

**CIVIL COURT OF**

**Immigration Division**

**Petition pursuant to Article 281-*undecies* of the Italian Code of Civil Procedure raising a constitutional challenge**

On behalf of \_\_\_\_\_, all represented and defended by Attorney Adriana Maria Ruggeri (RGGDNM69E41G113L; Fax number: 0703481160; ruggeri@pec.studiolegalecocoruggeri.it), having elected address of service at the law office of said Attorney at Via Giovanni Battista Tuveri no. 52/54 located in Cagliari, pursuant to the power of attorney executed on a separate sheet, a scanned electronic copy of which has been included in the electronic filing envelope containing this petition. The undersigned elects to receive communications at fax number 070/3481160 or at the above-mentioned certified email address (PEC) ruggeri@pec.studiolegalecocoruggeri.it.

**Petitioners**

**AGAINST**

**MINISTRY OF THE INTERIOR**, represented by the Minister *pro tempore*, having elected address of service by operation of law at the State Attorney's Office (Avvocatura Generale dello Stato) of

**Respondent**

**Keywords: acquisition of citizenship by descent; *jure sanguinis*, challenge of constitutional legitimacy**

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## **1. Statement of Facts**

Under the legislation in force prior to the reform introduced by Decree-Law No. 26/26, as converted into Law No. 74/25, the petitioners' right would have been recognized.

## 2. Jurisdiction

As a preliminary matter, jurisdiction is vested in the Court of \_\_\_\_\_, \_\_\_\_\_ Specialized Section for Immigration, International Protection, and the Free Movement of EU Citizens, pursuant to Article 36, which provides that:

*Article 4(5) of Decree-Law No. 13 of February 17, 2017, converted with amendments into Law No. 46 of April 13, 2017, is supplemented by the following sentence: When the claimant resides abroad, proceedings for the determination of Italian citizenship status shall be assigned with reference to the municipality of birth of the father, mother, or ancestor who is an Italian citizen*

which entered into force on June 22, 2022, given that the ancestor from whom the claim originates was born in Sezze (province of Rome).

It should also be noted that the petitioners have a legitimate interest in bringing this action before the courts, as the claim seeks the determination of a right concerning the status and legal capacity of persons. Such matters are therefore directly justiciable before the ordinary courts (Court of Cassation, Joint Sections No. 28873, December 9, 2008).

This principle applies with even greater force where citizenship is claimed **through the maternal line prior to 1948**, a doctrine developed through case law and widely recognized as not being protectable through administrative proceedings.

Accordingly, the petitioners, represented and defended as stated above, reiterate their claim and observe that, in the unlikely event that the citizenship legislation referenced in the heading (Decree-Law No. 36/25 and Law No. 74/25) were to be applied, such provisions would appear incompatible with constitutional, European Union, and international principles.

Indeed, following the constitutional challenges raised by the Courts of Turin, Mantua, and Campobasso, the petitioners deem it appropriate to set forth the following.

### 3. The right to citizenship *jure sanguinis* (by descent)

It is well established that, since 1865, Italian citizenship has been acquired *jure sanguinis* (by descent).

3.1 Since then, the mechanism of citizenship acquisition has been structured as a right conferred at birth, giving precedence and centrality to the principle of filiation, as confirmed by the Constitutional Court in its recent ruling No. 142 of July 31, 2025.

This legal status has been universally recognized as a constitutionally protected status, imprescriptible and subject to judicial review at any time, unless a final judgment has intervened.

In this regard, the intervention of the Court of Cassation sitting in Joint Sections, with the twin judgments No. 25317/18 of April 24, 2022 is particularly relevant, as it summarizes decades of case-law development and states as follows:

*Citizenship is a legal **status**, conferred by law, that establishes a person's belonging to a State. It entails a variable set of public and constitutional rights and duties—what is commonly referred to as **legal status**. In this regard, the Italian legal system has traditionally maintained a conservative approach, without substantial changes to the prevailing criterion of citizenship acquisition by descent (jure sanguinis), a principle that has remained virtually unchanged since the 1865 Civil Code. This framework was first reiterated in Law No. 555 of 1912 and subsequently in the current Law No. 91 of 1992. The fundamental mode of acquisition is **by birth (acquisition at origin)**. Until 1992, this meant that Italian citizenship was transmitted by paternal line: a person was considered an Italian citizen if they were the child of an Italian father, or, when the father was unknown or stateless, the child of an Italian mother. This formulation essentially characterized Italian nationality laws throughout the relevant historical period: Articles 4 and 7 of the 1865 Civil Code, and Article 1 of Law No. 555 of 1912. The framework changed with Law No. 91 of 1992, as a result of a constitutional evolution, which expanded the transmission of citizenship to children of either an Italian father or mother. Additionally, it provides that anyone born in the territory of the Republic is an Italian citizen if both parents are unknown, stateless, or if the child does not acquire their parents' nationality under the law of their country of origin. Looking back at the initial legislative expressions prior to the Constitution, it is beyond doubt that the Italian legislator consistently pursued the same purpose and intent over time. It is indeed universally accepted that Law No. 555 of 1912 merely refined and perfected the legal framework already established by the 1865 Civil Code. It may be observed that the emphasis placed on the principle of descent (jure sanguinis), as opposed to other criteria connecting the individual to the territory (jure loci, or more commonly jure soli, whether tempered by additional requirements or conditions), has historically justified (and still partially justifies, under Law No. 91 of 1992) a significant restriction on the acquisition of citizenship by those who cannot claim Italian ancestry. At the same time, and to avoid inconsistency, the same principle has led to an equally significant restriction on the grounds for loss of citizenship by Italians residing abroad. From this perspective, it is self-evident that the loss of Italian citizenship can depend solely on domestic legislation, according to the provisions in force at the relevant time, and can never result from acts or decisions taken within a foreign legal system. This approach is the foundation of the recognition of dual citizenship phenomena, which are, in fact, **consistent with the development and evolution of international law**. The current legal framework, particularly Law No. 91 of 1992, seeks to address and resolve potential conflicts arising from such situations. It is worth highlighting that the relevance of dual citizenship was acknowledged as far back as 1907, in the well-known decision of the Court of Cassation of Naples. Even at that time, the possibility of 'dual nationality' was considered an 'inevitable consequence of the concept of sovereignty, which necessarily entails autonomy and independence of each State within its own territory.' **The result of this legal framework is straightforward: citizenship acquired by birth is acquisition at origin (acquisition of citizenship at birth). Once acquired, citizenship constitutes a permanent and imprescriptible legal status. It may be judicially recognized at any time upon proof of the acquisition event (i.e., proof of birth to an Italian citizen). Accordingly, the burden of proof lies in establishing the uninterrupted line of transmission. The only exception is the loss of citizenship through express renunciation** (see, for example, Court of Cassation, Joint Sections, No. 4466/2009). It follows that when a descendant claims Italian citizenship, and in the absence of legislative changes, no further proof is required other than evidence of descent from an Italian citizen. The burden of proof then shifts to the opposing party, who must demonstrate the occurrence of an event that would have interrupted the transmission of citizenship rights. (See also more recently: Court of Cassation, First Civil Section, No. 14194 of 2024).*

According to the Supreme Court, **the ancestor's death is irrelevant**, as well as the fact that they did not exercise the right. What matters is birth, filiation, acquisition, and transmission.

*Article 1, paragraph 1, of Law No. 91 of 5 February 1992, entitled 'New Provisions on Citizenship,' sets forth the general principle of citizenship attribution jure sanguinis, stating that: 'A person is a citizen by birth a) if their father or mother is an Italian citizen.' Under this rule, citizenship is acquired at origin—that is, at the moment of birth—by 'right of blood,' solely by virtue of being born to an Italian father or mother. This is so much the case that a foreign national who has an Italian ancestor in their family tree, provided the ancestor **died** after the establishment of the Kingdom of Italy, may claim Italian citizenship*

by birth, even if their ascendants were **unaware of such a right**, provided there has been no interruption in the genealogical line. (Italian Supreme Court, Civil Section, No. 5518/2024)

In this context, the Administration intervenes solely to ascertain a pre-existing legal fact, which materialized instantaneously at the moment of birth. It is therefore irrelevant whether or not the petitioners' ascendants exercised their right to obtain a formal recognition of their citizenship status. This is confirmed by Article 16, paragraph 7, of the Implementing Regulation (Presidential Decree No. 572 of October 12, 1993, still in force) which provides:

*The transmission of the documents and communications referred to in this article shall be carried out without delay. The **verification** of the conditions prescribed by law for the acquisition, loss, reacquisition, or non-reacquisition of citizenship shall be performed by the competent authority within 120 days from receipt of the relevant documents.*

Accordingly, the activity of the Public Administration is **not constitutive but merely declaratory**. The legal fact triggering the right is the filiation relationship established at birth, which gives rise to citizenship status.

Furthermore, this right may be judicially ascertained at any time, but the lack of judicial recognition does not affect the existence of the underlying right itself. In fact, the legal position of a *jure sanguinis* citizen who has not yet been formally recognized corresponds to a **subjective legal situation** founded on an already existing right, giving rise to **legitimate expectations worthy of legal protection**.

As a consequence, when Decree-Law No. 36/2025, citing national security concerns, introduced Article 3-*bis*, which states:

***By way of derogation** from Articles 1, 2, 3, 14, and 20 of this Law, Article 5 of Law No. 123 of April 21, 1983, Articles 1, 2, 7, 10, 12, and 19 of Law No. 555 of June 13, 1912, and Articles 4, 5, 7, 8, and 9 of the Civil Code approved by Royal Decree No. 2358 of June 25, 1865, anyone born abroad—even before the entry into force of this article—and in possession of another citizenship shall be **considered** as never having acquired Italian citizenship, [...] thereby applying the above limitations to all future recognitions of Italian citizenship, [...] **HAVING CONSIDERED** the extraordinary necessity and urgency of striking a balance between the principles set forth in Articles 1 and 3 of the Constitution [...]*

the Decree-Law did not merely interpret existing norms, which would have been unnecessary<sup>1</sup>. Instead, it effectively **revoked** Italian citizenship for all those who, up to March 27, 2025, had already acquired it by virtue of birth as Italian citizens, without providing adequate safeguards or remedies. The new legislation has therefore introduced a form of '**implicit revocation**' of citizenship.

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<sup>1</sup> N. Brutti: "This is not a case of an authentic interpretative law, which could theoretically allow retroactive application, but rather the introduction of limits that are not even remotely inferable from the original legislative text." N. Brutti, *Il Decreto legge e la questione della cittadinanza iure sanguinis* [The Decree-Law and the issue of *jure sanguinis* citizenship] at the following link: <https://ntplusdiritto.ilssole24ore.com/art/il-decreto-legge-e-questione-cittadinanza-iure-sanguinis>.

More precisely, it has established a case of '**retroactive collective revocation**', inasmuch as the new rules apply to all cases not pending as of 11:59 p.m., Rome time, on 27 March 2025, the day before the entry into force of Decree-Law No. 36/2025.

It is worth recalling that, in world history, examples of such legislative interventions are often associated with dark and troubling political times.<sup>2</sup>

In fact, the revocation introduced by the Decree-Law operates with **coercive** effect, since the loss of citizenship is imposed and mandatory, without granting the individual concerned any possibility to express their will in opposition to the extinction of their right.<sup>3</sup>

While it is true that States are free to determine their own nationality laws, there are nonetheless specific limits in this regard, which become particularly stringent when it comes to the loss or revocation of citizenship already possessed.

The measure in question clearly exceeds these limits.

Indeed, for the purposes relevant here, Article 3-*bis* and Article 4 paragraph 1-*bis* of Law No. 91 of 1992, as amended by Law No. 74 of 2025 converting Decree-Law No. 36 of 2025, and Article 1 of Decree-Law No. 36 of 2025, present **multiple profiles of unconstitutionality and illegitimacy**:

#### **4.1 Violation of Art. 2 of the Constitution – Loss of inviolable right – Personal and collective identity**

In light of Article 2 of the Italian Constitution, which provides that: *'The Republic recognizes and guarantees the inviolable rights of the individual, both as a single person and within the social groups where their personality is developed, and requires the fulfillment of the inescapable duties of political, economic, and social solidarity,*' citizenship is not merely a legal status but an **element of identity**.

**This element of identity manifests itself in two dimensions: one individual and one collective.**

This means that while citizenship pertains to the individual, it also affects individuals collectively.

What impacts personal identity inevitably affects the identity of the collectivity.

The deprivation of citizenship for an individual has repercussions on the collective identity as well.

