



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

The Court, with a single judge, Dr. Graziella Costantino, has issued the following

**ORDER**

in the first-instance civil case registered under no. 4529 R.G.A.C. of the year 2022, concerning 'citizenship rights':

**BETWEEN**

[REDACTED], [REDACTED], American citizen, born in [REDACTED] (USA) on [REDACTED], resident at [REDACTED] (USA); [REDACTED], [REDACTED], American citizen, born in [REDACTED] (USA) on [REDACTED], resident at [REDACTED];

[REDACTED], C.F. [REDACTED], American citizen, born in [REDACTED] (USA), on [REDACTED], resident at [REDACTED] (USA); **all represented and defended, with valid powers of attorney attached to this document, by lawyer Salvatore Aprigliano, tax code PRGSVT74R31F205H, registered with the Milan Bar Association, and electively domiciled at Via Fabio Filzi No. 41 in Milan.** For the purposes and effects of Articles 125, paragraph 1, of the Italian Civil Procedure Code (c.p.c.), as well as Article 136, paragraph 3, c.p.c. and subsequent articles, the petitioners declare that they wish to receive communications from the Court Registry at the following fax number: 02.73.95.07.15 and/or at the PEC (Certified Email) address: salvatore.aprigliano@milano.pecavvocati.it

- PETITIONERS-

**AND**

Ministry of the Interior represented by the current Minister, legal representative pro tempore, electively domiciled at Via Dei Portoghesi, 12, Rome, at the headquarters of the State Attorney General (Tax Code: 80224030587 – PEC: ags.rm@mailcert.avvocaturastato.it), who represents and defends the Ministry and/or at the District State Attorney's Office of Catanzaro (Tax Code: 80004580793 - PEC: ads.cz@mailcert.avvocaturastato.it)

-DEFENDANT-



AS WELL AS

Public Prosecutor represented by the Attorney General of the Republic.

**Object:** recognition of Italian citizenship "*jure sanguinis*".

### COURSE OF THE PROCEEDINGS

With a petition under Article 702 bis of the Italian Civil Procedure Code (c.p.c.), duly served, the present petitioners have sued the Ministry of the Interior before this Honorable Court, requesting a declaration of their status as Italian citizens by descent from their ancestor, an Italian citizen. They argue that the ancestor never lost Italian citizenship and was able to validly transmit it to his descendants. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

They further represented that the administration's stance is to deny recognition of citizenship to such descendants. The Ministry of the Interior has filed a defense memorandum. The Public Prosecutor has expressed a favorable opinion to grant the request. Following the presentation of documentary evidence, at the hearing on March 25, 2024, after hearing the precise conclusions of the parties, the case was taken under advisement and deliberated upon within the terms stated above.

### REASONS FOR THE DECISION

As a preliminary matter, the territorial jurisdiction of the Court must be declared, pursuant to Article 1, paragraph 36, of Law No. 206/21, which came into force on December 24, 2021, amending paragraph



5 of Article 4 of Legislative Decree No. 13/2017. This provision states that in cases where the plaintiff resides abroad, disputes regarding the determination of Italian citizenship status shall be assigned based on the municipality of birth of the Italian ancestor.

In the present case, the ancestor was born in Falerna, province of Catanzaro, therefore, the competent court is the one being addressed.

On the merits, the claim is well-founded and is therefore granted.

Specifically, the petitioners have taken legal action for the recognition of their status as Italian citizens based on their common descent from an Italian citizen who emigrated to the United States. In this context, reference must be made to Constitutional Court Judgment No. 87 of 1975, which declared unconstitutional Article 10, paragraph three, of Law No. 555 of June 13, 1912 (in force at the relevant time). This provision mandated the automatic loss of Italian citizenship for women upon marriage, regardless of the woman's intent, even if she expressed opposition, subjecting the loss to a condition dependent on the legal system of the husband, which was foreign and therefore not Italian. The Constitutional Court clarified that this provision reflects a view of women as legally inferior to men, in clear contrast with constitutional principles that guarantee equal social dignity and legal equality before the law for all citizens, without distinction of sex. These principles mandate marriage based on the moral and legal equality of spouses, creating unjustified disparities between men and women (contrary to Article 3 of the Constitution) and not promoting the family unity intended by Article 29 of the Constitution, but rather conflicting with these principles. This situation could lead women to avoid marriage to retain jobs requiring Italian citizenship, legal protection reserved for Italian citizens, or the right to access public offices, or to dissolve marriages once contracted.

Furthermore, the Supreme Court of Cassation, in its Joint Chambers decision No. 4466/2009, definitively clarified that 'Italian citizenship must be recognized judicially to women who lost it under Article 10 of Law No. 555 of 1912, due to marriage to a foreign citizen before January 1, 1948, regardless of any declaration made by the interested party under Article 219 of Law No. 151 of 1975.' With this decision, the Court of Cassation affirmed that the loss of Italian citizenship, without the holder's consent, is contrary to the principle of gender equality and the legal and moral equality of spouses (Articles 3 and 29 of the Constitution).



Therefore, even though Law No. 555 of 1912 (which did not provide for the transmission of citizenship through the mother) is applicable *ratione temporis*, due to Constitutional Court Judgment No. 30 of 1983, which declared the constitutional illegitimacy of Article 1, No. 1 of said Law insofar as it did not provide that a child born to an Italian mother would also be a citizen by birth, it must be considered that the Italian ancestor acquired Italian citizenship from birth and transmitted it to their descendants in turn.

