

EU Succession Regulation: First Decade of Application, Strengths, Challenges, Future Outlooks

(EUSuccess)

Project number: 101190611

JUST-2024-JCOO

Call for proposals for action grants to promote judicial cooperation in civil and criminal matters.

NATIONAL REPORT

ITALY

prepared by

Prof. Silvia Marino and Dr. Curzio Fossati

Deliverable No 2.3.



**Funded by
the European Union**

Funded by the European Union. Views and opinions expressed are however those of the authors only and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them.

Version 1: 29.10.2025

Dissemination Level: PU

Table of contents

INTRODUCTION	3
SUMMARY	3
SETTING THE SCENE	4
SUCCESSION CASES IN YOUR MEMBER STATE	4
STATE OF DIGITALISATION OF THE SUCCESSION PROCEEDINGS	5
METHODOLOGY OF THE RESEARCH	7
QUESTIONS.....	8
GENERAL	8
JURISDICTION.....	11
APPLICABLE LAW	15
AUTHENTIC INSTRUMENTS AND COURT SETTLEMENTS	20
RECOGNITION AND ENFORCEMENT OF JUDGEMENTS	21
EUROPEAN CERTIFICATE OF SUCCESSION	22
OTHER ASPECTS	24

Introduction

This National Report was prepared within the *EU Succession Regulation: First Decade of Application, Strengths, Challenges, Future Outlooks* (EUSuccess) project. EUSuccess is focused on the assessment of the practical functioning of the EU Succession Regulation¹ during the first decade of its application in selected Member States: Poland, Italy, Germany, Spain, Lithuania, Greece and Finland.² Each National Report was prepared on the basis of a detailed Questionnaire and thorough research into case-law of domestic courts in a given Member State. EUSuccess has a practical focus on law in action, however when needed the research of EUSuccess Team was supplemented by findings presented in the legal literature, decisions of domestic authorities other than courts, conclusions resulting from the case-law of the Court of Justice of the European Union (CJEU) and data collected during National Seminars aimed at the exchange of experiences with legal professionals.

Summary

The research carried out for this project has shed light on a substantial body of Italian case law relating to the application of the Succession Regulation, particularly rulings from lower courts (thanks to the recent release of the new database of the Ministry of Justice “Banca Dati di Merito”). A total of 172 decisions were identified: 120 were from courts that applied the Succession Regulation, while 48 mention it in order to exclude its application. Additionally, one judgment of the Supreme Court of Cassation applied the Succession Regulation, while three mention it to exclude its application.

The study has shown that, with only a few rare exceptions, Italian courts have generally applied the Succession Regulation correctly, in terms of its temporal, territorial, and material scope. They have adapted to its criteria, which differ significantly from those provided by the Italian private international law (in particular, the criterion of the deceased’s last habitual residence, which involves the analysis of the facts to establish the deceased’s economic, family, and social connections to a particular place). They generally have therefore smoothly applied the rules on jurisdiction (Article 4 – general jurisdiction, Article 10 – subsidiary jurisdiction, Article 6 – declining jurisdiction in case of choice of law), those on applicable law (Article 21 – general rule, Article 22 – choice of law, Article 26 – substantive validity of dispositions of property upon death, Article 34 – *renvoi*), and those on the recognition and enforcement of decisions (Article 39 *et seq.*).

Instead, due to the lack of databases, research into authentic legal instruments and European Certificates of Succession has been limited. However, numerous judgements addressed issues relating to the ECS, including general profiles (e.g., competence to issue, revoke, and rectify them and the conditions for issuance) and the relationship between this instrument and the

¹ Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, OJ L 201, 27.7.2012, p. 107–134. See also Commission Implementing Regulation (EU) No 1329/2014 of 9 December 2014 establishing the Forms referred to in Regulation (EU) No 650/2012 of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, OJ L 359, 16.12.2014, p. 30–84.

² National Reports on Poland, Italy, Germany, Spain, Lithuania, Greece and Finland can be found on EUSuccess website at <https://eusuccess.project.uj.edu.pl>.

certificate of succession provided for by a special regulation applicable in certain Italian territories where the land register system (“sistema tavolare”) is used.

Setting the scene

Succession cases in your Member State

Please describe shortly how the succession cases are dealt with in your MS. Which authorities are competent and to what extent? Is it possible to handle a succession case without recourse to any public authority? Which legal professionals (e.g. notaries, legal advisors, attorneys, tax authorities, land registrars, civil status registrars) and at which stage (planning, liquidating, recognizing foreign decisions, etc.) might interpret or apply the Succession Regulation? Which authorities and legal professionals are considered ‘courts’ within the meaning of Article 3(2) Succession Regulation? Are there any other authorities, which are not ‘courts’, but do intervene in succession matters? How do such authorities establish their jurisdiction? Please explain shortly which authorities in your MS are competent to issue an ECS? What kind of authentic instruments³ within the meaning of Article 3(1)(i) Succession Regulation may authorities of your MS produce? What are their effects?

Clerks (“cancellieri”) and notaries are competent to receive declarations of acceptance or waiver of a succession upon death. Indeed, under the Italian legal system, an inheritance is granted upon acceptance (see Articles 470 *et seq.* of the Civil Code), while a legacy is granted automatically unless waived by the beneficiary (Articles 649 *et seq.* C.C.). An inheritance can be accepted either expressly, through a declaration (Article 475 C.C.), or tacitly, by carrying out acts that are incompatible with waiving it, such as selling an asset included in the inheritance (Article 476 C.C.).

Judges (“giudici tutelari”) or notaries are competent to grant authorisation to the legal representative of minors or individuals lacking legal capacity to accept an inheritance on their behalf (see Article 374 C.C. and Article 21 of Legislative Decree No. 149/2022).

Public officials (“Conservatori dei registri immobiliari”) are responsible for maintaining land registers under the tax authority (“Agenzia delle Entrate”). They are tasked with transcribing acceptances of immovable property and rights *in rem*. These acts must be transcribed in the land register for the purpose of publicity (see Article 2648 and Article 2660 *et seq.* C.C.).

In districts covered by the special land register system known as “sistema tavolare” or “sistema del libro fondiario” (the provinces of Trieste, Gorizia, Trento and Bolzano, as well as parts of the provinces of Udine, Vicenza, Brescia and Belluno), the judicial authorities (“tribunali”) are responsible for issuing the certificate of inheritance, which confirms heir status or the acquisition of a right by legacy pursuant to Royal Decree No. 499/1929. The land registrar judge (“giudice tavolare”) is responsible for ordering the registration of the certificate in the land register for the transfer of real estate rights.

If a succession right is disputed, the heir can request judicial recognition of their hereditary status against anyone who possesses all or part of the heritable property under claim of heirship or without any kind of claim and obtain restitution of the inheritance assets (see Articles 533 *et seq.* C.C.). The competent authority is the court in the jurisdiction where the succession is

³ See case C-658/17 *WB* ECLI:EU:C:2019:444.

opened (see Article 22 of the Civil Procedure Code). The judicial authority is also competent in actions brought by legitimate heirs (“erediti legittimari”) who have been excluded from the estate or have received a smaller share than that reserved for them by law.

Pursuant to Article 32 of Law No. 161 of 2014, notaries are the Italian authorities competent to issue European Succession Certificates. They are also responsible for rectifying, revoking, modifying, or withdrawing the Certificate. The decisions made by notaries can be appealed in the court of their place of residence.