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<sup>2</sup> Among the cases of “collective denationalization”, and without claiming to be exhaustive, the following examples may be recalled: the French denaturalization law of April 7, 1915, which due to evident military reasons revoked the naturalization of all individuals who were nationals of enemy States; the Soviet laws of December 15, 1921 and November 13, 1925, which stripped of nationality those considered enemies of Bolshevism, namely individuals who had served in the so-called White Army or participated in counter-revolutionary movements; the Italian Law No. 2008 of November 25, 1926, enacted under Fascism, which provided for the loss of citizenship for individuals residing abroad who were deemed a threat to public order; the Nuremberg Laws of 1935 in Nazi Germany, which stipulated that only individuals of German blood could be citizens of the Reich, followed by the infamous and inhuman ordinance of November 25, 1941, which deprived Jews living abroad of German citizenship; Decree No. 33 of August 2, 1945 in Czechoslovakia, which ‘revoked the citizenship of all Czechoslovak citizens of German or Hungarian ethnicity’, except for those able to prove their loyalty to the Czechoslovak Republic; and the decisions adopted in 1980 by Saddam Hussein’s regime, which revoked Iraqi citizenship from the Faili Kurds.

<sup>3</sup> In this sense, the Decree-Law No. 36 of 2025 goes beyond the Brazilian “Great Naturalization” of 1889, that trying to impose Brazilian nationality to any foreigners, at least it preserved the possibility to refuse the citizenship within a six-month period. (Giovanni Bonato, 15.4.2025 Judicium it.)

The revocation of citizenship for the category of descendants of Italian citizens also impacts the collective belonging of **compatriots**.

Indeed, fellow citizens are equally affected by these new provisions, as they alter the shared perception of their idea of **national community**.

This is even more relevant given that such revocation has a broad and generalized reach, targeting an indeterminate number of individuals who are assimilated solely by virtue of their descent from Italian citizens. **This significantly distorts the very concept of Italian identity.**

Therefore, this measure affects not only the descendants of Italians who emigrated abroad but also the descendants of Italians who never emigrated.

This is because emigration has never been relevant in determining citizenship status, which has always been based on *jure sanguinis*, an element that has permeated the entire social, political, and economic system.

4.1.1 Indeed, the formation of an 'Italian identity' through the instrument of *jure sanguinis* was the express intention of the legislators as early as 1912.

At that time, the legislative intent was to strengthen and project that identity into future generations, even in the event of migration to other countries, thus **creating the conditions for a potential return** to the homeland.

In this regard, the legislators of 1912 adopted an innovative system compared to the 1865 Civil Code, particularly by introducing Article 7 of Law No. 555 of June 13, 1912, which was incorporated into the pre-existing legislative framework. This framework was itself based on the 1865 Civil Code of the Kingdom of Italy and Law No. 23 of January 31, 1901, entitled “Dispositions on Emigration”.

In fact, the 1912 citizenship law had repealed the relevant articles of the 1865 Civil Code concerning citizenship.

Pursuant to the provisions of the 1865 Civil Code, specifically Article 11, paragraphs 3 and 4, and Article 6, paragraph 2:

*a minor child of a father who had naturalized as a foreign citizen would lose Italian citizenship and acquire the status of a foreigner (unless the child had maintained residence within the Kingdom), subject to the possibility of reacquiring citizenship through a formal declaration.*

Article 11, paragraph 3: *“The wife and minor children of a person who has lost his citizenship become foreigners, unless they have continued to reside in the Kingdom.”*

Article 11, paragraph 4: *“Nonetheless, they may reacquire citizenship under the terms of Article 14 (as to the wife), and under Article 6 (as to the children).”*

Article 6, paragraph 2:

*He may, however, elect to be a citizen, provided that he makes a declaration before a Consular authority abroad or the Civil Registrar within the Kingdom within one year from reaching the*

*age of majority as required by the previous article and establishes residence in the Kingdom within the same timeframe.*

Under this legal framework, minor children (and wives) automatically obtained citizenship *jure sanguinis* and inherited the parent's citizenship status (*sorti civitatis*). As a result, the acquisition of foreign citizenship by the father automatically entailed the loss of Italian citizenship by his children (and wives), subject only to the possibility of reacquisition through an express declaration made before the Italian authorities within one year of reaching majority.

Law No. 555 of 1912 reaffirmed the same fundamental principles of Italian citizenship legislation, with the exception introduced under Article 7, as subsequently codified.

Article 12, paragraph 2 states as follows:

*Minor, non-emancipated children of a person who loses Italian citizenship become foreigners if they reside with the parent exercising parental authority or legal guardianship and acquire the citizenship of a foreign state. However, they remain subject to the provisions of Articles 3 and 9.*

Article 3:

*A foreigner born in the Kingdom or born to parents who have resided there for at least ten years at the time of birth shall become a citizen: 1) if they perform military service in the Kingdom or accept public employment therein; 2) if, having reached the age of 21, they reside in the Kingdom and declare, by the age of 22, their intention to elect Italian citizenship; 3) if they have resided in the Kingdom for at least ten years and do not declare, within the above term set at item No. 2, the wish to retain their foreign citizenship. The provisions of this article also apply to foreigners whose father, mother, or paternal grandfather was an Italian citizen by birth.*

Article 9:

*A person who has lost Italian citizenship pursuant to Articles 7 and 8 may reacquire it: 1) by performing military service in the Kingdom or accepting public employment therein; 2) by declaring renunciation of the citizenship of the foreign State to which they belong, or by demonstrating that they have renounced public employment or military service abroad undertaken in violation of a prohibition by the Italian Government, and in both cases, by establishing residence in the Kingdom within one year of said renunciation; 3) after two years of residence in the Kingdom, in case the loss of citizenship resulted from acquisition of a foreign nationality.*

Within this normative framework, Article 7 is to be situated, as it states: *“Unless otherwise provided by international agreements, a citizen born and residing in a foreign State, which considers him or her its own citizen by birth, retains Italian citizenship but may renounce it upon reaching majority or emancipation.”*

This provision broke with the principle of citizenship exclusivity by allowing **dual citizenship** (at the time described as an *inevitable consequence*), since it recognized that the children of Italian citizens, who were thus Italian by birth through descent, could retain their Italian citizenship even if they also acquired a foreign citizenship at birth by virtue of *ius soli*.

Indeed, in cases where an individual was born in a country that conferred foreign citizenship at birth by virtue of the *jus soli* principle, simultaneously holding both Italian and foreign citizenship, this resulted in a dual citizenship status at birth: by virtue of Article 7, said minor is simultaneously Italian and foreigner.

The legislator of the time, adopting a spirit of solidarity, a principle that was definitively codified by Law No. 91 of 1992, responded to this need by affirming the necessity of retaining Italian citizenship and fostering both a personal and collective identity for that portion of the population which, although not residing in Italy, nonetheless identified as Italian.

*I believe that by approving this bill, [...] the Chamber will be repaying a debt of gratitude to all those Italians who, through their actions — not merely their words — have shown themselves deserving of being treated as sons and brothers, just as we have always done.* (Hon. Grippo, Chamber of Deputies, June 4, 1912)

*“We must maintain the highest possible number of Italian citizens.”* (Rapporteur, session of June 11, 1912)

On the one hand, the aim was to ensure that Italian citizens remained subjects of the State; on the other hand, to allow them to participate in the political and administrative life of the host country, thereby influencing it in favor of the Italian nation.

Afterall, citizenship also serves as a public law instrument, particularly when it regulates the means of acquisition and loss.

*“Children of Italian subjects retain Italian citizenship until they reach majority, so that the right of blood may remain the prevailing basis for the preservation of citizenship.”* (Hon. Di Scalea, session of June 11, 1912)

4.1.2 The values affirmed by the 1912 legislator are echoed in the Law No. 91 of 1992.

In the Senate’s report, Hon. Giulio Andreotti and Sen. Giovanni Conso (then Minister of Grace and Justice) stated: *“The principle of descent remains the fundamental criterion for determining membership in the Italian people, in light of the extensive emigration that has shaped our national history and the need to maintain ties with the descendants of Italian emigrants.”* (Senate Report, Constitutional Affairs Committee, November 13, 1991)

To preserve the legal bond with the Italian diaspora, regarded as an integral part of the Nation.

*“To avoid a de facto citizenship for those born in Italy to foreign parents lacking cultural roots in the country.”* (Hon. Giovanni Conso, Minister of Justice, session of December 20, 1992)

*“We have sought to safeguard the continuity of the blood ties, the so-called jus sanguinis, as a symbol of national cohesion among those who, though living outside the national territory, preserve their Italian identity.”*

4.1.3 These values and principles are also reflected in the Italian Civil Code, Criminal Code, and Administrative Law, as well as in special laws, permeating the Italian legal framework in its entirety. Under Article 572 of the 1942 Civil Code, kinship is considered relevant up to the sixth degree for the purpose of identifying the family relationship that permits devolution: *“If the deceased leaves no spouse, descendants, ascendants or siblings, other relatives up to the sixth degree shall inherit.”* The notion of “next of kin” under Article 307 and Article 120 of the Code of Criminal Procedure is to be interpreted, according to established case law, as extending beyond the third degree of kinship, provided that other requirements (such as cohabitation) are met. Public procurement regulations may treat relationships with relatives beyond the third degree up to the sixth degree as a potential conflict of interest, when there are substantial *de facto* ties or cohabitation likely to compromise the impartiality of administrative action (Article 42 of Legislative Decree No. 50 of 2016; Legislative Decree No. 36 of 2023; ANAC Resolution No. 63 of February 8, 2023). In matters concerning the recognition of dependent family members for certain social security benefits, in its judgment No. 203 of July 3, 2013, the Constitutional Court declared the unconstitutionality of Article 42, paragraph 5, of Legislative Decree No. 151 of 2001, insofar as it failed to include *'cohabiting relatives or in-laws up to the third degree'* among those entitled to the leave provided therein. According to the Constitutional Court, since *'our legal system already attributes legal significance to kinship and affinity ties up to the third degree for specific purpose,'* failing to extend this benefit to such individuals creates a *'regulatory asymmetry that supports the declaration of constitutional illegitimacy. [...]*'

Moreover, Article 29 of the Constitution defines the family as a *“natural society”*, thus recognizing a factual reality of human relationships, with blood ties as the most fundamental and original connection, even beyond the third degree.

In the history of law, both Roman and Germanic, the concept of kinship, whether expressed through the stirps, *clan*, or *gens*, was not limited to three degrees of relation. Rather, these were extended blood communities, often characterized by a **collective genealogical memory**.

When experienced and acknowledged within emotional, social, or solidarity-based frameworks, blood ties even beyond the third degree fall within the constitutional notion of the family as a natural society.

To exclude such relationships solely on the basis of numerical degrees of kinship would amount to a violation of the personal and solidaristic foundation underlying the constitutional protection of the family, as well as of the fundamental principles of reasonableness, equality, and solidarity.

In light of these considerations, Italian migration should not be reduced to a series of geographical displacements. Rather, it represents a projection of the Italian nation into the global space, an

extension of the national community beyond territorial boundaries, reflecting the notion of a “*dispersed nation*” or “*extended nation*” as theorized by contemporary political scientists.

Italian emigration didn’t constitute a merely economic phenomenon, but a process of cultural construction and continuity of **collective identity**, one capable of preserving bonds of solidarity, language, tradition, and historical memory across generations and borders.

*“These are not merely Italians living abroad, but participants in a long-lasting collective experience that has cultivated shared identities, associative networks, cultural codes, and even legal expressions of belonging”*<sup>4</sup>.

From this perspective, any hasty comparison with other migratory experiences risks flattening the **specific nature of the Italian case** into frameworks shaped by different dynamics, thereby disregarding what Gianfausto Rosoli described as “*the plurality of Italies in the world*” (Gianfausto Rosoli, *Un secolo di emigrazione italiana 1876–1976*, CEE, 1978 [*A Century of Italian Emigration 1876–1976*]): a reflection of multiple paths, adaptations, and enduring loyalties that go far beyond mere demographic data, instead they are nourished by symbols, festivals, rituals, and collective memory. “*Every people has a mission to fulfill, a historical task to accomplish within the assembly of nations,*” affirmed Mazzini within his concept of the “*Missione dei popoli*” [Mission of peoples]. This legal foundation is the reason why the **transmission of citizenship *jure sanguinis* has created an identity condition** that has subsequently evolved into a form of cultural soft power, a heritage of shared identity and popular diplomacy that, by its very nature, merits a distinct legal and political status under constitutional and international law.<sup>5</sup>

The emergence of this condition has affected not only Italian citizens who emigrated but also those who remained in Italy.

*“A nation is a soul, a spiritual principle... the shared possession of a rich legacy of memories.”*<sup>6</sup>

Thus, not only blood, nor soil, but lived memory and mutual recognition constitute the true bond of a people, even in diasporic dispersion.

4.1.4 Italian emigration constitutes a *unicum*, a singularity, as are its historical trajectory and legal configuration.

Italy stands out for having institutionalized the family bond as the basis for citizenship transmission, making descent not only a cultural connection, but a legal foundation.

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<sup>4</sup> Emilio Franzina, *History of Italian Emigration*, Donzelli Publishers.

<sup>5</sup> Sabina Donati, *A Political History of National Citizenship and Identity in Italy, 1861–1950* (Stanford Univ. Press 2013).

<sup>6</sup> Ernest Renan was a French philosopher, historian and orientalist. Conference entitled *Qu’est-ce qu’une nation? [What is a Nation?]*, Sorbonne, 1882.

