



European  
Commission



# CROSS-BORDER SUCCESSIONS ➔ A CITIZEN'S GUIDE

How EU rules simplify international inheritances



This guide is intended for anyone involved in or affected by a cross-border succession, particularly those planning their own succession and heirs. It is a practical guide that aims to answer the most commonly asked questions. The guide does not cover every possible scenario; you are thus advised to consult a professional in cross-border successions to discuss the details of your specific situation.

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# PART I:

➔ WHAT ARE THE EU  
RULES ABOUT?



## PART I: WHAT ARE THE EU RULES ABOUT?

### → What is a ‘cross-border succession’?

A *succession* is the transfer upon death of the estate — rights and obligations — of the deceased. Rights can be, for example, the ownership of a house, a vehicle or a bank account; obligations can include debts, for example.

A *cross-border (or international) succession* is a succession with elements from different countries: for example, the deceased lived in a country other than that of his/her origin, the heirs of the deceased live in a different country or the deceased owned assets in several countries.

### → Examples

Axel from Germany lives with his German wife in France. He owns a car in France and an apartment in Germany. The couple’s two children live in France.

Alyna from Latvia lives in Italy with her Italian husband. She owns a bank account in Italy and a house in Latvia. One of her children lives in Latvia and the other in Canada.



### → Why are EU rules on cross-border successions necessary?

Every year more citizens in the European Union move to another EU Member State to study, work or start a family. As a result, each year more than half a million families are involved in cross-border successions.

In cross-border successions, the authorities of several countries may have legal authority to deal with the succession (for example the authorities of the deceased’s country of nationality and the authorities of the country in which the deceased last lived) and the laws of several countries may apply (for example the laws of all the countries where the deceased owned property). Citizens may therefore need to start succession proceedings in different countries and deal with the laws of various countries. This can be costly and may result in authorities issuing conflicting decisions.

To make cross-border successions easier to plan and manage, the EU adopted legislation in 2012, the succession regulation (Regulation (EU) No 650/2012).

## PART I: WHAT ARE THE EU RULES ABOUT?

### → What does the EU regulation do?

The regulation lays down rules to determine which EU Member State's authorities will deal with a cross-border succession and which national law will apply to that succession. In this way, a citizen or a testator (the person who makes a will) can plan their succession and heirs no longer need to deal with multiple national laws and authorities.

The regulation also makes it easier for a court decision or a notarial document dealing with a succession matter issued in one EU Member State to have effects in another EU Member State.

Finally, the regulation creates the European certificate of succession (ECS), a document that can be requested by heirs (as well as legatees, the executors of a will and the administrators of the assets of the deceased) to prove their status and exercise their rights in another EU Member State.

**For the purposes of the regulation, the term 'EU Member State' should be understood as covering all EU Member States except Denmark, Ireland and the United Kingdom, as the latter countries do not participate in the regulation.**

### → What is covered by the EU regulation?

The regulation deals with *certain procedural issues* linked to a cross-border succession — that is, which EU Member State's authorities will deal with the succession, which national law will apply to the succession, how court decisions and notarial documents on succession matters will produce effects in another EU Member State and how the ECS can be used.

The regulation does not deal with the *substantive issues* of a cross-border succession, such as what share of the deceased's assets should go to his/her children and spouse and how free the testator is to decide to whom he/she will leave his/her assets. These issues will continue to be governed by national law.

The regulation does not govern certain matters that can be linked to a cross-border succession, for example:

- the civil status of citizens (for example who was the last spouse of the deceased);
- the property regime of a couple, whether in a marriage or a registered partnership (that is, how the couple's assets should be distributed in case of the death of one of the spouses or partners);

## PART I: WHAT ARE THE EU RULES ABOUT?

- maintenance obligations towards dependent persons (for example a former spouse or children following a divorce);
- pension plans;
- companies, including how the deceased's shares in a company should be transferred;
- the recording of inherited property in a register (for example the recording of the ownership of a house in the land register).

The regulation does not deal with tax law either. The national law of each EU Member State will determine which taxes on the succession should be paid and where.

### → From when does the EU regulation apply?

The regulation applies as of 17 August 2015, which means that its rules apply to the succession of persons who have died on or since that date.