Applications for declarations of enforceability in accordance with Article 45(1) of the Succession Regulation are dealt with by the Courts of Appeal, which are also responsible for hearing appeals against decisions on such applications in accordance with Article 50(2). The Supreme Court of Cassation is competent to hear proceedings referred to in Article 51, in which decisions given on appeal are contested.

The European Commission has not published on the “e-Justice” portal information on the notification of judicial authorities or legal professionals who can be considered “courts” under Article 3(2) of the Succession Regulation (presumably because Italy has not carried out the notification referred to in Article 79 of the Succession Regulation). However, it is assumed that this definition only applies to judicial bodies, not notaries, since it is difficult to argue that they act under the delegation or control of the judicial authority, as required by Article 3(2) of the Regulation.

Notaries’ deeds and decrees issued by judges in non-contentious cases (including special proceedings before courts in districts with a land registry system, such as succession certificates under Royal Decree No. 499/1929) can be considered authentic instruments within the meaning of Article 3(1)(i) of the Succession Regulation. Their effects depend on the type of act (wills and succession certificates produce different effects and can be challenged in court if the notary states situations of fact that are evidently untrue).

State of digitalisation of the succession proceedings

Please explain briefly also the state of digitalisation of cross-border succession proceedings⁴ in your Member State. May parties or their representatives communicate with competent authorities by means of electronic communication? May they file applications / claims by means of electronic communication? Is service of documents by means of electronic communication possible? Do documents sent electronically have legal effects?

Proceedings concerning succession (including cross-border succession proceedings) falling within the jurisdiction of judicial authorities are subject to the rules on the digital civil process (“processo civile telematico” or “PCT”), introduced by Law No. 228 of 2012 and Law Decree No. 90 of 2014. Parties, with the assistance of a lawyer, can therefore submit their applications to the courts through the use of digital applications; the judicial offices create digital case files, that are accessible to the parties involved through their lawyers via digital applications. Private citizens with a registered email account can connect directly to the PCT platform to check the status of proceedings. The platform only shows anonymised data (without the personal details

⁴ See Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation PE/50/2023/REV/1 OJ L, 2023/2844, 27.12.2023.

of the parties involved), except for proceedings in which the user is a party. In this case, users must access the platform using their digital identity account (“SPID”).

The Ministry of Justice’s decree of 22 January 2024 (which rules on the electronic filing of procedural documents and records in voluntary jurisdiction proceedings) has been updated by the DGSIA (“Direzione Generale dei Servizi Telematici Automatizzati”), on 17 June 2025. The following requests relating to succession matters can now be submitted digitally: – appointment of a clerk or notary to proceed with the inventory of assets under Article 769 of the Italian Code of Civil Procedure; – authorisation to sell hereditary assets pursuant to Article 747 of the same Code; – extension of the deadline for drafting the inventory pursuant to Article 488 (2), of the Italian Civil Code. These new provisions will apply to cases filed on or after 1st July 2025 but will initially be limited to specific judicial offices (Courts of Catania, Catanzaro, L'Aquila, Marsala, Napoli–Nord, Trento, Verona, and Roma).

It is worth noting that documents transmitted via a certified email system have legal validity as long as they comply with Article 20 of the Digital Administration Code (CAD). A document meets the written form requirement and is given the legal effect of full proof until a complaint of falsification is filed, if it is affixed with a digital signature, or with another type of qualified electronic signature or advanced electronic signature, or is created after the digital identification of its author through a process that meets the requirements set out by AgID (the Agency for Italy's Digital Transformation) pursuant to Article 71 CAD, in a way that guarantees the security, integrity and immutability of the document, and clearly and unequivocally traces it back to the author. According to Article 22 CAD, electronic copies have the same evidentiary value of paper documents. This provision states that copies of public acts, private writings, and documents in general, including administrative acts and documents of any kind originally created on paper and sent or issued by authorised public depositories and public officials, have full legal effect pursuant to Articles 2714 and 2715 C.C. if they are created in accordance with Article 20 (1–bis) CAD. Their exhibition and production replace that of the original.

For duties falling within the competence of notaries, Legislative Decree No. 110 of 2010 explicitly allows for the creation of public deeds in an electronic form, alongside the traditional paper form. Notaries must be equipped to draft these digital deeds, ensuring their legal validity and integrity with the mandatory use of their own qualified electronic signature (“firma digitale”), issued by the National Council of Notaries (“Consiglio Nazionale del Notariato”). Furthermore, notaries must apply qualified electronic time stamps to digital documents. This provides legally valid proof of the exact date and time a document was created, signed, or modified, ensuring its temporal validity. Citizens have the right to choose whether to stipulate a deed in paper or digital form. For digital public deeds, the parties involved may also need to use their own electronic signatures. Notaries can attest to the conformity of digital copies of both paper and digital originals. This involves creating a digital copy (e.g., a PDF/A file) and digitally signing it, along with a declaration of conformity, to ensure its legal equivalence to the original. Notaries use a private network called “RUN – Rete Unitaria del Notariato” to digitally interact with various public administrations, such as the tax authority (“Agenzia delle Entrate”), for both digital and paper deeds. Article 4 of Law No. 307 of 1981 provides a list of wills that notaries must transmit to the General Register of Wills within 10 days of receiving them, including public, secret, and special wills. Pursuant to Article 5–bis of the same Act, notaries can submit wills to the Register digitally, following the procedure set out in Decree No. 170 of 2009.

Methodology of the research

Please explain briefly how the research for the purpose of the National Report was made. How was the case law collected? Is it publicly available? How many decisions/cases were identified? What kind of effects, if any, country specific framework had for data collection?

This National Report has been prepared through a case law research conducted using electronic databases. Decisions of first- and second-instance courts were retrieved from the “Banca Dati di Merito”, released by the Italian Ministry of Justice and freely accessible to everyone (authentication via the Italian digital identity “SPID” is required). Judgments of the Supreme Court of Cassation were collected from databases such as “Italggiure” or “DeJure”, which are accessible only to registered users on a paid basis. A total of 172 decisions were identified: 120 from first- and second-instance courts that apply the Succession Regulation, and 48 that mention it in order to exclude its application; one judgment of the Supreme Court of Cassation applies the Succession Regulation, and three judgments mention it to exclude its application.

The case law research has been combined with scholarly research, through the study of the most recent articles and essays on the matter of cross-border succession. The latest EU study results have also been considered, including the final report of the MAPE study (Monitoring and Evaluation of the European Regulation on Successions) by the Notaries of Europe.

Questions

General

1. Were there any doubts in your MS as to the scope of application⁵ (substantive– Article 1(1), temporal – Article 83(1), territorial – Recitals (82), (83)) Succession Regulation?

Regarding the substantive scope of application of the Succession Regulation, we highlight the following issues addressed by national case law.

The Supreme Court of Cassation, in judgment No. 18331/2019, clarified that the *mortis causa* nature of the transfer from the trustee to the final beneficiaries of the trust must be excluded. The death of the settlor has no causal relevance, as it only determines the moment of execution of the final allocation. Therefore, such transfers do not fall within the material scope of application of the Succession Regulation (Supreme Court of Cassation, Plenary Session, 12 July 2019, No. 18831/2019).

