

Italian Citizenship iure sanguinis and *Minor Issues*: The Turning Point of the Joint Sections

A parent's naturalisation does not break the line of descent when the child has been a foreign citizen iure soli since birth

What the Supreme Court decided, how naturalisation cases are affected, and the practical consequences of the ruling

On 26 July 2026, the Civil Joint Sections of the Italian Supreme Court of Cassation published a decision destined to have a profound impact on litigation concerning Italian citizenship iure sanguinis.

The Court resolved the interpretative conflict concerning the effects of a parent's naturalisation on a minor child born abroad who, from birth, already held both Italian citizenship iure sanguinis and foreign citizenship iure soli.

The conclusion is unequivocal: a dual national from birth retains Italian citizenship even if, while the child is still a minor, the father or mother voluntarily acquires a foreign citizenship and loses Italian citizenship. In this situation, the automatic loss provided for by Article 12 of Law No. 555/1912 does not apply because the child does not acquire foreign citizenship as a consequence of the parent's decision; the child already holds it independently from birth.

The case before the Court

The proceedings arose from an application for recognition of Italian citizenship brought by the descendants of a man born in Venezuela on 25 May 1946. He was an Italian citizen iure sanguinis through his maternal line and, at the same time, a Venezuelan citizen iure soli because he was born in a State that attributed citizenship on the basis of place of birth.

His mother, an Italian citizen born in Gosaldo, in the province of Belluno, in 1923 and later emigrated to Venezuela, became a naturalised Venezuelan citizen on 3 March 1954, when her son was seven years old. By an order of 8 April 2021, the Court of Rome dismissed the application, holding that the mother's loss of Italian citizenship had automatically extended, pursuant to Article 12 of Law No. 555/1912, to the minor child living with her.

The Rome Court of Appeal upheld that interpretation in Judgment No. 6177/2023. According to the lower courts, the minor had lost Italian citizenship together with the parent, irrespective of the absence of any personal intention to renounce it; the only remaining possibility was subsequently to reacquire that status by making a declaration upon reaching the age of majority.

An appeal was lodged with the Supreme Court of Cassation against that decision. By interlocutory Order No. 20889/2025, the First Civil Section referred the matter to the Joint Sections to clarify the relationship between the rule on retention of dual citizenship under Article 7 and the rules governing loss under Article 12.

The question referred to the Joint Sections

The interpretative issue can be stated in simple terms: does a child born abroad, Italian by descent and a foreign citizen by birth in that territory, lose Italian citizenship when the cohabiting parent becomes a naturalised foreign citizen while the child is still a minor?

One interpretation attributed general scope to Article 12. The parent's loss of citizenship would also entail the loss of citizenship by the cohabiting minor child, even where the latter had already been a foreign citizen iure soli from birth.

The alternative interpretation, now adopted by the Joint Sections, instead distinguishes according to the origin of the child's foreign citizenship. If it is original and derives directly from birth, Article 7 applies and the child

retains both citizenships. Conversely, if foreign citizenship is acquired subsequently and by transmission of the legal effects of the parent's decision, Article 12 may apply.

Article 7: a dual national from birth retains both citizenships

Article 7 of Law No. 555/1912 governs the child of an Italian citizen who is born and resides in a foreign State that regards the child as its own citizen solely by reason of birth in its territory. In this situation, the child holds two citizenships from birth: Italian citizenship *iure sanguinis* and foreign citizenship *iure soli*.

The Joint Sections recognise Article 7 as a special and fully autonomous provision. It allows a dual national to retain Italian citizenship unless the person expressly renounces it after reaching the age of majority or becoming emancipated, or unless an international treaty provides otherwise.

For a dual national from birth, the system established by the 1912 Law is therefore one of retention with a right of renunciation: Italian citizenship is not automatically lost as a result of a decision made by the parent, and no declaration by the child is required in order to retain it.

A minor born abroad who is Italian iure sanguinis and a foreign citizen iure soli is a dual national by operation of law from birth and retains Italian citizenship even after the parent's naturalisation.

Article 12: when the effects of a parent's naturalisation may apply

Article 12 of Law No. 555/1912 governs a different situation. It may concern a non-emancipated minor who initially holds only Italian citizenship and who, following the loss of Italian citizenship by the cohabiting parent, acquires foreign citizenship derivatively.

