



# Training of lawyers on EU Civil Law (TRADICIL) – Succession Law Seminar

**Evangelos Daskas**

**Jurisdiction**

**Athens, 2 June 2025**



Co-funded by the European Union

# REGULATION EU No 650/2012

- Applies on deaths on or after 17 August 2015 (exceptions in article 83)
- Applies in all EU except Ireland and Denmark (UK was initially excluded and now is not a member of EU)
- Exceptions from Application – article 1 par. 2 (family law, legal capacity of natural persons etc)
- Key concepts: Jus and Forum. Unity of the estate.

Jurisdiction (Chapter II - articles 4 to 19 plus article 22 of the Regulation)

**General Jurisdiction- article 4**

***The courts of the Member State in which the deceased had his habitual residence at the time of death shall have jurisdiction to rule on the succession as a whole.***

- **The definition of court – article 3 para 2 of the Regulation.** *For the purposes of this Regulation, the term ‘court’ means any judicial authority and all other authorities and legal professionals with competence in matters of succession which exercise judicial functions or act pursuant to a delegation of power by a judicial authority or act under the control of a judicial authority, provided that such other authorities and legal professionals offer guarantees with regard to impartiality and the right of all parties to be heard and provided that their decisions under the law of the Member State in which they operate:*
  - *may be made the subject of an appeal to or review by a judicial authority; and*
  - *have a similar force and effect as a decision of a judicial authority on the same matter.*

- **The definition of habitual residence at the time of death-** para 23 of the Preamble. *The authority dealing with the succession should make an overall assessment of the circumstances of the life of the deceased during the years preceding his death and at the time of his death, taking account of all relevant factual elements, in particular the duration and regularity of the deceased's presence in the State concerned and the conditions and reasons for that presence. The habitual residence thus determined should reveal a close and stable connection with the State concerned taking into account the specific aims of this Regulation.*

#### **Existing case law of the EU Court is considered for the definition of habitual residence**

- C-523/07

## Choice of Court Agreement – Articles 5 and 22

- The heirs can **unanimously**, with a written and signed agreement of certain date, choose the Courts of a member state if the deceased had chosen the succession laws of this country as the applicable law to his/ her succession.

## Declining of jurisdiction in the event of a choice of law (articles 6 and 22)

Applies if the deceased had chosen the law to govern her/ his succession, at the request of at least one of the heirs, at the Court's discretion, taking into account the practical circumstances of the succession.

- The Court is obliged to decline jurisdiction in the case of Article 5 and confer jurisdiction on the court of the Member State of the chosen law.

## Jurisdiction in the event of a choice of law – article 7

- Circumstances under which the Courts of a Member State whose law had been chosen according to Article 22 have jurisdiction to rule on the succession (Articles 6 and 5)

Closing of own motion proceedings in the event of a choice of law – Article 8.

- If the heirs decide unanimously to settle the succession **amicably** (mediation, arbitration) in the Member State whose law had been chosen, the Court of general or subsidiary jurisdiction, shall close the proceedings

## Jurisdiction based on appearance- Article 9

If all parties – heirs appear before the Court of Article 7 even if not all of them participated in an agreement of Article 5, and do not contest the jurisdiction of the court, then this court shall continue to exercise jurisdiction.

- If at least one-party contest Jurisdiction, then the Court shall decline to exercise jurisdiction and Articles 4 or 10 apply.

## Subsidiary jurisdiction – article 10

Application when the habitual residence is not located in a member state. The courts of a Member State have jurisdiction if a) the deceased has the nationality of the member state or b) the deceased had previous habitual residence in that member state and the residence had not changed at least 5 years before the death. If none of these applies, the courts of member state in which assets of the estate are located, have jurisdiction to rule on these assets.

**Obligation for the court of that Member State seised to examine of its own motion the criteria as regards its subsidiary jurisdiction C-645/2020**

**Article 10(1) of Regulation No 650/2012 must be interpreted as meaning that, in order to determine whether the subsidiary jurisdiction of the courts of the Member State in which assets of the estate are located may be exercised, in order to rule on the succession as a whole, it is necessary to examine whether those assets were located in that Member State not at the time those courts were seised, but rather at the time of death C-291/23**

## Forum necessitatis – article 11

If no Court of a Member State meets the above-mentioned criteria, it will still have jurisdiction on an exceptional basis if proceedings cannot reasonably be brought or conducted or would be impossible in a third State with which the case is closely connected.

- The case must have a sufficient connection with the Member State of the court seised.

## Limitation of proceedings - article 12

- The Court of a Member State upon request of a party may decide not to rule on one or more of assets located in a third state if it is expected that its decision will not be recognized or be enforced in that third State.

## Acceptance or waiver of the succession, of a legacy or of a reserved share -Article 13

The courts of the habitual residence of parties- heirs have the jurisdiction to receive any declaration concerning the succession

**A declaration concerning the waiver of succession made by an heir before a court of the Member State of his or her habitual residence is regarded as valid as to form in the case where the formal requirements applicable before that court have been complied with, without it being necessary, for the purposes of that validity, for that declaration to meet the formal requirements of the law applicable to the succession. C-617/20**

**Article 13 of Regulation No 650/2012 must be interpreted as not precluding, after an heir has already had registered with a court of the Member State in which he or she is habitually resident his or her declaration of acceptance or of waiver of the succession of a deceased person whose habitual residence was, at the time of his or her death, in another Member State, another heir from applying for a subsequent registration of that declaration with the court of the latter Member State having jurisdiction. C-651/21**

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## Procedural issues – Articles 14, 15 and 16

Seising of a Court – Examination as to jurisdiction – Examination as to admissibility (Regulation No 1393/2007 or Hague Convention apply)

## Lis pendens – Related actions Articles 17 and 18

- Privilege of the Court first seised the case- all other Courts seised afterwards shall stay their proceedings until the jurisdiction of the first Court is established and if this happens, they shall decline jurisdiction in favour of that Court.

