

Typical constellations for Italians in Ticino

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The first typical case is that of an Italian national who has moved to Lugano and wishes his or her estate to be governed by Swiss law. The motive may be the larger disposable share or an agreement as to succession with the children. Since the Regulation does not allow the choice of Swiss law by a person without Swiss nationality, the result depends on the establishment of habitual residence in Ticino. The practitioner should document the move thoroughly and avoid any express or implied choice of Italian law in wills made before or after it. It is also worth considering whether the Italian assets, especially real estate and shares in Italian companies, can be held in a form that reduces the risk of Italian proceedings under Art. 10 of the Regulation. Where the client also holds Swiss nationality, an express choice of Swiss law is possible and removes much of the uncertainty.

The second typical case is that of an Italian national in Lugano who wishes to preserve Italian law. Often the spouse or the children expect it, the family's main assets are in Italy or the client intends to return. An express choice of Italian law under Art. 22 of the Regulation and Art. 91(1) PILA achieves this result in both states, and Art. 88b PILA allows the client to add a designation of the Italian authorities. The consequence is that Italian forced heirship and the prohibition of Art. 458 Codice civile apply. Any agreement as to succession concluded under Swiss law with the children may then be ineffective, which must be taken into account before such an agreement is signed.

The third case is that of an Italian resident in Milan or Como with a bank account, a company or a holiday house in Ticino. Here Italian law governs under Art. 21 of the Regulation. Swiss law reaches the same result, because Art. 90(2) PILA refers the estate of a person domiciled abroad to the law designated by the private international law of the state of domicile. If those rules refer back to Swiss private international law, the substantive succession law of the state of domicile applies. Swiss authorities have

jurisdiction only for Swiss assets and only subsidiarily, if the Italian authorities do not deal with them (Art. 88 PILA). Swiss real estate in such an estate remains subject to the Swiss land register, to Swiss rules on its transfer and to the Ticino inheritance tax.¹

1 Proving the right to inherit in both states

A family that has settled the question of applicable law must still prove the heirs' entitlement to the banks and registers of both states. In Italy and the other member states the European Certificate of Succession (*certificato successorio europeo*) under Art. 62 ff. of the Regulation serves this purpose, alongside the Italian notarial declarations of heirship. Switzerland is not bound by the Regulation and does not issue the European certificate. Its own instrument is the certificate of heirs (*Erbbescheinigung, certificato ereditario*) under Art. 559 SCC, which the authority at the last domicile issues. Swiss banks generally accept a foreign certificate accompanied by an apostille and, where necessary, a translation, although their practice is not uniform. The legal basis on which they rely is the recognition of foreign estate documents under Art. 96 PILA as revised.² Before releasing assets, the Lugano bank of an Italian deceased will usually ask for the Italian succession documents, the will, the certificate or deed establishing the heirs and evidence that the Italian inheritance tax has been paid or is not due.

For the practitioner. In every succession plan for a client with Italian and Swiss connections: - identify all nationalities of the client, since a Swiss nationality opens the choice of Swiss law under Art. 22 of the Regulation; - document domicile under Art. 20 PILA and habitual residence under the Regulation, and test whether they coincide; - decide expressly on the applicable law (Art. 22 Regulation; Art. 91(1) PILA) and, where useful, on the competent authorities (Art. 88b PILA); - check that agreements as to succession and renunciations are consistent with the chosen law, in view of Art. 458 Codice civile and Art. 25 of the Regulation; - plan for the documents that banks and land registries in both states will require after the death.

2 Notes

1. Mayer (above), on Art. 88 PILA. PILA, Art. 90(2) (reference to the private international law of the state of last domicile, with application of that state's substantive law in the case of a reference back) and Art. 88(1) (jurisdiction at the place of the Swiss assets of a foreign national domiciled abroad "to the extent that the authorities at the place of domicile do not deal with them"), Lawbrary,

<https://lawbrary.ch/law/art/IPRG-v2025.01-en-art-90> and
<https://lawbrary.ch/law/art/IPRG-v2025.01-en-art-88> (consulted 5
October 2026). ↩

2. Regulation (EU) No 650/2012 (above), Arts 62–73 (European Certificate of Succession). PILA, Art. 96(1) as revised, Lawbrary, <https://lawbrary.ch/law/art/IPRG-v2025.01-en-art-96> (consulted 5 October 2026). SCC, Art. 559 (certificate of heirs), and bank practice on foreign certificates. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/lugano-typical-constellations-for-italians-in-ticino