In this case, the acquisition of foreign citizenship does not derive from the place of birth but from a subsequent event, namely the naturalisation or decision of the father or mother. Only in this situation can the so-called derivative or 'drag-along' effect occur, resulting in the minor's loss of Italian citizenship.

The distinction therefore depends not merely on the existence of dual citizenship, but on the time and legal basis of its acquisition. Citizenship *iure soli* already held at birth excludes the application of Article 12, whereas foreign citizenship acquired subsequently and derivatively may bring the case within that provision.

Why the parent's naturalisation does not break the line of descent

According to the Joint Sections, extending Article 12 to a dual national from birth would conflate two situations that the 1912 legislature regulated separately.

A minor born with two citizenships does not receive the foreign citizenship from the naturalised parent, and the minor's status undergoes no change at the time of the parent's naturalisation.

The parent's decision concerns the parent's own personal status. It cannot extinguish Italian citizenship already acquired by the child at birth, nor can it replace the renunciation that Article 7 reserves to the person concerned after reaching the age of majority or becoming emancipated.

The Court also places weight on longstanding administrative practice: for more than a century, when assessing applications by descendants born in countries applying *iure soli*, the Italian authorities have recognised the retention of Italian citizenship irrespective of the parents' subsequent naturalisation.

Mothers and fathers are fully equal

A further decisive passage concerns the maternal line.

The Joint Sections state that the full equality of mothers and fathers, resulting from Constitutional Court Judgments Nos. 87/1975 and 30/1983, applies not only to the transmission of citizenship by birth but also when assessing the consequences arising from a parent's loss of citizenship.

It would be inconsistent to recognise a mother's capacity to transmit citizenship *iure sanguinis* while, at the same time, applying rules to her subsequent naturalisation that differ from those applicable to the father. The relationship between Articles 7 and 12 must therefore be construed in the same manner regardless of which parent transmitted Italian citizenship to the child.

This principle is particularly important in so-called maternal-line cases predating 1 January 1948: in those cases too, a child who was a dual national from birth retains Italian citizenship despite the mother's subsequent naturalisation.

The 2025 reform does not apply to applications already filed

Before addressing the merits, the Supreme Court identifies the rules applicable over time. The application at issue had been brought long before the entry into force of the new Article 3-bis of Law No. 91/1992, introduced by Decree-Law No. 36/2025 and converted into law by Law No. 74/2025.

The Joint Sections state that, by express legislative provision, the new rules do not apply to judicial applications seeking a declaration of citizenship status filed by the 27 March 2025 safeguarding deadline. Those proceedings remain governed by the legislation previously in force.

This passage is important because it comes from the highest body of the ordinary courts entrusted with ensuring uniform interpretation of the law. Applications filed in time are not subject to the new generational limits or the additional requirements introduced by Article 3-bis. The court must therefore apply the previous legislation and assess, under those rules, whether the line of transmission remained unbroken.

The principles established by the Supreme Court

The judgment lays down four principles intended to guide pending proceedings and future decisions:

- the rules under Article 3-bis of Law No. 91/1992 do not apply to judicial applications for a declaration of citizenship status filed by the safeguarding deadline, which remain governed by the previous legislation;
- under Article 7 of Law No. 555/1912, a non-emancipated minor born abroad to an Italian father or mother in a State that grants citizenship *iure soli* is a dual national from birth and retains Italian citizenship even if the parent becomes naturalised or loses Italian citizenship, unless a treaty provides otherwise or the person validly renounces it after reaching the age of majority or becoming emancipated;
- under Article 12, only a non-emancipated minor who holds exclusively Italian citizenship may be affected by the loss of citizenship of the cohabiting parent, where the minor is capable of acquiring foreign citizenship on a non-original, derivative basis;
- the equality of mothers and fathers applies both to the transmission of citizenship and to the consequences that a parent's loss of citizenship produces for the child.

The decision in the specific case

Applying these principles, the Joint Sections uphold the first ground of appeal, declare the remaining grounds absorbed, set aside the judgment of the Rome Court of Appeal, and remit the case to that Court sitting in a different composition.

