JUDGMENT NO 142 YEAR 2025

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

[omitted]

Conclusions on points of law

1.– By the referral orders registered as No 247 in the 2024 Register of Referral Orders and as Nos 65, 66 and 86 in the 2025 Register of Referral Orders, the Court of Bologna (*Tribunale di Bologna*), the Court of Rome (*Tribunale di Roma*), the Court of Milan (*Tribunale di Milano*) and the Court of Florence (*Tribunale di Firenze*) raised questions as to the constitutionality of Article 1(1)(a) of Law No 91/1992, insofar as, in providing that "the following shall be a citizen at birth: *a*) any person whose father or mother is an Italian citizen", it does not provide for any limit on the acquisition of citizenship according to the principle of *ius sanguinis*.

The Court of Milan alone also challenged Article 4 of the Civil Code of 1865 as well as Article 1 of Law No 555/1912, again insofar as they do not impose any limit on the acquisition of citizenship according to the principle of *ius sanguinis*.

2.– In particular, having been called upon to apply the contested provisions to the claimants, who are foreign-born descendants of Italian citizens, resident abroad and citizens of another country, the referring courts question the constitutionality of the provisions cited therein on numerous grounds.

2.1.– All of the referring courts take the view that Articles 1(2) and 3 of the Constitution have been violated, the latter on the grounds of unreasonableness and lack of proportionality.

In particular, they argue that the recognition of Italian citizenship to persons who have the links mentioned above with the legal system of a foreign country and who are only associated with Italy by virtue of being a descendant of an Italian citizen, without having any other link with the Italian legal system, profoundly alters the concept of people and impinges upon the very exercise of popular sovereignty and ultimately the proper functioning of democracy.

2.2.– The Court of Bologna, the Court of Milan and the Court of Florence also raise questions of constitutionality with reference to Article 117(1) of the Constitution in relation to international obligations and constraints resulting from Italy's membership of the European Union, the latter specifically in relation to Article 9 of the Treaty on European Union (TEU) and Article 20 of the Treaty on the Functioning of the European Union (TFEU).

According to the referring courts, the international law cited obliges States to establish rules on citizenship that are premised on the existence of a genuine link with the legal system that is capable of endowing the individual with the status of a citizen.

2.3.– Finally, the Court of Rome and the Court of Milan take the view that the contested provision violates Article 3 of the Constitution due to the unreasonable difference in treatment with several comparators.

The Court of Rome considers the comparators provided for under Article 4(1) of Law No 91/1992, which governs the acquisition of Italian citizenship by any person, an ascendant of whom initially had but subsequently lost the status of Italian citizen.

On the other hand, the Court of Milan considers that the difference in treatment compared to the legislation on the acquisition of citizenship by the spouse of an Italian citizen is unreasonable.

3.– Summarised in these terms, in a nutshell the questions raised within the various proceedings must be joined in order to be decided within a single judgment, as they concern identical or similar provisions, are based on objections and concern matters that are broadly similar (amongst many, Judgments Nos 72/2025, 171/2024 and 220/2023).

[omitted]

6.– It is therefore necessary as a preliminary matter to examine the characteristics of the legislation to which these questions relate along with the amendments made to them by Decree-Law No 36 of 28 March 2025 (Urgent provisions on citizenship).

6.1.– The contested Article 1(1)(a) of Law No 91/1992 provides that "the following shall be a citizen at birth: *a)* any person whose father or mother is an Italian citizen".

The criterion specified automatically premises the mechanism for acquiring citizenship on descent.

This is confirmed by Articles 2, 3 and 14 of Law No 91/1992, which provide that citizenship is acquired respectively by virtue of the recognition of a child, the adoption of a child or the existence of a parent-child relationship at the time Italian citizenship was acquired or reacquired by the parent.

That legislation restates the provisions previously laid down, albeit at a time when the principle of equality between men and women was not yet recognised, by Law No 555/1912 (Article 1(1) of which provided that the "child of an Italian father" was a "citizen by birth"). Previously, Article 4 of Book One, Title I of the Civil Code of 1865 provided that the "child of an Italian father" was a citizen, in turn adopting the model of the *Code Napoléon* of 1804, which provided that "*[t]out enfant né d'un Français dans un pays étranger est Français*" (Article 10 of Book One, Title I).

