as follows:

1. Grants the petition and, as a result, declares that [REDACTED], [REDACTED], [REDACTED], and [REDACTED] are Italian citizens *iure sanguinis* by direct descent from the common Italian ancestor.
2. Orders the Ministry of the Interior, and through it the competent Civil Status Officer, to proceed with the registrations, transcriptions, and



annotations required by law in the Civil Status registers for the citizenship of the individuals listed, as well as to carry out any necessary communications to the competent consular authorities.

3. No order as to costs.

Catania, December 19, 2024

G.O.T.
Dott.ssa

Giovanna Calvino



