

Reform proposals and the Swiss comparison

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Italian scholars and notaries have long argued that the system is too rigid for modern families and businesses. A government bill presented to the Senate on 19 March 2019 proposed to transform the reserved share into a monetary claim against the estate, secured by a privilege, and to allow agreements on future successions within limits. These proposals were not enacted. The legislature later chose a narrower intervention: Law No 182 of 2 December 2025 protected purchasers of gifted property, as described above, while the reserved shares themselves and the prohibition of agreements on future successions remained unchanged.¹ The pressure for reform comes partly from comparison with neighbouring states. With effect from 1 January 2023 Switzerland reduced the reserved share of descendants from three quarters to one half of the intestate share and abolished the reserved share of parents. The surviving spouse keeps a reserved share of one half of the intestate share (Art. 471 SCC).² A Swiss testator with a spouse and children can therefore freely dispose of one half of the estate, while an Italian testator in the same position can freely dispose of only one quarter.

The difference matters for a family that can choose between the two laws. A parent who wishes to leave the family company to one child and other assets to the others may achieve this more easily under Swiss law, because the disposable share is larger and a child's renunciation can be agreed by contract. Conversely, a spouse or a child who expects to rely on the protection of Italian forced heirship may lose part of it if the succession is governed by Swiss law. These consequences explain why the conflict rules examined below are often decisive, and why their application must be documented with care.

1 Notes

1. Diritto.it, "In corso nuovi progetti di riforma del diritto successorio", 7 October 2019, last modified 6 December 2022, <https://www.diritto.it/in-corso-nuovi-progetti-di-riforma-del-diritto-successorio/> (consulted 5 October 2026). Brocardi.it, Arts 536–544 and 458 Codice civile in their current versions, and Art. 563 as replaced by Legge 2 dicembre 2025, n. 182 (above). ↩
2. Federal Act of 18 December 2020 amending the Swiss Civil Code (law of succession), AS 2021 312, in force 1 January 2023; Art. 471 SCC as revised. ↩

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