

JUDGMENT NO 63 YEAR 2026
[omitted]
THE CONSTITUTIONAL COURT
[omitted]

gives the following

JUDGMENT
[omitted]

Conclusions on points of law

6.– The Specialised Division for Immigration, International Protection and Free Movement of EU Citizens of the Ordinary Court of Turin, sitting as a single-judge bench, raised a question as to the constitutionality of Article 3-*bis* of Law No 91/1992, introduced by Article 1(1) of Decree-Law No 36/2025, as converted into law, limited to the words “even before the date of entry into force of this Article” and to the conditions laid down in letters a), a-*bis*) and b).

Article 3-*bis* provides: “In derogation from 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 of 25 June 1865, a person born abroad, even before the date of entry into force of this Article, and having another citizenship shall be considered never to have acquired Italian citizenship, unless any of the following conditions is met: a) the person’s citizen status is recognised, pursuant to the legislation applicable on 27 March 2025, following the submission of an application, complete with all the necessary documentation, to the competent consular or mayor’s office no later than 23:59, Rome time, on that date; a-*bis*) the person’s citizen status is recognised, pursuant to the legislation applicable on 27 March 2025, following the submission of an application, complete with all the necessary documentation, submitted to the competent consular or mayor’s office on the day indicated by an appointment that was communicated to the person concerned by the competent office by 23:59, Rome time, on the same date, 27 March 2025; (b) the person’s citizen status is court-established, pursuant to the legislation applicable on 27 March 2025, following a judicial claim submitted no later than 23:59, Rome time, on the same date; (c) a first- or second-degree ascendant has, or had at the time of death, exclusively Italian citizenship; (d) a parent or adoptive parent has been a resident in Italy for at least two continuous years after acquiring Italian citizenship and before the date of birth or adoption of the child”.

According to the referring court, the challenged provision violates: a) Articles 2 and 3 of the Constitution, with reference to the principles of equality, reasonableness and reliance on legal certainty since, first, it is arbitrary to distinguish between those who applied for citizenship before 28 March 2025 and those who applied for it afterward and, second, this infringes upon vested rights because Article 3-*bis* amounts to an “implicit revocation of citizenship with retroactive effect and without providing any transitional provisions”; b) Article 117(1) of the Constitution, with reference to Article 9 TEU and Article 20 TFEU, which confer European Union citizenship upon any person holding the nationality of a Member State; c) Article 117(1) of the Constitution, with reference to Article 15(2) of the Universal Declaration of Human Rights, under which “[n]o one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”, and; d) Article 117(1) of the Constitution, in relation to Article 3(2) of Protocol No 4 ECHR, pursuant to which “[n]o one shall be deprived of the right to enter the territory of the State of which he is a national”.

7.– As a preliminary matter, it is necessary to reiterate that the intervention of A.L.A. and J.L.A. is inadmissible, as the interlocutory ruling annexed to the present judgment declares.

The other interventions in the present proceedings are likewise inadmissible.

This Court, by Judgment No [142/2025](#) and Order No 85/2025, in four proceedings on provisions providing for the transmission of citizenship by descent, without limits, declared the interventions of two associations of descendants of Italian emigrants and two associations of jurists working in the field of citizenship to be inadmissible. This was because the associations had “only an indirect interest, generally connected to the statutory purposes of protecting their members” (Judgment No [142/2025](#)), which differs from the kind of interest required by Article 4(3), of the Rules of Procedure of the Constitutional Court. That provision specifies that, in incidental constitutional proceedings, “holders of “a qualified interest directly and immediately relevant to the case under constitutional review” may intervene in the proceedings, where the “case under constitutional review” must be understood to refer to the one at issue in the main proceedings (among many, Judgment No 199/2025; Order No 60/2025). This “is reinforced by current Article 6 of the Rules of Procedure, which allows non-profit organisations and institutional entities with collective or widespread interests relating to the question of constitutionality to submit a written opinion to this Court as *amici curiae*” (Judgment No [142/2025](#))”.

In the light of these precedents, drawn from a case similar to the present one, the intervention of AGIS, the *Confederazione degli Italiani nel Mondo*, and the *Associazione Italiana “Sardi Uniti” di Socorros Mutuos* must be declared inadmissible. The proceedings before the Court of Turin involve claims by eight Venezuelan citizens seeking Italian citizenship by descent, and none of the intervening parties holds an interest linked “directly and immediately” to that case.

As for the interventions by individuals who are parties to proceedings similar to the main proceedings in which the questions at issue originated or who are, in any case, addressees of the challenged provision, it bears reiterating that “to make an intervention admissible it is not enough for a party to be the holder of interests similar to those raised in the main proceedings, or to be a party to an analogous case, different from the main proceedings, which may be affected by the Court’s decision. This is because these third parties would access the incidental constitutional proceedings without the referring court first verifying whether the questions are relevant and not manifestly unfounded” (Order No 85/2025). Therefore, the interventions of L.A.T. and others, L.A.F., R. D.C.R.R. and others, and L.P. C.G. must be declared inadmissible.

7.1.– Still as a matter of procedure, this Court must also examine the objection of inadmissibility for failure to sufficiently argue relevance, as raised by the Office of the State Counsel (*Avvocatura dello Stato*). In particular, the referring court’s assertion that the conditions for granting the applicants’ claim are met is allegedly apodictic and based on “deficient and contradictory” documentation, referring to the fact that the Italian ancestor was never naturalised and to the certificate of his death (which took place in 1901).

The objection is unfounded.

The referring court laid out a thorough analysis to demonstrate that the requirements allowing it to hear the case are satisfied (though granting citizenship is blocked by the challenged provision). Its analysis cites the documents filed in the main proceedings relating to the Italian citizenship by birth of the ancestor who emigrated, the fact that he

did not become a naturalised citizen of Venezuela (which would have caused the loss of Italian citizenship: see point 8.1 below), and the births and marriages of his descendants, including the applicants in the main proceedings. The referring court specifies that Italian citizenship was transmitted despite the fact that one woman in the genealogical line had a child before 1948, in keeping with the case law of the Court of Cassation (Joint Civil Divisions, Judgment No 4466 of 25 February 2009; see point 8.1 below). Finally, the referring court mentions that other descendants of the Italian immigrant ancestor, his daughter and his grandson did obtain declarations of Italian citizenship, by order of the Court of Rome (Order No 23849/2023). The reasoning on relevance, therefore, is more than sufficient.

8.– Before examining the individual questions as to constitutionality, a threefold premise is in order: first, a description of the historical context of the rules on the transmission of Italian citizenship, with emphasis on the aspects unique to the Italian situation (point 8.1.); second, an examination of the impact of the Constitution's entry into force and the progressive divergence from it of the legislative scheme governing citizenship (point 8.2.), and; third, an illustration of the meaning of the challenged rules and their rationale (point 8.3.)

