



Training of lawyers on EU Civil Law (TRADICIL)

Alexandros Ioannides

Jurisdiction

Nicosia, 14 November 2025



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I. REALM OF APPLICATION

MATERIAL SCOPE OF APPLICATION:

- *Cross-border succession* (post mortem involving more than one country).
- *All civil-law aspects* of succession: heirs, legatees, reserved shares, administration, transfer of assets.

Excludes (Art. 1(2)):

- Family law disputes
- Trusts including existing rights and tax matters
- Administrative / Registration procedures

PERSONAL, TERRITORIAL AND TEMPORAL SCOPE OF APPLICATION

- Applies to deaths on or after **17 August 2015**.
- Binding in all EU Member States **except Denmark and Ireland**.
- May also apply to **non-EU nationals** (e.g. if property or residence is in the EU).

PURPOSE

To create and ring-fence a *single legal framework* for jurisdiction, applicable law, recognition of decisions and the European Certificate of Succession in a robust manner.



II. GENERAL JURISDICTION (ART. 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.”

Jurisdiction lies with the appropriate Court of the Member State where the deceased had his/her habitual residence at the time of death.

This Court has competence over the entire succession (all assets, wherever located).



Ludwig, an Austrian national, lived in Cyprus for the last ten years before his death. The Cyprus Courts have jurisdiction over his entire succession, including property he owned in Austria or Germany or Malta.



III. CHOICE-OF-COURT AGREEMENT (ARTS. 5 - 8 & 22)

“Where the law chosen by the deceased to govern his succession pursuant to Article 22 is the law of a Member State, the parties concerned may agree that a court or the courts of that Member State are to have exclusive jurisdiction.”

• If the deceased chose the law of their nationality to govern the succession (**Article 22**), the parties may also **agree** that the courts of that State have **exclusive jurisdiction** over the succession (**Article 5**).



Louis, a Cypriot national living in Italy, chose Cypriot law to govern his succession. His heirs agreed in writing that the Cyprus Courts would have exclusive jurisdiction. Therefore, even though Louis lived in Italy, Cyprus Courts can decide all succession matters.

IV. JURISDICTION BASED ON APPEARANCE (ART. 9)

If some parties didn't sign the choice-of-Court agreement, the Court can keep jurisdiction if those parties accept it (don't object). If they object, the Court must decline jurisdiction.

- If **some parties didn't sign** the choice-of-Court agreement:
 - The Court can **keep jurisdiction** if those parties **accept it** (don't object).
 - If they **object**, the Court must **decline jurisdiction**.

- In that case, jurisdiction goes back to:
 - **Article 4**: Court of the habitual residence, or
 - **Article 10**: Court where assets are located.



 Maria dies in France having chosen Cypriot law. Her children accept Cyprus jurisdiction, yet one daughter didn't sign. If she does not object, Cyprus keeps the case; if she objects, it returns to France (habitual residence) or Spain (assets).

V. SUBSIDIARY JURISDICTION (ART. 10)

“Where the habitual residence of the deceased is not in a Member State, the courts of a Member State in which assets are located shall have jurisdiction if the deceased had that State’s nationality or a previous habitual residence within five years.”

- If the deceased was not habitually resident in the EU, a Member State court can still deal with the succession if the deceased had that nationality or recently lived there. If not, jurisdiction is limited to assets in that State.



 **Andreas, a Cypriot citizen living in the U.K but owning a house in Larnaca: Cypriot Courts can rule on the entire succession because he was Cypriot and owned property in Cyprus.**

VI. FORUM NECESSITATIS (ART. 11)

Where no Court of a Member State has jurisdiction, the courts of a Member State may, on an exceptional basis, rule on the succession if proceedings cannot reasonably be brought or conducted in a third State with which the case is closely connected.”