The judgment under appeal had wrongly attributed an immediate effect on the minor child's citizenship to the mother's naturalisation, even though the child had been a Venezuelan citizen *iure soli* from birth. The court

hearing the case on remittal must reconsider the application in accordance with the interpretation laid down by the Supreme Court. The judgment therefore does not itself contain a final recognition of status in favour of the applicants, but it binds the Court of Appeal on the point of law that led to the dismissal: the line of descent cannot be regarded as broken as a result of the mother's naturalisation in 1954.

Cases directly benefiting from the ruling

The decision has a particularly significant impact on lines of descent originating in countries that grant citizenship *iure soli*, as is the case in much of the Americas. In many applications, an ancestor's naturalisation had been regarded as breaking the line where the child was still a minor.

Following this judgment, it is necessary to distinguish carefully:

- whether the child was already a citizen of the foreign country from birth;
- whether foreign citizenship was instead acquired subsequently as a result of the parent's naturalisation;
- whether the child lived with the parent at the time of the loss;
- whether any international treaties apply to the particular case;
- whether, after reaching the age of majority, the child ever expressly renounced Italian citizenship.

Where foreign citizenship derives *iure soli* from birth and there is no subsequent renunciation, the parent's naturalisation does not interrupt the transmission of Italian citizenship to the descendants.

What must be proved

In practical terms, documentary reconstruction must focus not only on the ancestor's naturalisation date, but also on the citizenship regime in force in the country and year in which the minor was born. It is not enough to establish that the parent became naturalised while the child was a minor.

It is necessary to obtain and coordinate the birth certificate, the applicable foreign law, the parent's naturalisation certificate, any evidence of cohabitation, documents relating to the citizenship held by the child, and evidence that no express renunciation was made after reaching the age of majority.

In declaratory proceedings, the claimant must prove the constituent facts of descent and transmission of status, whereas it is for the authorities to plead and prove any facts preventing or extinguishing that status. Although it declared the additional grounds of appeal absorbed, the judgment thus reiterates the need to distinguish proof of the genealogical line from proof of any interruption of that line.

What changes for refusals and pending proceedings

The ruling provides authoritative grounds for challenging administrative refusals or judicial decisions based solely on the parent's naturalisation while the child was a minor, where that child was already a foreign citizen *iure soli*.

The judgment should be cited immediately in pending proceedings, after confirming that the specific facts correspond to the situation defined by the Joint Sections. In cases already dismissed, the nature and procedural status of the decision must be assessed: a decision that remains open to appeal may be challenged within the applicable time limits; a final decision instead requires a specific examination of the effects of *res judicata* and of any remedies that may still be available.

The relationship with the new litigation concerning the reform

The Joint Sections' decision and Constitutional Court Order No. 147/2026 operate on different levels but together form part of a rapidly evolving legal framework.

The Supreme Court resolves an interpretative issue concerning Law No. 555/1912 and expressly protects applications falling within the temporal safeguarding provision.

The Constitutional Court, by contrast, has referred to the Court of Justice of the European Union the question whether the new Article 3-bis is compatible with European Union law in relation to persons born under the previous rules who do not fall within the safeguarding clauses.

A citizenship application must therefore now be assessed in two stages.

First, the applicable rules must be identified according to the date and nature of the application.

The events in the line of descent must then be reconstructed, distinguishing original foreign citizenship from citizenship acquired subsequently.

For applications predating the reform, the Joint Sections' judgment provides an immediately applicable answer.

For new applications, continuity of the line under the historical rules remains a necessary prerequisite, but it is also necessary to determine whether the applicant satisfies the conditions of the new Article 3-bis and to follow developments in the European preliminary-ruling proceedings.

Why the judgment matters

The decision is important, first and foremost, because it restores coherence to the system established by Law No. 555/1912.

Articles 7 and 12 do not conflict; they govern different situations.

The former protects a dual national from birth, while the latter governs loss connected with a subsequent and derivative acquisition of foreign citizenship.

The judgment prevents a parent's personal decision from automatically extinguishing a status acquired by the child at birth.

Renunciation by a dual national is a personal act that may be performed only by the person concerned after attaining the legal capacity required by law.

Rome–Milan, 28 July 2026

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