Furthermore, it should be noted that the circumstance that events leading to the loss of Italian citizenship occurred before 1948, the year the Constitution came into force, does not hinder the acquisition of citizenship. This is based on the decision of the Supreme Court in Joint Sessions No. 4466/2009, according to which, "due to Constitutional Court Judgments No. 87 of 1975 and No. 30 of 1983, a child born before January 1, 1948, under the effects of Law No. 555 of 1912, regains Italian citizenship, establishing filiation after the Constitution came into force, thereby transmitting to him the status of citizen that he would have been entitled to without the discriminatory law." This applies regardless of the declaration made by the person concerned under Law No. 151 of 1975, Article 219, which is declarative in nature and not constitutive of status. Reference must also be made here to the two recent "twin" judgments of the Joint Sessions of the Court of Cassation, No. 25317/2022 and 25318/2022, published on August 24, 2022, which the Court itself defined as "epochal," considering the wide audience of affected parties.

With the twin judgments No. 25317/22 and No. 25318/22, the Joint Sessions of the Cassation Court pronounce on the effects of the decree of the so-called "great naturalization" of 1889, which had granted Brazilian citizenship *en masse* to ancestors and their descendants who had settled in Brazil. The Court, overturning the judgment of the Court of Appeal of Rome, definitively resolves the question of whether citizenship status can be renounced solely by mere belonging to another country and in the absence of a manifestation of will, or whether renunciation must be explicitly expressed. The Court establishes the following legal principles: citizenship by birth is acquired originally by *jus sanguinis*, and once acquired, citizenship status is permanent, imprescriptible, and justiciable at any time based on simple proof of the acquisition scenario linked to birth from an Italian citizen; those seeking recognition of citizenship must prove only the acquisition fact and the line of transmission, while it is the responsibility of the opposing party, if making an exception, to prove any interruptive scenario; loss of Italian citizenship results from a spontaneous and voluntary act aimed at acquiring foreign citizenship—for example, by applying for registration in electoral rolls according to local law; renunciation of Italian citizenship cannot be tacit or inferred from conclusive acts, such as mass naturalization or simple presumptions, but must result from an explicit and unequivocal manifestation



of substantive will indicating the intention to renounce Italian citizenship; the scenario of losing Italian citizenship related to "acceptance of employment by a foreign government without permission of the Italian government, it should be understood as assuming public functions abroad that imply obligations of hierarchy and loyalty to the foreign government in a stable and definitive manner, and not merely engaging in any public or private work activity.

Now, the line of descent presented by the petitioners corresponds accurately with the documentation submitted, particularly as neither the petitioners nor their ancestor ever renounced Italian citizenship, thereby interrupting the citizenship transmission chain. This fact is proven by specific certificates issued by the competent Italian diplomatic authority and apostilled.

With that established, from the documentation submitted, translated, and apostilled, it appears that the Italian ancestor had never been naturalized as a US citizen and therefore never lost Italian citizenship, passing it down "jus sanguinis" to their descendants.

The lineage of descent presented by the petitioners corresponds precisely with the documentation submitted, as indicated above. Specifically, neither the petitioners nor their ancestor have ever renounced Italian citizenship, thereby maintaining the unbroken chain of citizenship transmission. This is evidenced by specific certificates issued by the competent Italian diplomatic authority and apostilled.

With regard to standing to sue (interest ad agere), it is worth highlighting that despite the regulation stipulating that interested parties must request and obtain recognition of Italian citizenship from the Consular Authority in their country of residence, there has been a well-known bureaucratic situation affecting various Italian Consulates, where waiting times range from 1 year to 15 years. In these circumstances, it is possible to directly approach a Court in Italy to obtain citizenship without waiting in line at the Consulate.

The trend consolidating in Italian Courts considers the response times of Consulates as unreasonable and contradictory to Article 3 of Presidential Decree 362/1994, which sets a 730-day deadline for finalizing the citizenship procedure. This provision is reiterated by Presidential Decree 17.1.2014 No. 33, which, regarding "Verification of possession of Italian citizenship and issuance of the corresponding certification for all cases of acquisition of Italian citizenship, including transmission *iure sanguinis*," establishes a 730-day deadline from the submission of the application, extended to 48 months as of the date of entry into force of Legislative Decree 113/18 for certain scenarios of citizenship acquisition, without affecting the specific regulation of the "recognition *iure sanguinis*" under consideration, as it was expressly excluded during the conversion into law.



Furthermore, it cannot be considered that the administrative submission of the application constitutes a condition precedent for filing a judicial application, as it concerns the determination of the right to a personal status. The absence of administrative certification cannot prevent the judicial process for the recognition of a vested subjective right, which falls within the jurisdiction of the ordinary judge (Supreme Court, Joint Divisions, No. 28873/08).

The complexity of the issues involved justifies full compensation of legal costs.

ON THIS MATTER

The Tribunal of Catanzaro - Specialized Section on Immigration, International Protection, and Free Movement of European Union Citizens, having definitively pronounced, decides as follows:

A) Accoglie la domanda e per l'effetto dichiara lo status di cittadina italiana di:

- a. [REDACTED], [REDACTED], nata in [REDACTED] (USA) [REDACTED]  
[REDACTED],
- b. [REDACTED], [REDACTED], nato in [REDACTED] (USA) il  
[REDACTED],
- c. [REDACTED], [REDACTED], nato in [REDACTED] (USA), il  
[REDACTED].

B) Orders the Ministry of the Interior, and through it the competent Civil Status Officer, to proceed with registrations, transcriptions, and legal annotations in the civil registry for the individuals specified, and to make any necessary communications to the relevant consular authorities.

C) Declares legal costs to be fully compensated.

Thus decided in Catanzaro on March 25, 2024.

The Judge

Dott.ssa Graziella Costantino