The **codification of the family bond** through the criterion of *jus sanguinis*, without generational limits except in cases of voluntary renunciation or loss, has helped preserve a sense of belonging to Italy even among sixth-generation descendants.

It has reinforced the idea of the family as a connection space between migrant and nation, transforming family memory into a subjective right enforceable against the State.

Italy thus stood up among other nations, where ties to the homeland are often cultural or symbolic but rarely recognized with the same legal force.

In this context, descent *jure sanguinis* has established not merely a private familial bond, but an intimate connection between the individual and the State, serving as a vehicle for the continuity of identity across geographic borders.

This connection has also been sustained by economic, social, and political opportunities, fulfilling the objectives set from the beginning.

Italian emigrants in South America and the United States have long been one of the primary **sources of financial remittances** supporting families back in Italy, stabilizing the national balance of payments, and stimulating investment (e.g., land or property purchases upon return). These remittances were already a concern of national economic policy in the late 19th century and under fascism, managed by institutions such as the Banco di Napoli and Banco di Sicilia.

From the late 1800s through the mid-1900s, Italian emigrant **remittances** from the U.S. to Italy constituted a major source of national revenue. Some studies estimate billions of dollars in the immediate postwar period alone. According to studies, in the 1920s and 1930s remittances covered over 10% of GDP in some southern regions.

Italian communities in Argentina, Brazil, and Uruguay established mutual aid societies, Italian **schools abroad**, cultural associations, newspapers and periodicals in the Italian language. These associative networks played a key role in preserving cultural “Italianism” across generations, even in contexts where integration into the host country was highly advanced.

During World War II, many first-, second-, or third-generation Italian-Americans fought for the U.S. Army, sometimes on Italian soil. It was not merely a war between states, but a family rupture for many Italian descendants. The United States, with the decisive support of an influential Italian-American political class, backed Italy’s postwar reconstruction through unprecedented economic aid (e.g., the European Recovery Plan or best known as the **Marshall Plan**).

Even from a legal standpoint, one can observe the influence of Italian legal doctrine and practice on the drafting of the **Brazilian Civil Codes**, and later, of the Italian Civil Code of 1942. This influence was so significant that Article 966 of the 2002 Brazilian Civil Code adopted the substance of Article

2082 of the Italian Civil Code, thereby altering the legal nature of the Brazilian enterprise, which shifted from being a purely economic entity to one endowed with its own legal personality.

Since the late 19th century and throughout the 20th century, Italian communities in the United States maintained strong political and cultural ties with Italy, including the establishment of lobbies and structured political support.

Italian emigrants played an active role in democratic host societies, eventually reaching high public office, such as Fiorello La Guardia, Mayor of New York City, and Nancy Pelosi, Speaker of the U.S. House of Representatives.

The **Italian language and cultural heritage were promoted** through Dante Alighieri schools, Italian Cultural Institutes, and Italian Chambers of Commerce Abroad. In Brazil, the *Società Italiana di Beneficenza* of São Paulo, active since the 19th century, played a crucial role in the development of the local healthcare system. Italian is today among the 20 most spoken languages globally and, among European languages, ranks just after Spanish, French, and Portuguese.

Major Italian agri-food and wine companies established strong roots in Argentina, Brazil, and California, leveraging the presence of Italian-descendant communities. These communities fostered the creation of **transnational entrepreneurial networks**, promoting Italian exports, commercial exchanges, and the transfer of technological innovations.

Italian-origin entrepreneurs across the Americas often facilitated the entry of Italian products, including fashion, food, and mechanical goods, into local markets.

Italian emigrants have contributed to building a positive image of Italy worldwide by promoting values associated with family, cuisine, craftsmanship, fashion, art, and music.

This has strengthened the so-called Made in Italy (“Italian brand”) well beyond the commercial sphere, shaping global cultural perceptions of the country.

Italy, for much of the 19th and 20th centuries, was not only the cradle of Christianity with Rome as the seat of the Catholic Church and Pontificate, but one of the world’s foremost exporters of clergy and missionaries.

Italian emigrants and missionaries bolstered Catholic parishes abroad, founding churches, schools, hospitals, orphanages, and spreading Italian popular devotion (e.g., Marian cults, local patron saints, religious holidays).

Mutual aid associations, social clubs, national holidays (e.g., June 2), and patriotic commemorations have all contributed to preserving the sense of belonging to Italy across multiple generations.

The emotional bond with the homeland was often strengthened by the **difficulties encountered in integrating** into host countries, which led emigrants to value their roots, maintain their national identity, and transmit cultural and patriotic sentiments to their descendants.

4.1.5 This is even more relevant given that sociological and psychological scholarship has long recognized these phenomena.

Scientific literature explicitly addresses the so-called “**Ulysses Syndrome**”, a term coined by psychiatrist and professor Joseba Achotegui of the University of Barcelona to describe the psychological effects of migratory stress. Well-known to migrants, this condition is characterized by feelings of loss and mourning for the homeland, anxiety and depression stemming from the struggle to fully belong to a new culture, and emotional exhaustion due to the ongoing pressure between two worlds. Many transnational migrants experience a profound sense of guilt toward the family left behind in their country of origin. This sense of responsibility often translates into: financial remittances sent home with sacrifice, even at the expense of the sender’s own well-being; life choices shaped by obligations to the family of origin; and the inability to establish roots in the host country, as the connection with the past is overwhelming.

The children of transnational migrants often grow up with a complex sense of belonging. They may experience pressure to maintain the culture of origin, even when living in a different environment. They may feel obligated to “honor the sacrifices” of their parents, which can lead to stress and elevated expectations. Some develop a strong bond with their parents’ homeland, while others reject it in order to feel more integrated in the society they live in.

There are factors that contribute to the persistence of the parents’ homeland presence in their lives: when the migrant maintains a strong bond with the country of origin (e.g., speaking only their mother tongue at home, idealizing the homeland, and failing to integrate into the host society) or their children grow up in a closed community, with limited exposure to local culture and significant pressure to maintain their parents’ identity; or when the migrant has endured a traumatic migration experience, passing down to children and grandchildren their unresolved sense of grief.

The Ulysses Syndrome tends to be most acute in first-generation migrants. However, it can leave psychological and cultural traces across subsequent generations.

In the case of Italy, this bond has been further reinforced by the legal framework itself, which ensured that emigrants remained permanently connected to Italy, acquiring citizenship at birth and, with it, an identity acquired at birth. The Italian citizenship transmission system has undoubtedly strengthened this connection.

Sociological studies also confirm these assumptions. According to the theory of **Migrant Transnationalism** developed in the 1990s by Nina Glick Schiller, Linda Basch, and Cristina Szanton Blanc, migrants do not undergo a linear process of assimilation, but rather maintain economic, social, cultural, and political ties with their country of origin. Thus, the figure of the *transmigrant* emerges: an individual who, while settling in a new country, maintains multiple connections with the country

of origin, hence living within a sort of transnational social field. It is not about longing for the past, but rather inhabiting multiple spaces at once. Migrants may reside in one country while working for companies based in their country of origin, vote or participate in political movements back home, raise children according to their native customs.

Globalization has enhanced the phenomenon of transnationalism, with remittances, low-cost travels, social media and digital communication allowing real-time connections to migrants' homeland and facilitating an ongoing interaction between the two worlds.

Migrants do not "lose" their ties with the country of origin, instead they transform them into an active, dynamic relationship.

The bond may weaken over time, **but the connection to one's land of origin never fully disappears.** It is only the way it is experienced that changes.

Tangible evidence demonstrates that this identity bond, so carefully and deliberately created, has produced an effect.

The newly introduced revocation provisions violate such conditions of personal and collective identity, based on alleged concerns about citizenship granted to individuals who, it is claimed, have no connection other than blood ties, overlooking the reality that such ties actually encompass an entire world of connections.

This assertion directly contradicts the principles outlined above and those further discussed below.

#### **4.2 Violation of Articles 2 and 3 paragraphs 1 and 2 of the Constitution – Equality and reasonableness with respect to the transmission of citizenship by Italian women**

The regulatory framework introduced by Reform Law No. 74/2025 conflicts with the constitutional principles set forth in Articles 2 and 3 of the Italian Constitution, particularly insofar as its introduction produces discriminatory effects against descendants of Italian female citizens, especially in cases involving the transmission of citizenship prior to the entry into force of the Constitution.

As is well known, until the intervention of the Constitutional Court with judgment No. 30 of January 28, 1983, the Italian legal system did not recognize the possibility of transmitting citizenship *jure sanguinis* through the maternal line. This limitation stemmed from the patriarchal structure of the citizenship legislation and resulted in a clear disparity of treatment between men and women in the transmission of the *status civitatis*.

Only with the aforementioned decision of the Constitutional Court was the principle affirmed that an Italian woman must be able to transmit citizenship to her children on equal terms with a male citizen, in implementation of the principles of equality and equal dignity set forth in Articles 3 and 29 of the Constitution.

However, the mitigation of the discriminatory effects produced by the previous legislation was achieved only subsequently, through the intervention of the Court of Cassation sitting in Joint Sections on February 25, 2009, which definitively affirmed the possibility of recognizing Italian citizenship even in cases of transmission through the maternal line occurring prior to January 1, 1948. It follows that, while descendants of Italian male citizens have been able to assert their right to the recognition of citizenship continuously since 1865, through a straightforward administrative procedure accessible even before consular authorities in their countries of residence, descendants of Italian female citizens have been able to exercise this right only within an extremely limited temporal window and through a far more burdensome process.

In particular, beginning in 1983 the possibility of maternal transmission after 1948 was recognized; only in 2009 was maternal transmission prior to 1948 also recognized.

Consequently, for descendants of Italian female citizens in cases involving pre-constitutional transmission, the right to recognition of citizenship has been concretely exercisable only for approximately sixteen years, from 2009 until the entry into force of the restrictive legislation introduced in 2025.

Unlike what occurred with the paternal line, moreover, this right has been exercisable exclusively through judicial proceedings to be brought before the Italian judicial authorities, with evident economic, logistical, and organizational limitations that have rendered it inaccessible to a large number of eligible individuals residing abroad.

As a result, the application of the restrictions introduced by Law No. 74/2025 **leads to the continuation of the effects of the original gender discrimination, effectively neutralizing the remedial and corrective function that the interventions of the Constitutional Court and the Court of Cassation had progressively achieved.**

Constitutional jurisprudence has repeatedly held that the principle of equality enshrined in Article 3 of the Constitution is not limited to a prohibition of formal discrimination, but requires the legislature to remove the obstacles that prevent the full realization of equal dignity among individuals within the legal order.

In this perspective, particular importance must also be attributed to the second paragraph of Article 3 of the Constitution, which entrusts the Republic with the task of removing economic and social obstacles that, by effectively limiting the freedom and equality of citizens, prevents the full development of the human person.

The status of citizen indeed represents a fundamental legal position, closely connected to the development of individual personality and to the exercise of the fundamental rights recognized by the constitutional order.

In light of these principles, it does not appear reasonable, nor constitutionally legitimate, for the legislature to intervene so as to indiscriminately restrict access to the recognition of citizenship precisely with respect to individuals who, as a result of a historically gender-based discrimination, were unable to exercise such right in a timely manner.

The challenged legislation therefore has the effect of consolidating and perpetuating a situation of disparity originating from a legal framework now recognized as unconstitutional, thereby violating not only the principle of formal equality but also the principle of **reasonableness** of legislative action, consistently affirmed by the Constitutional Court as a parameter for assessing the legitimacy of legislative choices.

From this perspective, the principle of reasonableness operates as a limit on legislative discretion, preventing statutory regulation from introducing arbitrary or disproportionate solutions.

Ultimately, the legislation at issue results in an unreasonable restriction of the legal expectations that have matured among descendants of Italian female citizens, who have been able to access a genuinely equal system only for an extremely limited period and who are now once again subject to restrictive limitations.

The legislation currently challenged thus produces the effect of crystallizing the consequences of a historical discrimination already recognized as contrary to the Constitution, preventing the rebalancing function of the judicial interventions from fully producing their effects.

The legislative restriction not only fails to remove such obstacles, but ultimately reinforces them, thereby preventing the completion of the rebalancing process that constitutional jurisprudence had progressively initiated.

**4.3 Violation of Articles 2, 3 and 29, as well as Articles 4, 16, 17 and 35 of the Constitution – Family unity; violation of Articles 20, 21 and 45 of TFEU (Treaty on the Functioning of the European Union), Article 8 of ECHR (European Convention on Human Rights) and Articles 7 and 24 of the EU Chart, in relation to Article 4, paragraph 1-bis, letter a) of Law 91/1992**

Given the presence of a minors among the petitioners, particular attention must be paid to the restriction imposed on minor children born abroad to Italian citizens who do not possess exclusive Italian citizenship. Pursuant to Art. 3-bis 2 letter c) in conjunction with Art. 4, paragraph 1-bis, letter a) of Law No. 91 of February 5, 1992, as amended by Decree-Law No. 36 of 2025, converted with amendments by Law 74/2025, such minors are required to reside in Italy for two consecutive years in order to acquire Italian citizenship.