The Court of Appeal of Palermo, in judgment No. 1482/2023 of 29 August 2023, affirmed that, by virtue of the exclusion referred to in Article 1(g) of the Succession Regulation, concerning “*property rights, interests and assets created or transferred otherwise than by succession, for instance by way of gifts*”, the heads of jurisdiction provided for by the Regulation are not applicable to actions not strictly related to succession, such as those for the ascertainment of a simulated donation or for the ascertainment of the nullity of a concealed simulation (Court of Appeal of Palermo, 29 August 2023, No. 1482/2023).

For the same reason, the Court of Lucca, in judgment No. 682/2020, excluded that the action for the ascertainment of the simulation of a succession agreement falls within the material scope of application of the Succession Regulation (Court of Lucca, 8 July 2020, No. 628/2020) and the Court of Potenza, in judgment No. 1011/2023 excluded that the action for the ascertainment of the nullity of a donation due to the lack of formal requirements provided by the Civil Code fell within the scope of application of the Regulation (Court of Potenza, 1 August 2023, No. 1011/2023).

Regarding the temporal scope of application of the Succession Regulation, we identified 36 judgments from first-instance courts that declared the Regulation not applicable pursuant to Article 83(1), as in the case at issue, the deceased had died before 17 August 2015. Furthermore, the research noted two judgments in which the courts applied the Succession Regulation despite the deceased having died before that date, presumably due to a mistake (Court of Oristano, 3 March 2016, No. 207/2016; Court of Venezia, 16 January 2017, R.G. No. 8241/2016).

On the territorial scope of application, see the answer to the following question.

2. Are there any challenges caused by the fact that Ireland and Denmark (and the UK – before its withdrawal from the EU) are not applying the Succession Regulation?

The research identified only 5 rulings from first-instance courts that deemed the Succession Regulation inapplicable to disputes concerning the United Kingdom (Court of Perugia, 7 March 2022, No. 357/2022; Court of Milan, 23 October 2024, R.G. No. 9280–1/2024; Court of

⁵ See case C–98/24 *Koda* (pending), case C–618/24, *Isergartler* (pending).

Perugia, 16 November 2024, R.G. No. 5615/2024) and Denmark (Court of Messina, 4 May 2023, No. 857/2023).

However, these cases demonstrate that doubts remain over the universal application of the Succession Regulation. For example, the Courts of Messina and Milan deemed the Regulation inapplicable simply because the cases at stake had connections with States that are not bound by it (Denmark and the United Kingdom, respectively).

3. Are there any international agreements binding your MS, the application of which Succession Regulation ‘shall not affect’ (Article 75(1), Succession Regulation)? Were there any challenges caused by the interplay between international agreements and the Succession Regulation (Article 75(1), Article 75(3) Succession Regulation)⁶? Please outline the main problematic issues briefly.

The most relevant international agreement which prevails over the Succession Regulation pursuant to Article 75 (1) is the Treaty on Domicile and Consular Matters between Switzerland and Italy, concluded on 22 July 1868, which in Article 17 establishes that disputes relating to the succession of an Italian or Swiss citizen, who died in one of the two contracting States, and any arising between their heirs, legatees and other interested parties, fall within the jurisdiction of the Court in which the deceased was last domiciled in their country of origin. The research identified 4 judgments in which this Treaty was applied over the Succession Regulation in accordance with Article 75(1) (see Court of Pistoia, 12 April 2021, R.G. No. 424/2021; Supreme Court of Cassation, Second division, 3 January 2024, No. 121/2024; Court of Padova, 6 December 2024, No. 1902/2024; Court of Milan, 4 June 2025, No. 4562/2025).

Italy is actively involved in international cooperation in matters of succession, although Italian courts have not had the opportunity to apply other conventions in this field (the list of these conventions can be found under: https://www.giustizia.it/giustizia/it/mg_1_3.page

Their effectiveness must always be assessed in accordance with Article 351 of the Treaty on the Functioning of the European Union (TFEU).

4. Were there instances in your MS where the notion of ‘habitual residence of the deceased at the time of death’⁷ was interpreted for the purpose of the application of the Succession Regulation? What factors were considered? Are there any factors to which more weight is given than to the others? Is this expression understood the same way as for the purpose of establishing jurisdiction and designating applicable law? Please outline the main problematic issues briefly?

The Court of Lodi, in judgment No. 425/2020, ascertained the existence of the deceased’s habitual residence in Italy at the time of death, rather than in Portugal, as was debated in the case, giving weight to the following elements: the deceased did not speak Portuguese, was buried in the family tomb in Italy, most of his relatives resided in Italy, carried out his professional and artistic activities in Italy, received his pension in an Italian bank account, and most of his assets were located in Italy. Conversely, the Court deemed irrelevant the certificate of residence and the European Succession Certificate submitted as evidence during the

⁶ See case C–21/22 *OP* ECLI:EU:C:2023:766.

⁷ See case C–80/19 *EE* ECLI:EU:C:2020:569.

proceeding, which attested to the deceased's residence in Portugal, as well as the declaration contained in the deceased's will stating that his residence was in Portugal. The Court used the same ascertainment of the habitual residence of the deceased both for the purpose of determining jurisdiction and establishing applicable law (Court of Lodi, 9 October 2020, No. 425/2020).

Similarly, the Court of Frosinone, in judgment No. 222/2021, ascertained the deceased's habitual residence in Italy rather than in Belgium, the State where he died and where the plaintiffs claimed he had lived with his partner. The Court took into account that the deceased at the time of his death, in Italy, he had his registered residence (and at that address, a furnished flat with active utilities), current accounts with positive balances, his entire real estate patrimony, carried out his professional activity, and was buried (Court of Frosinone, 2 March 2021, No. 222/2021; it's worth nothing that it was an interim judgment that ascertained jurisdiction only).

The Court of Catanzaro, in judgment No. 1356/2022, ascertained that the deceased, an American and Italian citizen, had established her habitual residence in the United States for over fifty years, deeming irrelevant the generic close connection with her land of origin and periods of stay in Italy for holidays or visits to relatives, for the purposes of applying the exception of the manifestly closer connection referred to in Article 22(2) of the Succession Regulation (Court of Catanzaro, 23 September 2022, No. 1356/2022).

The Court of Lecco, in three different judgments on the same case, for the purpose of identifying the applicable law and jurisdiction, ascertained the deceased's habitual residence in Portugal, based on the following elements: he had transferred his registered residence there, had spent most of his last years of life there, returning to Italy only during summer holidays, he had transferred his financial assets there, received his pension and paid taxes there, he had purchased the property where he resided, had received medical care there until his death, and his body was cremated there. The Court deemed it irrelevant that his children and grandchildren were in Italy, that the most substantial part of the deceased's real estate was located in Italy, and that he had moved to Portugal for economic reasons (Court of Lecco, 29 September 2022, R.G. No. 820/2022 ; see also on the same case Court of Lecco, 30 March 2023, No. 209/2023; Court of Lecco, 9 January 2024, No. 8/2024).

The Court of Spoleto, in its decision of 21 March 2023, had ascertained that the deceased had her last habitual residence in Italy, having been registered in the registry office of Massa Martana (Spoleto) until November 2018, deeming it irrelevant that from that date for two years (until death) she had moved to a hotel in Bali, Indonesia (Court of Spoleto, 21 March 2023, R.G. No. 2384/2022). The Court of Appeal of Perugia, in its decision of 9 June 2023, reformed the first instance judgment, affirming that the stable connection with the Italian State ceased following the deceased's establishment in Indonesia, resulting in a lack of jurisdiction of the Italian Court (Court of Appeal of Perugia, 9 June 2023, R.G. No. 153/2023).