## Provisional, including protective, measures- Article 19

- Courts of any Member State have jurisdiction for applications for provisional and protective measures (restraining orders) under the law of the State even if the Courts of another member State have jurisdiction as to the substance of the matter.

# Conclusions

- High level of complexity
- De lege ferenda: Jus and Forum should coincide, and the deceased should have the right to indicate the competent Courts
- Habitual residence is a very vague conception

Thank you for your time!





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**Jaume Tarabal Bosch**

**Applicable Law**

**Athens, 2 June 2025**



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# Stating the Obvious:


0. “You can’t take it with you when you go”
1. **Succession law is one of the areas with the greatest variation between legal systems**
2. **Cross-border successions are increasingly the rule, not the exception**
3. **Harmonising succession laws across jurisdictions is highly challenging, if not unrealistic**

# 2024

**“Foreign residents in Barcelona exceed 25%  
for the first time**

**Population of Catalan capital grows by 2.6%  
in one year thanks to migration”**

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Expats

Digital Nomads

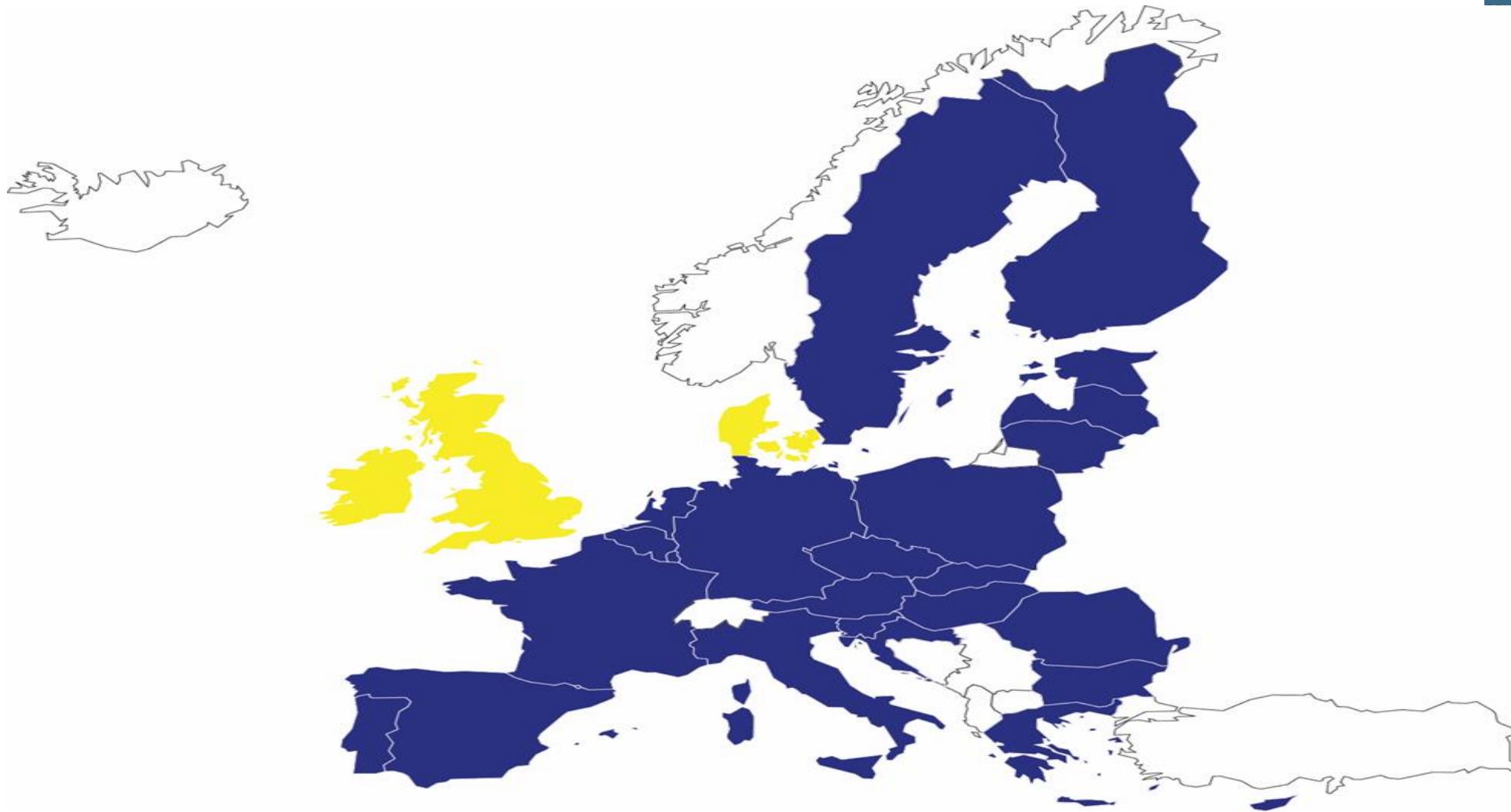
Erasmus Couples

Retirees


**TEMPORAL SCOPE:**

**7.8.2015**

**TERRITORIAL SCOPE:**



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# Limited Unification

## Cross-Border Successions

### Private International Law

- Is the Succession Regulation (SR) applicable to the succession of a deceased Spanish national (**Catalan “vecindad civil”**), habitual residence in Barcelona, who owned, among other assets, a house in French Cerdagne? What if he/she owned only a bank account there?
- The deceased spent long periods at the house located in French Cerdagne. Can it be considered that she had two habitual residences?