In exceptional cases, the Courts of a MS may rule on the succession:

- If no Court of a Member State has jurisdiction; and
- The case has a sufficient connection with a Member State; and
- If proceedings cannot reasonably be brought or conducted or would be impossible in a third State with which the case is closely connected.



Giorgio, an Italian citizen, dies in a country where no functioning courts exist due to war. No EU Court has normal jurisdiction, but since the case is closely connected to Italy, and it's impossible to bring the case abroad, an Italian Court can take the case exceptionally to ensure justice.

VII. ACCEPTANCE OR WAIVER OF SUCCESSION (ART. 13)

“The Courts of the Member State of the habitual residence of a person entitled to make a declaration on acceptance or waiver of the succession shall have jurisdiction to receive such declarations.”

- Besides the main Court handling the succession, the **Courts of a person’s habitual residence** can also act **if**:
 - That person needs to make a **declaration** (e.g. accept or renounce inheritance, legacy, or reserved share).
 - And the **law of that State** allows such declarations before a Court.



In short: A person can make inheritance-related declarations **before their local Court**,
not only where the succession case is handled.



Patricia lives in Germany, but her father’s estate is in Poland. German law allows inheritance declarations before German Courts, so Patricia can renounce the inheritance in Germany, without going to Poland.

VIII. LIS ALIBI PENDENS (ART. 17)

“Where proceedings involving the same cause of action and between the same parties are brought in different Member States, any Court other than the one first seized shall stay proceedings until jurisdiction is established.

- If the **same case between the same parties** is filed in **two or more Member States**:
 - The Courts **other than the one first seized** must **pause (stay)** their proceedings.
 - Once the **first Court’s jurisdiction is confirmed**, the others must **withdraw (decline jurisdiction)**.



In short: Only the **first Court** where the case was filed can continue — this avoids **duplicate or conflicting decisions**.

 The heirs of Eleni start inheritance cases in Greece and Romania. The Romanian Court must pause until the Greek Court confirms jurisdiction and then decline.

IX. RELATED ACTIONS (ART. 18)

- “Where related actions are pending in Courts of different Member States, any Court other than the first seized may stay proceedings or decline jurisdiction if consolidation is possible.”
- If **related cases** are pending in courts of **different Member States**:
- Other Courts (not the first seized) **may pause (stay)** their cases.
- They may also **decline jurisdiction** if:
 - The **first Court** can handle **both cases**, and
 - Its law allows them to be **joined together**.
- “**Related actions**” = cases so closely connected that deciding them separately could
- lead to **conflicting judgments**.



In short: Courts can **pause or transfer** related cases to avoid **contradictory decisions**.



A case on will validity is in Italy, and another on asset division in Spain. Spain may stay or transfer its case to Italy to avoid contradictory rulings.

Recap – Jurisdiction under EU Regulation 650/2012

MAIN JURISDICTION RULES SUMMARIZED:

- Default rule: habitual residence → broad jurisdiction.
- Flexibility: link to chosen law.
- Safeguards: fallback (subsidiary), emergency (forum necessitatis), and
- Coordination (lis alibi pendens, related actions).



Overall, the Regulation ensures predictable and unified rules for cross-border succession cases within the EU and sometimes beyond. Happy to elaborate on another occasion on how this can be pre-emptively achieved through a fully-fledged International Trust of the Republic of Cyprus!