8.1.– Citizenship is a “constitutionally protected legal status which entails a series of rights in the private and public spheres and also, in particular, political rights” (Judgment No 87/1975). In Italy, the basic criterion for acquiring it is filiation, based on Articles 1, 2 and 3 of Law No 91/1992. Before Decree-Law No 36/2025, as converted into law, the transmission of citizenship to descendants of citizens was not subject to time limits. This Court's Judgment No [142/2025](#) declared questions raised about the absence of limits in the transmission of citizenship by filiation to be partly inadmissible and partly unfounded.

The status of citizen based on filiation is “permanent, imprescriptible and enforceable at all times on the basis of the simple proof of having acquired it, through birth as an Italian citizen” (Court of Cassation, Joint Civil Chambers, Judgments Nos 25317/2022 and 25318 of 24 August 2022).

The criterion found in Law No 91/1992 is rooted in the Civil Code of 1865, which accepted the rule of unlimited *ius sanguinis* in a direct, agnatic line, in a historical context in which suffrage was famously very limited. According to the *Compendium of Italian Electoral Statistics* (*Compendio delle statistiche elettorali*), drawn up in 1946 by the Central Institute of Statistics and the Ministry for the Constituent Assembly, the active political electorate in 1865 consisted of just 2.08 percent of the population. Based on Articles 1, 2 and 3 of Law No 593 of 22 January 1882 (Political Electoral Law), this number rose to 7.39 percent of the population, limited to literate men of at least 21 years of age and meeting certain education or census requirements (the latter impossible for Italians abroad to obtain, as they involved payment of direct taxes).

Article 11(1) of the Civil Code of 1865 frowned upon dual citizenship (“Citizenship is lost [...] 2° By anyone who has obtained citizenship in a foreign country”), but this provision was interpreted restrictively, because the word “obtained” referred only to voluntary acquisition of foreign citizenship (Court of Cassation of Naples, Judgment of 6 October 1907). This meant that the chain of transmission of Italian citizenship was not interrupted when descendants of Italian emigrants acquired foreign citizenship *iure soli*.

The criterion for transmission of citizenship by filiation was confirmed by Law No 555 of 13 June 1912 (Law on Italian Citizenship), which also addressed the problem of the loss of Italian citizenship due to at-birth (involuntary) acquisition *iure soli* of the

citizenship of the country emigrated to, on the assumption that dual citizenship was to be avoided. The legislature in 1912 chose to implement the “opting out” model proposed by Vittorio Polacco, under which Italian citizenship was lost only by express declaration (Article 7: “Except for special provisions to be stipulated by international treaties, the Italian citizen born and residing in a foreign State who is considered to be that State’s own citizen by birth, shall retain Italian citizenship, but, having become of age or emancipated, may renounce it”). The legislature rejected an opposite, *opting in* solution put forward by Vittorio Scialoja, under which Italian citizens who had obtained foreign citizenship *iure soli* would have lost the Italian citizenship they acquired *iure sanguinis* upon reaching the age of majority, unless they expressly declared a desire to keep it.

In the 50 years from 1876 to 1925, more than 16.5 million Italian citizens emigrated to destinations all over the world, the majority (about 8.9 million people) to the American continent, settling in countries where *ius soli* was in force (see the memorandum filed by the National Institute of Statistics (*Istituto Nazionale di Statistica* – ISTAT) on 14 April 2025 with the First Senate Committee for Constitutional Affairs, in relation to the draft law converting Decree-Law No 36/2025). Thus, an immense mass of foreign citizens was formed who maintained their Italian citizenship, almost always unverified.

Over the years, the dual citizenship phenomenon has doubled in size, for reasons that include judicial factors. This Court, with Judgments Nos 87/1975 and 30/1983, struck down as unconstitutional the rules that stripped the citizenship of Italian women who acquired, through marriage, the citizenship of their foreign husbands (Article 10(3) of law No 555/1912) and failed to grant citizenship by birth to the children of Italian citizen mothers (Article 1(1) of Law No 555/1912). Later the Court of Cassation held that the unconstitutional rules were inapplicable even to cases predating the entry into force of the Republican Constitution (see aforementioned Judgment No 4466/2009).

The Italian situation has, therefore, taken on very particular characteristics over time. Heavy emigration, combined with the absence of limits on the transmission of citizenship by filiation, has generated a vast multitude of foreign citizens holding “virtual” (i.e. unverified) Italian citizenship, which can be activated by the holders at any time (the technical report accompanying the draft conversion law of Decree-Law No 36/2025 estimates that there are over 60 million Italian descendants). Comparatively speaking, Italian law was an isolated case because other countries have gradually put limits on the transmission of citizenship by filiation: in France, see Articles 23-6 and 30-3 of the *Code Civil* (1993 text); in Germany, § 4(4), of the Citizenship Act (*Staatsangehörigkeitsgesetz* – StAG); in the United Kingdom, Section 3(2) of the British Nationality Act of 1981; in Spain, Article 24 of the *Código Civil*.

This situation remained unchanged not only after the active male electorate was expanded through Law No 665 of 30 June 1912 (Law on the reform of the political electoral law), but also after the landscape was radically altered by the pivotal events of 1945-1948: the introduction of women’s suffrage (Lieutenant Legislative Decree No 23 of 1 February 1945, concerning “Extension of the right to vote to women”) and the entry into force of the Republican Constitution. It will be immediately clear that the maintenance of the original rules, which arose in a very different context, has led to a clash between the laws governing citizenship and the Constitution.

8.2.— The Constitution transformed the structure of the State, leading to a fundamental change in the status of citizen. In fact, full universal suffrage and the Republican Constitution connected the *status civitatis* and the *status activae civitatis*,

which had been separated in the “single-class State” that restricted suffrage by wealth and education.

The Constitution effected a “Copernican revolution” in the relationship between citizens and the State apparatus by entrusting the citizens, united as the people, with sovereignty not only as a formal entitlement *quoad titulum*, but also *quoad exercitium*, as a matter of practical exercise.

The granting of sovereignty to the people, who exercise it in the forms and within the limits provided for by the Constitution (Article 1(2) of the Constitution), is embodied in the provisions that give citizens the rights of democratic participation, in particular the rights to vote and stand for election (Articles 48 and 51 of the Constitution), the right to contribute to the determination of national policy through political parties (Article 49 of the Constitution) and the right to vote in referendums (Articles 75 and 138 of the Constitution).

Thus, political decisions binding on the State community are made through the participation of the same citizens who are subject to those decisions. This establishes a congruence between being enduringly subject to a particular political realm, as members of the people of the State, and being entitled to the rights of democratic participation. The democratic principle, understood in this way, makes it possible to reconcile the permanence of political domination – which entails a distinction between rulers and ruled and between commanding and obedience – and the principle of self-determination of the citizens who form the sovereign people.

It follows that citizens are substantively connected to the life of the democratic State, which they constitute and sustain, giving rise to a community of political destinies. Through democratic cooperation in decisions affecting the community, they are co-responsible for what happens to it and, to some extent at least, also suffer the consequences, whether these involve benefits or burdens and sacrifices.