However, wills and choices of law made before 17 August 2015 will, in most cases, remain in effect.

## PART I: WHAT ARE THE EU RULES ABOUT?

### → The key principles of the EU regulation

The regulation makes cross-border successions simpler and cheaper.

- **Authorities and law of the deceased's last country of residence:** the authorities of the EU Member State where the deceased last lived will deal with the succession and, in principle, will apply the law of that EU Member State to the succession.
- **Choice of law possible:** citizens, however, can choose that the law of their country of nationality should instead apply to their succession. This choice of law can be made in a will or in a separate declaration. The country whose law is chosen can be an EU Member State or a non-EU country.

- **Recognition, acceptance and enforcement in other EU Member States:** court decisions on succession matters issued in one EU Member State will be automatically recognised in other EU Member States. If their recognition is opposed, they will be declared enforceable under simplified rules. Official documents (such as notarial documents) on succession matters (for example a will or a certificate of succession) drawn up in one EU Member State will also be accepted and declared enforceable in another EU Member State under simplified rules.
- **ECS:** heirs can obtain such a certificate in an EU Member State to enable them to prove their status as heirs over assets located in other EU Member States.



# PART II:

## → PLANNING THE SUCCESSION — THE TESTATOR

Planning a cross-border succession is made easier by the EU regulation. The following may be useful if you are considering drafting a will.



## PART II: PLANNING THE SUCCESSION — THE TESTATOR

### Which law will usually apply to a cross-border succession?

The most important aspects of a succession will be resolved in accordance with the national law applicable to the succession. Therefore, when a succession has elements from various countries (for example the testator (the person drafting the will) lives in a country other than his/her own, owns assets in several countries or his/her future heirs live in a different country), it is essential to know which national law will apply to the succession.

### → The law of the country of the last habitual residence

In principle, the law that will apply to the succession is the law of the country in which the deceased had his/her **habitual residence** at the time of death.

The country of habitual residence is the country **with which the deceased had a close and stable connection**.

This country will be decided in each particular case by the authority dealing with the succession.

It is not always easy to establish which country is the country of the last habitual residence of the deceased. For example, the deceased may have been temporarily posted for professional reasons to another country or may have lived in several countries without settling permanently in any of them.

When deciding the country of the deceased's last habitual residence, the authority dealing with the succession will look at all the facts of the case, including the following:

- the duration and regularity of the deceased's stay in a given country;
- the conditions and reasons for the stay of the deceased in a given country;

## PART II: PLANNING THE SUCCESSION — THE TESTATOR

- the country in which the family and social life of the deceased are located;
- the country in which the deceased had most of his/her assets;
- the nationality of the deceased.

### → Example 1

Vaiva from Lithuania lived in Belgium with her Lithuanian husband. She died in Lithuania while on holidays there. The couple owned an apartment in Belgium and rented a holiday house in Lithuania. Their two children live in Belgium.

The authority dealing with the succession decides that Vaiva had her habitual residence in Belgium because her family (husband and two children), her permanent job and her main home were in Belgium. Belgian law will therefore apply to Vaiva's succession.

### → Example 2

Jan from the Netherlands has been posted to Poland for a 2-year project. He died while living in Poland. His wife and child continue to live in the family house in the Netherlands.

The authority dealing with the succession concludes that Jan had his habitual residence in the Netherlands because Jan's family and friends and his main home were in the Netherlands. Although Jan's job was in Poland, he intended to go back to the Netherlands on completion of his project in Poland. Dutch law will therefore apply to Jan's succession.

## PART II: PLANNING THE SUCCESSION — THE TESTATOR

**→ Are there any exceptions to the general rule?**

In **exceptional** cases, if the facts of a particular case show that the deceased was clearly more closely connected with a country other than the country of his/her last habitual residence, then the law of that other country will apply to the succession. This may happen, for example, if the deceased had moved to the country of his/her last habitual residence shortly before his/her death.

**→ Example 1**

Anders and Annette from Sweden move to a retirement home in Spain as the mild weather will be good for their health. After a few months of living in the retirement home in Spain, Annette dies.