Type of Jurisdiction	Article(s)	Who Has Jurisdiction	Main Connecting Factor / Condition	Scope / Effect
General Rule	Art. 4	Courts of the Member State of the deceased's habitual residence at death	Deceased was habitually resident in that State	Jurisdiction over the entire succession, regardless of where assets are located
Choice of Court (Prorogation)	Art. 5	Courts of the Member State whose law was chosen by the deceased (nationality law)	Deceased made a valid choice of law under Art. 22, and parties agree to confer jurisdiction	Jurisdiction becomes exclusive
Subsidiary Jurisdiction	Art. 10	Courts of a Member State where assets are located	No court of the habitual residence State has jurisdiction or declines it	Jurisdiction only over assets in that State
Forum Necessitatis	Art. 11	Any Member State court with a sufficient connection	No other court is available or accessible abroad	Jurisdiction only to the extent necessary to ensure justice
Declining Jurisdiction (Transfer to third State)	Art. 12	Court of the Member State of habitual residence	A third-State court (of nationality chosen by deceased) is better placed to decide	Court may decline in favor of the third State
Lis Alibi Pendens & Related Actions	Arts. 17–18	The court first seised keeps jurisdiction	Same cause of action pending in two Member States	Avoids conflicting decisions
Examination of Jurisdiction	Art. 15	Any court before which proceedings are brought	Must check jurisdiction ex officio	If not competent, it must decline jurisdiction



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Achilles Emilianides

Applicable Law

Nicosia, 14 November 2025



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Principles

- Unity of succession: a single law governs the succession to the estate of the deceased, irrespective of whether such refers to movables or immovable property
- Universality of succession: Applicable law shall govern the entirety of the deceased's estate wherever it is situated
- Universal application: Either of a third country or a member state may be applicable law
- Avoiding fragmentation/legal certainty

Scope

- Temporal: deaths after 17.8.2015 (but transitional provision, Art. 83 regarding choice of law)
- Whether testate or intestate
- Covering all civil law aspects of the estate
- Applying in all EU member states with the exception of Denmark and Ireland
- The applicable law can be of any third state

Habitual residence (art. 21)

- ▶ Habitual residence as primary connecting factor
- ▶ Last residence refers to the circumstances of the life and relevant and regulatory presence in the State concerned, revealing close and stable connection, where the centre of interests of his family and his social life was located.
- ▶ Concept of habitual residence is autonomous in EU law and of any national law, and a factual issue.
- ▶ Two elements make up the concept:
 - corpus, real and effective presence
 - animus, intention to confer that presence continuity (settle purpose, animus manendi).

Choice of Law (art. 22)

- ▶ Deceased may choose law of nationality to govern the estate
- ▶ Choice between the law of any of the nationalities of the deceased at the time of either making the choice, or at the time of death (even if lost before the date of death)
- ▶ Choice of only one law for the entire estate (no depeceage)
- ▶ The law chosen could be the one of a third State
- ▶ The choice could be made either expressly or implicitly

Choice of law

- ▶ The substantive validity of choice is governed by the law chosen
- ▶ The form of choice should be made in a disposition of property upon death (mortis causa disposition): will or succession agreement. This also applies to modification or revocation of the choice of law

Espace clause (art. 21.2)

- If there is no choice of law, the law of habitual residence may not apply if another law is manifestly more closely connected with the deceased
- e.g. the deceased had abruptly moved but all the interests of life remain in the State where he used to live and is a national and where the heirs reside

Scope of the applicable law (art. 23)

The entirety of the estate, including:

- causes, time and place of the opening of the succession
- Determination of beneficiaries, their respective shares and other succession right
- Capacity to inherit
- Disinheritance and disqualification
- Transfer to the heirs and legatees of the assets, rights and obligations (including conditions and effects of the acceptance or waiver)
- Powers of heirs, executors of the wills and other administrators
- Liability for the debts
- Disposable part of the state, reserved shares and other restrictions on the disposal of property
- Any obligation to restore or account for gifts, advancements or legacies when determining the shares of the different beneficiaries

Dispositions of property upon death (Art. 24)

- Substantial validity if governed by the law that would have been applicable to the succession if the testator had he died on the day the disposition was made (Possibility to choose the law of nationality)

Agreement to succession (Art. 25)

- Agreements as to succession shall be governed re substantial validity and binding effects by the law that would have been applicable to the succession if the person had died on the day the agreement was made
- Agreement regarding several persons shall be admissible only if admissible under all relevant laws of the persons involved but shall be governed by the law with which it has the closest connection (unless choice of law was made)

Substantive validity (Art. 26)

Governs:

- ▶ Capacity to make the disposition
- ▶ Interpretation of the disposition
- ▶ the particular causes which bar the person making the disposition from disposing in favour of certain persons or which bar a person from receiving succession property from the person making the disposition
- ▶ fraud, duress, mistake and any other questions relating to the consent or intention of the person making the disposition.