“The last habitual residence of the deceased, within the meaning of that regulation, must be established by the authority dealing with the succession **in only one of those Member States**”.

CJEU 16.7.2020, Case C-80/19, *E.E.*

# APPLICABLE LAW: MAIN PRINCIPLES

- **Universal application:** “any law specified by this Regulation shall be applied whether or not it is the law of a Member State” (art. 20).
- **Unity of the applicable law:** a single law applies to the entire succession of a deceased person, regardless of the nature or location of the assets (r. 37, art. 21.1, 23.1 “succession as a whole”)
- **Personal connections:** *professio iuris*, habitual residence (“vecindad civil” – civil affiliation)

# APPLICABLE LAW

## “SUCCESSION AS A WHOLE”: SCOPE (art. 23 SR)

The law determined pursuant to Article 21 or Article 22 shall govern the **succession as a whole..**

In particular:

- The causes, time, and place of the **opening** of the succession
- The determination of the beneficiaries and their shares and succession rights, including those of the surviving spouse or partner
- The determination of obligations imposed by the deceased on the beneficiaries
- Capacity to inherit, disinheritance, and disqualification by conduct
- The **transfer** of assets, rights, and obligations forming part of the estate
- The conditions and effects of the acceptance or waiver of the succession or of a legacy
- The powers of heirs, executors of the will and other administrators of the estate
- Liability for the debts under the succession
- 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
- Any obligation to restore or account for gifts, advancements or legacies when determining the shares of the different beneficiaries
- Sharing-out of the estate

# APPLICABLE LAW

## “SUCCESSION AS A WHOLE”: EXCLUSIONS (art. 1)

1. This Regulation shall apply to succession to the estates of deceased persons (...)

2. The following shall be excluded from the scope of this Regulation:

*d)* questions relating to matrimonial property regimes and property regimes of relationships deemed by the law applicable to such relationships to have comparable effects to marriage (...)

*g)* property rights, interests and assets created or transferred otherwise than by succession, for instance by way of gifts, joint ownership with a right of survivorship, pension plans, insurance contracts and arrangements of a similar nature, without prejudice to point (i) of Article 23(2); Capacity to inherit, disinheritance, and disqualification by conduct (...)

*(k)* the nature of rights *in rem*

# APPLICABLE LAW

## “SUCCESSION AS A WHOLE”: CONNECTING FACTORS

1. Choice of law (Art. 22): the testator may choose the law of the **state** of his nationality
2. General rule: law of the **state** of habitual residence of the deceased at the time of death (Art. 21.1 SR)
3. Escape clause: manifestly closer connections (Art. 21.2 SR)

# 1. Choice of Law (art. 22)

**1.** A person may choose as the law to govern his succession as a whole the law of the State whose **nationality** he possesses **at the time of making the choice or at the time of death**.

A person possessing **multiple nationalities** may choose the law of **any** of the States whose nationality he possesses at the time of making the choice or at the time of death.

**2.** The choice shall be made **expressly** in a declaration in the form of a disposition of property upon death or shall be **demonstrated by the terms of such a disposition**. **CJEU 16.7.2020, Case C-80/19, E.E.**

**3.** The substantive validity of the act whereby the choice of law was made shall be governed by the chosen law.

**4.** Any modification or revocation of the choice of law shall meet the requirements as to form for the modification or revocation of a disposition of property upon death.

## 2. General Connecting Factor: Habitual Residence (art. 21.1)

**How habitual residence is to be determined?** arts. 4 (forum) and 21.1 (ius) SR

Recitals 23, 24: “genuine connecting factor... between the succession and the Member State in which jurisdiction is exercised”

Aspects to consider:


- duration and regularity
- place where family, personal, or professional ties are established
- location of most of the deceased’s assets
- significance and use of those assets (*e.g.*, securities vs. residential home)
- reasons for residence (*e.g.*, medical or care-related vs. emotional)

### 3. Escape Clause: “Manifestly closer Connections” (Art. 21.2 SR)

Where, by way of **exception**, it is clear from all the circumstances of the case that, at the time of death, the deceased was **manifestly more closely connected** with a State other than the State whose law would be applicable under paragraph 1, the law applicable to the succession shall be the law of that other State.