The Court of Piacenza, in judgment No. 325/2023, held that the deceased was habitually resident in Croatia at the time of death, giving weight to the following circumstances: ownership of a property in Croatia; cancellation of registration in the civil register of the Municipality of Travo (Piacenza); a lifelong maintenance contract in favour of his daughter, stipulated in Croatia before a Croatian notary; numerous hospitalisations in a Croatian hospital; opening of the succession proceedings in Croatia, and a pending case, before a Croatian court, between the present parties to the case, concerning the validity of the aforementioned maintenance contract (Court of Piacenza, 30 May 2023, No. 325/2023).

The Court of Messina, in judgment No. 1220/2024, affirmed that the deceased was habitually resident in Greece rather than in Italy, giving weight to elements such as Greek citizenship and registered residence in Corfu, where he cohabited with his wife. Conversely, the Court deemed irrelevant that he owned two properties in Messina (having been acquired by succession) and that he held a bank account there (Court of Messina, 14 May 2024, No. 1220/2024).

The Court of Brescia, in judgment No. 2445/2024, held that the last habitual residence of the deceased, a Dutch citizen who died in 2019 in Brescia, was in the Netherlands because he had decided to move there in the last year of his life to undergo medical treatment, and because he had left most of his assets in that country (Court of Brescia, 10 June 2024, No. 2445/2024).

The Court of Matera, in judgment No. 607/2024, for the purpose of identifying the applicable law and jurisdiction considered that the deceased, an Italian citizen with registered residence in Italy, was habitually resident in Germany, because in that State he had lived for years with a woman whom he had also appointed as a fiduciary for healthcare treatments, had opened a bank account to which his pension was credited, and was registered with a political party (Court of Matera, 12 July 2024, No. 607/2024).

The Court of Spoleto, in its ruling of 3 October 2024, held that the deceased, despite having registered residence in Italy, was habitually resident in the USA at the time of death because she had never carried out professional activities in Italy, was co-owner with her husband of two properties in Italy as well as two in the United States, had obtained U.S. citizenship, and possessed a motor vehicle and health insurance in USA. Conversely, it was deemed irrelevant that she had expressed the intention to settle in Italy many years before her death (Court of Spoleto, 3 October 2024, R.G. No. 831/2024).

The above-mentioned cases demonstrate that Italian courts correctly apply the concept of the habitual residence of the deceased, particularly thanks to the guidance provided by Recital No. 23 of the Succession Regulation, which is frequently referenced in the judgments. In the analysed judgments, the Italian courts conducted a thorough assessment of the deceased's last habitual residence, verifying their main family ties and economic connections, such as professional activities, bank accounts, and location of assets.

5. Are there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to the application of the Succession Regulation, and therefore, should be signaled within the National Report?

No

Jurisdiction

6. Are you aware of any doubts / challenges to the application of the rules on jurisdiction of the Succession Regulation in your MS⁸? Are there any voices suggesting any amendments to these rules?

Italian legal scholars have noted that the rules on jurisdiction provided for in the Succession Regulation do not comply with the good legislative drafting techniques set out in the Joint Practical Guide for those involved in drafting European Union legislation (approved in 2000 and amended in 2013), based on the principles of clarity, simplicity, and precision. In fact, Articles 5, 6(b) and 7(a)(b) reiterate the same rules with regard to the choice-of-court, simply

⁸ See case C-20/17 *Oberle* ECLI:EU:C:2018:485.

changing the perspective: that of the parties, the court seized, and the court of the State whose law has been chosen to govern the succession (Ilaria Queirolo, ‘Drafting normativo e competenza giurisdizionale nel regolamento (UE) n. 650/2012 in materia di successioni mortis causa’ (2018) 54 Rivista di diritto internazionale privato e processuale 870).

7. Were there instances in your MS where the court or another authority established its jurisdiction based on Article 10(1) Succession Regulation⁹, namely on the basis of location of assets and nationality or previous habitual residence? What were the assets and what was their value? Were there any doubts or challenges to the application of these provisions in practice?

The Court of Brescia, in judgment No. 2574/2021, applied Article 10(1)(a) of the Succession Regulation in a case where the deceased was habitually resident in a non-EU Member State (Brazil), but had Italian citizenship. The judgment refers to the deceased’s assets located in Italy, composed of real estate properties, securities, company shares, and bank deposits, but does not indicate its value, as it is a partial judgment, deciding only the issue of jurisdiction (Court of Brescia, 20 October 2021, No. 2574/2021; see also Court of Appeal of Brescia, 13 June 2023, No. 1010/2023, in which the Court of Appeal confirmed but clarified the judgment of the first-instance court).

The Court of Treviso, in judgment No. 252/2024, applied the same provision in a case where the deceased, habitually resident in the Democratic Republic of Congo at the time of death, was an Italian citizen. In that case, the deceased’s estate consisted essentially of two properties: a flat in Italy and one in the Democratic Republic of Congo; their value had not yet been ascertained by the Court because the judgment only decided the preliminary issues of jurisdiction and applicable law (Court of Treviso, 6 February 2024, No. 252/2024).

8. Were there instances in your MS where the court or another authority established its jurisdiction based on Article 10(2) Succession Regulation, namely on the basis of the location of assets / asset? What were the assets / asset and what was their / its value? Were there any doubts or challenges to the application of this provision in practice?

The Court of Como, in judgment No. 906/2024, applied Article 10(2) of the Succession Regulation in a case where the deceased was habitually resident in the United Kingdom at the time of death, but some of the properties included in his estate were located in Italy (specifically three properties, whose value, however, was not indicated). The Court therefore affirmed its jurisdiction limited to the deceased’s properties located in Italy (Court of Como, 25 July 2024, No. 906/2024).

The Court of Spoleto, in a decision delivered on 3 October 2024, applied Article 10(2) of the Succession Regulation to a case where the deceased was a U.S. citizen, habitually resident in the USA at the time of death, but the disputed asset in the proceedings was located in Italy (it was a real estate property, but its value was not indicated). It is worth noting that a provisional measure was at stake, but Article 19 of the Succession Regulation did not apply because a court of a non-member State had jurisdiction over the substance of the matter (Court of Spoleto, 3 October 2024, R.G. No. 831/2024).

⁹ See case C-645/20 VA, ZA, ECLI:EU:C:2022:267, case C-55/23 *Jurtukala* ECLI:EU:C:2023:599, case 291/23 *Hantoch*, ECLI:EU:C:2024:938.

9. Were there instances in your MS where the court exercised jurisdiction or declined jurisdiction based on one of the mechanisms provided for in Articles 5 – 9 Succession Regulation?¹⁰ If yes, could you please explain which mechanism was used and whether there were any doubts or challenges to their application in practice?