Formal validity (Art. 27)

A disposition of property upon death made in writing shall be valid as regards form if its form complies with the law:

- ▶ of the State in which the disposition was made or the agreement as to succession concluded;
- ▶ of a State whose nationality the testator or at least one of the persons whose succession is concerned by an agreement as to succession possessed, either at the time when the disposition was made or the agreement concluded, or at the time of death;

Cont

- ▶ of a State in which the testator or at least one of the persons whose succession is concerned by an agreement as to succession had his domicile, either at the time when the disposition was made or the agreement concluded, or at the time of death;
- ▶ of the State in which the testator or at least one of the persons whose succession is concerned by an agreement as to succession had his habitual residence, either at the time when the disposition was made or the agreement concluded, or at the time of death; or
- ▶ in so far as immovable property is concerned, of the State in which that property is located.

Formal validity of waiver or acceptance (art. 28)

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, shall be valid as to form where it meets the requirements of:

- ▶ The law applicable to the succession or
- ▶ The law of the state in which the person making the declaration has his habitual residence

Administration of estate (Art 30)

Complex rule

Where the appointment of an administrator is mandatory under the law of the Member State whose courts have jurisdiction to rule on the succession and the law applicable to the succession is a foreign law,

- ▶ the courts of that Member State may, when seised, appoint one or more administrators of the estate under their own law, subject to the following conditions:

Cont

- ▶ The administrator(s) shall be the person(s) entitled to execute the will of the deceased and/or to administer the estate under the law applicable to the succession.
- ▶ The appointing court may lay down specific conditions for the exercise of such powers in accordance with the law applicable to the succession.
- ▶ Where the law applicable to the succession does not provide for sufficient powers to preserve the assets of the estate or to protect the rights of the creditors or of other persons having guaranteed the debts of the deceased, the appointing court may decide to allow the administrator(s) to exercise, on a residual basis, the powers provided for to that end by its own law and may, in its decision, lay down specific conditions for the exercise of such powers in accordance with that law.

Cont

- ▶ the court may, by way of exception, where the law applicable to the succession is the law of a third State, decide to vest in those administrators all the powers of administration provided for by the law of the Member State in which they are appointed.
- ▶ However, even when exercising such powers the administrators shall respect, in particular, the determination of the beneficiaries and their succession rights, including their rights to a reserved share or claim against the estate or the heirs under the law applicable to the succession.

Special rules (Art. 30)

- ▶ Where the law of the State in which certain immovable property, certain enterprises or other special categories of assets are located contains special rules which, for economic, family or social considerations, impose restrictions concerning or affecting the succession in respect of those assets, those special rules shall apply to the succession in so far as, under the law of that State, they are applicable irrespective of the law applicable to the succession.

Adaptation of rights in rem (Art. 31)

- ▶ Where a person invokes a right in rem to which he is entitled under the law applicable to the succession and the law of the Member State in which the right is invoked does not know the right in rem in question, that right shall, if necessary and to the extent possible, be adapted to the closest equivalent right in rem under the law of that State, taking into account the aims and the interests pursued by the specific right in rem and the effects attached to it.

Commorientes (Art. 32)

- ▶ Where two or more persons whose successions are governed by different laws die in circumstances in which it is uncertain in what order their deaths occurred, and where those laws provide differently for that situation or make no provision for it at all, none of the deceased persons shall have any rights to the succession of the other or others.