This provision creates an additional profile of unreasonable discrimination within the same family, distinguishing between descendants who may obtain recognition of citizenship and other descendants (sometimes from the same ancestor) who are denied this right.

This rule imposes a barrier that effectively limits the freedom and equality of family members, preventing the full personal development of the excluded subject, both as an individual and within the family unit. Its effects are comparable to a restriction of personal freedom.

The revocation of citizenship within a family group may create conditions of virtual detention, particularly when it affects only one family member and/or when minor children are involved, as is the case here, thus compromising the right to family unity and social integration.

The revocation of citizenship, as introduced by the new legislation, restricts freedom of movement (particularly the parents' freedom of movement when minors are involved), the access to recognized rights, the ability to obtain valid identity documents (which are necessary for healthcare, education, and employment), it undermines family unity and hinders integration into working and social life.

It directly affects the right to freedom of movement and residence, as well as the right to maintain a personal and family life in Italy and throughout the European Union (Article 16 of the Constitution; Articles 20 and 21 of the TFEU). It affects the right to accept job offers and engage in work activities in Italy and within the EU, without having to request and wait for the possible issuance of residence permits (Articles 4 and 35 et seq. of the Constitution; Article 45 of the TFEU). It also undermines the effective right to education, the right of assembly and association, and all other fundamental freedoms granted to citizens (Articles 17 et seq. of the Constitution).

The protections established regarding the revocation of residence permits must, *a fortiori*, also be applied to cases involving the revocation of citizenship.

The Constitutional Court of Italy has long held that “*the guarantee of family unity is rooted in constitutional provisions that protect the family and, in particular, safeguard minor children.*” It has further stated that “*the right and duty to maintain, educate, and raise children, and consequently to keep them with their parents, along with the right of both parents and minor children to a common life within the family unit, are [...] fundamental personal rights.*” (See Constitutional Court decisions No. 28 of January 19, 1995; No. 203 of June 26, 1997; and No. 376 of July 27, 2000)

In the Tjebbes case (C-221/17, March 12, 2019), the Court of Justice of the European Union (CJEU) responded to a preliminary reference, recognizing that the automatic revocation of national citizenship (and therefore of EU citizenship) may negatively impact minor members of the family. The Court ruled that such measures require an **individual assessment, taking into account the right to family life and the best interests of the child.**

The Court specifically invoked Article 7 of the Charter of Fundamental Rights of the European Union (right to private and family life) and Article 24 (protection of minors), underlying that a revocation measure that effectively separates a parent from their EU citizen child may have serious damaging consequences.

In such cases, both the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU) require a **rigorous review of proportionality**, as well as an **assessment of respect for private and family life and the rights of the child**. Failure to conduct this analysis would result in a violation of Article 8 of the ECHR and Articles 7 and 24 of the EU Charter of Fundamental Rights.

These principles were also reaffirmed in the Constitutional Court's most recent ruling on citizenship, No. 142/2025, dated July 31, 2025.

4.3.1 For this reason, the petitioners respectfully **request a concrete and individualized assessment of their family situation, and accordingly urge the court to grant their petition.**

In this regard, it is important to highlight that the petitioners, together with all members of their family, including collateral relatives, have always maintained a strong cultural, emotional, and linguistic bond with Italy. They have consistently preserved and practiced the Italian language within the family unit and in relationships among relatives.

Such a significant element takes part in a broader context of identity continuity, as thoroughly outlined above in Section 2.

The petitioners state as follows:

This is not a mere patrimonial or utilitarian aspiration, given that the petitioners would not be a burden but rather a valuable asset requiring minimal integration; it rather constitutes the legitimate claim to a right deeply rooted in a coherent family history and a genuine and enduring **sense of belonging**.

#### **4.4 Violation of Art. 22 of Italian Constitution – Deprivation of citizenship for political reasons**

Article 22 of the Italian Constitution reads as follows: *'No one may be deprived, for political reasons, of legal capacity, citizenship, or name.'*

The Government justifies the Decree-Law No. 36 of March 26, 2025 in the following terms:

*[...] the possible absence of actual ties with the Republic among a growing number of citizens — potentially equal to or exceeding the population residing within national territory — constitutes a serious and current risk factor for national security and, by virtue of Italy's membership in the European Union, also for the other EU Member States and the Schengen Area.*

This is an **unsubstantiated claim, relying exclusively on information concerning the organization of consular or judicial offices, without supporting data.**

If such concerns were indeed genuine, it is worth reminding ourselves that, in situations similar to those allegedly raised by the Italian Government, the **European Union** itself provides mechanisms

to address such issues—as, for example, in the case of Ukrainian migration to Poland.<sup>7</sup> Yet such instruments have neither been requested nor activated in this instance.

Moreover, the Government's statement is contradicted in this respect by verified data and factual considerations.

4.4.1 With respect to the alleged **demographic concern, on May 7, 2024** the International Organization for Migration (IOM), the leading global reference point on migration issues, published the World Migration Report. This report “*helps to demystify the complexity of human mobility through data and analysis. [...] In a world grappling with uncertainty, understanding migration dynamics is essential for informed decision-making and effective policy responses, and the World Migration Report advances this understanding by shedding light on longstanding trends and emerging challenges.*”

According to the World Migration Report, Italy does not even appear among the top ten countries with the highest number of emigrants. The leading countries are: India, China, the Russian Federation, Bangladesh, Pakistan, the Philippines, Afghanistan, and Venezuela.

**Indeed, according to 2024 ISTAT data, the number of Italians leaving the country has consistently exceeded the number of returnees.<sup>8</sup>**

Indeed, on **June 11, 2025**, the European Commission, during the review of the Action Plan on Integration and Inclusion for **2021–2027**, reported the following:

*Europe is undergoing profound demographic change. The EU's working-age population is expected to decline by 57.4 million by 2100 (or by 21.7%), and the old-age dependency ratio is projected to increase from 33% in 2023 to 60% by 2100. Skills shortages are increasingly acute in key sectors – from healthcare to construction, and the digital and green sectors. Almost 4 in 5 SMEs in the EU, which represent 99% of all businesses, face difficulties in finding workers with the right skills. As set out in the Skills and Talent Mobility package, the Commission is working to boost the participation of as many working-age people as possible in the labour market, by removing existing barriers and reaching out to under-represented groups. In this context, it is important to recognise the contribution of migrants to the EU economy as well as their significant untapped potential. Integrating migrants into the labour market in a sustainable way – at an early stage and in line with their skills and qualifications – is essential for both the individuals concerned and for fostering economic growth and social cohesion in host societies.*

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<sup>7</sup> From Article 78 TFEU (former Article 63(1) and (2), and Article 64(2) of the Treaty Establishing the European Community (TEC)), paragraph 3: ‘In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.’ From Article 79(1) TFEU (former Article 63(3) and (4) of the Treaty Establishing the European Community (TEC)): ‘The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings. - Provisions applied in relation to the Ukrainian refugee crisis.’

<sup>8</sup> For example, in 2024 nearly 156 thousand Italian citizens left the country to move abroad, a jump of +36.5 percent from the previous year. This is the highest number ever recorded in the past 25 years. And among these expatriates, many are young graduates or skilled professionals who do not see opportunities in Italy that match their ambitions. In contrast, the repatriations of expatriate citizens amounted to only 53,000. The result is thus a net loss of more than 100 thousand Italians in a single year. Source ISTAT 2024.

Even more unexpectedly, in the **National Strategic Plan for Inner Areas (PSNAI)**, published in **March 2025**, simultaneously with the submission of **Decree-Law No. 36/2025**, the **Government** states in its preamble:

*The demographic challenge, along with related phenomena such as depopulation and population aging, represents one of the most serious threats to the European Union and, in particular, to Italy. These processes undermine the competitiveness and resilience of Member States, exacerbate territorial inequalities, and create difficulties in labor availability, the sustainability of social and welfare systems, and access to essential services. In particular, Inner Areas face more pronounced challenges, as they are more exposed to phenomena such as significant depopulation, aging of the population, and lack of services. The 9th Report on Economic, Social and Territorial Cohesion by the European Commission highlights how these phenomena are happening at different pace across regions and is more severe in less developed and outermost regions, where population ageing, youth outmigration, and the decline of essential services are particularly critical. To address these issues, it is essential to adopt targeted interventions and integrated strategies capable of countering these trends, promoting economic and social growth, enhancing local resources, and creating opportunities for sustainable development. These strategies, calibrated to the specificities of each territory and oriented towards the well-being of individuals, must be developed in line with the principles of subsidiarity, partnership, and multilevel governance, also through the support of Cohesion Policy.*<sup>9</sup> (PSNAI, p. 10)

Even more noteworthy is what the Government reports on page 40 of the same Plan:

*The dynamics observed are part of a generalized international perspective of demographic transition (see the **contribution of the National Council for Economy and Labour - CNEL**, Annex 1 to this Plan), leading to increased longevity and a decline in birth rates, resulting in a profound change in the population configuration. The reduction in mortality risk from birth to old age has led to the generational replacement rate stabilizing around two (two children replacing two parents). However, there is now a trend of fertility rates falling below this level. A majority of countries worldwide now report fertility rates insufficient to ensure generational replacement. In global terms, Europe was the first continent to experience demographic transition and is now at the most advanced stage of this process. Currently, all EU Member States have fertility rates below two children per woman, although with wide variation across the continent. The persistence of low birth rates is also eroding the reproductive-age population. This means that births in Europe are declining not only because of low fertility rates but also because the number of potential parents is decreasing.* (PSNAI, p. 40)

On page 41, the Government attaches a table showing births and deaths in the EU from 1961 to 2023.

The data indicate that:

*In 2023, seven EU Member States experienced population decline due to migratory flows not compensating for negative natural population balances. In particular, Italy has already been in an unprecedented phase of resident population decline for over a decade. The national natural balance (births minus deaths) has persistently remained negative and continues to widen, only partially offset by migratory flows. Since the start of the previous EU programming period and into the 2021–2027 cycle, Italy's demographic situation has entered a new phase. The population projections published by ISTAT in 2021 (based on 2020 data) for the first time anticipated a continuous population decline under all scenarios (the only difference being the extent of the reduction). **The most recent projections released in 2024 (based on 2023 data) confirm the scenario of irreversible decline within the considered horizon (2080). According to the median scenario, the resident***

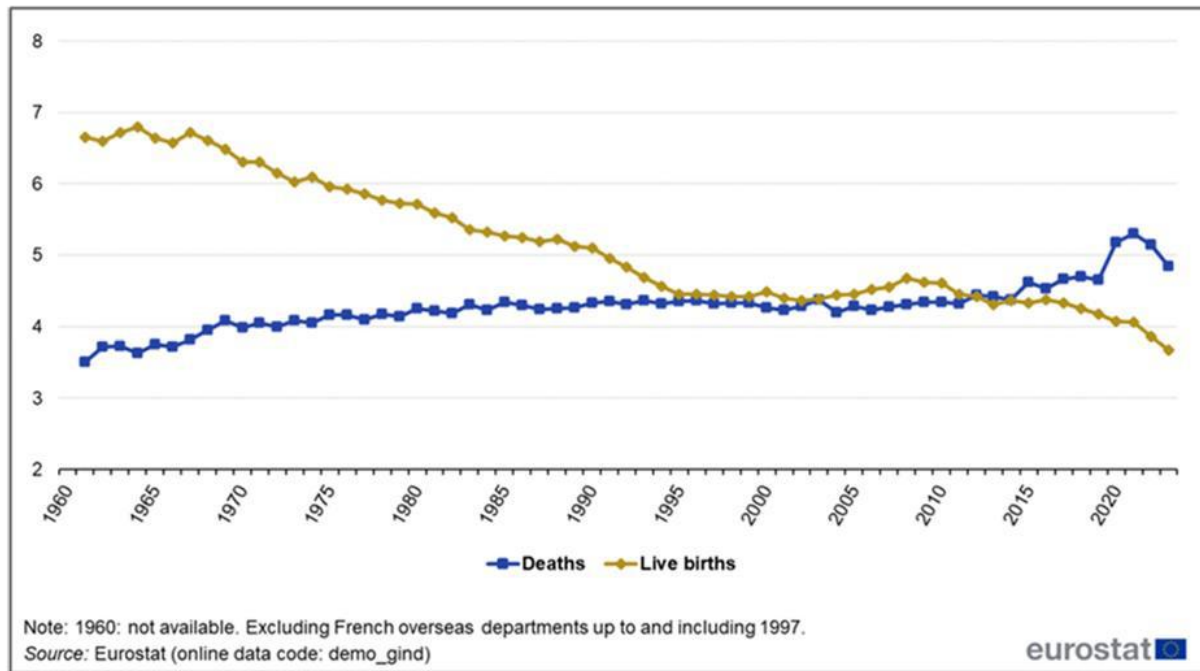
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<sup>9</sup>Link to the original document in Italian: <https://politichecoesione.governo.it/media/yamnr5sl/piano-strategico-nazionale-delle-aree-interne.pdf>

*population will fall from the current 59 million to less than 55 million in 2050 and to 46.1 million by 2080 (a loss of about 13 million people compared to current figures). Even under the most optimistic scenario (upper limit of the 90% confidence interval), the population would still decline to 53.1 million by 2080 (a reduction of about 6 million).*

*This leads to a first consideration: at the national level, the Italian population appears to have lost, according to recent ISTAT projections, its endogenous capacity for growth. A reversal of this demographic trend, bringing the curve back upward, is no longer within the scope of feasible national policy measures.*

**Figura 1 - Nascite e morti, EU, 1961-2023 (milioni)**



In light of the above, having already clarified how the *unique nature* of Italian emigration has contributed to a particularly strong sense of Italian identity and, consequently, how Minister Tajani’s statement, *‘We want real Italians, not citizens of convenience’*, appears reckless, it can also be easily argued that, from a **demographic perspective**, the concerns raised are irrelevant.

