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Nationality and security in the Italian legal order

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- ▶ Giammaria Milani
 - ▶ Università di Siena



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Immigration towards Europe





Immigration towards Europe

- Europe: a land of immigration
- 2018: more than 22 million people residing in 2018 in the European Union are not citizens of the Union (4,4% of the total population)
- 2017: 2,7 million of third-country immigrants entered in the European Union and 825.000 people obtained the citizenship of an EU country.



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Immigration towards Europe



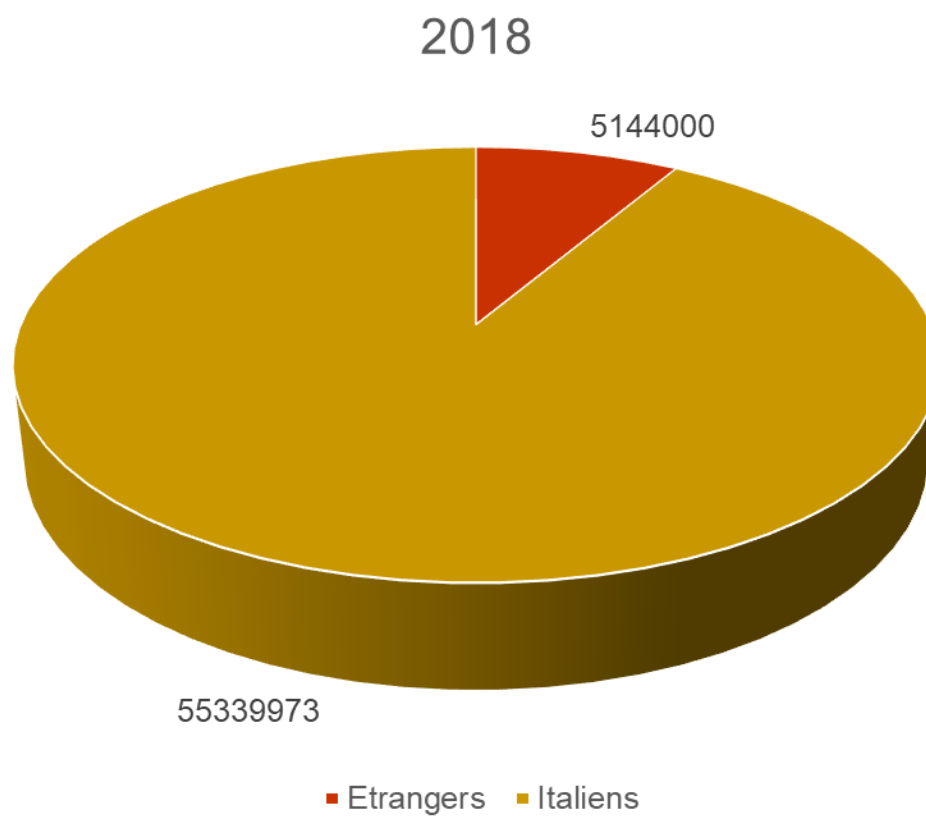


Immigration towards Europe

- Securitarian approach
- Multi-year programs on immigration adopted by the European Council
 - Tampere 1999: fostering the integration and protecting the rights of immigrants
 - The Hague 2004: from the guarantee of rights to the protection of security
 - Stockholm 2009 and Ypres 2014
- Security approach in supranational and national acts
 - Detention of migrants and asylum seekers
 - Crime of illegal immigration



Immigration towards Italy





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Immigration towards Italy

- Italian Foreigners' Law since the 1990s
 - Immigration code in 1998
 - Nationality law in 1992
- Securitarian evolution of the citizenship law



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Nationality Law in Italy

- Law n. 91 of 5 February 1992 “New norms regulating citizenship”.
- Different ways in order to acquire citizenship
 - at birth
 - after birth





Nationality Law in Italy

- Acquisition of citizenship at birth (Article 1)
 - Jus sanguinis: absolutely dominant criterion
 - The individual born from an Italian father or mother is an Italian citizen
 - Absence of limits to the transfer of citizenship from generation to generation
 - Jus soli: limited application
 - Children of unknown parents; stateless parents; parents citizens of States applying only jus soli.
 - Prevention of cases of statelessness



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Nationality Law in Italy

- Acquisition of citizenship after birth
- Expression of willingness by the individual
 - Citizenship by declaration (art. 4)
 - Citizenship by marriage (art. 5)
 - Citizenship by naturalization (art. 9)



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Nationality Law in Italy

- Naturalization
- Residence requirement
- Linguistic requirement
- Other conditions not enlisted in the law
- Discretion of the public administration





Nationality and security in Italy

- Debate about the opportunity of a radical modification of the nationality law
- Since 1992, more than 150 bills proposed at the Italian Parliament
- The only significant changes have been approved in 2009 and 2018
 - 2009: so-called security-package (law 94/2009)
 - 2018: so-called security-decree (law 132/2018)



Nationality and security in Italy

- Security-package (2009)
 - Citizenship by marriage more difficult
 - Amount of 200 euros for presenting the application for naturalization
- Security-decree (2018)
 - Increasing of the costs for the submission of the applications
 - Extension of the deadline for replying the applications



Nationality and security in Italy

- Before: only loss of citizenship, very rare and difficult to reach (art. 12)
- Now: revocation of citizenship (art. 10bis)
- Citizenship acquired by declaration, marriage and naturalization can be revoked in case of definitive conviction for the crimes of terrorism and subversion of the constitutional order





Nationality and security in Italy

- Doubts about the constitutionality of revocation
- Art. 22: the deprivation of citizenship, as well as of name and of legal capacity, for political reasons is prohibited
- Art. 3: Equality, reasonableness and proportionality
 - Equal situations must be treated in an equal way
 - Distinct situations must be treated in a reasonably distinct way
- Art. 117: the legislator must respect the international obligations



Conclusions

- Is it possible or reasonable to link citizenship and security?
- Citizenship as an award or as a mean of integration?
- Citizenship as a tool of exclusion-differentiation or citizenship as a way of inclusion-integration?



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Thank you for your attention

gmilani88@gmail.com

milani@unisi.it