The authority dealing with the succession considers that, although Annette's last habitual residence was in Spain, Annette was clearly still more closely connected with Sweden. The authority takes into account that Annette had lived most of her long life in Sweden; that her children and grandchildren live in Sweden; that her family house, which is now used by her grandchildren as a holiday house, is in Sweden; that Annette only had a bank account in Spain to pay for her retirement home and that she had not yet had the time to establish a new social life in Spain. Swedish law will therefore apply to Annette's succession.



## PART II: PLANNING THE SUCCESSION — THE TESTATOR

### → Example 2

Pedro from Portugal moved to Switzerland to work and died after living there for some years.

The authority dealing with the succession considers that, although Pedro's last residence was in Switzerland, Pedro was clearly more closely connected with Portugal. This is because Pedro's wife and two children lived in Portugal and he travelled every weekend to be with them. Pedro rented an apartment in Switzerland, but his family home and his holiday apartment are located in Portugal. As Pedro travelled very often to Portugal to see his family and never intended to stay in Switzerland indefinitely, he had not developed a social life in Switzerland. Portuguese law will therefore apply to Pedro's succession.



## PART II: PLANNING THE SUCCESSION — THE TESTATOR

### The choice of law

#### → Can I choose the law that will apply to my succession?

Generally, the law of the country where you have your last habitual residence will apply to your succession. However, when planning your succession, you can choose that, instead of the law of the country of your last habitual residence, the law of your **country of nationality** (at the time of the choice or at the time of death) should apply to your succession. This can be the law of an EU Member State or the law of a non-EU country (in the case of a non-EU country, you should ensure that the country whose law you have chosen will accept your choice of law).

You cannot, however, choose the EU Member State whose authorities should handle your succession.

#### → Example

Johannes from Germany lives with his wife in Spain. His three children live in Germany. He owns an apartment and a bank account in Germany, and a house in Spain. Johannes dies in September 2015 in Spain. In the will he made in 2014, he chose German law as the law that should apply to his succession. As Johannes had his last habitual residence in Spain, in principle Spanish law should apply to his succession. However, as Johannes chose the law of his nationality to apply to his succession, German law will govern the succession of all his assets regardless of where they are located. German law will therefore apply to the succession of Johannes' apartment and bank account in Germany and of his house in Spain. However, as the last habitual residence of Johannes was in Spain, the Spanish authorities will deal with Johannes' succession applying German law.

## PART II: PLANNING THE SUCCESSION — THE TESTATOR

### → What if I have several nationalities?

You can choose the law of **any** of the countries of which you have the nationality (at the time you make the choice or at the time of your death). This can be the law of an EU Member State or of a non-EU country.

#### → Example

Mohammed was born in the United States to Moroccan parents and has lived all his life in Belgium. He has American, Moroccan and Belgian nationality. He owns an apartment and a car in Belgium and a house in Morocco. He has a son who lives in Morocco and two daughters who live in Belgium.

As Mohammed has three nationalities, when planning his succession he is free to choose the law of any of his nationalities as the law that should apply to his succession.



### → How do I choose the law that will apply to my succession?

You need to make your choice of law explicit, either in your will or in a separate declaration meeting similar formal requirements (for example in a notarial document). Your choice can also result from the terms of your will. If necessary, the validity of the legal act in which you made your choice of law will be determined in accordance with the chosen law itself.

## PART II: PLANNING THE SUCCESSION — THE TESTATOR

### → Can any restrictions apply to the law I have chosen?

The authority of the EU Member State that handles your succession can refuse to apply certain provisions of the law of your nationality (whether it is the law of an EU Member State or of a non-EU country) if they are contrary to the essential laws (public policy) of the EU Member State handling your succession. For example, the authority of the EU Member State handling your succession could refuse to apply provisions of the law of your nationality if these discriminate between heirs based on their gender or on whether they were born in or out of wedlock.

### → Example

Mr T has his habitual residence in an EU Member State. He has three children: two with his current wife and one from an earlier non-marital relationship. Mr T chose in his will that the law of his country of nationality should apply to his succession.

The authority of the EU Member State where Mr T had his last habitual residence will handle Mr T's succession and will apply the law of Mr T's country of nationality. However, the law of Mr T's country of nationality has a rule according to which a child born outside marriage is only entitled to receive half of what children born within marriage are entitled to receive. The authority of the EU Member State handling the succession may refuse to apply that rule if it finds that it violates the principle of equality of treatment applicable within its territory. The authority will, however, apply the remaining rules of Mr T's country of nationality to his succession.