4.4.2 **Concerns about potential abuses** are, in any case, a physiological aspect of the system and are largely unfounded, especially when considered in light of the broader migratory context.

4.4.3 **As for the genuine link** with the Italian Republic, which the Decree-Law discusses, it should be pointed out that it is an improperly used expression.

In the 1997 European Convention on Nationality (Strasbourg Convention), cited in the Decree-Law, Article 7 entitled ‘Loss of nationality *ex lege* or at the initiative of the State’ adopts as a criterion the *‘(e) lack of genuine link between the State party and a national habitually residing abroad.’*

However, the term ‘genuine’ is not synonymous with ‘effective’. This is evident from Article 18, letter a) of the same Convention, which clearly distinguishes between the two terms: *‘The genuine and effective link of the person concerned at the time of State succession.’*

This concept does not coincide with residence, since the provision itself refers to individuals residing abroad.

The use of the residence criterion as derived from this provision is therefore contrary to the provision itself.

Furthermore, while the concept of ‘genuine link’ has roots in international case law, particularly the 1955 Nottebohm case (International Court of Justice, Liechtenstein v. Guatemala), as cited in the referring ordinance, the actual wording is as follows:

*According to the practice of States, to arbitral and judicial decisions and to the opinions of writers, nationality is a legal bond having as its basis a social fact of attachment, a **genuine** connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties. It may be said to constitute the juridical expression of the fact that the individual upon whom it is conferred, either directly by the law or as the result of an act of the authorities, is in fact more closely connected with the population of the State conferring nationality than with that of any other State.*

In light of what has been outlined in Section 2 of this memorandum, it is clear which elements constitute the basis for defining the notion of a genuine link, and how such ties, due to the unique nature of Italian migration, exist both individually and collectively.

Moreover, it is worth noting that Italian citizens residing abroad are granted only limited electoral rights.

**Parliamentary elections and abrogative and constitutional referendums.** With the entry into force of Law No. 165 of November 3, 2017, entitled ‘*Amendments to the electoral system for the Chamber of Deputies and the Senate of the Republic. Delegation to the Government for the determination of single-member and multi-member electoral districts*’, which reformed the voting system and the allocation of seats within the electoral constituencies in both national and foreign territories, allowing for voting by mail, **the Overseas Constituency has been divided into four districts:** Europe, including the Asian territories of the Russian Federation and of Turkey; South America; North and Central America; Africa, Asia, Oceania and Antarctica. In the Overseas Constituency established for the election of the Italian Parliament, **only twelve representatives are elected: eight members of the Chamber of Deputies and four Senators, out of a total of six hundred.**

Several reasons led the constitutional legislator, in drafting Article 48 of the Constitution, to grant Italian citizens residing abroad a specific form of parliamentary representation, distinct from that of their fellow citizens, characterized by a fixed number of seats, proportionally lower in quantity, and separate in nature. It is worth recalling that the original text of Article 8.1(b) of Law No. 459/2001, prior to the 2017 amendment, required that candidates running in the Overseas Constituency be both residents and registered voters within the respective district. Said reasons include the necessity to avoid an excessive increase in the total number of members of Parliament; the fact that Italians abroad do not contribute to public expenses (Article 53 of the Constitution), except possibly for property

owned in Italy; the uncertain number of eligible voters abroad (who may, though rarely, opt to vote in their Italian municipality of registration); high abstention rates (though the gap with domestic turnout is narrowing), since in the most recent elections, only 26.6% of eligible foreign voters participated; above all, the concern that unmonitored voting by mail may compromise the principles of personal, free, and secret voting guaranteed under Article 48(2) of the Constitution (from which the following third paragraph effectively derogates).

With regard to participation in **elections to the European Parliament**, Decree-Law No. 408 of June 24, 1994 concerning '*Urgent provisions concerning elections to the European Parliament*' has been adopted.

Individuals must be registered with AIRE (Registry of Italians Residing Abroad) to vote and the vote must be cast at polling stations established in consular offices or embassies. In case of return to Italy, voting can occur in one's municipality of electoral registration, upon submitting a request to the mayor no later than the day before the elections.

Moreover, since each European country independently determines the criteria for the attribution of citizenship, thereby granting both the right to free movement and to vote within the EU (including Italy), it is true that Italy has assimilated for years individuals recognized as citizens by other EU countries, in disregard of the *Decreto Flussi* (Italian Immigration Quota Decree) and the broader regulatory framework on the management of irregular and refugee migration. These are individuals clearly have no effective ties with Italy. No international obligation compels such assimilation.

**Thus, provisions of Law No. 91 of 1992, prior to the reform, should raise no concern.**

As noted, **abstention** remains the prevailing political force: in the 2022 general elections, only 26.93% of eligible voters completed and returned the ballot received by mail. Voter participation generally hovers around 30%, and the vote is usually oriented toward the left, with the exception of what occurred during the fourth Berlusconi government.

It appears, however, that the votes of Italian citizens residing abroad could be decisive in electing the Prime Minister and in determining the composition of Parliament within the framework of the so-called *Premierato* (premiership reform) currently under discussion, promoted by the Government.

Indeed, one of the critical issues in the Meloni-Casellati draft law, still under debate, concerns the potential significant impact of votes cast abroad in the direct election of the President of the Council of Ministers.

Moreover, the manipulation of electoral matters for political purposes—improper as it may be—is not unprecedented. The oldest Western democracy, the United States of America, serves as a recent example.

A brief digression on this point is warranted. In the United States, it has been alleged that the Biden Administration allowed an excessive influx of undocumented immigrants with the aim of resettling them in politically favorable states, thereby increasing their political strength through the apportionment process (i.e., the number of seats allocated to each state), thus influencing electoral outcomes.

In fact, in the United States, the count used to determine the apportionment of seats in the House of Representatives and votes in the Electoral College originates from the U.S. Constitution of 1787<sup>10</sup> and is based on the decennial census.

In 2019, ahead of the 2020 Census, the first Trump Administration attempted to exclude undocumented immigrants from the census count for apportionment purposes through Executive Order 13880, titled: *'Collecting Information About Citizenship Status in Connection With the Decennial Census'*. The order argued that previous administrations had permitted the illegal entry and targeted settlement of millions of migrants.

However, this action was blocked by a federal court, which held that the Constitution requires the enumeration of all persons residing in the country, regardless of legal status.

On January 20, 2021, President Biden revoked Trump's order by issuing Executive Order 13986: this order reaffirmed that all individuals, irrespective of citizenship or immigration status, must be included in the census for apportionment purposes.

Subsequently, in March 2021, President Biden issued Executive Order 14019: this order aimed to facilitate voter registration through federal agencies, using *'any identity documents issued by the agency.'*

Some Republican officials criticized this measure, interpreting it as an attempt to influence electoral outcomes in favor of the Democratic Party.

Executive Order 14019 was later revoked on January 21, 2025, by President Trump.

Most recently, in January 2025, President Trump signed Executive Order 14160, entitled *'Protecting the Meaning and Value of American Citizenship'*: this order addresses the interpretation of the Fourteenth Amendment of the U.S. Constitution, which states: *"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."* The Trump order seeks to deny automatic citizenship to individuals born in the United States to parents who are not citizens or lawful permanent residents, including those

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<sup>10</sup> Article I, Section 2, Clause 3, as amended by Section 2 of the Fourteenth Amendment, provides that the decennial census must count the 'whole number of persons in each State,' regardless of citizenship or immigration status. The relevant constitutional text reads: *'Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.'*

legally present but temporarily (such as students or tourists). The rationale provided is that the phrase ‘*subject to the jurisdiction thereof*’ implies a requirement of lawful presence in the United States. These are precisely the challenges that a country historically shaped by immigration policies, such as the United States, has been facing in recent years.

The United States may thus be cited both as an example of integration and, at the same time, as a country that illustrates the difficulties, limitations, and at times even the impossibility of achieving full integration.

Accordingly, it is evident that the reasons invoked by the Government in support of the legislative intervention are not borne out by experience.

**4.5 Violation of Article 72 paragraph 4 of the Constitution – Reservation to the Legislative Assembly for electoral matters, read in conjunction with Article 1 paragraph 2; Articles 2 of the Constitution – Inviolability of the right of passive electorate; Articles 48 and Article 51 of the Constitution concerning passive electorate**

4.5.1 According to Article 48 of the Italian Constitution, "*all citizens, male and female, who have attained the age of majority are entitled to vote.*"

Citizenship is therefore the fundamental prerequisite for the exercise of the right to vote.

The Constitution establishes a set of provisions safeguarding the principle of legislative reservation (*riserva di legge*) concerning specific aspects of electoral law, precisely to prevent situations like the one described above (see Articles 48, 72 paragraph 4, 51, 60, 65, and 121 of the Constitution).

As a result, matters of citizenship cannot be regulated by Decree-Law.

This is especially true when, as in the present case, the legislative measure constitutes a substantial and organic reform that directly impacts the definition of the electorate, both active and passive voting rights (the so-called electoral base), and does not merely introduce formal or administrative procedures.

Passive suffrage rights, in particular, are inviolable under Article 2 of the Constitution and, as the Constitutional Court has held: "*They can only be regulated by general laws, which may limit them solely to achieve other equally fundamental and general constitutional interests.*" (Italian Constitutional Court, Judgment No. 235 of 1988)

Similarly, the **Venice Commission of the Council of Europe**, in its Code of Good Practice in Electoral Matters<sup>11</sup>, provides for the principle of legislative reservation in electoral law<sup>12</sup> (Articles 63 to 67).

In particular, Article 67 provides: *'Apart from this, electoral law should at least have the rank of a statute. Implementing regulations, in particular technical details, may be included in regulations.'*

4.5.2 The Venice Commission further recommends that **no substantial change** to electoral law be made in the year preceding an election.

2. *Levels of Normative Regulation and Stability of Electoral Law* (p.10)

a. *Except for technical and detailed rules, which may be of a regulatory nature, electoral law provisions must at least have the rank of a statute.*

b. *The fundamental elements of electoral law, in particular the electoral system proper; membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election or should be written in the constitution or at a level higher than ordinary law.*

Now, the Decree-Law was introduced on March 26, 2025, and the following **electoral events** subsequently took place:

Municipal elections

On May 25 and 26, 2025, municipal elections were held in 126 municipalities in the ordinary statute regions and in Sicily. On June 8 and 9, 2025, runoff elections (*ballottaggio*) took place in the municipalities where no candidate had achieved an absolute majority in the first round. In Friuli Venezia Giulia, elections were held on April 13 and 14, 2025, with possible runoffs on April 27 and 28, 2025. In Trentino-Alto Adige, elections took place on May 4, 2025, with potential runoff rounds

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<sup>11</sup> The Code of Good Practice in Electoral Matters was adopted by the Parliamentary Assembly of the Council of Europe during its 2003 session (first part), and by the Congress of Local and Regional Authorities of Europe during its Spring 2003 session. With a solemn declaration adopted at the ministerial level on May 13, 2004, the Committee of Ministers invited the governments, parliaments, and other competent authorities of the Member States to take into account and be guided by the Code of Good Practice in Electoral Matters, in accordance with their national democratic traditions, when drafting and applying electoral legislation. The Committee also urged them to make every effort to ensure the widest possible dissemination of the Code in all relevant sectors.

<sup>12</sup> Article 63. The stability of electoral law is crucial to the credibility of the electoral process, and it is itself essential for the consolidation of democracy. Frequent changes in electoral law may disorient voters, especially when the rules are complex. Voters may then, rightly or wrongly, think that electoral law is a tool manipulated by those in power for their own benefit, and that their vote does not truly decide the outcome of the election.

Article 64. The need to guarantee stability concerns not so much the fundamental principles, which it is hard to imagine being challenged formally, but rather some specific rules of electoral law, in particular: the electoral system proper, the composition of electoral commissions, and the drawing of constituency boundaries. These three elements are often—rightly or wrongly—considered decisive for the outcome of elections. It is therefore necessary to avoid not only manipulation to the advantage of the party in power but also any appearance of manipulation.