Following the removal of the discrimination provided for under Article 1(1) of Law No 555/1912 by Judgment No 30/1983 of this Court, the rule that citizenship was transmitted from parent to child was incorporated initially into Article 5(1) of Law No 123/1983, which went on to provide in paragraph 2 that a child holding dual citizenship was obliged to choose one single citizenship within one year of reaching legal age.

Subsequently, Law No 91/1992 on the one hand repealed Law No 123/1983, without restating the provisions contained in Article 5(2).

On the other hand, the legislation contested in these proceedings confirmed the automatic linkage between citizenship and descent.

6.2.– In keeping with the defining characteristics of the prerequisite for citizenship, namely Italian descent, the case law of the Constitutional Court and of the Court of Cassation has qualified the nature of that manner of acquiring citizenship as "original" acquisition (Judgment No 30/1983 cited above, and Court of Cassation judgments Nos 25317/2022 and 25318/2022).

As the same time, it has been stressed within the "living law" [*diritto vivente*, i.e.

the uniform and settled interpretation of the law by the Court of Cassation] that citizenship acquired by descent is "permanent and not subject to limitation periods [and] is enforceable at any time based on simple proof of acquisition by virtue of birth to an Italian citizen" (Court of Cassation judgments Nos 25317/2022 and 25318/2022, cited above).

6.3.– Against the legislative backdrop set out above, Decree-Law No 36/2025, as converted into law, was adopted whilst these proceedings were pending, which broke the automatic linkage between citizenship and descent for persons born abroad who are citizens of another country.

In particular, Article 1(1) of Decree-Law No 36/2025, as converted into law, introduced a new Article 3-*bis* into Law No 91/1992, which provides that "[n]otwithstanding Articles 1, 2, 3, 14 and 20 of this Law, Article 5 of Law No 123 of 21 April 1983, Articles 1, 2, 7, 10, 12 and 19 of Law No 555 of 13 June 1912, and Articles 4, 5, 7, 8 and 9 of the Civil Code approved by Royal Decree No 2358/1865, any person born abroad, including prior to the entry into force of this Article, who is a citizen of another country shall be deemed never to have acquired Italian citizenship, unless any of the following conditions applies".

Letters a), a-*bis*) and b) establish the temporal cut-off threshold between the ongoing applicability of the previous legislation and the applicability of the new conditions required for the acquisition of citizenship according to the principle of *ius sanguinis* as the time of submission to the competent authorities of an application for citizenship, along with the necessary documentation, "by 23:59 hours, Rome time, […] on 27 March 2025" .

These new conditions are set out specifically in letters c) and d), which provide that Italian citizenship is acquired through descent: if the parent or grandparent is, or at the time of death was, exclusively an Italian citizen; or if the parent or adoptive parent has resided in Italy for at least two consecutive years after acquiring Italian citizenship and prior to the birth or adoption of the child.

Article 1 of Decree-Law 36/2025, as converted into law (provisions supplementing Article 4 of Law No 91/1992 with paragraphs 1-*bis* and 1-*ter*), goes on to set out various cumulative prerequisites for the acquisition of Italian citizenship by an underage child with an Italian parent who is not covered under Article 3-*bis*. In the event that citizenship has been acquired or reacquired by the parent, an underage child may only acquire citizenship if they have been lawfully resident in Italy without interruption for a period of two years or, if the child is younger than two years of age, since birth (Article 1(1-*quater*) of Decree-Law 36/2025, as converted into law, supplementing Article 14(1) of Law No 91/1992).

Finally, the provisions applicable to descendants of those who have lost Italian citizenship (Article 1(1-*bis*) of Decree-Law 36/2025, as converted into law, which extends the scope of Article 4(1) of Law No 91/1992, and Article 1-*bis*(2) of Decree-Law No 36/2025, as converted into law, supplementing Article 9(1) of Law No 91/1992) are extended to any descendant of an Italian citizen.

7.– Given this reference legislative framework, aside from the resemblance to the issues raised in the referral orders, the new legislation does not affect the relevance of the questions raised in those referral orders.