Public policy

- ▶ The application of a provision of the law of any State specified by this Regulation may be refused only if such application is manifestly incompatible with the public policy (ordre public) of the forum.



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Tiberiu Popescu-Negreanu

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

Nicosia, 14 November 2025




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RECOGNITION AND ENFORCEMENT

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LEGAL FRAMEWORK

Regulation(EU) no. 650/2012 of the European Parliament and the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance of authentic instruments in matters of succession and on the creation of a European Certificate of Succession


Chapter IV, Art. 39-58 – Recognition, enforceability and enforcement of decisions

Chapter V, Art. 59-61 - Authentic instruments and court settlements



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LEGAL FRAMEWORK

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 (Implementing Regulation) – in force from 17 August 2015



RECOGNITION AND ENFORCEMENT OF DECISIONS

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Concepts


Decision – article 3.1.g – any document in a matter of succession given by a court of a Member State (except Ireland and Denmark)

Court – art. 3.2 recital 20 broad meaning, any judicial authority, not only courts with judicial functions but also notaries, legal professionals and registry office when they exercise judicial functions



RECOGNITION AND ENFORCEMENT OF DECISIONS

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RECOGNITION

General Rule – art. 39 Automatically recognition – no special procedure being required. Could be obtained as a principal issue in a dispute or as an incidental question


Ground of non-recognition – art. 40

- manifestly contrary to public policy (ordre public)
- default of appearance, the defendant was not served
- irreconcilable with a decision between the same parties in the MS
- irreconcilable with an earlier recognizable decision given in another Member State or in a third State same cause of action and the same parties



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RECOGNITION


Art. 41 – Under no circumstance no review as to the substance of the decision

Staying of recognition proceedings, art. 42.2, if an ordinary appeal against the decision has been lodged in the Member State of origin (MSO).



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ENFORCEMENT

Procedure of enforcement

Object: Decisions declared enforceable in the MSO according to art. 45 to 58

Documents:

Application + annexes (copy of the decision, the attestation of the court or competent authority (see Annex 1 to Implementing Regulation) if article 47 is not applicable (non production of the attestation)

No security, bond or deposit is required


No charge, duty or fee is due

Legal Aid as in the MSO



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ENFORCEMENT

Declaration of enforceability – as soon as the conditions are fulfilled

Notice of the declaration of enforceability to the parties

Appeal – 30 or 60 days of service


Contestation of the appeal decision

Staying of proceedings of enforceability if there is an appeal against the enforceability declaration or contestation to the appeal decision



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ENFORCEMENT


Provisional and protective measures in accordance with legislation of the MS of enforcement,
When there is an appeal to the declaration of enforceability – only protective measures against the property of the debtor

Partial enforceability – several matters or request of the enforceability only of parts of the decision



AUTHENTIC INSTRUMENTS AND COURT SETTLEMENTS

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Concepts

Authentic Instruments – art. 2.2.i - documents formally drawn up or registered as an authentic instruments in the MS


Authenticity relates to signature and content or has been established by an empowered public authority (see *Unibank A/S v Flemming G. Christensen* C-260/97).

Court Settlement art. 2.2.h – a settlement approved by a Court or concluded before a court during the proceedings



AUTHENTIC INSTRUMENTS

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Acceptance


Challenge of **authenticity** – before the courts of the MS of origin, effect stay off in procedure

Challenge of **the legal facts and of the legal relationship recorded in authentic instruments** – before the courts according to Chapter II



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Acceptance

No evidentiary effect other than those in the MSO


Documents:

The form according to art. 81.2 (see Annex 2 to
Implementing Regulation)



AUTHENTIC INSTRUMENTS

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Enforceability

Enforceable to all the MS if it is enforceable in the MSO

Same procedure as the decision (art. 46 – 58)

Documents:

Authentic document

Attestation of the authority which established the authentic instrument (see Annex 2 to Implementing Regulation)


Declaration of enforceability

Only one ground of refusal/revocation of the declaration of enforceability – manifestly contrary to public order