Article 65. What is to be avoided is not so much changes to the voting system, which is in itself not sacrosanct and can always be improved, but rather its frequently repeated amendment or changes shortly before elections. Even in the absence of any manipulation, this would appear to be dictated by immediate party-political interests.

Article 66. One way of avoiding manipulation is to specify the fundamental elements of electoral law, particularly the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, in the constitution or at a level higher than ordinary law. Another, less rigid solution is to provide in the constitution that a change in the electoral law will only apply after the next election, particularly if the change is made in the year before the election.

on May 18, 2025. In Sardinia, municipal elections were held on June 8 and 9, 2025. In Valle d’Aosta, municipal elections were held on September 28, 2025, with runoffs on October 12.

### Regional elections

In 2025, six Italian regions have renewed their regional councils and presidents: Campania, Marche, Puglia, Tuscany, Veneto, and Valle d’Aosta.

### Referendum 2025

On June 8 and 9, 2025, five abrogative referenda were held on issues specifically related to labor and citizenship.

The Council of State, in various opinions, has repeatedly emphasized the need to avoid using decree-laws in such matters, especially when they are not ratified in time or when they impact subjective rights.

As a consequence, the legislative measure under review is inconsistent with the fundamental principles governing electoral matters.

## **4.6 Violation of Articles 77 paragraph 2, 55 paragraph 1 and 70 of Italian Constitution – Lack of exceptional and urgent prerequisites**

4.6.1 The arguments developed thus far, though related to different aspects, particularly those addressed in the preceding sections, are by themselves sufficient to demonstrate the lack of the prerequisites of necessity and urgency required for Decree-Law No. 36 of 2025.

4.6.2 Moreover, the absence of necessity and urgency is further evidenced by the fact that the Decree-Law and its enabling law effectively bypassed parliamentary debate on draft bills concerning this matter that were already **pending before Parliament**.

By way of example, the following legislative proposals were pending during the current 19th Legislature:

- Chamber Bill No. 617 ‘**Amendments to Law No. 91 of February 5, 1992, containing new rules on citizenship**’. Presented on November 22, 2022, referred to the 1st Standing Committee (Constitutional Affairs) on May 17, 2024. Announced during sitting No. 294 of May 17, 2024. Opinions requested from the 2nd Committee (Justice), 5th (Budget), 7th (Culture), and 14th (European Union Policies). **Urgency procedure** requested under Article 69(1) of the Chamber Rules on September 12, 2024. Request for urgency was **rejected** during sitting No. 345 on September 12, 2024.
- Chamber Bill No. 1985 ‘**Amendments to Law No. 91 of February 5, 1992, concerning citizenship.**’ Presented on July 22, 2024, referred to the 1st Standing Committee (Constitutional Affairs) on December 10, 2024. Announced during sitting No. 396 of December 10, 2024. Opinions requested from the 2nd Committee (Justice), 3rd (Foreign

Affairs), 5th (Budget), 6th (Finance) (pursuant to Article 73 of the Chamber Rules), 7th (Culture), 12th (Social Affairs), and 14th (European Union Policies).

- Chamber Bill No. 2023 ‘**Amendments to Law No. 91 of February 5, 1992, and other provisions concerning citizenship.**’ Presented on August 23, 2024, referred to the 1st Standing Committee (Constitutional Affairs) on September 26, 2024. Announced during sitting No. 355 of September 26, 2024. Opinions requested from the 2nd (Justice), 3rd (Foreign Affairs), 5th (Budget), 6th (Finance) (pursuant to Article 73 of the Chamber Rules), 7th (Culture), 12th (Social Affairs), and 14th (European Union Policies). Sponsor: BOSCHI
- Senate Bill No. 1232 ‘Citizenship.’ Presented on September 12, 2024, referred to the 1st Standing Committee (Constitutional Affairs) for drafting session on October 16, 2024. Announced during sitting No. 232 of October 16, 2024. Opinions requested from the 2nd Committee (Justice), 3rd (Foreign Affairs and Defense), 5th (Budget), 7th (Education and Culture), and 10th (Health and Labor). Sponsor: BOCCIA
- Chamber Bill No. 2080 ‘**Amendments to Law No. 91 of February 5, 1992, regarding the transmission and acquisition of citizenship.**’ Presented on October 9, 2024, referred to the 1st Standing Committee (Constitutional Affairs) on October 16, 2024. Announced during sitting No. 366 of October 16, 2024. Opinions requested from the 2nd (Justice), 3rd (Foreign Affairs), 5th (Budget), 6th (Finance) (pursuant to Article 73 of the Chamber Rules), 7th (Culture), and 14th (European Union Policies). Sponsor: BARELLI

No extraordinary or urgent event occurred between the filing of those draft bills and the Government's decision to proceed by way of a decree-law.

The constitutional breach resulting from this conduct is clear, particularly when considering that, in matters subject to a legislative reservation, the Constitutional Court has established that:

*The urgency to legislate is recognized by the constitutional system. On one hand, Article 72 of the Constitution assigns to parliamentary rules the competence to establish expedited procedures for draft bills declared urgent (a provision that could be emphasized as a means to limit the use and abuse of decree-laws). On the other hand, Article 77 of the Constitution grants the Government the power to adopt decree-laws, but **the Government cannot adopt such an expansive interpretation of extraordinary cases of necessity and urgency as to systematically replace the parliamentary legislative process with the mechanism of decree-laws followed by conversion into law.** [...] In fact, given the very short time limit within which Parliament must decide whether and how to convert a decree-law into law, the heterogeneity of the governmental legislative act precludes effective parliamentary examination and substantive debate. The brevity of the time available to Parliament for conversion requires, in order to respect the **legislative function** of Parliament, that the subject matter to be regulated is circumscribed. **Without compliance with these conditions, the decree-law becomes an improper 'guaranteed-urgency bill,'** allowing for the introduction of the most disparate provisions, counting on the fact that the conversion law will consolidate their legal effect. (Italian Constitutional Court, Judgment No. 146 of 2024)*

The lack of the prerequisites for emergency law-making, according to the consistent case law of the Constitutional Court, **results in an irremediable defect that also affects the conversion law**. The Court has held:

*The existence of a factual situation requiring the need and urgency to act through an exceptional instrument, such as the decree-law, is a prerequisite for the validity of such an act. The absence of this prerequisite constitutes a constitutional defect that is not remedied by the conversion law, which itself becomes affected by a procedural defect. (See, inter alia, Constitutional Court Judgments No. 149 of 2020, No. 10 of 2015, No. 93 of 2011, No. 128 of 2008, No. 171 of 2007, and No. 29 of 1995)*

The Decree-Law No. 36 and Law No. 91 of 1992 as amended by the Conversion Law are therefore also unlawful in this respect.

#### **4.7 Violation of Article 97 paragraph 1 – Principle of efficiency and proper functioning of public administration, read in conjunction with Articles 3 and 2 of the Constitution**

The Government's decision to limit access to the recognition of Italian citizenship through Decree-Law No. 36 of 2025, subsequently converted into law, presents further profiles of unreasonableness and inconsistency with the constitutional principles of efficient administration (*principio di buon andamento della pubblica amministrazione*).

A careful review of the foundations and motivations of the contested legislation reveals that they reflect elements of **chronic inefficiency** in the exercise of administrative functions.

Indeed, the statistical data cited in support of the measure refer not to the demographic concerns previously reported, but rather to the operational difficulties encountered by the consular offices responsible for processing applications.

The Technical Report to the Decree-Law (Act No. 1432) states as follows:

*As of today, the number of applications that consular offices can process is significantly lower than the demand. During the first century of Italian unification, approximately 27 million Italian citizens emigrated. Conservative estimates suggest that there are over 60 million individuals of Italian descent. Among them, a particularly high number have at least one second-degree ascendant (grandparent) born in Italy, considering that mass transoceanic emigration continued well beyond World War II. An exact estimate of the remaining eligible population is impossible; however, certain indicative indices can be derived from recent trends in the activities of consular offices. In 2023, consular offices processed 69,056 citizenship applications, while 135,197 applications remained pending. Compared to 2022, there was a 27% increase in processed applications (54,180 in 2022), but a 112% increase in pending applications (63,598 in 2022). The mathematical projection of this trend between 2022 and 2023—identified as 'significant years' due to the full resumption of consular activities following the pandemic-related disruptions of 2020–2021—shows that the gap between potential demand and the actual processing capacity of consulates, under constant conditions, is bound to grow exponentially. Over a 10-year projection, assuming a constant 27% annual increase in processed applications and a 112% annual increase in new applications, the consulates would process 186,451 applications while facing a backlog of 1,514,206 pending applications. Moreover, this is an extremely optimistic estimate concerning the potential service supply, as it is based on the assumption of a constant increase in the processing capacity of the consulates. However, given the current human and material resources, it is highly unlikely that such an increase will actually occur—especially over such a long-time span. On the contrary, it is far more likely that, after a few years, the service capacity will reach its maximum level and cease to grow, remaining—at best—stable over time.* (pp. 1–2)

Regarding the increase in applications:

*It would be useful to provide data on the applications submitted to consular offices over a broader historical period, rather than limiting the analysis to the last two years. The explanatory report provides data covering the period from 2013 to 2024, referring to the Unified Registry of Italians Residing Abroad and to the consular registries, with separate data for individuals born abroad. For this latter group, the report shows a continuous annual growth rate ranging between 3% and 5.3%, with a peak recorded precisely in the last two years. The overall increase in citizens residing abroad and born abroad was 37.5% over the first ten years, rising to 51% when including the data from the last two years. Moreover, according to the review of the number of procedures related to citizenship acts reported in the 2024 MAECI Yearbook, there was a further increase in the same year, with consular offices processing 92,539 acts related to the recognition of Italian citizenship. It should also be noted that the explanatory report states—specifically concerning the consular district of São Paulo, Brazil, which the same report considers representative of the current and potential level of demand for citizenship services—that over 90% of individuals currently requesting recognition of Italian citizenship are fourth- or fifth-generation Italian descendants, who would therefore be excluded from the new eligible population. Therefore, even in the face of a pre-existing number of applications far exceeding the processing capacity of consular offices, it may be useful to perform an estimate assuming a 90% reduction in applications, except for the initial period during which—as noted in the explanatory report—there may still be a high number of applications submitted by individuals who are no longer entitled but are nonetheless required to pay the relevant fee.*

The chronic inefficiency of consular offices abroad, as well as of judicial offices, is attributable to insufficient financial and human resources. However, this cannot and should not constitute a valid justification for adopting measures that restrict fundamental rights.

No element has emerged from the Government's actions indicating the impossibility of reorganizing and adapting administrative infrastructure to meet growing demand. On the contrary, the response has been inefficient and inconsistent.

For instance, the 2023 Budget Law **authorized the hiring of 520** new administrative employees primarily assigned to embassies and consulates abroad, to counteract a 40% reduction in permanent staff over the last 20 years. Additionally, 50 local contract positions were added, along with increases in wages for locally hired staff.

At the same time, the Meloni government, in the 2025 Budget Law, provides for a **reduction** of approximately 22 million euros in the 2025-2027 three-year period for Italian consular services abroad, while allocating a separate fund of 4 million euros to improve consular services. This fund will be distributed among consular offices in proportion to the number of passports issued, thereby incentivizing the efficiency and productivity of individual offices.

Financial resources could have been more effectively secured through targeted measures, such as the recent doubling of consular fees and CU (*Contributo Unificato*) for registration procedures (now 600 euros per person).

As is universally acknowledged by legal practitioners, the scarcity of financial resources allocated to the judiciary has led to a longstanding and well-known state of inefficiency in judicial offices.

In fact, the violation of the principle of sound administration has been both **serious and repeated**. Moreover, if one considers the findings of an in-depth analysis of Italian emigration, it is **shortsighted**, since the return of Italian citizens from abroad is not only a phenomenon likely to produce positive effects, but also one that is foreseeable and largely manageable.

It follows that it was the functioning of the public administration in a manner contrary to the principle of sound administration that has, for some, turned this phenomenon into a negative one.

This highlights an additional profile of illegitimacy in the provisions under examination, which were **adopted in place of measures aimed at improving administrative efficiency**.

#### **4.8 Violation of Article 117 of the Constitution, read in conjunction with Article 7 of Charter of Fundamental Rights of the European Union (CFREU) and Article 7 of European Convention on Nationality (Strasbourg, 1997)**

In Article 7 of the European Convention on Nationality (Strasbourg, 1997), cited in Decree-Law No. 36/2025, concerning ‘Loss of nationality *ex lege* or at the initiative of a State Party.’, specifically under letter e), the Convention sets forth as a criterion the *‘lack of genuine link between the State Party and a national habitually residing abroad.’*

Contrary to what is reported in the Decree-Law, which indeed cites the Convention, the term **genuine**, as used in this provision, is not synonymous with ‘effective’. This is confirmed by the fact that the same Convention, in Article 18, letter a), refers to both concepts as distinct: *‘The genuine and effective link of the person concerned at the time of State succession.’*

Nor does it coincide with residence, given that the same provision expressly refers to individuals who, instead, reside abroad.

The use of residence as a derived criterion from that provision is therefore in contradiction with the provision itself.