All of the disputes at issue in the main proceedings were in fact introduced on the basis of judicial actions launched before 27 March 2025. This means that, under the terms of Article 3-*bis*(1)(b) of Law No 91/1992, introduced by Article 1(1) of Decree-Law No

36/2025, as converted into law, the previous legislation to which these challenges relate is still applicable to the proceedings before the referring courts.

Therefore, the prerequisites for returning the case files to the referring courts are not met.

8.– Similarly, the prerequisites for the self-referral by this Court of questions of constitutionality are not met.

The new provisions must not be applied within the constitutional proceedings (Order No 73/1965 and, most recently, Order No 35/2024), and there is no "relationship of presupposition" between the new provisions and those considered by the referring courts such that the violation could not be resolved by ruling solely on those considered by the referring courts (Orders No 94/2022 and No 18/2021). Similarly, the prerequisites of particular urgency (Order No 73/1965) are not met, and there is no need to avoid a situation in which "the Court – which is the only body competent to rule on questions concerning the constitutionality of legislation – is required to apply unconstitutional laws" (Order No 22/1960 and, most recently, Order No 35/2024).

9.– In view of the above, it is now possible to examine the numerous procedural objections raised by the parties, starting from those which this Court considers to be manifestly unfounded.

9.1.– These include, first and foremost, the objections asserting inadmissibility that argue that the requirement to state reasons as to why the questions are not manifestly unfounded has not been properly complied with. This is because, so it is argued, the referral orders are at odds with the case law of this Court, the Court of Cassation and the referring courts themselves that, in the view of the parties, has purportedly established and confirmed the "constitutionality" of the legislation contested in the referral orders.

It must be pointed out first of all that this Court has not at any time to date been apprised of the questions of constitutionality raised by the matters at issue in these proceedings. On the contrary, it has had the opportunity to rule on entirely different objections relating to the same provision. Specifically, it has considered the absence of a provision enabling citizenship to be acquired also through a female ascendant (Judgment No 30/1983), but not the absence of a provision limiting the mechanism for the acquisition of citizenship according to the principle of *ius sanguinis* by persons who were born abroad, are resident abroad and hold citizenship of another country.

In any case, it must be recalled above all that – contrary to the arguments proffered by the parties – this Court adjudicates upon any unconstitutionality of legislation; as such, when ruling a question unfounded it does not pass judgment on the constitutionality of the contested provision, but rather simply holds that the specific violation objected to does not subsist in the case before it.

9.2.– The objection arguing that no attempt was made to interpret the legislation in a manner compatible with the Constitution, which has been raised against the referral order from the Court of Milan, is also manifestly unfounded as that referral order explicitly states that it was not possible to resolve through interpretation the doubts concerning the constitutionality of the contested provision.

That objection is also unfounded where it was raised against the referral orders of the other referring courts.

Indeed, it is clearly apparent that, in requesting an "additive" and "manipulative" ruling effectively amending the wording of Article 1(1)(a) of Law No 91/1992, the lower

courts implicitly concluded that the wording of that provision could not embrace the multiple, complex scenarios envisaged by them.

Referring courts are not under any obligation to explain what is already readily apparent from the literal wording of the provision.

This Court has reiterated on numerous occasions, in particular in the recent past, that the wording of a provision constitutes an insurmountable limit, beyond which any attempt at interpretation in a manner compatible with the Constitution must necessarily be replaced by constitutional review (amongst many, Judgments Nos 88/2025, 44/2024, 193/2022 and 221/2019).

10.– Continuing according to the logical order of the objections, those concerning asserting that the questions referred are not relevant are examined below.

10.1.– First and foremost, the objection raised by some of the parties that the questions are irrelevant on the grounds that the referring courts in Bologna, Rome and Florence only challenged Article 1(1)(a) of Law No 91/1992 and not also the previous laws governing the acquisition of citizenship by descendants of Italian citizens according to the principle of *ius sanguinis* (Law No 123/1983, Law No 555/1912, back to the Civil Code of 1865) in spite of the fact that some of the claimants were born prior to the entry into force of Law No 91/1992 is unfounded.