# “Manifestly closer Connections”: Example

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# OTHER APPLICABLE LAW RULES

- Admissibility and substantive validity of dispositions of property upon death
  - Dispositions other than agreements as to succession (art. 24)
  - Agreements as to succession (art. 25)
  
- Formal validity
  - Dispositions made in writing (art. 26)
  - Declarations concerning acceptance or waiver (art. 27)

# STATES WITH MORE THAN ONE LEGAL SYSTEM: TERRITORIAL CONFLICTS OF LAWS

1. Where the law specified by this Regulation is that of a State which comprises several territorial units each of which has its own rules of law in respect of succession, the internal conflict-of-laws rules of that State shall determine the relevant territorial unit whose rules of law are to apply (**INDIRECT**)
2. In the absence of such internal conflict-of-laws rules: (**DIRECT**)
  - (a) ...the habitual residence of the deceased, be construed as referring to the law of the **territorial unit** in which the deceased had his habitual residence at the time of death;
  - (b) ...the nationality of the deceased, be construed as referring to the law of the **territorial unit** with which the deceased had the closest connection;
  - (c) ...other elements as connecting factors, be construed as referring to the law of the **territorial unit** in which the relevant element is located.

...

# TERRITORIAL CONFLICTS OF LAWS: SPAIN



## **38 SR**

### **Non-application of this Regulation to internal conflicts of laws**

A Member State which comprises several territorial units each of which has its own rules of law in respect of succession shall not be required to apply this Regulation to conflicts of laws arising between such units only.

# TERRITORIAL CONFLICTS OF LAWS: SPAIN

## Originally – Unity of the conflict-of-laws System: Spanish Civil Code

International cases: Nationality (Spanish national = civil residence [“vecindad civil”])

Interregional cases: Civil residence ( “vecindad civil”)

## Conventions and EU Regulations

Duality of systems: International conflicts v. Interregional conflicts

Duality of lawmakers: EU vs. State legislator

# Example 1: The Succession of a Spanish National

- Mr. García, a Spanish national with **Catalan** “civil affiliation” (vecindad civil) and **habitual residence in Granada**, dies owning assets located in Spain and France.
  - Art. 21.1 SR + Art. 36.1 SR + Art. 16 CC + 9.8 CC = CCCat
- Mr. García, a Spanish national with **Catalan** “civil affiliation” (vecindad civil) and **habitual residence in Germany** since 2023, dies in 2025 owning assets located in Andalusia, married to a woman from Granada (vecindad civil SCC) , had children residing in Granada, and spent long periods on the Granada coast.
  - Art. 21.1 SR (Habitual residence) — application of German law
  - Art. 21.2 SR (Escape clause) + Art. 36.1 SR + Art. 16 CC + 9.8 CC: application of CCCat

## Example 2: The Succession of a Spanish National

Mr. García, a Spanish national with **Catalan** civil affiliation “vecindad civil” and **habitual residence in Germany until 2022**, where he holds several bank accounts and investment funds. He changes his habitual residence and **moves to Zaragoza** (where he lives with one of his children), where he **dies in 2025**. Most of his assets are located in Andalusia. He was married to a woman from Granada, the rest of his children live in Granada, and he had long been spending extended periods on the Granada coast.

- Art. 21.1 SR + Art. 36.1 SR + Art. 16 CC + 9.8 CC = CCCat
- Art. 21.2 SR not applicable!

# Example 3

## PROFESSIO IURIS

Art. 22: “Law of the State” = Spanish law?

## Example 4: non-Spanish National with Spanish Ties

Mrs. Oppermann was a **German citizen** who had been **living in Lloret** for the last 18 years. Her husband is Spanish (SCC), as well as her children who live in Marbella. Most of her assets are located in Andalusia.

- Choice of law? Art. 22 SR
- ...otherwise: Art. 21.1 SR + Art. 36.2.a SR: CCCat (when the deceased is a foreign national, the applicable Spanish law is determined through direct referral)

## Example 5: non-Spanish National with Spanish Ties

- Mr. Lacombe, **French national**, has his social and family center of interests in Toulouse, but during the week he lives in Girona, where he has been working for five years and where he is buying a house to settle with his family **in two months**. His wife is Catalan.
  - Art. 21.1 SR = French Law
  - Art. 21.2 SR + Art. 36.2.c SR = Catalan Law?
- Mr. Jackson, an American citizen (from Chicago), dies with habitual residence in Sitges, with assets in Spain and in the United States. He makes a will and chooses U.S. law as the law governing his succession.
  - Art. 22 + Art. 36.2.b SR (application of the law of the State of Michigan)



# Training of lawyers on EU Civil Law (TRADICIL) – Succession Law Seminar

**George Kontis**

**Recognition and enforcement of decisions, and  
acceptance and enforcement of authentic  
instruments in matters of succession**

**Athens, 2 June 2025**



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# Regulation Nr.650/2012/EU

Article 39: - automatic/immediate-mutual recognition.

Institution originated in the Convention of Brussels (1968).

No other procedure needed. Any form of decision issued through contentious or non-contentious proceedings. Any legal authority performing judicial duties.

“Ipso iure” same legal consequences.

No other authority should judge the same case.

# Regulation 650/2012/EU

- ▶ The procedure of recognition is still in power when a decision is called into question. Behavior incompatible to the decision.
- ▶ “Ex parte” procedure / “inter partes” procedure. Application for the judicial recognition. In the context of another dispute the court has the jurisdiction to proceed to an incidental recognition.
- ▶ Grounds of non recognition. (a) obvious violation of public order (fundamental procedural rights, fundamental provisions of European law).
- ▶ the national court should not revise the decision substantially (revision au fond).