The Supreme Court of Cassation, in judgment No. 10107/2021, declared inadmissible the appeal filed against a decree of the Court of Appeal of Florence, which confirmed the first instance judgment that applied Article 6(1)(a) of the Succession Regulation, declining jurisdiction in favor of the Dutch courts in a case where the deceased was habitually resident in Italy. The judge based the decision on the fact that the defendant had requested that jurisdiction be declined in favor of the Dutch courts, and that these courts are better placed to rule on the succession because: – the inheritance had been accepted in the Netherlands; – the will was drafted in Dutch; – the most valuable assets of the estate were located in the Netherlands (as well as in Italy); – a related tax claim was pending with the Dutch tax authority; – the European Succession Certificate was issued in the Netherlands; – the inheritance's issues were particularly complex (Supreme Court of Cassation, Plenary Session, 16 April 2021, No. 10107/2021; Court of Appeal of Florence, 29 July 2019, R.G. No. 822/2018; Court of Florence, 5 December 2018, R.G. No. 4122/2018).

10. Were there cases in your MS where the court exercised jurisdiction based on Article 11 Succession Regulation on *forum necessitatis*? If yes, what were the reasons justifying the need of exercising jurisdiction? What circumstances were considered to justify the sufficient connection with your MS?

No

11. Were there cases in your MS where the court limited its jurisdiction based on Article 12 Succession Regulation? If yes, please explain which third state was considered and how the need of limiting jurisdiction was justified?

In judgment No. 7833/2024, the Court of Milan, in a case where the deceased was habitually resident in Ukraine at the time of death, despite deeming the requirements for the application of the subsidiary heads of jurisdiction under Article 10(1)(a) of the Succession Regulation to be met (as the deceased was an Italian citizen and had left assets in Italy), applied Article 12 at the defendant's request. The judge observed, in fact, that the estate also included assets in third States (Switzerland and Ukraine) and justified abstaining from jurisdiction over assets other than those located in Italy with the fact that the Swiss Confederation might not recognize a judgment issued by the Italian Judicial Authority concerning the entire succession and, therefore, also regarding assets not located in Italy, in application of Articles 86 and 96 of Swiss private international law (Court of Milan, 3 September 2024, No. 7833/2024).

12. Are courts in your MS competent to receive a declaration mentioned in Article 13 Succession Regulation (namely, 'a declaration concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or a declaration designed to limit the liability of the person concerned in respect of the liabilities under the succession')? Are any other authorities competent to receive such declarations (for example, notaries)? Are you aware of any challenges related

¹⁰ See case C-422/20 *RK* ECLI:EU:C:2021:718.

to making such declarations in your MS¹¹ is cases where jurisdiction in succession matters was with the courts of another MS?

Under the Italian legal system, an inheritance is granted upon declaration of acceptance (see Articles 470 *et seq.* C.C.), while a legacy is granted automatically unless waived by the beneficiary (Articles 649 *et seq.* C.C.). An inheritance can be accepted expressly, through a declaration, under Article 475 C.C., or tacitly, by carrying out acts that are incompatible with waiving it, such as selling a good included in the inheritance, under Article 476 C.C. Clerks (“cancellieri”) and notaries in the jurisdiction where the succession is opened are authorised to receive declarations of acceptance or waiver. Acceptance of immovable property and rights *in rem* must be transcribed in the land registers by the competent authority (“Agenzia delle Entrate – conservatoria dei registri immobiliari”) pursuant to Article 2648 and Articles 2660 *et seq.* C.C., but this transcription has no substantive effect and is required only for the purpose of publicity.

Pursuant to Article 471 C.C., minors and people under legal incapacity can only accept an inheritance with the benefit of an inventory. For this purpose, their legal representative (parents or tutors) must be authorised by a judge or notary (see art. 374 C.C. and Article 21 of Legislative decree No. 149 of 2022).

A special regime exists in the Italian districts covered by the special land register system (“sistema tavolare”). Pursuant to Royal Decree No. 499 of 1929, in those districts, the registration of real estate rights in the land register can only occur by presenting a specific certificate of inheritance issued by the Court where the succession is opened to the land register judge (“giudice tavolare”). This certificate states the status of heir or the acquisition of a right by a legacy.

13. Are you aware of any challenges in your MS when it comes to accepting a declaration mentioned in Article 13 Succession Regulation (namely, ‘a declaration concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or a declaration designed to limit the liability of the person concerned in respect of the liabilities under the succession’) made in other MSs?

The Court of Monza, in a case where Romanian law was applicable as the law of the State of the deceased’s last habitual residence, held the declarations of waiver of the succession made by two of the deceased’s heirs to be ineffective, as they were not made before a judge or a notary (Court of Monza, 28 September 2021, R.G. No. 3430/2019).

14. Are there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to jurisdictional rules of the Succession Regulation, and therefore, should be signaled within the National Report?

No

¹¹ See case C–57/24 *Lawida* ECLI:EU:C:2025:217.

15. Are you aware of any doubts / challenges to the application of the rules on applicable law of the Succession Regulation in your MS? Are there any voices suggesting any amendments to these rules?

We are not aware of particular doubts or challenges regarding the application of the Succession Regulation in Italy, nor of any suggestions for amending it. However, we can observe that the criteria set out in the Regulation differ from those provided by Italian private international law No. 218 of 1995. Nevertheless, Italian courts are not facing particular problems with the new criteria, as demonstrated by the case law analysed above relating to the connecting factor of habitual residence (for an Italian academic perspective on the criterion of habitual residence in the Succession Regulation, see Jacopo Re, ‘Where Did They Live? Habitual Residence in the Succession Regulation’ (2018) 54 *Rivista di diritto internazionale private e processuale* 994).

16. Were there cases where the escape clause of Article 21(2) Succession Regulation was applied? If yes, please explain which laws were considered and what circumstances of the case were considered to justify that the deceased was manifestly more closely connected with another law?

No

17. Were there instances of doubts as to choice of applicable law under Article 22 Succession Regulation? Were there instances where a tacit choice (‘demonstrated by the terms of a disposition of property upon death’) within the meaning of Article 22(2) Succession Regulation was identified?

The Court of Catanzaro, in judgment No. 1356/2022, qualified as a tacit choice of Californian law applicable to the succession pursuant to Article 22(2) of the Succession Regulation, the wording contained in the deceased’s will stating: “*my residuary estate be distributed to ... of Catanzaro, Italy. If such beneficiary does not survive me, my residuary estate shall be distributed to my heirs-at-law, their identities and respective shares to be determined under the law of the State of California*” (Court of Catanzaro, 23 September 2022, No. 1356/2022).

In judgment No. 313/2023, the Court of Bergamo ruled that a valid *professio iuris* had been made in favor of German law pursuant to Article 22(2) of the Succession Regulation within the joint will of two German spouses residing in Italy. This was inferred solely from the fact that the spouses had chosen to draft the will according to the model of the “Berlin Will”, which is provided for by the German legal system but is prohibited by Italian law (Court of Bergamo, 15 February 2023, No. 313/2023).

In its decision of 6 June 2023, the Court of Vicenza held Spanish law to be applicable to the interim proceedings submitted, due to the deceased’s (a Spanish citizen, habitually resident in Spain at the time of death) express choice of law made in the will pursuant to Article 22(1) of the Succession Regulation (Court of Vicenza, 6 June 2023, R.G. No. 1070/2023).

In judgment No. 906/2024, the Court of Como ruled that the law of England and Wales applied to the case at stake. The deceased was a UK citizen with last habitual residence in the UK and had expressly chosen this law in his will (Court of Como, 25 July 2024, No. 906/2024).