8.2.1.– The kind of democratic participation that brings about a community of political destinies is rooted in an effective bond between individual citizens and the national community. Certain constitutional principles make the need for this bond quite clear.

Article 1 of the Constitution, in particular, establishes a link between the territory (the concept of “Italy” includes the geographical place), the people and sovereignty, in the sense that sovereignty is exercised within a particular territory and cannot belong to a multitude of citizens disconnected from that territory.

Article 4(2) establishes that “every citizen has a duty, in accordance with their capability and choice, to perform an activity or function that contributes to the material or spiritual progress of society”. Active engagement in the national community is, therefore, inextricable from the constitutional vision of citizenship, which entails the existence of a concrete set of relationships, social ties, shared experiences and responsibilities that form the basis of the community of political destinies.

The constitutional link between citizenship and active engagement in the national community constitutes the logical development of what Article 3(2) of the Constitution establishes, first entrusting the Republic with the task of removing the economic and social obstacles that de facto limit the freedom and equality of citizens, and then linking this task to the objective of making people’s participation in the political, economic and social organisation of the country effective. It also logically flows from Article 2, which requires “that the fundamental duties of political, economic and social solidarity be

fulfilled”. It bears remembering that, in accordance with the fundamental rule enshrined in Article 1(1) of the Constitution, the Republic is “founded on labour”.

Finally, Article 54(1) of the Constitution establishes that “all citizens shall have the duty to be loyal to the Republic and to comply with its Constitution and laws”. Indeed, even if foreigners present in the territory of the State have the obligation to comply with the Constitution and the laws, the “duty of loyalty” is principal to citizens and expresses the intensity of the bond that unites them to the national community.

Ultimately, the fabric of constitutional principles converges in the configuration of the people as a community whose members are linked by concrete bonds consisting of solidarity, reciprocity of rights and duties, commitment to the progress of society, and a shared destiny. In this vein, this Court observed, in a decision emphasising that the duty to pay taxes is important for the *pactum unionis* rather than the *pactum subiectionis*, that, in a constitutional perspective, “the State and the tax power are no longer so much at the centre [...] as other conceptual categories that pertain to the individual situated within the community, to the relationships that derive from the social bonds in which they are immersed, and to the bonds of solidarity that flow from them and which it is up to the legislature to define, inspired by the principle of progressivity and in accordance with the ability to pay” (Judgment No 137/2025, point 6).

8.2.2.– The broader guarantee of pluralism offered by the Constitution (Articles 2, 6, 8, 18, 19, 33, 39, 41 and 49 of the Constitution) means that the people is divided into multiple formations, political, economic, social, religious and cultural. But the “people as multiplicity” is paired with the “people as unity”. The richness of pluralism, in its many dimensions, does not, in fact, deny the possibility for the people to express itself as a unit – particularly in its capacity as an electoral body – or that the Constitution configures it, in its first article, as a unitary subjective entity. To the famous *We the People* with which the US Constitution opens corresponds the lapidary statement that “sovereignty belongs to the people”. This, like the US Constitution, bases the democratic order on a “singular plural”, on a “collective self”, which necessarily presupposes a link with a territory (sovereignty, in fact, is exercised within a set territorial space) and the sharing of certain substantive principles that create a sense of mutual belonging, of collective identity.

In this regard, this Court has pointed out that “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” (Judgment No [142/2025](#), point 11.2). Therefore, the citizens constitute the people because, in addition to the bonds built by participation of any kind in collective life, solidarity, and reciprocal rights and duties, they tend to share constitutional principles, which are the expression of the civic values on which the Republic is founded. In this way, the citizen experience is that of membership not merely of a random assembly of individuals, but of a specific *demos*, in which both high pluralism and political conflict are compatible with the preservation of national unity and social cohesion.

Moreover, this constitutional configuration of the people allows for the justification of majority rule, which is necessary to ensure the functioning of representative democracy (Article 64 of the Constitution). Indeed, the power of the majority to make political decisions affecting the entire community, without the minority considering itself to be dominated by an “other” in violation of the democratic principle, presupposes that both the majority and the minority factions perceive themselves to be part of the same community and, therefore, linked by bonds that transcend the single decision or political direction of a specific government.

8.2.3.– There is only one provision expressly dedicated to governing citizenship in the Constitution: Article 22, under which no one may be deprived of citizenship for political reasons. The absence of other constitutional rules means, as this Court has previously held, that the legislature enjoys broad discretion in its regulation (Judgments Nos 25/2025 and [142/2025](#)). However, this Court has also specified that citizenship rules are not exempt from constitutional review and that the Constitution does delineate certain “features of citizenship, which are embedded within the complex structure of the text of the Constitution” (Judgment No [142/2025](#), point 11.2).

In the absence of precise constitutional rules governing citizenship, the overall complex of principles must be considered. Taken together, these provide a very general model of citizenship (consisting of a few essential features) to which ordinary legislation should refer, though wide margins of discretion remain.

Three elements of this model, laid out in the previous points, are particularly noteworthy: a) citizens hold rights of democratic participation in political decisions that affect them, forging the people into a community of political destinies, and they are, in principle, subject to both the benefits and to the sacrifices and burdens that derive from the complex of these decisions; b) citizenship implies a concrete bond with the people and with the State, which entails commitment to the progress of society and duties of solidarity, and; c) the concrete bond between the citizen and the people also manifests in sharing a common “cultural milieu” (“*humus culturale*”) and constitutional principles, which are expressions of the civic values on which the Republic is founded (see the cited point, 11.2 of Judgment No [142/2025](#)).

8.2.4.– It follows then that laws like the one that preceded the decree in question, which allowed persons with no real connection with the community of the Republic to have unlimited access to Italian citizenship and, where that citizenship was verified, to participate in making the decisions that apply to that community, departed considerably from the model of citizenship outlined above. Indeed, it allowed people who had not contributed to the community’s progress, did not participate in its common destiny, and could easily escape the sacrifices and obligations deriving from these decisions to participate in political decisions concerning the community.

Furthermore, the fact that people who were substantively detached from the national community could, through the acquisition of citizenship, be decisive for forming a political majority (or for the outcome of a referendum) eroded the legitimacy of the majority principle. In this scenario, the citizens left out of the majority, but having a concrete bond amongst themselves, would perceive the political decisions adopted by the majority as imposed on them from “outside”.

These problems have been exacerbated by reforms extending the vote to Italians living abroad: Constitutional Law No 1 of 17 January 2000 (Amendment to Article 48 of the Constitution concerning the establishment of a foreign constituency for the exercise of the right to vote of Italian citizens residing abroad) and Constitutional Law No 1 of 23 January 2001 (Amendments to Articles 56 and 57 of the Constitution concerning the number of deputies and senators representing Italian citizens residing abroad), implemented by Law No 459 of 27 December 2001 (Rules for Italian citizens residing abroad to exercise the right to vote).