This objection is unfounded since, under the terms of Article 1(1)(a) of Law No 91/1992, any person with a parent who is an Italian citizen is also an Italian citizen, and this is not precluded by the fact that a different rule was applicable at the time the parent-child relationship was established.

Although birth is a prerequisite for the acquisition of status of a child of a particular person (as are also recognition and adoption), it is that status as a child as such that is the prerequisite for acquiring citizenship.

10.2.– Conversely, the Court must rule on its own initiative that the questions raised by the Court of Milan in relation to the entire chain of legislation referred to above, including specifically Article 4 of the Civil Code of 1865 and Article 1 of Law No 555/1912, are inadmissible on the grounds of irrelevance.

Indeed, the proceedings before the referring courts do not concern the laws granting Italian citizenship to the current claimants' ascendants, which may be invoked at most – and on a merely incidental basis – as supporting evidence of the Italian citizenship of the parent of a person seeking confirmation of their own status.

On the contrary, the legislation at issue in the proceedings before the referring courts is that governing the acquisition of Italian citizenship by the claimants who, under the terms of Article 1(1)(a) of Law No 91/1992, are Italian citizens by virtue of the fact that their parents are Italian citizens, despite having been born before 1992.

10.3.– As regards the objection that the questions are irrelevant due to the failure by the claimants to demonstrate the absence of actual links with the Italian legal system, it must be examined together with the objection concerning the "manipulative" nature of the provision for such links (see below, point 12 of the *Conclusions on points of law*).

11.– It is now necessary on the other hand to assess the objection that the questions are inadmissible on the grounds that the issue is a matter of legislative discretion, which has been invoked by counsel for all of the parties.

In particular, some of them argue that this Court cannot "call into question what has

been and what is a choice" made by lawmakers in relation to citizenship as a result of a specific "discretionary" assessment.

Accordingly, they argue that a declaration of unconstitutionality could constitute a "violation of Article 70 of the Constitution on the exercise of the legislative function, Article 71 of the Constitution on the right of legislative initiative or Article 134 of the Constitution on the functions of this Constitutional Court".

The objection – in the terms set out above – is unfounded.

11.1.– This Court acknowledges "that the legislature has broad discretion with regard to the provisions governing the award of citizenship" (Judgment No 25/2025). Nonetheless, in a manner no different from other areas of the law characterised by a high level of discretion, the provisions laid down in this area "are not for this reason immune to constitutional review as they must in all instances be implemented according to the principles of non-manifest unreasonableness and proportionality having regard to the objectives pursued (*inter alia*, Judgments Nos 88/2023, 194/2019, 202/2013 and 245/2011)" (Judgment No 25/2025 and, in an analogous manner, Judgment No 195/2022).

In particular, constitutional case law has held that a criterion establishing citizenship must not be framed in discriminatory terms (such as Judgment No 30/1983, cited above, which held that Article 3 of the Constitution had been violated by legislation providing for "original acquisition only of the citizenship of the father", without providing for identical original acquisition of Italian citizenship also from the mother). Later, this Court held that provisions on citizenship that required demonstration of knowledge or the completion of acts by persons with a physical or psychological illness or impairment that could not be required of them were manifestly unreasonable and disproportionate in terms of their application to such persons (Judgments Nos 25/2025 and 258/2017). Again, it has ruled unconstitutional a provision that unreasonably included the death of the applicant's spouse whilst an application was still pending as one of the grounds precluding the recognition of citizenship (Judgment No 195/2022).

11.2.– This Court is not unaware of the singular nature of the challenge brought with reference to Articles 1(2) and 3 of the Constitution, which objects to the failure to respect the notion of "people" as supposedly reflected in the provisions within the Constitution dedicated to citizenship.

However, it must be stressed in this regard that the Constitution does not contain any definition of "people" and limits itself to delineating certain features of citizenship, which are embedded within the complex structure of the text of the Constitution.

The Constitution associates citizenship primarily with political participation and political rights (Title IV of Part One of the Constitution).