In judgment No. 1142/2025, where it was ascertained that the Italian courts lacked jurisdiction as the deceased’s last habitual residence was in Portugal, the deceased had expressly chosen

Italian law to govern the succession in his will, pursuant to Article 22(1) of the Succession Regulation (Court of Milan, 10 February 2025, No. 1142/2025).

The Court of Appeal of Genoa excluded that a choice of German law as the law applicable to the succession could be inferred from the declaration contained in the deceased's will, "*I have been informed by the Notary... of the fundamental notions on intestate succession in Germany*" [author's translation], not deeming it either an explicit or a tacit choice, as it did not unequivocally result from the aforementioned provision of the will (Court of Appeal of Genova, 30 June 2025, R.G. No. 229/2024).

18. Were there any instances where the substantive validity of a choice of applicable law was discussed? What was the exact doubt?

In the aforementioned judgment of the Court of Bergamo concerning the "Berlin Will" (No. 313/2023), the Court ruled that the (implicit) choice of the applicable law was legally exercised, given the validity and effectiveness of the will under German law (the implicitly chosen law). In particular, the Court observed that the will was fully compliant with the formal requirements for a joint holographic will, being written by hand by the deceased and bore the date, place, signature, and the declaration of the other spouse "this is also my will" [author's translation] accompanied by his full name, place, date, and signature (Tribunale di Bergamo, 15 February 2023, No. 313/2023).

19. Were there any instances where the modification / revocation of a choice of applicable law within the meaning of Article 22(4) Succession Regulation was discussed?

No

20. Are there any doubts in your MS as to which matters are governed by the law applicable to succession (*lex successionis*)? Are there any doubts in delineating the scope of the law applicable to succession (*lex successionis*) and other matters¹² (for example, law applicable to rights *in rem*, law applicable to matrimonial property regimes, legal capacity)?

In a case where the applicable law pursuant to Article 21(1) of the Succession Regulation was Swiss law, as the deceased's last habitual residence was in Switzerland, the Court of Genova verified whether that law also governed the administration of the deceased's estate. The Court confirmed that Article 23 of the Succession Regulation covers "*the powers of the heirs, executors of wills, and other administrators of the estate*", thereby also regulating the appointment of such administrators. The Court then specified that, in this case, Article 29 of the Succession Regulation (which allows for the application of the *lex fori* to the appointment of estate administrators when the law of the forum requires such an appointment) was not applicable as the Italian legal system does not require the mandatory appointment of estate administrators (Court of Genova, 22 December 2020, R.G. No. 4355/2020; Court of Appeal of Genova, 10 May 2021, R.G. No. 5/2021, confirming the first-instance ruling).

The Court of Bologna, in a case concerning the authorization of a child to waive a succession where German law was applicable, specified that, according to Article 23 of the Succession Regulation, the law applicable to the succession also governs, among other aspects, "*the*

¹² See case C-218/16 *Kubicka* ECLI:EU:C:2017:755, case C-558/16 *Mankopff* ECLI:EU:C:2018:138.

transfer to the heirs... rights and obligations forming part of the estate, including the conditions and effects of the acceptance or waiver of the succession... liability for the debts under the succession” (Court of Bologna, 29 May 2025, R.G. No. 5929/2025).

The Court of Perugia – in a case concerning an interim measure requested by the deceased’s spouse who complained about the infringement of her reserved share (“*quota di legittima*”) by the deceased (who had left all his assets solely to his children) – having deemed Italian law applicable pursuant to Article 22(1) of the Succession Regulation, specified that, according to Article 23, this law also governs “*the disposable part of the estate, the reserved shares and other restrictions on the disposal of property upon death as well as claims which persons close to the deceased may have against the estate or the heirs*” (Court of Perugia, 30 June 2025, R.G. No. 1609/2025).

21. Were there cases concerning a choice of law made prior to 17 August 2015, which triggered application of Article 83(2) Succession Regulation?

No

22. Were there instances in which Article 83(4) Succession Regulation was applied¹³ (and the law in accordance with which ‘a disposition of property upon death was made prior to 17 August 2015’ and ‘which the deceased could have chosen in accordance with this Regulation’ was found to ‘have been chosen as the law applicable to the succession’)? How was the requirement of being made ‘in accordance’ with the given law understood?

In its decision of 2 May 2022, the Court of Messina applied Article 23(4) to a case involving a Greek and English citizen who had drawn up the will prior to 17 August 2015. According to the Court, English law should be applied to the succession because the deceased could have chosen it under the Succession Regulation (as the law of one of the two States of which the deceased was a citizen pursuant to Article 22(1)) and, having appointed his wife as sole heir, the choice of English law rather than Greek law could be considered implicit, as only the former does not provide for reserved shares in favor of the deceased’s children (Court of Messina, 2 May 2022, R.G. No. 4509/2021).

23. Were there instances where Article 83(3) Succession Regulation concerning the validity of a disposition of property upon death made prior to 17 August 2015 was applied? Please elaborate?

No

24. Were there any cases in your MS concerning the ‘substantive validity’ of a disposition of property upon death within the meaning of Article 26 Succession Regulation and Articles 24–25 Succession Regulation? Where there any doubts as to the designation of applicable law for this purpose or with respect to the notions of ‘admissibility’, ‘substantive validity’, ‘binding effects between the parties’ or ‘conditions of its dissolution’?

In judgment No. 930/2020, the Court of Appeal of Genova ruled that Italian law applied to the assessment of the capacity of the deceased to make the disposition of property upon death, pursuant to Articles 26(1) and 24. Had the deceased died on the date of the will (8 August 2012),

¹³ See case C–80/19 *EE* ECLI:EU:C:2020:569.

Italian law would have applied, as the Succession Regulation came into force on 17 August 2015. Until that date, Article 46(1) of Italian Law No. 218 of 1995 was applicable, which states that “*succession upon death is governed by the national law of the deceased at the time of his death*” [author’s translation] (Court of Appeal of Genova, 6 September 2022, No. 930/2022).

This case shows that there are some doubts concerning the application of Articles 24 and 26(1) of the Succession Regulation. It is unclear whether it is necessary to apply national private international law to determine the capacity of a person to make a disposition of property upon death, when the Regulation had not yet entered into force at the time the disposition was made.

25. Were there any doubts as to the delineation of ‘substantive validity’ and ‘formal validity’?

No

26. Were there any challenges to the application of Article 28 on validity as to form of ‘a declaration concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or a declaration designed to limit the liability of the person making the declaration’?

No

27. Is there an institution of an administrator whose appointment is mandatory or mandatory upon request in your MS within the meaning of Article 29 Succession Regulation? Were there instances where foreign applicable law (*lex successionis*) interfered with the powers of administrator exercised under the law of the forum?

In a case where the applicable law pursuant to Article 21(1) of the Succession Regulation was Swiss law, as the deceased’s last habitual residence was in Switzerland, the Court of Genoa verified whether that law also governed the administration of the deceased’s estate. The Court confirmed that Article 23 of the Succession Regulation covers “*the powers of the heirs, executors of wills, and other administrators of the estate*”, thereby also regulating the appointment of such administrators. The Court then specified that, in this case, Article 29 of the Regulation (which allows for the application of the *lex fori* to the appointment of estate administrators when the law of the forum requires such an appointment) was not applicable as the Italian legal system does not require the mandatory appointment of estate administrators (Court of Genova, 22 December 2020, R.G. No. 4355/2020; Court of Appeal of Genova, 10 May 2021, R.G. No. 5/2021 confirmed the first–instance ruling).