8.2.5.– The rules governing citizenship must also comply with the principles governing citizenship of the European Union (Judgment No [142/2025](#), point 11.3 of the Conclusions on points of law). The fact that a subject area – such as citizenship – falls within the competence of the Member States does not exempt national rules from having

to comply with EU law for situations falling within its scope (CJEU, Fourth Chamber, judgment of 25 April 2024 in joined cases C-684/22 to C-686/22, *Stadt Duisburg*, paragraph 34). In national constitutional law, this obligation is enshrined in Articles 11 and 117(1).

Being a national of a Member State is a prerequisite for European citizenship. This citizenship in turn conveys certain rights, including full freedom of movement and the right to vote and stand as a candidate in European parliamentary elections and municipal elections in the Member State of residence, under the same conditions as nationals of that State (Article 20 TFEU), as well as all the other rights that the Court of Justice of the European Union (CJEU) has attached to freedom of movement.

Two consequences flow from this arrangement: a) the conditions for the acquisition of national citizenship must be regulated bearing in mind the effects of attributing European citizenship, that is, without prejudice to the juridical-constitutional meaning of the latter; b) the revocation of national citizenship has an immediate impact on European citizenship and on the enjoyment of the rights deriving from it, and it must therefore respect certain European Union principles, such as that of proportionality.

These issues will be returned to below in connection with the specific complaint relating to the violation of Article 117(1) of the Constitution. For present purposes, two elements drawn from the most recent case law of the Court of Justice bear mentioning: (a) the Member States, when granting nationality, must take account of the fact that “the bedrock of the bond of nationality of a Member State is formed by the special relationship of solidarity and good faith between that State and its nationals and the reciprocity of rights and duties”, because that relationship “also forms the basis of the rights and obligations reserved to Union citizens by the Treaties”; b) 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” (Court of Justice, Grand Chamber, judgment of 29 April 2025 in Case C-181/23, paragraphs 96 to 97 and 95).

The relationship between the constitutional structure of national citizenship and the regime of European citizenship must, therefore, be a coherent one. Citizenship in the Italian democratic order, as reconstructed in the previous paragraphs, harmonises and integrates perfectly with the requirements of European citizenship (Judgment No [142/2025](#), point 11.3). Indeed, it requires an effective relationship of solidarity and good faith between State and citizens, as well as reciprocity of rights and duties, just as the Court of Justice of the European Union has said. Moreover, citizenship as reconstructed here ensures that national citizenship and European citizenship are connected by certain shared civic values, as these form the foundation of both the Italian Republic and the European Union. The same constitutional principles that contribute to the creation of an effective bond between the citizen and the national community largely overlap and are, in any case, always consistent with the values enumerated by Article 2 TEU as the basis of the “European society”. This homogeneity of values is precisely what allows the same individual to feel both Italian and European at the same time and to have a double affiliation, to the Italian people and to “European society”.

8.3.— It is now time to examine the contents of the challenged provisions.

Article 3-*bis* of Law No 911/992, introduced by Article 1(1) of Decree-Law No 36/2025, as converted into law, derogates from the rules (described in point 8.1) that provide for the unlimited transmission of citizenship by filiation, with retroactive effect.

In essence, it establishes that “a person born abroad, even before the date of entry into force of this Article, and in possession of another citizenship shall be considered to have never acquired Italian citizenship”, unless any of the following conditions is met: a) the status of citizen is recognised (administratively or judicially) following an application submitted by 23:59 on 27 March 2025, or subsequently on the day indicated by an appointment that was communicated to the interested party by the competent office by 23:59 on 27 March 2025; b) a parent or grandparent possesses, or possessed at the time of death, exclusively Italian citizenship (this requirement is specified by the Ministry of the Interior’s Circular No 26185/2025), or; c) a parent or adoptive parent has been resident in Italy for at least two continuous years after acquiring Italian citizenship and before the date of birth or adoption of the child.

State Counsel and the referring court (with which the parties agree) present this scheme in opposite terms. The former maintains that Article 3-*bis* of Law No 91/1992 does not have retroactive effect, applying only to future citizenship declarations. The latter claims that it provides an implicit, retroactive revocation of citizenship for all addressees.

Neither of these interpretations is convincing.

The legislation in question is a prime example of retroactivity in the strict sense, as the legal effects of pre-existing rules are excluded *ab initio*, in the sense that Article 3-*bis* attributes to previous facts “legal consequences that are different from those they had in the applicable time period” (Judgment No [173/2019](#)).

On the other hand, the new provision is clear in establishing an absolute bar *ab initio* to the acquisition of Italian citizenship for foreigners born abroad, and not a revocation. It is not irrelevant that, from a “topographical” point of view, Decree-Law No 36/2025, as converted into law, inserted the new scheme (Article 3-*bis* of Law No 91/1992) immediately after the provisions governing acquisition by filiation (Articles 1, 2 and 3), and not in the sections dedicated to revocation (Article 10-*bis*) and loss of citizenship (Article 12).

The avoidance of revocation is consistent with the content of the rules in question, the effects of which render revocation conceptually extraneous. Both in general administrative law (Article 21-*quinquies* of Law No 241 of 7 August 1990 on “New rules on administrative procedure and the right of access to administrative documents”) and in the law on citizenship (Article 10-*bis* of Law No 91/1992), revocation operates with prospective effect, in connection with supervening circumstances, while Article 3-*bis* produces effects *ab initio*, in order to address a longstanding situation (albeit one that has intensified over the decades). Moreover, revocation (like forfeiture of citizenship pursuant to Article 12 of Law No 91/1992 or the automatic annulment of a measure granting citizenship) affects a status already officially acquired by a single individual, while the rules at issue affect the unrecognised status of a multitude of people. This likely explains the specific phrasing used by the legislature (“shall be considered never to have acquired Italian citizenship”): the use of a presumptive formula is appropriate given the fact that Italian citizen status was legally uncertain for all the rule’s addressees.

It is important to note, however, that the decree under review amends other provisions in order to facilitate foreigners of Italian origin entering Italy and obtaining Italian citizenship. Article 1(1-*bis*) amends Article 4 of Law No 91/1992, which regulates the acquisition of Italian citizenship “by operation of law”. And Article 1-*bis* of the same decree-law lays down “[p]rovisions to encourage persons of Italian descent to recover their Italian roots and, consequently, acquire Italian citizenship”, facilitating the entry into

Italy of foreign nationals of Italian descent for employment purposes, without generational limits, as well as their subsequent naturalisation (the mandatory residence period is reduced from three years to two). These innovations will be returned to in point 9.2.3.

9.– This Court may now examine the individual questions as to constitutionality raised by the Court of Turin.

As mentioned above (point 6), the first question, which alleges the infringement of Articles 2 and 3 of the Constitution, includes two distinct sub-questions. It alleges, first, that Article 3-*bis* makes an arbitrary distinction between people who applied for citizenship verification before 28 March 2025 and those who applied for it after. Second, it alleges that Article 3-*bis* infringes upon vested rights, resulting in an “implicit revocation of citizenship with retroactive effect and without providing any transitional provisions”.