It also states that citizens are vested with rights and duties (including the duty to defend the homeland, the duty to contribute to public spending and the duty of loyalty). Nonetheless, this allocation of rights and duties occurs within the framework of a source of law – the Constitution – the fundamental principles of which guarantee inviolable rights and the very principle of equality for all (Judgment No 120/1967, and in the same terms more recently Judgment No 53/2024). In addition, its provisions likewise establish certain duties of solidarity also for non-citizens (consider the duty to contribute to public spending, which according to the wording of Article 53 of the Constitution applies to "every person" or the right to perform national civil service, which this Court has extended to foreign nationals, classifying the performance of such service "as compliance

with a duty of solidarity [and] as an opportunity for integration and the development of a sense of citizenship", as held in Judgment No 119/2015).

In addition, the Constitution refers to the idea of citizenship in terms of membership of a community with shared cultural and linguistic roots, although at the same time it describes a community that is open to pluralism and that protects minorities. Finally, the provisions of the Constitution imply a correlation between citizenship and the national territory as a place reflecting a common cultural milieu and shared constitutional principles.

In the face of the detailed and complex structure of the references to citizenship in the Constitution, it therefore falls to the legislative body, which has a particularly broad margin of discretion, to identify the prerequisites for the acquisition of such status.

Nevertheless, it is for this Court to ensure – according to the yardstick of non-manifest unreasonableness and proportionality – that the provisions regulating the acquisition of citizenship do not apply criteria that are entirely alien to constitutional principles and to those various features that – as pointed out above – are characteristic of citizenship.

This does not affect the ability of the legislative body to specify in tangible terms the substance of citizenship in the light of constitutional principles.

11.3.– The position set out above is reflected within the approach that the Court of Justice has adopted to the constraints imposed in relation to EU citizenship, in particular under Article 9 TEU and Article 20 TFEU.

In general terms, the Court of Justice has acknowledged that "it is for each Member State, having due regard to Community law, to lay down the conditions for the acquisition and loss of nationality" (Court of Justice, judgment of 7 July 1992 in Case C-369/90, *Micheletti and others*, paragraph 10).

At the same time, however, that court has also clarified that this Member State competence "must be exercised with due respect for EU law" (Court of Justice, Grand Chamber, judgments of: 29 April 2025 in Case C-181/23, *European Commission v. Republic of Malta*, paras. 42, 95 and 98; 5 September 2023 in Case C-689/21, *Udlændinge- og Integrationsministeriet*, paragraph 30; 18 January 2022 in Case C-118/20, *JY*, paragraph 49; and 2 March 2010 in Case C-135/08, *Rottmann*, paragraph 45; as well as the above-mentioned judgment in *Micheletti*, paragraph 10).

This initially led it to strike down Member State legislation providing for the loss of citizenship of a Member State, and thus by extension of the European Union. In particular, it has held that the provisions on European citizenship contained in the treaties precluded any such legislation, where it "did not permit at any time an individual examination of the consequences of that loss for the persons concerned from the point of view of EU law" (Court of Justice, Grand Chamber, judgment of 17 March 2019 in Case C-221/17, *Tjebbes and* others; see in the same vein the judgment in *Udlændinge- og Integrationsministeriet* and, on cases concerning the determination of the statelessness of the individual concerned, *JY*, paras. 58, 59 and 73, and *Rottmann*, paragraph 55, both cited above).

During a second phase, the Court of Justice has very recently extended its own power of review also to provisions on the grant of citizenship, holding that "[t]he exercise of the Member States' power to lay down the conditions for granting the nationality of a Member State is not, therefore, in the same way as their power to lay down the conditions

for loss of nationality, unlimited" (*European Commission v. Republic of Malta*, cited above, paragraph 95).

Within that perspective, it has stressed that European citizenship "is based on the common values contained in Article 2 TEU and on the mutual trust between the Member States as regards the fact that none of them is to exercise that power in a way that is manifestly incompatible with the very nature of Union citizenship" (*European Commission v. Republic of Malta*, paragraph 95).

The Court of Justice has also added that the treaties adopted by the European Union identify the substantive content of European citizenship: the right of free movement for citizens and their family members, freedom to provide services and freedom of establishment; the right to enjoy political rights and the right to the protection of the diplomatic and consular authorities of other Member States, on the same conditions as the nationals of those States (*European Commission v. Republic of Malta*, paras. 84-90).