Furthermore, while it is true that the concept of ‘*genuine link*’ has roots in international jurisprudence, particularly in the Nottebohm case (1955) before the International Court of Justice (Liechtenstein v. Guatemala), a case cited in the order of referral, the terms used by the ICJ are the following:

*According to the practice of States, to arbitral and judicial decisions and to the opinions of writers, nationality is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties. It may be said to constitute the juridical expression of the fact that the individual upon whom it is conferred, either directly by the law or as the result of an act of the authorities, is in fact more closely connected with the population of the State conferring nationality than with that of any other State.<sup>13</sup>*

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<sup>13</sup> *According to state practice, arbitral and judicial decisions, and the views of legal scholars, nationality is a legal bond based on a social fact of attachment, a genuine connection of existence, interests, and sentiments, along with the existence of reciprocal rights and duties. It can be said that it constitutes the legal expression of the fact that the individual to whom it is conferred, whether directly by law or as a result of an act by the authorities, is in reality more closely connected with the population of the State conferring nationality than with that of any other State.*

Moreover, in Judgment No. 142/2025, published on July 31, concerning the constitutional legitimacy challenges to Article 1 of Law No. 91/1992 (prior to its reform), the Constitutional Court explains the relevance of the territorial element in relation to the concept of citizenship:

*[...] the Constitution invokes the idea of **citizenship as belonging to a community with shared cultural and linguistic roots**, while at the same time outlining a community open to pluralism and protective of minorities. Finally, the constitutional provisions suggest a **correlation between citizenship and the territory of the State, understood as the place that reflects a common cultural background and the sharing of constitutional principles**.*

Thus, in light of constitutional principles, the Court emphasizes that territory is not so much relevant as a physical place, but rather as the space in which a shared cultural and identity-based community is expressed—namely, that set of values, traditions, and principles that the Constitution codifies and elevates as the foundation of social coexistence. In this sense, citizenship is not merely a legal status, but rather expresses a shared constitutional identity.

The physical location must not and cannot become an almost exclusive criterion in determining the recognition of Italian citizenship, as appears to be the case in the framework resulting from governmental intervention.

Otherwise, it would not even be possible to speak of “European citizenship”, since the very existence of that concept is tied to a network of legislative provisions that give it practical effect.

Therefore, should one seek to apply the reformed legislation, particularly with regard to the relevance of **residence** as a determining criterion for citizenship, serious doubts arise as to the constitutionality of certain provisions of Law No. 91/1992, insofar as they may be in conflict with the principles of proportionality and reasonableness set forth in Article 3 of the Constitution.

**4.9 In particular, a violation of Article 3 of the Constitution must be noted due to the unreasonableness and disproportionality of Article 4(1-bis)(a) of Law No. 91/1992, which requires children of Italian citizens, solely by reason of having been born abroad, to reside in Italy for two consecutive years, whereas Article 9(1)(a-bis) grants Italian citizenship to a foreign national born in Italy after three years of residence, even if such residence is not continuous.**

Under Article 4 as amended, attributing such negative significance to the mere fact of being born abroad unreasonably disregards the connection arising from filiation with an Italian citizen.

In Article 9, it is proportionate to treat the elements of birth and (non-continuous) residence on Italian territory (by foreign citizens) so favorably without considering any other connection.

Balancing the two elements, i.e. connection with the territory on the one hand (Article 9), and filiation on the other (Article 4), from which a *cultural foundation* derives, allowing the former to prevail creates a conflict of unreasonableness and disproportionality with respect to constitutional principles.

The Court's very recent decision on this point must be understood as recognizing that territory is relevant insofar as it constitutes a place reflecting a **shared** cultural foundation (*humus*).

The Court therefore emphasizes that the concept of citizenship is not the result of a geographical automatism, but rather a juridical and political bond grounded in a cultural reality. Territory becomes relevant only insofar as it reflects such shared culture: when it mirrors that common heritage, it becomes probative; when it remains merely a physical space, it becomes legally irrelevant.

Cultural commonality is not an abstract or merely rhetorical concept, but a reality that manifests itself concretely and tangibly in individuals who descend from Italian citizens. For such individuals, the connection with Italy is innate: although they may have been born and raised abroad, they retain an organic bond with the national community, founded upon lineage, family memory, and the transmission of values and traditions. In such circumstances, integration does not represent an objective to be achieved through external efforts, but rather a natural and already existing condition, such that it may properly be described as **presumed or minimal integration**, sufficient to allow immediate inclusion within the civic body.

By contrast, the individuals identified by the statute as potential beneficiaries of alternative pathways to citizenship stand in a fundamentally different position. They do not descend from Italian citizens and do not originally share that common cultural heritage which justifies recognition of citizenship *jure sanguinis*. For them, integration constitutes a complex and burdensome process that requires significant personal commitment as well as substantial investment by the Italian State, including financial resources (such as language courses and economic support during labor-market and social integration), as well as medium- to long-term timeframes for genuine assimilation into national values, traditions, and culture.

A process that, not infrequently, remains incomplete or difficult to achieve in practice.

It follows that the distinction drawn between these two categories of individuals creates a serious misunderstanding from the standpoint of protecting the national interest. The invoked need to safeguard national security as a justification for the reform would paradoxically be disregarded precisely where such protection would be most necessary.

Indeed, while in the case of descendants of Italian citizens national security concerns are not implicated, since integration already exists in the form of an identity-based and familial bond, in other cases the State faces the actual risk of granting citizenship without adequate cultural rootedness. Such risk is certainly not eliminated by a B1-level language certificate, which may moreover be avoided through the integration agreement mechanism (Article 9.1 of Law No. 91/1992).

Furthermore, the prominence attributed to the criterion of residence over cultural identity grounded in filiation stands in contrast with the position expressed in an appropriate electoral context and

consistent with the principle of statutory reservation in electoral matters, as discussed above in connection with the violations arising from Decree-Law No. 36/2025 (see Paragraph 4.5).

Italian citizens, in fact, expressed their opposition when called to the polls on June 8 and 9, 2025 to vote for or against reducing the legal residence requirement for the acquisition of Italian citizenship from ten to five years for adult non-EU foreign nationals. In doing so, they manifested their intention to attribute limited weight to residence, insisting instead on maintaining a requirement of at least ten years before an Italian collective identity may be recognized.

For these reasons, the aforementioned provisions must be assessed in light of the constitutional principles governing citizenship and must be regarded as unreasonable and disproportionate under Article 3 of the Constitution.

#### **4.10 Violation of Articles 3, 4, 16 et seq. and 22 of Italian Constitution, Article 15 of Universal Declaration of Human Rights of December 10, 1948 and Treaty of Lisbon of December 13, 2007 – Dual nationality and voluntary acquisition**

According to the amended Article 3-*bis*, paragraph 2, letter c) of Law 91/1992, the provision states that: “*A person born abroad who holds another citizenship shall be considered as never having acquired Italian citizenship, unless an ascendant of the first or second degree possesses, or possessed at the time of death, exclusively Italian citizenship.*” As a result, the possibility of transmitting Italian citizenship is excluded for individuals who hold third-country nationalities in addition to Italian citizenship.

4.10.1 In light of the principles established by settled case law, the possession of a third nationality must be interpreted as relevant only when it results from a **voluntary acquisition, which necessarily entails an express renunciation** of Italian citizenship, in accordance with Articles 3, 4, 16 et seq., and 22 of the Italian Constitution.

As early as **1979**, the **Court of Cassation, Joint Sections, in Judgment No. 5250**, referring to Law No. 555 of 1912, held that:

*The acquisition of a foreign nationality, even when accompanied by the transfer of residence abroad, does not necessarily entail the loss of Italian citizenship, since Article 8 of Law No. 555 of June 13, 1912, requires that such acquisition must be 'voluntary', or if it occurs 'without the concurrence of the will' of the person concerned, it must be followed by a declaration of renunciation of Italian citizenship. Therefore, the subsequent acquisition of foreign citizenship cannot, by itself, be invoked as a cause of loss of Italian citizenship, not even for the purposes of determining jurisdiction, unless the aforementioned circumstances are alleged and proven.*

In the same vein, reference can be made to a subsequent judgment of the Court of Cassation, No. 6220 of 1981, also concerning Law No. 555 of 1912.

The Court has consistently maintained the same position over time, including with respect to the provisions of Law No. 91 of 1992, as reaffirmed in Cassation, First Civil Division, judgment No. 22271 of 2016.

Up to the most recent judgment of the Court of Cassation, Joint Sections, No. 25317 of 2022, in which the Court held as follows:

*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 'mass naturalization' of foreigners present in Brazil at the end of the nineteenth century, requires a **restrictive interpretation** of the relevant provisions, in light of the subsequent constitutional principles, considering that **citizenship is to be counted among fundamental rights**. In this perspective, Article 11, No. 2, of the Civil Code of 1865, in establishing that Italian citizenship is lost by those who have **'obtained the citizenship of a foreign country'**, **implies—especially for the purposes of the transmission of citizenship iure sanguinis to descendants—that there must be an ascertainment of a voluntary and intentional act aimed at acquiring the foreign nationality**, for example through an application for registration in electoral rolls under the law of the place, **whereas the mere establishment of residence abroad, or even the stabilization of one's condition of life abroad, cannot be considered sufficient**, nor can the failure to object to a generalized naturalization decree be interpreted as tacit acceptance capable of producing the extinction of citizenship status. (Cass. Civ., Joint Sections, No. 25317 of August 24, 2022)*

Furthermore, it has been repeatedly affirmed that every person holds a permanent and imprescriptible subjective right to citizenship, which encompasses multiple fundamental rights. Such status can only be lost through voluntary and explicit renunciation, in deference to individual freedom, and therefore never through tacit renunciation, nor through any form of implied acceptance of a foreign citizenship conferred by a generalized act of naturalization. This principle has been reiterated in Cass. No. 12894/2023, Cass. Civ., Section I, May 16, 2024, No. 13585, and previously in Cass. Civ., First Section, Judgment No. 4466/2009.

Moreover, the requirement of an express will to renounce citizenship is provided for in the current Law No. 91 of 1992. Article 11, still in force, states: *"An Italian citizen residing abroad who holds another citizenship may renounce Italian citizenship, provided that such renunciation does not result in statelessness."*

This principle has permeated the Italian legal system for over 50 years, and as a result, the provision under review must be interpreted in the sense that involuntary acquisitions of foreign citizenship, such as those acquired by birth on foreign soil (*jus soli*), by marriage, or through mass naturalization, cannot preclude the transmission of Italian citizenship to descendants.

4.10.2 Moreover, the two criteria (**birth abroad and dual citizenship**) are cumulative for the purposes of applying Article 3-*bis*, paragraph 2, letter c).

The category negatively affected by this provision is therefore composed of individuals who hold or might hold dual nationality (*bipolidia*), either those already born or those yet to be born, who, by virtue of being born abroad, are no longer—or will never be—considered Italian citizens.

As a result, only two categories of people are excluded from the scope of Article 3-*bis*, paragraph 2: those born in Italy and those who hold only Italian citizenship.

This approach disregards the well-established and traditional principle of international law that ‘*when a State considers a given individual its national, [...] it is irrelevant whether other States attribute their citizenship to that same person.*’, since ‘*a State may disregard the fact that an individual to whom it attributes citizenship is also regarded as a citizen by other States.*’

This principle is clearly enshrined in Article 3 of the 1930 Hague Convention on ‘Certain Questions Relating to the Conflict of Nationality Laws’, which states: “*Except where an agreement or special international rule exists to the contrary, a person having two or more nationalities may be regarded as its national by each of the States whose nationality he possesses.*”<sup>14</sup>

In essence, this approach **opposes the dual-nationality status of the newborns and assigns superiority to foreign nationality**, representing a regression to the past—namely, to times when dual citizenship was viewed with disfavor and suspicion—thus conflicting with current legal developments and the legitimate expectations of all citizens.

*From this perspective, it is an absolutely self-evident principle that the loss of Italian citizenship can depend solely on national legislation, in accordance with the provisions in force at the relevant time, and never on decisions adopted within a foreign legal system. It is precisely on this basis that the recognition of dual nationality has developed, **in line** with the evolution of international law. (Court of Cassation, Joint Sections, No. 25317 of 2022)*

**4.11 Violation of Articles 2, 3 and 30 of the Constitution; Article 117 paragraph 1 of the Constitution in relation to Article 7 of CFREU; Article 8 of ECHR; Article 3 of Convention on the Rights of the Child, adopted by the United Nations General Assembly on November 20, 1989, with reference to Article 4 paragraph 1-*bis*, letter a) of Law No. 91 of February 5, 1992 as modified by Decree-Law No. 36 of March 28, 2025 and converted with amendments from Law No. 74 of May 23, 2025 – Best interests of the child**

Minors are included among the petitioners; referring to what has already been stated on this matter, should this Honorable Court, however, deem the new regulations applicable, the following observations are made.