9.1.– The first question is unfounded.

As a general matter, it is certainly not unusual, in the event of a shift in a regulatory scheme, to adopt transitional rules that call for continued application of the earlier set of rules to proceedings that are already initiated. This Court has ruled that such rules are not unreasonable, confirming that the legislature enjoys broad discretion to limit retroactivity by using transitional rules (Judgments Nos 376/2008 and 246/1992).

The challenged legislation in the present case was designed to exempt foreigners of Italian descent who had already submitted an application for verification of Italian citizenship (or had received an appointment), in reliance on the previous set of rules. It is reasonable to distinguish people by the fact of having submitted an application – doing so increases the degree of their reliance. Moreover, the question of the difference between those who received an appointment and those who initiated the verification process but did not receive an appointment by 23:59 on 27 March 2025, remains unaffected (as it is irrelevant to the main proceedings and was, therefore, not raised by the referring court).

9.2.– The question alleging the infringement of vested rights is also unfounded.

The principle of legitimate expectations is derived from Article 3 of the Constitution (see, among many, Judgments Nos 216/2023 and 169/2022) and is “subject to the normal balancing of all constitutional principles and rights” (Judgments Nos 134/2025 and 182/2022 and, to the same effect, No 108/2019). To assess whether Article 3-*bis* has not unreasonably balanced the legitimate expectations of foreigners of Italian origin with the constitutional interests it pursues, it is necessary to consider the “weight” of the interest pursued by the challenged provisions (point 9.2.1) and the substance of the damaged expectation (point 9.2.2), taking into account the “compensatory” measures contained in Decree-Law No 36/2025, as converted into law (point 9.2.3).

9.2.1.– To review the reasonableness of the balancing carried out by the legislature, the appropriate first step is to consider the preamble of the decree in question, which analytically sets out the reasons for its adoption.

The *leitmotif* is the principle of effectiveness, i.e. the need to reserve citizenship to persons linked by “actual ties” (“*vincoli effettivi*”) with the Italian Republic (this expression appears four times in the preamble). The preamble begins by recalling the previous statutory scheme, under which the verification of citizenship could be requested with no time limits, regardless of one’s “actual ties” with the Republic. It emphasises the fact that the enormous number of “potential Italian citizens” without ties with Italy poses a “serious and present risk for national security” and for the security of other EU Member States.

The preamble goes on to state the need to impose “limits on the automatic transmission of Italian citizenship” to people born abroad, “making it conditional upon clear indicators of the existence of actual ties with the Republic”. Next it rejects time of birth as an unreasonable element for distinguishing between groups, based on a joint consideration of Articles 1 and 3 of the Constitution, and states that it cannot be used.

The preamble then declares that maintaining the Italian citizenship of those already recognised as citizens and applying the previous rules to verification procedures already initiated are appropriate measures, “in application of the principle of proportionality”.

In essence, the purpose pursued by Decree-Law No 36/2025, as converted into law, is to establish the requirement of “actual ties with the Republic” in order to restore the link between the people, sovereignty and territory (this can be deduced from the reference to Article 1 of the Constitution and is confirmed by the preamble and point V of the explanatory report to the conversion bill). As for the retroactive application of the new rules, this feature is justified by the conclusion that distinguishing based on time of birth (falling before or after the decree in question) would be unreasonable, as it is a “random factor and not indicative of actual ties with the Republic”.

The interest pursued by the legislature, thus identified, is consistent with the constitutional framework establishing the features of citizenship, as described in point 8.2.

The “weight” of the genuine link criterion, which notably appears in the case law of the Court of Cassation (First Civil Division, Judgment No 3564 of 8 February 2024, point 4; see also the aforementioned Judgment of the Joint Civil Divisions, No 25317 of 2022, point XI), may be further confirmed by a look beyond Italy’s borders.

First, this criterion appears in Article 7(1)(e) of the European Convention on Nationality of 6 November 1997 (drawn up within the framework of the Council of Europe), which provides that deprivation of nationality by law is permissible in the event of a “lack of a genuine link between the State Party and a national habitually residing abroad”.

The Court of Justice of the European Union has also attached significant importance to the genuine link criterion in decisions concerning both the conferral of citizenship (see the judgment in Case C-181/23, cited above) and its loss (e.g. Grand Chamber, judgment of 12 March 2019 in Case C-221/17, *Tjebbes*, paragraph 35). Point 10 below will return to this issue.

Finally, the principle of effective nationality also features prominently in the case law of other constitutional courts. With its Decision No 1130/1131/1132/1133 QPC of 11 April 2025, the *Conseil Constitutionnel* rejected four *questions prioritaires de constitutionnalité* concerning Article 30-3 of the French Civil Code, which regulates the loss of nationality for desuetude. The *Conseil* noted that the legislature pursued an objective of general interest by putting an end to the transmission of French citizenship *iure sanguinis* when it would be devoid of any effectiveness. And the Portuguese Constitutional Tribunal (Judgment No 1133 of 15 December 2025, citing its earlier Judgment No 599/2005) has held that laws governing nationality “must give essential importance to relations that reveal a genuine link between the individual and the Portuguese State and the national community” (paragraph 12). On the same date, the same Court handed down Judgment No 1134/2025, reiterating that “deprivation of citizenship shall be deemed arbitrary unless it is based on grounds that indicate the rupture of the effective link between the individual and the State” (paragraph 14.1). Likewise, the German Federal Constitutional Court has stated that “the State may not link nationality

to factual circumstances which are not sufficiently connected with it” (Judgment of 21 October 1987, *Teso*, in *BVerfGE* 77, 137 (153)) (translations by this Court).

Since the referring court does not contest the new rules themselves, but only their retroactive application, it is also necessary to assess the weight of the need for the legislature to make the principle of effective nationality operational *ab initio*.

As described in point 8.1, the 1912 legislature adopted a scheme that inappropriately balanced the need to maintain a link with emigrants (and their descendants) with that of maintaining an actual link between those individuals and Italy. The total absence of limits on the transmission of citizenship by filiation, combined with the magnitude of Italian emigration, has created a multitude of foreigners who are “potential Italian citizens” (as the preamble of the 2025 Decree-Law puts it), the full extent of which was (and is) unknown to the Italian State itself. The events of 1945-1948 (point 8.2) created a crisis situation, from a legal-constitutional standpoint, due to the virtual extension of political rights to millions of people with no connection whatsoever to Italy, and then also from an economic-social standpoint, when the economic “poles of attraction” were reversed and Italy became an immigration hub. Since Law No 91/1992 did not change the regulatory framework, the next concrete manifestation of these critical issues was a massive influx of applications to Italian consulates and claims before the Italian courts aimed at verifying citizenship. While, in December 2013, there were 4,482,115 Italian citizens living abroad, of whom 2,974,488 were born abroad, by December 2024, that number had risen to 6,412,752, of whom 4,496,297 were born abroad (see the Table at point IV of the report to the conversion bill).