## Regulation 650/2012/EU

- ▶ Procedural public order (right of judicial protection, right of a prior hearing, right of performing evidence).
- ▶ Substantive public order (discrimination based on color, Religion, etc). [Children of homosexual or registered partners].
- ▶ Right to a legal defense = violation related to illegal notification and service of legal documents = default procedure.
- ▶ Incompatible court decisions. Interpretation through autonomous criteria. Incompatible legal consequences. Principal of time priority (incompatible to a prior court decision).
- ▶ Stay of the procedure of recognition when a legal remedy has been applied. (the legislator wants to avoid the issue of incompatible decisions). The court of the member state of recognition is not obliged to order the stay of the procedure.

# Regulation 650/2012/EU

- ▶ Enforcement of decisions. Preconditions. Application (heir, legatee, executors or administrators of the will).
- ▶ Decision originated from a member state (ordinary, special proceedings, voluntary jurisdiction).
- ▶ Enforceable decision (also provisionally enforceable decisions).
- ▶ The habitual residence is provided by the national law of the member state of enforcement.
- ▶ The application is filed in the courts of member state of enforcement. (Greece - courts of first instance).
- ▶ Competent court = where the debtor has a habitual residence or assets. In case of many debtors = the court of the last residence of the deceased.

## Regulation 650/2012/EU

- ▶ Application – non contentious proceedings/voluntary jurisdiction.
- ▶ Necessary documents: certified copy of the decision. Certificate of enforceability. If the certification is not provided the court may ask for it or the provision of an equivalent document. In an opposite case the application may be dismissed or the court may order the repeating of the hearing. Procedural preconditions, legal interest, application of the regulation provisions, (the court should certify that the decision is not issued in an ex parte procedure). No participation of the debtor who has the right of a legal remedy.
- ▶ Notification of the decision to the applicant. Not “service” in any case. Notification [e-mail] through digital means (686&4 GrCCPr).
- ▶ Notification – service of the decision to the defendant because it is the title that justifies the future enforcement procedure.

# Regulation 650/2012/EU

- ▶ as a mechanism of balances the regulation provides a legal remedy against the decision that can be applied by both parties. No ipso iure stay of the enforcement procedure. Competent court = Court of appeal [one-judge]. Contentious proceedings. The court examines the grounds that prevent the enforcement procedure. Deposit of guarantee is possible. Regulation secures the right of defense of the defendant = that means there should be a legal service to the residence of the defendant. In the opposite case the hearing procedure should be dismissed as invalid.
- ▶ time period (30 days / member state, 60 days / third state) = the time period begins from the service of the decision that declares the enforceability.

## Regulation 650/2012/EU.

- ▶ Against the decision of the court of appeal the legal remedy of the revision (before Areios Pagos) may be applied only for legal reasons.
- ▶ The decision that declares the enforceability may be revoked. Violation of public order, lack of legal notification of the decision = default procedure, incompatibility of decisions.
- ▶ Stay of the procedure before the court of the legal remedy. (a) if the enforceability has been stayed in the member state of origin (= stay at the member state of enforcement. The national procedural rules are applied. The decision must be justified through the possibility of the acceptance of the remedy.
- ▶ Provisional measures in case of the existence of a foreign decision in matters of succession.

# Regulation 650/2012/EU

- ▶ Seizure of assets, mortgage, judicial sequestration (especially after the declaration of enforceability).
  - ▶ Thank you for your attention!
- ▶ *Literature: Vasilakakis E/Arvanitakis P., Regulation Nr. 650/2012 on matters of succession, 2024.*



# Training of lawyers on EU Civil Law (TRADICIL) – Succession Law Seminar

**Aikaterini Voulgari**

**European Certificate of Succession**

**Athens, 2 June 2025**



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- Regulation (EU) 650/2012 governs cross-border successions within the EU (excl. DK, IE, UK), effective from 17.08.2015.
- Provides harmonized rules on jurisdiction, applicable law, recognition, enforcement, and authentic instruments.
- Key innovation: European Certificate of Succession (ECS) – Articles 62–74.
- ECS certifies heir/legatee status or powers of executor/administrator; valid across Member States.
- Carries rebuttable presumption of accuracy (public faith) – protects good-faith third parties (Art. 69).
- Inspired by German inheritance certificate; similar to the Greek system (notably pre-2024 version).

## Scope of application

- Applies to successions with cross-border implications (Art. 63):
  - Estate contains assets in at least one additional Member State.
  - Applicant's foreign residence alone is insufficient.
  
- Cross-border scope applies when the ECS is needed in another Member State to:
  - a) Establish heirs' rights or shares (Art. 63 §2(a)),
  - b) Attribute specific assets to heirs/legatees (Art. 63 §2(b)),
  - c) Confirm powers of executors/administrators (Art. 63 §2(c)).
  
- No ECS admissibility without cross-border element (Art. 15):
  - Jurisdiction is non-waivable, even with party consent.
  
- Temporal Scope: Deaths occurring on/after 17.08.2015 (Art. 83).
- Territorial Scope: Applies in all Member States except DK, IE, UK.