Based on these premises, the Court of Justice has held that the state provisions on citizenship must not be implemented "in a way that is manifestly incompatible with the very nature of Union citizenship" (*European Commission v. Republic of Malta*, paragraph 95). In that sense, it has been held that "a naturalisation scheme" granting citizenship in return for payments or investments made in the Member State violates EU law as it "amounts to the commercialisation of the granting of the status of national of a Member State and, by extension, Union citizenship" (*European Commission v. Republic of Malta*, cited above, paragraph 100).

11.4.– In the light of the considerations set out above, the objection raised by the parties is not therefore founded as it seeks to exclude on a fundamental level, with reference to the principle of legislative discretion, the admissibility of any challenge asserting that rules on citizenship violate either constitutional provisions or the provisions of the TEU and the TFEU, as interpreted by the Court of Justice of the European Union.

12.– However, it must also be pointed out that, in raising the questions with reference to Articles 1(1) and 3 of the Constitution on the grounds of unreasonableness and lack of proportionality, as well as with reference to Article 117(1) of the Constitution in relation to Article 9 TEU and Article 20 TFEU, the referring courts do not dispute that the requirement of descent as such, as a prerequisite for the acquisition of citizenship, is not consistent with the defining characteristics of citizenship identified within the Constitution and within EU law. The objections do not call into question the idea that, in general terms, membership of a family unit that is part of the state community may also imply membership of the latter; moreover, the citizenship of most Italian citizens is grounded on this criterion.

Conversely, the referring courts doubt that, where there is a connection between a person applying for Italian citizenship and a foreign legal system, and where there is no connection with the Italian legal system save on the grounds of *ius sanguinis*, descent may prove to be sufficient for the function that it is required to perform as a basis for citizenship since, where the positive and negative prerequisites referred to were met, the family unit would no longer be capable of transmitting membership of the state community.

12.1.– The parties raise further specific objections of inadmissibility concerning precisely this objection.

First of all, they object that this Court cannot act in place of the legislature in deciding on a range of prerequisites according to a "manipulative" systemic ruling. On

the one hand, it should specify the nature of connections with foreign legal systems that, where present, would irrevocably undermine the inherent function of *ius sanguinis*. On the other hand, it should indicate in a combined and systemically consistent manner the linking criteria with the Italian legal system, in the absence of which descent could no longer perform its inherent function of establishing entitlement to citizenship.

This objection is closely linked to that concerning the generic nature of the challenges, in that some referring courts propose various alternative solutions but others do not even indicate how the violation alleged could be resolved. It is also argued that the objections are so generic that – according to the parties that intervened in the proceedings by the submission filed on 16 May 2024 – they do not even take account of the diverse nature of the situations to which the ruling sought from this Court should apply.

Finally, in addition to those referred to above a further objection asserts that the challenges are irrelevant in that the referring courts have taken for granted, without proffering any demonstration or offering scope for rebuttal evidence, that the claimants do not have any other connections with the Italian legal system that would enable the violation to be avoided.

12.2.– The objections are well founded.

12.2.1.– Even the mere identification of linking factors with a foreign legal system, in the presence of which the relevance of descent for the purposes of granting citizenship would be weakened, implies the need to make discretionary choices among a range of possible options.

It is no coincidence that the referral orders are limited to describing generically the situation of the claimants in the main proceedings as individuals who were born abroad and who are citizens of and resident in another country.

This Court would then have to decide whether to ascribe relevance to birth abroad, and whether this must subsist alongside both or only one of the other prerequisites; it would then have to assess whether to give consideration to the residence abroad of the ascendant, of the descendant, or of both, and at what point in time; finally, it would have to consider the significance of the reference to dual citizenship, which varies depending upon whether the dual citizen is the descendant or also the ascendant.

Furthermore, any intervention in relation to any of these aspects will not only entail discretionary assessments but will also have significant systemic implications.

12.2.2.– The specific characteristics of a “manipulative” and systemic ruling such as that sought by the referring courts become even more evident if it is considered that this Court would be called upon to decide which, out of the many defining features of citizenship, is or are capable of sufficiently demonstrating that, despite the existence of connecting factors with a foreign legal system, membership of the family unit still constitutes justification for membership also of the state community.