COURT SETTLEMENTS

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Enforceability

Enforceable to all the MS if it is enforceable in the MSO
Same procedure as the decision (art. 46 – 58)

Authentic Court Settlement

Attestation of the court which approved the settlement, or before which was concluded (see Annex 3 to Implementing Regulation)

Declaration of enforceability

Only one ground of refusal/revocation of the declaration of enforceability – manifestly contrary to public order



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Stefanos Skordis

**European Certificate of Succession: Simplifying
Cross-Border Inheritance within the European Union**

Nicosia, 14 November 2025



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Purpose-Goals

- **Explain E.C.S Framework under the EU Law**
 - **How it supports cross border succession**
- **Importance for legal professionals and citizens**

EU Succession Regulation

- **Regulation No. 650/12 – Succession Regulation**
- **Adopted - 04/07/2012 and Enforced – 17/08/2015**
- **Objective: Simplification of succession cases**
- **Scope: Applicable to inheritance matters of EU countries, excluding taxes, matrimonial properties, and trusts**

What is the E.C.S

- **Standardised document issued by competent authorities in EU states – Regulation EU 1329/2014**
- **Works alongside national documents and is not a substitute (Art. 62)**
- **Facilitates proof of (Art. 63):**
 - (1) Status as heir, legatee, executor or administrator**
 - (2) Rights and powers deriving from succession**

How the E.C.S Works

- **Application:** Submitted to competent authorities (Art. 64 and 65).
- **Procedure** (Art. 66 and 67)
- **Content:** Identifies heirs, their rights and property included (Art. 68)
- **Validity:** Recognised across EU without further formalities
(excluding Denmark and Ireland)
- **Duration:** Limited time but renewable (Art. 70(4))
- **Rectification** (Art. 71) – **Redress/Suspension** (Art. 72-73)

Benefits of the E.C.S.

- **Citizens: Saves time, cost, and complexity**
- **Lawyers: Provides certainty and speeds up procedures**
- **EU States: Enhances legal cooperation and integration**
- **Promotes legal security and trust in EU Law**

Conclusion

- **Empowers Lawyers, reassures citizens, and strengthens EU cooperation**
- **Reduces cross-border legal uncertainty through a standardised, EU-recognised certificate**
- **Encourages harmonisation of national succession laws**
- **Promotes trust in EU legal system and facilitates the practical exercise of rights across borders**
- **Highlights the importance of training and awareness for legal professionals**



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Marta Kuligowska

**Family Protection vs. Freedom of Testation: A
Comparative Analysis of Zachowek, Réserve
Héréditaire, Quota di legittima and Lakiosa**

Nicosia, 14 November 2025



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Why Forced Heirship is relevant?

- Balancing two principles:
 - 1) *Freedom of testation* (individual autonomy)
 - 2) *Family protection* (social & moral obligation)
- Forced heirship as a civil law response
- Increasing cross-border importance (EU succession regulation)

Roman Roots and European Traditions

- Origin: Roman *legitim* (reserved share of heirs)
- Spread through the **Napoleonic Code (1804)**
- Evolution:
 - 1) Latin countries → strong protection
 - 2) Nordic countries → liberalization
 - 3) Central Europe → mixed systems

Poland – *Zachowek* (Civil Code Art. 991-1011)

- Purpose: guarantee minimum inheritance for close family
- Influenced by German *Pflichtteil*
- Applies to children, spouse, parents

Poland – *Zachowek* (Civil Code Art. 991-1011)

- Amount: $\frac{1}{2}$ statutory share, or $\frac{2}{3}$ if minor/incapacitated
- Form: always monetary claim
- Enforcement: must be claimed (5-year limit)
- Moderate restriction on testation

Poland – *Zachowek* (Civil Code Art. 991-1011)

- Example:

Legal heirs: Anna (wife), Piotr (20), Kamil(15)