## Features of the European Certificate of Succession

### ***A) Optional Nature and Relationship with National Certificates***

- Use of the ECS is optional (Art. 62(3))
- Does not replace national succession documents
- ECS and national certificates can coexist
- ECS issued for cross-border use must be accepted in issuing and other Member States (Art. 63 §2)
- ECS eliminates need for additional documents in other Member States

## ***B) A Truly European Certificate***

- Uniform EU procedure for issue, amendment, correction, revocation
- ECS has EU-wide legal effects and recognition
- Circulates freely—no need for further recognition
- Lacks national character: designed as a pan-European legal tool
- National procedural rules apply only subsidiarily
- Conflicting national provisions must yield to the Regulation's purpose

## **Jurisdiction and Competence – Art. 64 Reg. 650/2012**

- ECS issued by courts with international jurisdiction according to Arts. 4, 7, 10, 11

### Of the Regulation

- Default: Courts of habitual residence of deceased
- Habitual residence = stable and close life connection (not just assets)
- Preamble: holistic assessment of life circumstances and reasons for residence
- If no habitual residence: jurisdiction via nationality, asset location and previous residence

## Prorogation & Exceptional Jurisdiction

- Exclusive jurisdiction allowed if law of chosen Member State applies:
  - Agreement by heirs (Art. 7(b), 5)
  - Tacit acceptance via appearance (Art. 9 §1)
  - Referral by court of habitual residence (Arts. 6, 7(a))
  - Application to courts of nationality if law chosen (Art. 7(c))
- Exceptional jurisdiction (Art. 11):
  - Succession with cross-border elements
  - Sufficient connection and lack of jurisdiction elsewhere

## Jurisdiction in Greek Law

- Old system: Justices of the Peace (Eirinodikeia) – Art. 819 GCCP
- Law 5108/2024: Competence now with Single-Member Courts of First Instance
- Art. 4 of the Regulation.: Court of last habitual residence
- Art. 10 of the Regulation: Court of primary asset location
- Art. 7,11 of the Regulation fallback: If unclear, jurisdiction = Athens court (Art. 810 CCP)
- Lack of jurisdiction = inadmissible
- Territorial/subject-matter debate: dismiss or transfer under Art. 46 CCP

## **Applicants Entitled to Request the ECS (Arts. 63 & 65)**

- Heirs (testate, intestate, statutory) – incl. specific item heirs
- Legatee per vindicationem
- Executors – as administrators or supervisors of will
- Estate Administrators:
  - Judicial liquidators (Art. 1913 CC)
  - Guardians of vacant estates (Law 4182/2013)
- Application denied if status is not proven

## Exclusions

- Creditors of heirs/estates cannot apply for ECS
  - Excluded by Art. 63(1) Reg.
- No subrogation rights for creditors
- Creditors may request certified copy (Art. 70(1)) if they show legitimate interest
- Substituted beneficiaries (e.g. trust/conditional heirs) can only apply after succession devolves

## Application Requirements – Art. 65 Reg. 650/2012

- Must include info on deceased, applicant, spouse/partner, heirs/legatees
- Purpose of ECS, court details and legal basis of claim
- Dispositions (wills, contracts), acceptances/waivers, declarations
- Documents must support claims – pre-evidentiary standard
- If documents are unavailable: Article 66(2–3) of the Regulation grants the issuing authority the discretion to accept other forms of evidence, including sworn affidavits or statutory declarations requested from the applicant.

## Form and Language Requirements

- Optional standard EU form (Reg. 1329/2014, Annexes I–V)
  - Widely used to ensure clarity and completeness
- In Greece:
  - Application must be in Greek
  - Filed by applicant or representative (need not be a lawyer) as Art. 65(3)(c)

Regulation overrides Art. 94 Greek CCP

## Procedure for Examining the Application

- Issuing authority acts ex officio (Art. 66)
- Investigates facts, notifies interested parties, can request more evidence
- Can use affidavits, foreign info, or public announcements
- EU framework is primary; national law applies subsidiarily
- Judge must be appointed upon application (Greek practice)

## Admissibility, Merits & Rejection

- Admissibility check:
  - Jurisdiction
  - Legal standing
  - Legitimate interest
  - Formal completeness
- Merits: Full judicial conviction required
- Rejection = res judicata in Greece (Art. 778 CCP)
  - New application only if new facts arise
  - Same applies to rejections from other Member States (Arts. 39+ Reg.)

## **Issuance of the Certificate (Art. 70 Reg.)**

- Issued using form from Annex V (Reg. 1329/2014)
- Issued after admissibility and merits are confirmed
- No hearing unless objections arise
- Judge issues a separate reasoned decision
- Decision and Certificate = distinct documents
- Original kept at court; copies to those with legitimate interest

## **Certified Copies – Validity & Content (Art. 70, 68)**

- Copies valid for 6 months (renewable exceptionally)
- Expired copies require renewal or reissue
- Protects against use of outdated/inaccurate ECS
- ECS content (Art. 68): reflects rights of all heirs – universal scope
- Collective certificate even if filed by one party

## Effects of the Certificate – Art. 69 Reg. 650/2012

- ECS takes effect automatically in all Member States – no need for recognition
- Establishes rebuttable presumption of legal status & powers
- Valid for land registration (Art. 69(5))
- Public faith protects good-faith third parties who:
  - Pay/deliver to certificate holders
  - Acquire property from certificate holders
  - Are unaware of errors or not grossly negligent

## **ECS vs. Greek Inheritance Certificate – Public Faith**

- ECS applies only to dispositive acts; Greek certificate covers also promissory acts
- ECS: third party must know and rely on certificate; not required in Greek law
- ECS certified copies valid 6 months (Art. 70(3))
- Bad faith includes gross negligence (not only actual knowledge)
- Legal presumption takes effect upon copy delivery or third-party awareness