This Court would then have to act in place of the legislature in assessing whether to give weight to cultural and linguistic links with the state community, taking account of the circumstances of citizens resident abroad, or conversely to prefer connections with the national territory.

It is no coincidence that the solutions proposed by the referring courts cover a variety of different solutions.

The generic and “manipulative” nature of the objections becomes even more

apparent if it is considered that the referring courts do not even engage with the significant variety of scenarios on which the intervention sought by them could potentially impinge: on those who have already applied for citizenship; on those who have not yet applied for it but who are of Italian descent; and on those who may acquire that status in future.

12.3.– Ultimately, this Court is being asked to make an excessively complex "manipulative" ruling that could draw on a particularly broad range of options entailing largely discretionary choices with far-reaching systemic implications.

For the reasons set out, the questions of constitutionality raised with reference to Articles 1(2), 3 and 117(1) of the Constitution, the latter in relation to Article 9 TEU and Article 20 TFEU, are inadmissible.

13.– The question of constitutionality objecting to the violation of Article 117(1) of the Constitution in relation to international obligations is also inadmissible due to the failure to identify the interposed international provision relevant under that Article.

The referring courts do not indicate which specific provision of international law has been violated, thereby purportedly resulting in a failure to comply with obligations under international law.

No international conventions that concern citizenship either directly or indirectly are invoked. Customary international law has also not been referred to, a breach of which should also have been challenged with reference to Article 10 of the Constitution. Finally, no references have been made to general principles of law recognised by civilised nations, which are recognised as a source of international law under Article 38 of the Statute of the International Court of Justice.

By contrast, the referring courts do no more than refer to the *Nottebohm* case (*Liechtenstein v. Guatemala*, ICJ judgment of 6 April 1955), unduly conflating the issue of the criteria for granting citizenship with the other issue, which is by no means equivalent, concerning the ability to invoke citizenship within international relations (only in this respect, the *Nottebohm* judgment and the more recent ICJ judgment of 4 February 2021 in *Qatar v. United Arab Emirates* require the existence of a real and effective link and a genuine connection with the state legal system).

This objection raised with reference to Article 117(1) of the Constitution in relation to international obligations is therefore also inadmissible.

14.– On the other hand, the questions raised respectively by the Court of Rome and the Court of Milan with reference to Article 3 of the Constitution objecting to an unreasonable difference in treatment are admissible.

Indeed, despite having made some generic comparisons between the contested provision, in terms of its applicability to the circumstances of the claimants, and various provisions on the grant of citizenship, the referring courts have gone on to identify two precise comparators with sufficient precision.

14.1.– In particular, the Court of Rome takes the view that, insofar as it is applicable to persons who were born abroad, are resident abroad and hold citizenship of a foreign state, Article 1(1)(a) of Law No 91/1992 gives rise to an unreasonable difference in treatment with persons falling under Article 4(1) of that Law, which it regards as the "most appropriate comparator provision" out of the various provisions with which that at issue in these proceedings can be compared. Specifically – according to the referring court – both scenarios concern citizenship acquired *ipso iure* based on the fulfilment of the necessary prerequisites and can therefore be construed as situations in which an individual

right and not a legitimate interest is at stake.

14.2.– After comparing the contested provision with various provisions on the grant of citizenship, the Court of Milan in turn identifies as a comparator provision that governing the acquisition of citizenship by the spouse, for which an intermediate level of proficiency in the Italian language must be demonstrated, or alternatively an integration agreement must be concluded.

15.– On the merits, the questions are unfounded.

If an objection is made concerning an unreasonable difference in treatment, this Court must first and foremost verify, having regard to the rationale underlying the legislation, whether the scenarios in question are genuinely comparable. Indeed, according to the settled case law of the Constitutional Court, Article 3 of the Constitution is violated "where substantially identical situations are governed differently without any justification, and not when situations that are not equivalent are governed differently" (amongst many, Judgments Nos 171/2022, 71/2021, 85/2020, 13/2018 and 71/2015).

15.1.– The relevant situations are not substantially identical first and foremost with regard to the objections raised by the Court of Rome.