Estate: 300,000 PLN

Children's statutory share: $\frac{1}{4}$ each (75,000 PLN)

Wife's statutory share: typically $\frac{1}{2}$ of estate = 150,000 PLN

Reserved portion (legitim):

Piotr: adult $\rightarrow \frac{1}{2}$ of 75,000 = 37,500 PLN

Kamil: minor $\rightarrow \frac{2}{3}$ of 75,000 \approx 50,000 PLN

Anna: fit adult $\rightarrow \frac{1}{2}$ of 150,000 = 75,000 PLN

France – *Réserve Héritaire* (Code Civil, Arts. 912–930)

- Rooted in the Napoleonic Code
- Protects descendants (and spouse if no children)
- Automatically applied by notary at succession
- Action en réduction

France – *Réserve Héritaire* (Code Civil, Arts. 912–930)

- 1 child → $\frac{1}{2}$ estate, $\frac{1}{2}$ remaining portion
 - 2 children → $\frac{2}{3}$ estate, $\frac{1}{3}$ remaining portion
 - 3+ children → $\frac{3}{4}$ estate, $\frac{1}{4}$ remaining portion
 - No children, one spouse → $\frac{1}{4}$ estate, $\frac{3}{4}$ remaining portion
 - Remaining portion = *quotité disponible*
 - Violations corrected via *action en réduction*
- a) **five years** from the date of death, or **two years** from the moment you find out that the reserved share has been violated — but never more than **ten years** after the death.

France – *Réserve Héritaire* (Code Civil, Arts. 912–930)

- **Person:** Marie
Estate: €900,000
Family: 2 children (Alice and Bruno)
Wishes: Marie wants to give €400,000 to her friend Sophie in her will.
- Marie has 2 children, so the reserved portion = $2/3$ of estate
- Total estate = €900,000 → Reserved portion = $€900,000 \times 2/3 = €600,000$
- Alice and Bruno must share €600,000 equally → €300,000 each.
- Remaining part = Disposable portion = $1/3$ of estate = $€900,000 \times 1/3 = €300,000$
- Marie can freely give this €300,000 to Sophie
- If she gives €400,000 to Sophie, Alice and Bruno can demand **reduction of excess gift**

Italy – *Quota di legittima* (Codice Civile Arts. 536–562)

- Deep Napoleonic roots; strong family orientation
- Heirs: children, spouse, ascendants (no siblings)
- Reserved shares depend on family composition

Italy – *Quota di legittima* (Codice Civile Arts. 536–562)

- Only the spouse – $\frac{1}{2}$ to the spouse and $\frac{1}{2}$ as available quota
- The spouse and a child – $\frac{1}{3}$ to the spouse, $\frac{1}{3}$ to the child and $\frac{1}{3}$ as available quota
- The spouse and two or more children - $\frac{1}{4}$ to the spouse, $\frac{2}{4}$ to children and $\frac{1}{4}$ as available quota
- 1 child and no spouse – $\frac{1}{2}$ to the child and $\frac{1}{2}$ as available quota
- 2 or more children and no spouse – $\frac{2}{3}$ to the children and $\frac{1}{3}$ as available quota

Italy – *Quota di legittima* (Codice Civile Arts. 536–562)

- Ascendants – 1/3 to the ascendants, 2/3 as available quota
- The spouse and the ascendants and no children – 1/2 to the spouse, 1/4 to the ascendants, 1/4 as available quota
- Enforcement: 10-year time limit for *azione di riduzione*

Italy – *Quota di legittima* (Codice Civile Arts. 536–562)

- Example:

Deceased: Marco

Estate: €300,000

Family: Spouse: Anna, Children: Luca and Sofia

Marco's Will: Leaves €250,000 to his friend Paolo, Leaves €50,000 to his children

Estate = €300,000

Children's forced share = $\frac{2}{4} \times 300,000 = €150,000$

Spouse's forced share = $\frac{1}{4} \times 300,000 = €75,000$

Available quota = €75,000

Finland – *Lakiosa* (Perintökaari luku 7)

- Only children protected (no spouse)
- Share: $\frac{1}{2}$ of intestate portion
- Must claim within 6 months after will is published
- Liberal model balancing autonomy and fairness

Finland – *Lakiosa* (Perintökaari luku 7)

- Example:

Tapio passes away.