Limiting the effects of Decree-Law No 36/2025, as converted into law, only to persons born in the future would have left the situation just described practically unchanged. If maintaining an effective link between Italian citizens and the Italian social fabric is an interest of significant weight, as illustrated above, then it follows that the need to retroactively apply the new conditions for acquiring citizenship must be given equal weight. The decree at issue would have been largely thwarted in the pursuit of its purpose if the challenged provisions had not also addressed the past, to remedy the effects of the previous rules.

9.2.2.– The second part of the reasonableness test to apply to the retroactive law requires this Court to assess the substance of the reliance of those affected by the regulatory change brought about by Decree-Law No 36/2025, as converted into law.

Article 3-*bis*, by denying a vast swath of people the possibility of acquiring Italian citizenship *ab initio*, undoubtedly affected their reliance on being able to someday request verification of the status in question, in order to exercise the related rights (such as the right to reside permanently in Italy and to vote).

The weight of this reliance, however, is diminished by the following factors.

The essential element to observe is the fact that Article 3-*bis* does not affect vested rights – it impacts neither the status and rights of those who have already been recognised as Italian citizens nor the position of those who have submitted an application or received an appointment. In keeping with the contents of the preamble, although this group of people has no real ties with Italian society, their reliance was considered by the legislature to prevail over the interest underlying the principle of effectiveness.

Citizenship is a composite legal position, whose centre of gravity is a status entailing both rights and duties. While it is true that Italian citizens acquire this status at birth, it is also true that, for persons of Italian descent born abroad, verification is necessary (administrative or judicial), without which they cannot enjoy the regime that

applies to Italian citizens. None of the persons affected by the new legislative scheme enjoys legal certainty regarding their Italian citizenship status. On the contrary, it is certain that, since none of the addressees of Article 3-*bis* had recognised citizen status, they could neither concretely enjoy the rights conferred nor were they concretely subject to the duties incumbent on Italian citizens.

It is true that foreigners of Italian descent did not have a specific duty to take action before 28 March 2025, but from a reliance perspective, those who did take action cannot be equated with those who did nothing about a status that requires prior assessment before the rights attached to it can be concretely enjoyed.

A second element worthy of consideration is the fact that Article 3-*bis* is “corrective”, i.e. it aims to defuse a situation brought about by a legislative scheme that was unbalanced in its indefinite perpetuation of ties that became fictitious with the passing of generations. This Court has held that “[t]he need to restore criteria of fairness and reasonableness and to remove the inequalities and inconsistencies inherent in preferential treatment must prevail over the protection of expectations” (Judgments Nos 182/ 2022 and 136/2022; see also Judgments Nos 70/2024, 145/2022, 108/2019 and 56/1989).

Finally, it bears noting that the changed legislation’s retroactive effect cannot be considered “absolutely unforeseeable” (Judgment No 70/2024) for two separate reasons. First, it is foreseeable in the light of the particularly favourable regime that existed under the previous rules as just described (see, e.g., Judgment No 182/2022), especially in comparison with other countries like Italy, which have introduced limits on the transmission of citizenship *iure sanguinis* (see point 8.1). Second, Italy had already signalled a shift towards limiting transmission by filiation and claims for citizenship verification: the first draft legislation placing limits on citizenship by filiation were presented on 9 October 2024 (Act of the Senate No 1263 and Act of the Chamber of Deputies No 2080), and in December 2024 an onerous court fee was imposed for legal claims concerning citizenship, calculated by applicant rather than by case, as it had been up until that time (Article 1(814) of Law No 207 of 30 December 2024, on the “State budget for the 2025 fiscal year and multi-year budget for the 2025-2027 period”).

The argument that the introduction of limits was foreseeable while their retroactive effect was not must, likewise, be dismissed. As explained above, in the Italian case a purely futuristic remedy would have left the problem it was intended to solve intact.

9.2.3.– Finally, an assessment of the reasonableness of the balance struck by the retroactive law must necessarily include the “compensatory” measures contained in Decree-Law No 36/2025, as converted into law.

As mentioned above (point 8.3), the decree amends other provisions to make it easier for foreigners of Italian descent to enter Italy and obtain Italian citizenship.

In particular, two updates were made to Article 4 of Law No 91/1992. Paragraph 1 now extends the possibility to acquire citizenship by operation of law also to foreigners who have a parent or grandparent who is currently an Italian citizen by birth. In addition, the new paragraph 1-*bis* regulates as follows the acquisition of Italian citizenship by a foreign or stateless minor who has a parent who is a citizen by birth: “[t]he foreign or stateless minor whose father or mother is a citizen by birth shall become a citizen if their parents or guardian declare the desire to acquire citizenship and any of the following conditions is met: a) the minor has been a legal resident in Italy for at least two continuous years from the date of the declaration; b) the declaration is submitted within three years of the birth of the child or within three years of the subsequent date on which the parent-child relationship is established with an Italian citizen, including through adoption” (the

timeframe referred to in letter *b* was increased from one to three years by Article 1(513)(a) of Law No 199 of 30 December 2025, on the “State budget for the 2026 fiscal and multi-year budget for the 2026-2028 period”). Article 1(1-*ter*) of Decree-Law No 36/2025, as converted into law, extends the latter possibility to parents (who applied for citizenship before the decree) of minors born before the decree: “for persons who are minors on the date of entry into force of the law converting this decree and who are children of citizens by birth pursuant to Article 3-*bis*(1)(a), (a-*bis*) and (b) of Law No 91 of 5 February 1992, the declaration provided for in Article 4(1-*bis*)(b) of the same law may be submitted by 23:59, Rome time, on 31 May 2029” (this deadline was moved from 31 May 2026 to 31 May 2029 by Article 1(19-*ter*) of Decree-Law No 200 of 31 December 2025 on “Urgent provisions on regulatory deadlines”, converted, with amendments, into Law No 26 of 27 February 2026).

Furthermore, Article 1-*bis* of Decree-Law No 36/2025, as converted into law, lays down “[p]rovisions to encourage foreigners of Italian descent to recover their Italian roots and, consequently, acquire Italian citizenship”. It makes it easier for foreigners of Italian descent to come to Italy for employment, without generational limits, and to be naturalised. On the basis of (newly introduced) Article 27(1-*octies*) of Legislative Decree No 286 of 25 July 1998 (Consolidated text of the provisions concerning the regulation of immigration and rules on the status of foreign nationals), “outside the quotas contained in Article 3(4), the procedures laid out in Article 22 shall permit foreign nationals residing abroad who are descendants of an Italian citizen and nationals of a State that received significant flows of Italian emigration, as identified by decree of the Minister of Foreign Affairs and International Cooperation, in agreement with the Ministers of the Interior and of Labour and Social Policies, to enter and stay for salaried employment”. This rule was implemented by the Interministerial Decree of 17 November 2025 (Identification of the destination States receiving significant Italian emigration flows whose citizens, if descendants of an Italian citizen, are allowed to enter and stay in Italy for salaried employment outside the quotas referred to in Article 3(4) of Legislative Decree No 286 of 25 July 1998). Finally, Article 1-*bis*(2) of the decree in question reduced the residence period necessary for the naturalisation of foreigners of Italian descent from three years to two (see the new text of Article 9(1)(a) of Law No 91/1992).