Article 4(1) of Law No 91/1992 governs situations in which citizenship is acquired by a foreign national who is the descendant of a person who lost Italian citizenship. On the other hand, the contested provision governs the acquisition of citizenship according to the principle of *ius sanguinis* by the descendant of a person who is an Italian citizen.

Therefore, the overall issue is moot because the situations under comparison are not similar.

15.2.– The requirement that the situations under comparison must be similar is also not met in relation to the objection raised by the Court of Milan.

The acquisition of citizenship due to marriage to an Italian citizen is based on a type of connection – i.e. marriage – that cannot be equated, not even having regard to the rationale underlying the legislation, with the parent-child relationship.

This objection is therefore also unfounded.

16.– In conclusion, the objections raised by the Court of Milan against Article 4 of the Civil Code of 1865 and Article 1 of Law No 555/1912 are inadmissible.

Similarly, the questions concerning the constitutionality of Article 1(1)(a) of Law No 91/1992, raised with reference to Articles 1(2) and 3 of the Constitution on the grounds of unreasonableness and lack of proportionality and with reference to Article 117(1) of the Constitution in relation to the international obligations and constraints resulting from Italy's membership of the European Union, the latter in relation to Article 9 TEU and Article 20 TFEU, are inadmissible.

Finally, the questions concerning the constitutionality of Article 1(1)(a) raised with reference to Article 3 of the Constitution objecting to an unreasonable difference in treatment are unfounded.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

after joining the proceedings,

1) *declares* that the interventions by *AUCI – Avvocati uniti per la cittadinanza*

italiana and by *AGIS – Associazione giuristi iure sanguinis*, within the proceedings relating to the referral order registered as No 247 in the 2024 Register of Referral Orders are inadmissible;

2) *declares* that the questions concerning the constitutionality of Article 4 of the Civil Code of 1865, approved by Royal Decree No 2358 of 25 June 1865, and Article 1 of Law No 555 of 13 June 1912 (On Italian citizenship), raised by the twelfth specialist division for immigration, international protection and the free movement of EU citizens of the Court of Milan with reference to Articles 1(2) and 3 of the Constitution, the latter on the twofold grounds of unreasonableness and lack of proportionality as well as an unreasonable difference in treatment, and also with reference to 117(1) of the Constitution in relation to the international obligations and constraints resulting from Italy's membership of the European Union, the latter in relation to Article 9 of the Treaty on European Union and Article 20 of the Treaty on the Functioning of the European Union, in the relevant referral order are inadmissible;

3) *declares* that the questions concerning the constitutionality of Article 1(1)(a) of Law No 91 of 5 February 1992 (New provisions on citizenship), raised by the specialist division for immigration, international protection and the free movement of EU citizens of the Court of Bologna, the twelfth specialist division for immigration, international protection and the free movement of EU citizens of the Court of Milan, the individual rights and civil immigration division of the Court of Rome and the specialist division for immigration, international protection and the free movement of EU citizens of the Court of Florence with reference to Articles 1(2) and 3 of the Constitution, the latter on the grounds of unreasonableness and lack of proportionality, in the relevant referral orders are inadmissible; and that the questions raised by the specialist division for immigration, international protection and the free movement of EU citizens of the Court of Bologna, the twelfth specialist division for immigration, international protection and the free movement of EU citizens of the Court of Milan and the specialist division for immigration, international protection and the free movement of EU citizens of the Court of Florence with reference to Article 117(1) of the Constitution in relation to the international obligations and constraints resulting from Italy's membership of the European Union, the latter in relation to Article 9 TEU and Article 20 TFEU, in the relevant referral orders are inadmissible;

4) *declares* that the questions concerning the constitutionality of Article 1(1)(a) of Law No 91/1992, raised with reference to Article 3 of the Constitution objecting to an unreasonable difference in treatment by the individual rights and civil immigration division of the Court of Rome and by the twelfth specialist division for immigration, international protection and the free movement of EU citizens of the Court of Milan in the relevant referral orders are unfounded.

Decided in Rome at the seat of the Constitutional Court, *Palazzo della Consulta*, on 24 June 2025.

Signed: Giovanni Amoroso, President

Emanuela Navarretta, Judge Rapporteur