## **Correction and Amendment – Art. 71 Reg. 650/2012**

- Minor errors: Correction via margin notes (Art. 320 CCP)
- All corrected copies reissued, and parties notified
- Substantial errors: require amendment or revocation
- Requires proof of inaccuracy – Art. 823 CCP applies in Greece
- Court may retrieve certified copies still in circulation (Arts. 941+ CCP)
- No new certificate can be issued until all copies are returned or expired

## Revocation and Suspension – Art. 71 & 73 Reg.

- Revocation possible ex officio or on request (with legitimate interest)
- Must notify all holders of certified copies
- Enforcement in other Member States via Reg. 1215/2012 (Brussels Ia)
  
- Suspension (Art. 73):
  - Upon application during correction/revocation process
  - Also if appeal (Art. 72) is pending
  - No certified copies can be issued during suspension

## Legal Remedies – Overview (Art. 72 Reg. 650/2012)

### Who can appeal:

- Any party (positive or negative outcome) has the right to appeal before the court of the issuing Member State.
- Broad standing: includes anyone entitled to request the issuance of a European Certificate of Succession (ECS).
- Any person with a legitimate interest may appeal decisions for:
  - Correction
  - Modification
  - Revocation of the ECS

### Jurisdiction:

- Exclusive competence lies with the courts of the issuing Member State.

## Legal Remedies in Greek Law (per National Notification)

### Procedures & Courts:

- **Appeal** against ECS issuance: before the competent *Multi-Member Court of First Instance*.
- **Third-party opposition (Tritanakopi)** against correction/revocation: The court that issued the challenged decision.

### Deadlines:

- Appeal (issuance granted): 20 days from publication (Art. 824 §1 CCP)
- Appeal (issuance rejected): 30 days from service / 2 years from publication (Art. 518 CCP).

### Important Notes:

- Appeal **does not suspend** ECS validity → separate suspension must be requested (Art. 73 Reg.).
- Issuance or deny of issuance of certified copies is **not appealable** (not considered court decisions).



# Training of lawyers on EU Civil Law (TRADICIL) – Succession Law Seminar

**Angelina Boneva-Petrova**

**Comparative analysis: application of EU succession  
law instruments in Bulgaria**

**Athens, 2 June 2025**



Co-funded by the European Union

# I. INTRODUCTION

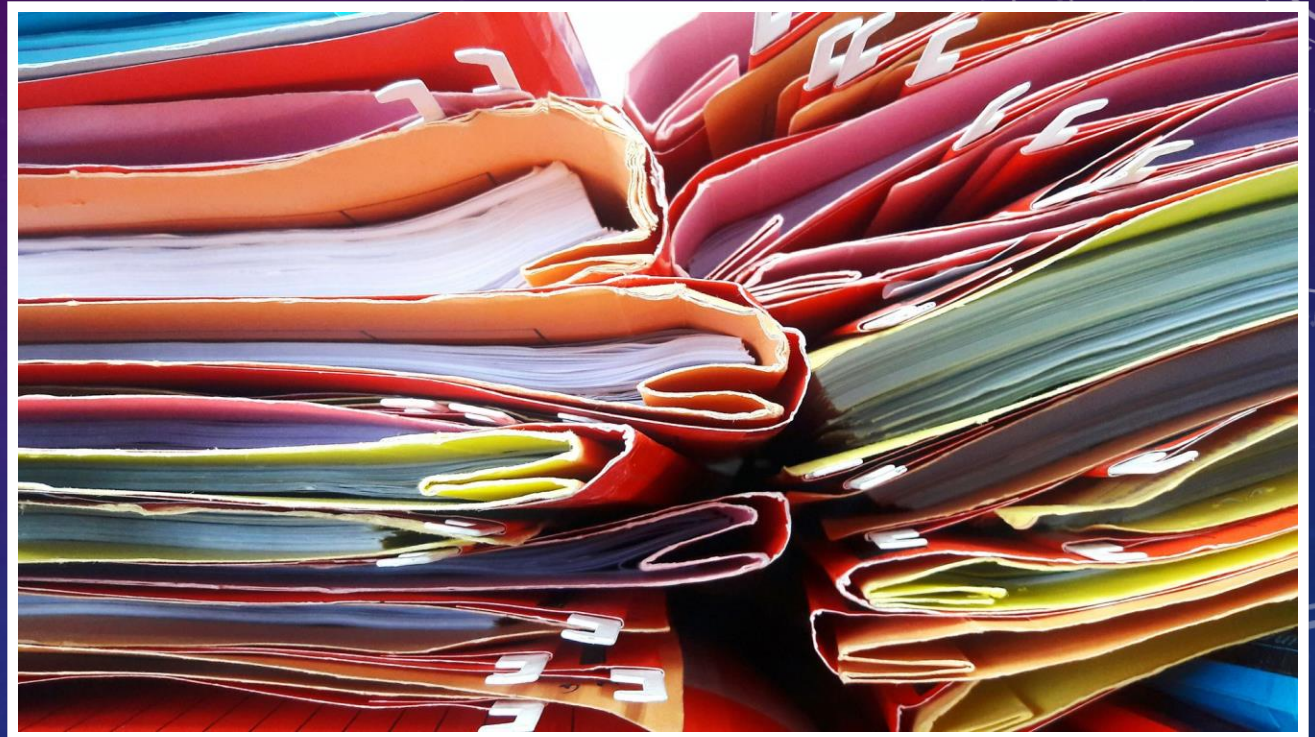
In this seminar thus we have established the application of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (Regulation 650/2012) of the European legislator aimed at facilitating national courts upon being seized with an international succession case. My aim is to briefly discuss with you the comparative analysis as to the application of the Regulation in Bulgaria, as well as the Code of private international law, still applicable to some although rather rare cases.