9.2.4.– Overall, from the considerations set out in points 9.2.1, 9.2.2 and 9.2.3 it follows that the challenged provisions have balanced the reliance of their addressees and the constitutional principle of effective nationality in a not unreasonable way.

Article 3-*bis* introduced new conditions *ab initio* for foreign nationals born abroad to acquire Italian citizenship by filiation, requiring a sufficient link with Italy while, at the same time, protecting the reliance of those who had already obtained recognition of the citizenship status or had submitted the application (or at least received the appointment to do so). The legislature took action to address a gap between preexisting legislation and the Constitution, which had progressively widened for the legal and social reasons already set out (points 8.1 and 8.2). The legislature enjoys wide discretion in the area of citizenship, which this Court has recognised by declaring the questions raised about the absence of limits in the transmission of citizenship by filiation to be partly inadmissible (Judgment No [142/2025](#)). Although well aware of the value that Italian heritage has for communities of Italian descendants, as well as of the importance those same communities have for Italy, from a cultural and economic point of view – an importance reflected, in the decree in question, in the favourable provisions referred to in

point 9.2.3 –, for the reasons above this Court holds that the question raised for infringement of vested rights is unfounded.

10.– The referring court next alleges the violation of Article 117(1) of the Constitution, in relation to Article 9 TEU and Article 20 TFEU, which confer European Union citizenship on any person who holds the nationality of a Member State.

This question is also unfounded.

The significance of the link between citizenship of a Member State and European citizenship has already been described in point 8.2.5, which emphasised that, according to the Court of Justice, citizenship conferred by States must be based on a genuine link between State and citizen (see the judgment in Case C-181/23, cited above). The decision in the Maltese case of 2025 was a development consistent with previous judgments, which considered national rules stripping citizenship to be justified (even if they could be challenged for reasons of proportionality) in order to “protect the special relationship of solidarity and good faith between it [the Member State] and its nationals and also the reciprocity of rights and duties, which form the bedrock of the bond of nationality” (Grand Chamber, judgment of 2 March 2010 in Case C-135/08 *Rottmann*, paragraph 51; to the same effect, *Stadt Duisburg*, paragraph 37, and *Tjebbes*, paragraph 31; Grand Chamber, judgment of 18 January 2022, Case C-118/20, *Wiener Landesregierung*, paragraph 52), or to ensure the continuation of a genuine link with the Member State: “It is legitimate for a Member State to take the view that nationality is the expression of a genuine link between it and its nationals, and therefore to prescribe that the absence, or the loss, of any such genuine link entails the loss of that nationality” (again *Tjebbes*, paragraph 35). However, “having regard to the importance which primary EU law attaches to citizenship of the Union which, as has been pointed out in paragraph 29 above, constitutes the fundamental status of nationals of the Member States, it is for the competent national authorities and the national courts to determine whether the loss of the nationality of the Member State concerned, when it entails the loss of citizenship of the Union and the rights attaching thereto, has due regard to the principle of proportionality so far as concerns the consequences of that loss for the situation of the person concerned and, if relevant, for that of the members of his or her family, from the point of view of EU law” (see the judgment of the Court of Justice *Udlændinge-og Integrationsministeriet*, cited above, paragraph 38).

The referring court refers to this case law and criticises Article 3-*bis* for not having “provided for any transitional mechanism that would allow [...] the preservation of citizenship within reasonable time limits (for example, by providing for a ‘window’ within which an administrative or judicial citizenship application could be submitted)”.

The question is unfounded due to the irrelevance of the case law referred to with respect to the challenged provisions. The cited rulings of the Court of Justice all involve cases in which a Member State stripped a person of a vested status (that of a national citizen and, therefore, a European one), thus affecting rights that the individual could actually exercise. According to the Court of Justice, rules involving loss of nationality fall within the scope of EU law where they entail the loss of a conferred status and related rights (*Rottmann*, paragraph 49; *Stadt Duisburg*, paragraph 36; *Tjebbes*, paragraph 32; *Udlændinge-og Integrationsministeriet*, paragraph 30; *Wiener Landesregierung*, paragraphs 39 to 41 and 48; see also Grand Chamber, judgment of 8 March 2011 in Case C-34/09, *Gerardo Ruiz Zambrano*, paragraph 42: “Article 20 TFEU precludes national measures which have the effect of depriving citizens of the Union of the genuine enjoyment of the substance of the rights conferred by virtue of their status as citizens of

the Union”). The Court of Justice emphasises that the consequences produced by rules involving deprivation of nationality “cannot be hypothetical or merely a possibility”: *Tjebbes*, paragraph 40 (see also *Stadt Duisburg*, paragraph 50; *Udlændinge-og Integrationsministeriet*, paragraph 54; *Wiener Landesregierung*, paragraph 59).

Precisely because national rules have concrete impact on the rights connected with European citizenship, the Court of Justice considers it necessary to perform a case-by-case examination of their consequences for the lives of the persons concerned, in implementation of the principle of proportionality. This kind of examination is not even conceivable where no European citizen status has been verified and, therefore, the persons concerned cannot exercise any rights in the concrete sense. The rationale of the European case law is to safeguard citizenship of the Union, understood as a fundamental status belonging to citizens of the Member States: this rationale is lacking in the present case, because European citizen status had not been legally ascertained for any of the addressees of the challenged Article 3-*bis*.

In short, the rulings of the Court of Justice relied upon by the referring court are not relevant because the challenged provisions do not provide for the loss of Italian citizenship, as explained in point 8.3.

Since the case law of the Court of Justice clearly limits the obligation of individual examination (of the consequences produced by the rules stripping nationality) to cases in which a person loses an established status and the related, concretely exercisable rights, the parties’ request to make a reference for a preliminary ruling on the compatibility between the impugned Article 3-*bis* and Articles 9 TEU and 20 TFEU must be rejected. When doubts about the content of EU law arise in the context of constitutional proceedings, this Court makes a reference for a preliminary ruling to the Court of Justice. In the present case, however, that Court’s rulings on Articles 9 TEU and 20 TFEU make it clear, for the reasons described above, that the conditions are met which, according to the Court’s own case law, exempt courts from the duty to make a reference for a preliminary ruling (CJEU, Grand Chamber, judgments of 24 March 2026 in Case C-767/23, *Remling*, and of 6 October 2021 in Case C-561/19, *Consorzio Italian Management and Catania Multiservizi*; judgment of 6 October 1982 in Case C-283/81, *Cilfit and others*).

11.– According to the referring court, Article 3-*bis* also violates Article 117(1) of the Constitution in relation to Article 15(2) of the Universal Declaration of Human Rights, pursuant to which “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”.