28. Were there cases where the *renvoi* provided for in Article 34 Succession Regulation operated? If yes, please explain the laws of which states were considered? Is partial *renvoi* possible?

In the decision of 22 December 2020, the Court of Genoa applied Swiss law through the application of Articles 21(1) and 34 of the Succession Regulation as the deceased’s last habitual residence was in Switzerland. Article 90 of the Swiss Private International Law Act states that the succession of a person who had the last domicile in Switzerland is governed by Swiss law, thus making a reference to Swiss substantive law (Court of Genova, 22 December 2020, R.G. No. 4355/2020).

In judgment No. 1356/2022, the Court of Catanzaro first held USA law to be applicable as long as the deceased's last habitual residence was in the USA. Subsequently, the Court applied Article 34 of the Succession Regulation and held that Italian law applied to real estate properties located in Italy, since US law adopts the criterion of the *lex rei sitae* for such assets. However, US law applies to all other assets (Court of Catanzaro, 23 September 2022, No. 1356/2022; see also Court of Lagonegro, 5 April 2024, No. 225/2024).

In judgment No. 906/2024, the Court of Como, after ascertaining that the deceased had chosen the law of England and Wales as the applicable law in his will, affirmed that the substantive law of those countries should apply, because Article 34(2) of the Succession Regulation excludes *renvoi*, among various hypotheses, in the case of choice of law pursuant to Article 22 (Court of Como, 25 July 2024, No. 906/2024).

29. Were there cases where the rule on *commorientes* of Article 32 Succession Regulation was applied? If yes, please describe.

No

30. Were there cases where the rule on estate without claimant of Article 33 Succession Regulation was applied? If yes, please describe.

No

31. Were there cases in your MS, in which certain provisions of the law of your MS or another state were qualified as special rules mentioned in Article 30 Succession Regulation (namely as 'special rules which, for economic, family or social considerations, impose restrictions concerning or affecting the succession' in respect of certain specific assets, which 'are applicable irrespective of the law applicable to the succession')? If yes, please describe which rules and relating to what kind of assets were considered? How did the court establish that these rules are indeed applicable irrespective of applicable law?

No

32. Were there cases in your MS in which an adaptation of a foreign right *in rem* was performed in accordance with Article 31 Succession Regulation? Please provide details of such adaptation. What was the original right and what was the equivalent?

No

33. Were there instances in your MS where the public policy clause of Article 35 Succession Regulation was applied or considered but not applied? If yes, please describe the context of the case and the reasoning of the court.

No

34. Were there instances in your MS where 'mechanisms designed to tackle the evasion of the law, such as fraude à la loi' were applied as suggested in Recital (26) Succession Regulation? If yes, please explain the circumstances and outcome of this application?

No

35. Were there instances where the rules on territorial conflict of laws (Article 36) or inter-personal conflict of laws (Article 37) were applied in your MS? Were there any doubts / challenges to their application? Please elaborate.

No

36. Does your MS comprise several territorial units each of which has its own rules of law in respect of succession within the meaning of Article 38 Succession Regulation? If yes, are domestic rules or the Succession Regulation applied to resolve conflicts of laws arising between such units? Please explain.

No

37. Are there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to the rules on applicable law of the Succession Regulation, and therefore, should be signaled within the National Report?

No

Authentic Instruments and Court Settlements

38. Are you aware of any doubts / challenges to the application of the rules on Authentic Instruments and Court Settlements of the Succession Regulation in your MS? Are there any voices suggesting any amendments to these rules?

Research on this topic is challenging because there are no databases of authentic acts. References can be made to judgments that have ruled on cases involving public deeds, which limits the scope of the research.

39. Are you aware of any challenges to the use of authentic instruments produced in your MS in another MS?

The cases analysed demonstrate that Italian courts tend to consider public documents issued by the authorities of other Member States as having the same legal effects as those issued by national authorities.

40. Are you aware of any challenges to the use in your MS of authentic instruments within the meaning of Article 3(1)(i) Succession Regulation, which were produced in another MS?

We are aware that there may be some uncertainty regarding the types of acts covered by Article 59 of the Succession Regulation, particularly with regard to proxies. It is doubtful whether a proxy empowering a person to waive succession is covered by the Succession Regulation, given that proxies are not drafted as authentic acts in some Member States, whereas this formal requirement is mandatory in others. One possible improvement to the Succession Regulation would be to include a non-limitative list of authentic acts falling under Article 59 (see the Notaries of Europe's MAPE – Monitoring and Evaluation of the European Regulation on Successions final study, 47).

41. Were there any challenges to the enforcement in your MS of a foreign court settlement under Article 61 Succession Regulation?

No

42. Were there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to circulation of authentic instruments and court settlements under the Succession Regulation, and therefore, should be signaled within the National Report?

No

Recognition and Enforcement of Judgements

43. Were there cases in your MS, in which the rules on recognition and enforcement caused doubts / were analyzed and discussed?

In the decision No. 207/2010, the Court of Oristano applied Article 39 of the Succession Regulation to a judgment issued by a German court that had declared a will invalid. The Sardinian Court ruled that, under this provision, the judgment automatically produces effects in the Italian legal system, which led to the will being declared invalid and the succession being passed on to the deceased's legal heirs (Court of Oristano, 3 March 2016, No. 207/2016).

On 24 November 2017, the Court of Salerno rejected a lawyer's requests for the recognition of certain foreign judgments issued in Germany. The lawyer based the requests on the fact that he was a professional registered on the list of lawyers with knowledge of the German language, and thus a potential curator of the interests of German citizens in Italy. According to the Court, this circumstance did not allow for either autonomous standing or a concrete and current interest to be recognised, as there was no reference to a specific legal proceeding. Consequently, the prerequisites for obtaining a declaration of recognition of the judgments pursuant to Article 39(2) of the Succession Regulation were not met (Court of Appeal of Salerno, 24 November 2017, R.G. No. 963/2017, 885/2017, 891/2017, 905/2017, 930/2017, 864/2017, 906/2017).

In judgment No. 257/2025, the Court of Turin incidentally ascertained a person's status as an heir in accordance with a judgment issued by the Court of Bielsko-Biała (Poland). The Italian Court affirmed that, pursuant to Article 74 of the Succession Regulation, no legalisation or other formalities were necessary for the judgment to take effect in Italy for the judgment to produce effect in Italy (Court of Turin, 16 January 2025, No. 257/2025).

44. Were there any cases in your MS, in which a decision on succession matters originating from another MS faced refusal of recognition / enforcement? If yes, please provide details.

No

45. Does the Succession Regulation have any influence on the recognition and enforcement of decisions coming from third states (for example, when it comes to the assessment of indirect jurisdiction of the foreign court)?

The Court of Appeal of Sassari ruled on the recognition in Italy of a judgment issued by the *Tribunal de Première Instance* of Geneva declaring the liquidation of the estate of an Italian citizen who was habitually resident in Switzerland at the time of his death. The Sardinian Court

applied Article 64 of the Italian private international Law No. 218 of 1995, affirming that the Swiss judgment met all the requirements provided by that provision to be recognized in Italy. With regard to the requirement under Article 64(a), according to which “*the court that pronounced it could have heard the case according to the principles on jurisdictional competence of the Italian legal system*” [author’s translation], it affirmed that in the case at stake, the Court of Geneva should be considered competent because, in matters of succession, the applicable law is that of the State in which the deceased had habitual residence at the time of death, pursuant to Article 21 of the Succession Regulation in derogation of what is established by Article 46 Law No. 218 of 1995 (Court of Appeal of Cagliari, division of Sassari, 5 July 2023, R.G. No. 495/2023; it is worth noting that the Court wrongly referred to Article 21 of the Regulation instead of Article 4).