# SUCCESSION

# AIMS OF MODULE 5

- Brief summary of Regulation 650/2012
- Analysis of the applicability in Bulgaria
- Discussion of the Code of private international law
- Comparative analysis of the relevant caselaw on the Regulation and succession matters



## II. APPLICATION OF THE REGULATION AND OTHER INSTRUMENTS IN BULGARIA

### RECITALS 23 & 24 on HABITUAL RESIDENCE

They are an aid to interpretation, and in practice they clarify the content of rules of law. As per Recital 23, the habitual residence has to be clarified to the period before death, the duration and regularity of the stay, the conditions and reasons for the stay, the purpose is to establish a link with the State. Recital 24 further states that in certain cases, determining the deceased's habitual residence may prove more complex



Co-funded by the European Union

# TRADICIL

Training of lawyers on digitalisation of justice and EU civil law - Seminar on EU Succession Law

**2 JUNE 2025, 09:00 - 16:00, ATHENS**  
*Athens Bar Association, Akadimias 60, 1<sup>st</sup> floor Auditorium, 10679 Athens, Greece*

**09:00-09:10 WELCOME ADDRESS AND INTRODUCTION TO THE SEMINAR**  
**Nikolaos Koutkias**, Head of the Greek Delegation to the CCBE  
**Vasileios Stathopoulos**, Project Manager, European Lawyers Foundation

**09:10-09:50 JURISDICTION**  
**Evangelos Daskas**, Lawyer, Athens Bar Association

**09:50-10:30 APPLICABLE LAW**  
**Jaume Tarabal Bosch**, Spanish Lawyer

**10:30-11:10 RECOGNITION AND ENFORCEMENT OF DECISIONS, AND ACCEPTANCE AND ENFORCEMENT OF AUTHENTIC INSTRUMENTS IN MATTERS OF SUCCESSION**  
**George Kontis**, Lawyer, Athens Bar Association

**11:10-11:40 COFFEE BREAK**

**11:40-12:20 EUROPEAN CERTIFICATE OF SUCCESSION**  
**Aikaterini Voulgari**, Lawyer, Athens Bar Association

**12:20-13:00 COMPARATIVE ANALYSIS**  
**Angelina Boneva-Petrova**, Bulgarian Lawyer

**13:00-14:00 LUNCH BREAK**

**14:00-16:00 CASE STUDY ON EU SUCCESSION LAW**



Pamboukis

# EU Succession Regulation No 650/2012

A Commentary

NOMIKI BIBLIOTHIKI  
C.H.BECK · HART · NOMOS

# The EU Succession Regulation

A Commentary

EDITED BY  
ALFONSO-LUIS CALVO CARAVACA,  
ANGELO DAVÌ AND HEINZ-PETER MANSEL

CAMBRIDGE

# APPLICATION – A BRIEF SUMMARY OF WHAT WE HAVE ESTABLISHED SO FAR

- TEMPORAL APPLICATION - The Regulation is applied to any proceedings relating to succession where the decedent has passed away on or after 17th of August 2015;
- APPLICATION BY STATES - it is applied by all EU Member States, with the exception of Ireland and Denmark;
- SCOPE OF APPLICATION - The Regulation's application concerns the jurisdiction of EU Member States' courts under succession cases, as well as the applicable law and the recognition and enforcement of judgments and authentic instruments in matters of succession;
- NOT APPLICABLE TO – Negative catalog;
- COMPETENT AUTHORITIES – CJEU C-80/19 – ARE NOTARIES COMPETENT AUTHORITIES IN BULGARIA?

# CODE OF PRIVATE INTERNATIONAL LAW IN BULGARIA

- Still applicable for cases of the deceased passing away before the 17th of August 2015;
- Jurisdiction under the Code;
- Applicable law.



A black and white photograph of a person's hand holding a pen and signing a document. The hand is positioned on the left side of the frame, with the pen tip touching the paper. The other hand is resting on the right side of the document. The background is dark and out of focus, showing some faint stars. The text 'EUROPEAN SUCCESSION' is overlaid in white, bold, uppercase letters in the upper right quadrant of the image.

# EUROPEAN SUCCESSION

# EUROPEAN SUCCESSION CERTIFICATE



## **Simplifies Cross-border Inheritance**

- The certificate has the aim to simplify cross-border succession within the EU, allowing successors to prove their rights without further formalities;
- National certificates of successors and the competent authorities;



## **Competent authorities in Bulgaria**

The district court of the last permanent address of the deceased and in the absence of such, the district court of their last address in the country, and in the absence of an address in the country - to the Sofia District Court.



## **Proceedings for issuing a European Certificate of Succession in Bulgaria**

- Non-contentious proceedings or *procédure gracieuse* under Article 627i of the Civil Procedure Code. The decision is subject to appeal.

### III.ISSUES AND CASELAW CHALLENGES

- The right to a reserved quota of the estate under Bulgarian law;
- Determining the jurisdiction of the court to issue a European Certificate of Succession solely on the basis of Article 4 of the Regulation;
- Should the Regulation have been considered in this case - The testator died before the 17th of August 2015?

## IV. CONCLUSION

THANK YOU FOR THE ATTENDANCE AND ATTENTION!