The question is inadmissible.

The Declaration is not a binding international act – rather, it is incorporated into UN General Assembly Resolution 217A. For this reason, Article 15(2) of the Declaration, as a non-binding provision, fails to meet the standard of Article 117(1) of the Constitution, which refers to the “constraints deriving from [...] international obligations”. It follows that the question is inadmissible for providing insufficient reasoning as to non-manifest unfoundedness, as the referring court offers no explanation as to why an international obligation supposedly derives from the Declaration that would be capable of “activating” Article 117(1) of the Constitution (Judgments Nos 185/2025, 95/2025, [142/2025](#) and 194/2018).

This Court does not rule on the question of whether Article 15(2) of the Declaration expresses a customary rule, given that the referring court specifically referenced Article 117(1) of the Constitution (not Article 10(1) of the Constitution) and “international treaty

law”, and, in the point relating to Article 15 of the Declaration, it never invoked an international custom with corresponding content.

12.– Finally, the referring court alleged the violation of Article 117(1) of the Constitution in relation to Article 3(2) of Protocol No 4 ECHR, according to which “no one shall be deprived of the right to enter the territory of the State of which he is a national”.

This question is also inadmissible.

The ECHR does not guarantee a right to citizenship, only regulating, in Article 3 of Protocol No 4, the “[p]rohibition on the expulsion of nationals” as follows: “1. No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national. 2. No one shall be deprived of the right to enter the territory of the state of which he is a national.” Article 3, therefore, guarantees the right to remain or enter the territory of the State of which one is a citizen, not the right to have or retain citizenship. The explanatory memorandum accompanying Protocol No 4 indicates that the Committee of Experts (responsible for drafting the text of the Protocol) proposed inserting a provision to the effect that a State would be prohibited from stripping one of its nationals of citizenship with a view to expelling them. However, “the majority of the experts thought it inadvisable to touch on the delicate question of the legitimacy of measures depriving individuals of nationality” (paragraph 23). Therefore, Article 3 of Protocol No 4 deliberately avoids regulating measures depriving nationals of their citizenship, only prohibiting those that infringe citizens’ right of abode.

The case law of the European Court of Human Rights makes clear that: (a) the ECHR does not guarantee a right to acquire or retain a certain nationality (e.g. judgment of 21 May 2013, *Fehrer and Dolnik v. Slovakia*, paragraph 41); b) an “arbitrary denial” of citizenship could infringe the right to private life under Article 8 ECHR, but the arbitrariness of the deprivation must be ascertained on the basis of the domestic law of the State (again, see *Fehrer and Dolnik*, paragraph 41; see also judgments of 22 December 2020, *Usmanov v Russia*, paragraphs 53-54, and of 17 September 2024, *Abo v. Estonia*, paragraphs 63-64); c) the right to enter the territory of a State, guaranteed by Article 3(2) of Protocol No 4, cited above, is owed only to the nationals of that State (Grand Chamber, judgment of 14 September 2022, *H.F. and Others v. France*, paragraphs 205 and 245).

It is apparent from an *obiter dictum* in the *H.F.* judgment that stripping nationality in order to prevent a citizen from entering the territory could be “problematic” in the light of Article 3(2) of Protocol No 4 (paragraph 249). However, here the European Court is referring to a scenario involving persons who, before the harmful measure, had a right of entry, since they were recognised as citizens. This is unlike a measure (such as the decree in question) concerning persons who had no effective right of entry into Italian territory because their nationality had never been established.

The referring court does not address any of the factors above and so fails to argue the relevance of Article 3(2) to the challenged provisions. Hence the question is inadmissible for providing inadequate reasoning concerning non-manifest groundlessness.

ON THESE GROUNDS
THE CONSTITUTIONAL COURT

1) *declares* the intervention in the proceedings of L.A.T. and others, L.A.F., RD.C.R.R. and others, and L.P.C.G. to be inadmissible;

2) *declares* the interventions in the proceedings of the *Associazione Giuristi Iure Sanguinis* (AGIS), the *Confederazione degli Italiani nel Mondo* and the *Associazione Italiana “Sardi Uniti” di Socorros Mutuos* to be inadmissible;

3) *declares* the question as to the constitutionality of Article 3-*bis* of Law No 91 of 5 February 1992 (New rules on citizenship), introduced by Article 1(1) of Decree-Law No 36 of 28 March 2025 (Urgent provisions on citizenship), converted, with amendments, into Law No 74 of 23 May 2025, raised by the Ordinary Court of Turin, Specialised Division for Immigration, International Protection and Free Movement of EU Citizens, sitting as a single-judge bench, with the relevant referral order, limited to the words “even before the date of entry into force of this article” and the conditions laid down in subparagraphs (a), (a-*bis*) and (b), with reference to Article 117(1) of the Constitution, in relation to Article 15(2) of the Universal Declaration of Human Rights, to be inadmissible;

4) *declares* the question as to the constitutionality of Article 3-*bis* of Law No 91/1992, introduced by Article 1(1) of Decree-Law No 36/2025, as converted into law, raised by the Ordinary Court of Turin, Specialised Division for Immigration, International Protection and Free Movement of EU Citizens, sitting as a single-judge bench, with the relevant referral order, limited to the words “even before the date of entry into force of this article” and the conditions laid down in subparagraphs (a), (a-*bis*) and (b), with reference to Article 117(1) of the Constitution, in relation to Article 3(2) of Protocol No 4 to the European Convention on Human Rights, signed in Strasbourg on 16 September 1963, enforced by Decree of the President of the Republic No 217 of 14 April 1982, to be inadmissible;

5) *declares* the question as to the constitutionality of Article 3-*bis* of Law No 91/1992, introduced by Article 1(1) of Decree-Law No 36/2025, as converted into law, raised by the Ordinary Court of Turin, Specialised Division for Immigration, International Protection and Free Movement of EU Citizens, sitting as a single-judge bench, with the relevant referral order, limited to the words “even before the date of entry into force of this article” and the conditions laid down in subparagraphs (a), (a-*bis*) and (b), with reference to Articles 2 and 3 of the Constitution, to be unfounded;

6) *declares* the question as to the constitutionality of Article 3-*bis* of Law No 91/1992, introduced by Article 1(1) of Decree-Law No 36/2025, as converted into law, raised by the Ordinary Court of Turin, Specialised Division for Immigration, International Protection and Free Movement of EU Citizens, sitting as a single-judge bench, with the relevant referral order, limited to the words “even before the date of entry into force of this article” and the conditions laid down in subparagraphs (a), (a-*bis*) and (b), with reference to Article 117(1) of the Constitution, in relation to Article 9 of the Treaty on European Union and Article 20 of the Treaty on the Functioning of the European Union, to be unfounded.

Decided in Rome, at the seat of the Constitutional Court, Palazzo della Consulta, on 11 March 2026.

Signed:

Giovanni AMOROSO, President

Giovanni PITRUZZELLA, Judge Rapporteur