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Adapting rights in rem



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European Judicial Network
(in civil and commercial
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1 Which are the rights in rem that could arise from a succession under the law of this Member State?

The rights in rem (*diritti reali*) that may arise from a succession (*successione*) under Italian law are as follows: property (*proprietà*), usufruct (*usufrutto*), bare ownership (*nuda proprietà*), occupancy (*diritto di abitazione*), long-term lease (*enfiteusi*), surface (*superficie*) and servitude (*servitù*) rights.

2 Are these rights in rem recorded in a register of rights in immovable or movable property and, if so, is such recording compulsory? In which register(s) are they recorded and what are the registration requirements and procedure?

When they relate to immovable property (*beni immobili*), these rights are recorded in the land registries (*registri immobiliari*) and the cadastre (*catasto*) (two separate databases), with the exception of servitudes, which are recorded only in the land registries and not in the cadastre. In some provinces formerly part of the Austro-Hungarian Empire (Bolzano, Gorizia, Trieste) and a few other areas, rights are registered in a separate land registry (*libro fondiario*) and in the cadastre rather than the main land registry (also in these cases, servitudes are not recorded in the cadastre).

3 Which effects are linked to the registration of the rights in rem?

The registration of in rem rights in immovable property in the land registries has, by law, the effect of rendering rights enforceable against third parties, whereas for areas in which the separate land registry system applies, registration indicates the acquisition of property.

4 Are there specific rules and procedures in place for the adaptation of a right in rem to which a person is entitled under the law applicable to the successions in case the law of the Member State in which the right is invoked does not know such right in rem?

No.

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