46. Are there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to the recognition and enforcement of judgements under the Succession Regulation, and therefore, should be signaled within the National Report?

No

European Certificate of Succession

47. Were there any doubts or challenges with respect to the issuance / use of an ECS¹⁴ in your MS?

The Court of Trieste, decree of 8 May 2019, noted a conflict between the provisions of the Succession Regulation on the ECS and an Italian regulation applicable in territories where the so-called “sistema tavolare” is used to register real estate rights. On the one hand, Article 62(3) of the Succession Regulation provides that “*the Certificate shall not take the place of internal documents used for similar purposes in the Member States. However, once issued for use in another Member State, the Certificate shall also produce the effects listed in Article 69 in the Member State whose authorities issued it in accordance with this Chapter*” (i.e. Chapter VI of the Regulation) and pursuant to Article 69, the Certificate shall be presumed to accurately demonstrate elements which have been established under the law applicable to the succession or under any other law applicable to specific elements. The person mentioned in the Certificate as the heir, legatee, executor of the will or administrator of the estate shall be presumed to have the *status* mentioned in the Certificate and/or to hold the rights or the powers stated in the Certificate, with no conditions and/or restrictions being attached to those rights or powers other than those stated in the Certificate. On the other hand, Article 32(3) Law No. 161 of 2014 provides that in territories where the land register system (“sistema del libro fondiario o tavolare”) is in force, the provisions of Title II of Royal Decree No. 499 of 28 March 1929, concerning the issuance of the certificate of inheritance and legacy, shall continue to apply. Pursuant to this legislation, the registration of real estate rights in the land register can only occur by presenting to the land register judge (“giudice tavolare”) a specific certificate of inheritance issued by the court of the place where the succession was opened, which ascertains the status of heir. According to the Court of Trieste, an interpretation must be given that avoids conflict between the two sets of regulations in application of the principle of the primacy of EU law. Therefore, in the case of cross-border succession, the European Certificate of Succession

¹⁴ See case C–301/20 *UE, HC*, ECLI:EU:C:2021:528, case C–354/21 *RJR* ECLI:EU:C:2022:587, case C–187/23 *Albausy* ECLI:EU:C:2025:34, case C–240/24, *BNP Paribas Fortis* (pending), case C–873/24 *Marwanek* (pending).

and the certificate of inheritance provided by Italian R.D. No. 499/1929 should be considered equivalent when applying for the registration of succession rights with the land register judge. For this reason, the European Certificate of Succession is a suitable title for registering the rights ascertained therein in the land register (Court of Trieste, 8 May 2019).

Following the approach of the Court of Trieste, other Italian courts in districts where the “sistema tavolare” applies rejected instances for the issuance of the inheritance certificate provided by R.D. No. 499/1929, where the heir has already obtained a ECS (Court of Bolzano: 22 July 2019, R.G. No. 2269/2019; 8 June 2023, R.G. No. 2269/2023; 14 February 2025, R.G. No. 526/2025; Court of Gorizia, 28 January 2022, R.G. No. 1871/2021; 10 February 2022, R.G. No. 3673/2021; 21 February 2022, R.G. No. 414/2022; 15 March 2022, R.G. No. 3677/2021; 17 March 2022, R.G. No. 3686/2021; 8 April 2022, R.G. No. 944/2022; 26 May 2022, R.G. No. 1590/2022; 31 May 2022, R.G. No. 564/2022; 2 August 2022, R.G. No. 2527/2022; 3 August 2022, R.G. No. 1155/2022; 3 August 2022, R.G. No. 1229/2022; 12 July 2023, R.G. No. 851/2023; 28 July 2023, R.G. No. 1627/2023; 18 January 2024, R.G. No. 3563/2022) or they declared their lack of jurisdiction, deeming the court of the place of the deceased’s last habitual residence to be competent to issue the ECS (Court of Gorizia: 23 August 2023, R.G. No. 1694/2023; 8 November 2023, R.G. No. 3966/2023 and R.G. No. 3725/2023; 12 August 2024, R.G. No. 1786/2024).

The Court of Rovereto clarified that if the ECS does not meet all the requirements provided by the R.D. No. 499/1929, the interested party must request the competent foreign authority to issue a certificate compliant with the R.D. or attach to the application to the land register further necessary documentation to align the ECS with those requirements (Tribunale di Rovereto: 21 July 2020, R.G. No. 812/2020; 28 September 2021, R.G. No. 1726/2021; 21 December 2021, R.G. No. 1997/2021; 12 August 2022, R.G. No. 1339/2022; 24 April 2023, R.G. No. 650/2023).

The Court of Appeal of Trento clarified that Article 67(1) of the Succession Regulation (according to which the ECS shall not be issued if the elements to be certified are being challenged) does not apply to the certificate of succession provided by Italian R.D. 499/1929. Article 17 of the latter decree provides that the certificate is issued even if there is an ongoing dispute, subject to and without prejudice to the outcome thereof (Court of Appeal of Trento, division of Bolzano, 24 March 2023, R.G. No. 65/2022).

The Court of Trieste stated that the certificate of inheritance issued under R.D. No. 499/1929 is enforceable without the attestation provided by Article 46(3)(b) of the Succession Regulation (Court of Trieste: 19 March 2024, R.G. No. 3643/2023; 2 April 2024, R.G. No. 259/2023; 10 May 2024, R.G. No. 3891/2023; 17 October 2024, R.G. No. 1861/2023; 17 October 2024, R.G. No. 2935/2023; 1 April 2025, R.G. No. 60/2021).

48. Are there any statistics on ECSs made in your MSs available?

No

49. Are there any statistics on ‘foreign’ ECSs used in your MSs available?

No

50. Are there any other decisions / doubts / challenges¹⁵, which do not fit within any of the above questions, but are related to the issuance or use of the ECS, and therefore, should be signaled within the National Report?

The Court of Turin, decree of 15 February 2022, clarified that the competence for rectification, modification, or withdrawal of the ECS, pursuant to Article 71 of the Succession Regulation, falls to the authority that issued it, and therefore, in case of issuance by an Italian notary, it falls directly to the notary himself and not to the judge (Court of Turin, 15 February 2022, R.G. No. 19657/2021).

In a following ruling, the Court of Turin clarified that the decision to withdraw the ECS issued by the notary (due to the existence of a dispute concerning the elements certified) can be subject to an appeal before the court of the place where the notary is based (see Article 32 Law No. 161 of 2014). The Court of Appeal of Turin then affirmed that the court's decision issued following the appeal cannot, in turn, be appealed (Court of Turin, 30 September 2022, R.G. No. 8665/2022; Court of Appeal of Turin, 20 December 2022, R.G. No. 451/2022).

Other aspects

51. Are there any other decisions / doubts / challenges, which do not fit within any of the above headings and questions, but are related to the application of the Succession Regulation, and therefore, should be signalled within the National Report?

No

¹⁵ See case C-102/18 *Brisch* ECLI:EU:C:2019:34.