
Regulation on Cross-Border Successions

Questions / Answers

Brussels, 07 June 2012

1. Will the new Community rules facilitate pan-European inheritance? What are the most important innovations?

The new rules introduce a number of changes which represent some significant steps forward as far as European citizens' rights are concerned:

- Harmonisation of the rules governing conflicting laws which define the law applicable to inheritance at European level. Henceforth it will be principally the law governing the final residence of the deceased which will be applicable. This harmonisation will facilitate the planning of inheritance for EU citizens or for those from third countries.
- Possibility for the deceased to choose a legal system other than that of his/her habitual residence to settle his/her legacy. While still living, he/she may choose the law of his/her nationality via the will, or, if appropriate, via a succession agreement.
- The single nature of the law applicable to the inheritance. The applicable legal system will govern the entirety of the inheritance. Thus no distinction will be made between real estate and movable goods, as used to be the case in certain States such as France.
- Creation of a European Succession Certificate which will streamline the settlement of cross-border inheritance, particularly on matters of proof effects and legitimisation. For example, it will constitute the proof of the status of heir in all Member States.
- In the absence of the requirement of legalisation or a similar requirement, acceptance and circulation of authenticated deeds within the European Union are facilitated by the rules.

2. As a European citizen resident in an EU country other than that of my nationality, I should like at this time to draw up a will and select the law which applies to my legacy. Is this possible?

The rules will become applicable in the summer of 2015. However, thanks to the temporary provisions of the rules, European citizens will be able to select the legal system applicable to their success as soon as it comes into force (summer of 2012).

In order to ensure that their choice is clear, they may, if appropriate, call on the services of a Notary. As a general rule, the www.successions-europe.eu website provides an overview of the right of inheritance in the Member States in 23 languages. This is an ideal tool for identifying basic answers to questions before calling in the Notary.

3. May I select the inheritance law of one specific State even if I do not reside there?

Yes, but this choice is exclusively limited by the rules deriving from the laws of the nationality of the deceased.



4. In the absence of a statement in writing, what would happen in the case, for example, of a German living in France who dies there intestate?

In case of death before the date of applicability of the rules (summer 2015) French law will govern the totality of the succession, being the law of the last usual residence of the deceased. Prior to that date and under the existing rules in Germany, German inheritance law will apply to movable property (assets, jewellery, shares); as far as real estate is concerned, such as an apartment in Paris, the law of the location of the property is applicable, which in this case would be French law.

5. What happens where there are no immediate heirs? Is an international search for heirs undertaken?

The rules propose no solution to the matter of a search for heirs. The law of the court seised continues to govern the matter of discovering whether, and where appropriate, in what way the relevant authority should proceed to search for heirs.

6. Which laws are applicable outside of Europe?

Outside of Europe, the question of the law applicable to inheritance continues to be settled differently. In some countries priority is given to the law of nationality, while in others, to the law of last residence. Others still make a distinction between real estate (the law of the location of the real estate) and movable goods (the law of the habitual residence). In the absence of legislative authority, European regulations are, of course, in no position to settle these differences in other countries.

Within the European Union, however, these new rules on conflict of laws are universally applicable, including for residents of non-EU Member States. Hence the legacy of a Chinese living in Poland will henceforth be governed by Polish law, notwithstanding the right of the deceased when living to select Chinese law. It should be noted that Denmark, the UK and Ireland have not adopted the rules.

7. On tax questions, do the new rules change anything?

The rules do not apply to fiscal matters and have no effect on death duties to be paid by heirs.

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