As set forth in paragraph 3 of this document, according to the mechanism established by Article 4, paragraph 1-*bis* of Law No. 91/1992, read in conjunction with Article 3-*bis*, letter c), and in light of Ministerial Circular No. 26185 of May 28, 2025, a minor can acquire citizenship *jure sanguinis* only if the first or second-degree ascendant was exclusively an Italian citizen at the time of the minor’s birth. In the absence of this requirement (i.e., if the ascendant was not exclusively Italian at the time

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<sup>14</sup> Original text: *Sous réserve des dispositions de la présente Convention, un individu possédant deux ou plusieurs nationalités pourra être considéré, par chacun des États dont il a la nationalité, comme son ressortissant.*

of birth), citizenship can be obtained only if the minor establishes continuous residence in Italy for two years after manifested declaration of intention of acquisition by the parents.

This provision constitutes an unreasonable and discriminatory difference in treatment compared to those born in Italy to foreign parents (including those without a residence permit, as this is not specified), who may obtain citizenship after only three years of residence, not necessarily continuous, and demonstrate a basic knowledge of the language (B1) (pursuant to Art. 9(a) *bis* of Law 91/1992), whereas the criteria of birth and residence in Italy are given greater weight than the principles examined thus far.

While it is true that citizenship matters fall within the competence of individual States, it is equally true that this competence is subject to limits, both substantive and procedural, which in this case have been violated, resulting in unjustified discrimination.

Moreover, it is difficult to comprehend how the mere fact of being born in Italy, sometimes accidentally, followed by three years (not necessarily continuous) of residence and an online B1 language certificate, could represent a genuine cultural link.

It is even less clear how this could reasonably be considered more significant than the cultural ties of the petitioners, as described at length above.

4.11.1 In light of the well-established principles regarding the rights of the child, the violations outlined so far **become even more relevant**.

Indeed,

*both internationally and in domestic law, there has been a transition to a concept of the child as a person, fully entitled to rights that must be protected both within the family and in society. Consequently, the **best interest of the child** has become a cornerstone principle, which must guide all decisions concerning minors. This best interest must be understood as: a) the child's substantive right to have his or her best interest assessed and considered as paramount whenever different interests are weighed, to ensure the most appropriate decision is reached; b) a fundamental interpretative principle of law: when a legal provision is open to multiple interpretations, the one that best serves the child's interest must be chosen; c) a procedural rule: every decision affecting a specific child, a group of identified children, or children in general, must include an assessment of the possible positive or negative impact on the children concerned. Furthermore, the rationale of the decision must explicitly demonstrate that the child's best interest has been considered. The reasoning must explain how this right was respected in the decision-making process, clarifying what was deemed to be in the child's best interest, particularly concerning his or her right to grow up in a healthy and balanced environment. (Court of Cassation, First Civil Section, Judgment No. 23080 of July 28, 2023)*

It is a well-established principle of the Court of Cassation that the child has a fundamental and primary right to live, whenever possible, with their parents and to be raised within their own family.

It is worth recalling that, in the matter of fundamental rights of private and family life (Article 2 of the Constitution), the position of the minor is recognized exclusively as a right, while the parents' position is qualified as a right-duty (Article 30 of the Constitution).

Moreover, Article 1 of Law No. 184 of 1983 affirms the child's right to live, grow, and be educated within a family, a right guaranteed without distinction of gender, ethnicity, age, language, religion, and with respect for the child's cultural identity, provided this does not conflict with the fundamental principles of the legal system.

One cannot overlook that the *status filiationis* (parent-child legal relationship), which includes emotional continuity, constitutes an essential element of personal identity, acquired at birth, which the child has the right to maintain and the State the obligation to protect. (Constitutional Court, Judgment No. 31 of February 23, 2012)

4.11.2 At the European and international level, equally relevant principles have been affirmed.

Article 8 of the European Convention on Human Rights (ECHR), entitled '*Right to respect for private and family life*', provides: "*1. Everyone has the right to respect for his private and family life, his home and his correspondence.*" Similarly, the Court of Justice of the European Union, regarding Article 7 of the Charter of Fundamental Rights of the European Union, has reiterated: "*Everyone has the right to respect for his or her private and family life.*" The Charter of Nice (2000), having the same legal value as the Treaties under Article 6(1) TEU, establishes that Article 7 of the Charter corresponds to Article 8(1) of the ECHR, and must be interpreted in line with the European Court of Human Rights jurisprudence. (CJEU, Judgment of November 15, 2011, Case C-256/11)

Additionally, the United Nations Convention on the Rights of the Child, adopted by the General Assembly on November 20, 1989, provides at Article 3, paragraph 1: "*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration.*"

The mechanism introduced by the new legislation creates situations such as the one presented in this case, where, despite the existence of direct-line family members with whom a genuine and real bond exists, and who are Italian citizens, the minor is prevented from obtaining recognition of citizenship, remaining formally alien to them.

Yet, possessing Italian citizenship would undoubtedly constitute a condition more favorable to the minor's interests, especially in this minor's case.

In light of all the considerations above, if one truly seeks to pursue the minor's best interest, and if citizenship is viewed as a status transmitted at birth, with the intervention of the administration serving merely an ascertaining function, and if the acquisition of a third nationality must be voluntary, it is reasonable to conclude that both the first- and second-degree relatives of the minor are Italian citizens and have passed on their citizenship to said minor.

Any different interpretation would result in an unreasonable and disproportionate violation of the minor petitioner's fundamental right to personal and collective identity, as well as of their right to maintain social and familial relationships in which he/she has grown up, without limitations of degree, compromising their psychological and physical development.

An interpretation consistent with the above would realign the current legislation with the principles of law.

### **5. Conclusive remarks**

First and foremost, it is appropriate to recall—particularly for ourselves—that when a legal provision is open to multiple interpretations, the judge must prefer the one that is consistent with the Constitution. (Constitutional Court, Judgment No. 356 of 1996) As a general principle, laws are not declared unconstitutional simply because they lend themselves to unconstitutional interpretations (and some judges might in fact interpret them in that way), but only when it is impossible to interpret them in a manner consistent with the Constitution.

Furthermore, it is an indispensable prerequisite for the relevance of an incidental constitutional review that the referring judge must be compelled to apply the challenged provision. (Constitutional Court, Judgment No. 168 of 1991, and starting from Judgment No. 170 of 1984 concerning the relationship between domestic law and European Community law).

In that decision, reconsidering its previous approach regarding the relationship (and potential conflicts) between domestic norms and those enacted by the European Community, and setting out the broader framework in which each particular issue (such as the present case) must be placed, the Court established the fundamental principle inspired by the doctrine of the plurality of legal systems, according to which the Community and State legal systems are distinct yet coordinated, based on the division of competences established and guaranteed by the founding Treaties. The provisions of the former are, by virtue of Article 11 of the Italian Constitution, directly applicable within the national legal system, while remaining external to the domestic sources of law.

The effect of this direct applicability, the Court clarified, is not the annulment of the incompatible national norm, but rather its non-application by the national judge in the specific case under review, thereby attracting the case into the scope of European Union law.

It should also be noted that this principle, derived from the Treaty establishing the European Community (via its implementing law), is consistent with Article 11 of the Italian Constitution, which allows for limitations of State sovereignty, including the effect of "non-application" of national law, a concept that differs from "annulment" or "disapplication," since it does not imply the existence of defects in the national law, precisely because of the autonomy of the two legal systems. However, the national legal system does not unconditionally submit to European law, as it remains subject to the

fundamental principles of the Italian constitutional order and the inalienable rights of the individual, which allow for constitutional scrutiny of the law implementing the Treaty itself. (See also Constitutional Court, Judgment No. 232 of 1989).

These principles, established in Judgment No. 170 of 1984, were specifically referred to Community regulations, which as derived sources of law are characterized by their complete and immediate applicability, even when they conflict with a national law, whether pre-existing or subsequent. (See also Order No. 81 and Judgments Nos. 47 and 48 of 1985).

Subsequent case law has confirmed and further developed this orientation, expanding the principle of "direct applicability" of European law.

Indeed, with Judgment No. 113 of 1985, the Court recognized the immediate applicability of the interpretative rulings of the Court of Justice of the European Communities, delivered in preliminary reference proceedings pursuant to Article 177 of the Treaty.

Later, with Judgment No. 389 of 1989, the same efficacy was recognized for Community norms as interpreted in contentious proceedings by the Court of Justice pursuant to Article 169 of the Treaty.

In that decision, the Court also affirmed that Community law must be immediately applied not only by national judges in the exercise of their jurisdiction but also by the public administration in carrying out administrative activities.

This coherent evolution eventually extended to Community directives, whose direct effect has been recognized—within the limits indicated by the Court of Justice—in Judgment No. 64 of 1990, even for the purpose of excluding that a national referendum could impact their enforceability in the domestic legal system.

This framework, generally accepted across the Member States of the European Community, responds to the need for uniformity and legal certainty in the application of European law throughout the Common Market, and is closely linked to the fundamental principle governing the relationship between the national legal order and the Community legal order: the two systems are reciprocally autonomous yet coordinated, as established by the Treaty of Rome, whose observance is guaranteed under Article 11 of the Italian Constitution. (See also Constitutional Court, Judgment No. 170/1984).

All of the foregoing having been stated, the Petitioners, as represented and defended above, rejecting any arguments to the contrary (*contrariis reiectis*), and reserving the right to submit any further motions, arguments, defenses, evidentiary requests, and documentary submissions, as well as to supplement their claims on the merits,

**respectfully request**

that, upon review of this Petition, the Honorable Court seized of the matter set, by decree pursuant to Article 281-*undecies*, paragraph 2, of the Italian Code of Civil Procedure, a hearing for the appearance

of the parties, and establish the deadline for the respondent's appearance and filing of its defense; and they hereby

**summon**

the **Ministry of the Interior**, in the person of the Minister *pro tempore*, with offices in Rome, legally domiciled *ex lege* at the Italian State Attorney's Office (Avvocatura Generale dello Stato), located in Rome, at Via dei Portoghesi, no. 12 (email: ags.rm@mailcert.avvocaturastato.it), to appear before the above-mentioned Court at the hearing to be scheduled by decree of the Judge and to enter an appearance, pursuant to and in accordance with Article 281-*undecies* of the Italian Code of Civil Procedure, with notice that any appearance filed beyond the time limits set forth in paragraph 2 of Article 281-*undecies*, and in any event later than ten days prior to the hearing, shall result in the forfeitures provided for under paragraphs 3 and 4 of Article 281-*undecies* of the Italian Code of Civil Procedure, including in particular the forfeiture of the right to challenge the jurisdiction of the Court seized, to raise procedural or substantive defenses not subject to *ex officio* consideration, as well as to file counterclaims or to implead third parties for indemnification; and further with notice that legal representation by an attorney is mandatory in all proceedings before the Tribunal, except in the cases provided for under Article 86 of the Italian Code of Civil Procedure or under special laws, and that the party, where the legal requirements are met, may apply for admission to legal aid at the State's expense; and that, in the event of failure to appear, the proceedings shall continue in default in order to obtain the granting of the following

**CONCLUSIONS**

In the interest of the Petitioners, the Honorable Court is respectfully requested, rejecting any arguments to the contrary (*contrariis reiectis*):

**Primarily**

1. To ascertain and declare that the Petitioners possess the status of Italian citizens, as set forth above, on the basis of a constitutionally consistent interpretation of the applicable legislation and/or through the disapplication of such legislation insofar as it is incompatible with the Treaties and the case law of the Court of Justice of the European Union issued in preliminary ruling proceedings, and/or through the direct application of supranational law; and consequently,
2. To order the Ministry of the Interior and/or the competent Civil Status Registrar and/or any other administrative authority, and in any event any public official, to carry out the required registrations, transcriptions, and annotations under the law in the civil status and citizenship registers, as well as any necessary communications to the competent consular authorities.

**In the alternative**

3. To deem the issues raised herein relevant and to refer a **question of constitutional legitimacy** concerning Decree-Law No. 36/2025, its conversion law, and Law No. 91 of 1992 as amended, taken as a whole and in particular Articles 3-*bis* and 4(1-*bis*), to the Italian Constitutional Court.

**In any event**, with an award of costs and attorneys' fees.

The Petitioners expressly reserve the right to clarify and amend the claims, defenses, and conclusions set forth herein following the appearance of the opposing party, as well as, should the Court decide to proceed pursuant to Article 281-*duodecies*, paragraph 1, of the Italian Code of Civil Procedure, to submit documentary evidence and evidentiary requests within the limits and timeframes set forth in Article 183 of the Italian Code of Civil Procedure.

Pursuant to and for the purposes of Article 163, No. 3-*bis*, of the Italian Code of Civil Procedure, it is hereby declared that the present claim is not subject to any conditions precedent to filing.

#### **6. Documentary Evidence**

With reservation to file additional documents within the time limits provided by law.

It is hereby declared that the value of the present proceedings concerns a citizenship matter and that the amount of the unified court fee is €1,200.00, with exemption for **the minor petitioners**. Petitioners respectfully request that the petition be granted.

Dated                   , 2026

Attorney Adriana Maria Ruggeri