He has two children: Laura, who is alive and Matti, who died before Tapio but had two children: Aino and Eevi (Tapio's grandchildren)

Tapio's estate is worth €300,000, and he has left a will giving everything to his new partner Helena

Laura → $\frac{1}{2} \times €150,000 = €75,000$ legal share

Aino → $\frac{1}{2} \times €75,000 = €37,500$ legal share

Eevi → $\frac{1}{2} \times €75,000 = €37,500$ legal share

Helena may keep the €150,000, as long as she pays lakiosa to Laura, Aino and Eevi

Comparative Overview of Four Systems

Feature	Poland (<i>zachowek</i>)	France (<i>réserve héréditaire</i>)	Italy (<i>quota di legittima</i>)	Finland (<i>lakiosa</i>)
Heirs protected	Children, spouse, parents	Children, spouse (if no children)	Children, spouse, parents (if no children)	Children only
Reserved share	½ (⅓ if minor/incapacitated)	½–¾ of estate (by # of children)	½-3/4 of estate (by family mix)	½ of intestate share
Form of right	Monetary claim (in-kind share if accepted)	Monetary claim (in-kind share if accepted)	In-kind share (monetary if needed)	Monetary claim
Automatic or claim?	Claim within 5 years	Claim within 5 years	Claim within 10 years	Claim within 6 months
Spouse protection	Yes	Yes (limited)	Yes	No (other rights)
Freedom of testation	Moderate	Very restricted	Very restricted	Broad
System character	Hybrid	Highly protective	Family-centred	Liberal/autonomy-focused
Tradition / influence	German <i>Pflichtteil</i>	Napoleonic	Roman-Napoleonic	Nordic

Freedom vs. Family

- **France & Italy:** strong family protection, limited freedom
- **Poland:** mixed – moderate autonomy, strong claim rights (up to 5 years)
- **Finland:** liberal, testator-centered model

Freedom vs. Family

- Social function:
 - a) Fairness
 - b) prevention of disinheritance abuse
- Economic drawback:
 - a) property fragmentation
 - b) liquidity problems

EU & Cross-Border Implications

- EU Regulation 650/2012 (Succession Regulation): choice of law possible
 - a) by default: state of habitual residence at the time of death
 - b) Choice of law: person may choose the law of a state whose nationality they possess
- Potential conflicts between “freedom” jurisdictions and “forced share” jurisdictions
- Example: French citizen living in Finland → can opt for French law to maintain *réserve héréditaire*
- BUT: French Civil Code since 2021:
 - a) If a person dies, and either they or at least one of their children is a citizen of a European Union (EU) country or normally lives in an EU country, and the foreign law that applies to the inheritance does not protect children’s rights to a reserved share -> then each child (or their heirs) can claim **property that is located in France at the time of death**
 - b) they get the **same share they would have received under French law -> but only up to that limit**

Should Europe Liberalize Inheritance Law

- Demographic change: aging, blended families
- Can support for autonomy and private will planning
- Counterarguments: social justice, dependency, moral duties
- Question: is *forced heirship* still relevant in 21st century?

Comparative Summary

- *France and Italy*: estate treated as collective family heritage
- *Poland*: hybrid and compensatory system
- *Finland*: freedom-oriented but socially conscious
- No “one-size-fits-all”: reflects cultural attitudes toward family and property.

Final thoughts

- Forced heirship = moral safeguard or outdated restriction?
- Future trend: gradual liberalization?