## PART II: PLANNING THE SUCCESSION — THE TESTATOR

### What is governed by the law applicable to the succession?

Whether it is the law of the country of your last habitual residence or whether you chose the law of your nationality, **only one law** will apply to your succession. This law will govern the succession of **all your assets**, regardless of whether the assets are moveable (like a car or a bank account) or immovable (like a house) and regardless of where your assets are located (that is, even if your assets are located in several countries).

The law applicable to the succession will govern issues such as:

- who the beneficiaries of the succession are if you made no will; for example children, parents or spouse/partner;
  - the transfer of ownership of your assets to the heirs;
  - what share of your assets should be reserved for your children and your spouse;
  - the possibility to disinherit a family member;
  - the powers of the heirs, including the power to sell property and pay creditors;
- how free you are as a testator to decide whom you will leave your assets to;
  - whether any gifts you made during your life should be restored to the estate to protect the shares reserved to your children and your spouse;
  - the conditions under which an heir can accept or waive the succession;
  - how your assets should be administered before they are transferred to the heir;
  - the extent of the heirs' liability for debts;
  - how your assets should be shared among heirs.

## PART II: PLANNING THE SUCCESSION — THE TESTATOR

**→ Example**

William, a British citizen, retired in France where he owns a house and lives with his partner Nathalie. William has two children from a previous marriage. He intends to stay in France for the remainder of his life.

As William will have his last habitual residence in France, in principle French law will apply to his succession. French law will thus determine who is to inherit William's estate, including what shares of it should be reserved for William's children and what Nathalie's rights are to it, given that William and Nathalie are not married.

William knows that British law gives him greater freedom than French law to decide whom he can leave his assets to. In his will he therefore decides to choose that English law, rather than French law, should apply to his succession and designates Nathalie as the sole heir of his house in France.

**→ Can any restrictions apply to the law applicable to the succession?**

Sometimes the law of the country where certain immovable assets (for example a house or a plot of land) or certain enterprises (for example a farm) are located may include mandatory rules applicable to the succession of such assets regardless of what law applies to the succession. These mandatory rules are based on economic, family or social considerations (for example to preserve the unity of a farm in an agricultural area).

Where such mandatory provisions exist, the authority of the EU Member State handling the succession will apply those rules to the succession of the assets concerned even if the law of another country (the country of the deceased's last habitual residence or the country of the deceased's nationality) applies to the succession of the remaining assets.

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### Wills

#### → Is my will going to be accepted in other EU Member States?

A will can be made in different kinds of documents. If a will is drawn up in one EU Member State in an official document that guarantees the authenticity of the signature and of the contents of the document (a so-called authentic instrument) — for example a notarial document — it will have the same effects in the EU Member State in which it is presented as it has in the EU Member State in which it was drawn up, unless the will is contrary to the essential laws (public policy) of the EU Member State where it is presented. Under the regulation, a person who wants to present in an EU Member State an official document containing a will can ask the authority that prepared the document — for example the notary — to fill in a form explaining the effects that the will has in the EU Member State where it was drawn up.

#### → Example

Pavel, a Czech national, had his last habitual residence in Luxembourg. Pavel had drawn up his will in the Czech Republic before a Czech notary. The executor of Pavel's will presents the will in Luxembourg to the authorities dealing with the succession. Pavel's will is as legally valid in Luxembourg as it is in the Czech Republic. The executor of the will can ask the Czech notary to fill in a form explaining the effects of the will.

A will drawn up in an official document in an EU Member State may not be accepted in a non-EU country (its acceptance will depend on the law of the non-EU country).

## PART II: PLANNING THE SUCCESSION — THE TESTATOR

### → Can my will be challenged?

A person can challenge the *authenticity* of a will drawn up in an official document before the courts of the EU Member State where the will was drawn up. The courts will apply the law of that EU Member State to decide the matter.

A person can challenge the *contents* of a will before the courts of the country where the succession is being handled. The courts will apply the law of the country of the deceased's last habitual residence or, if he/she chose it, the law of the country of his/her nationality to resolve the issue.

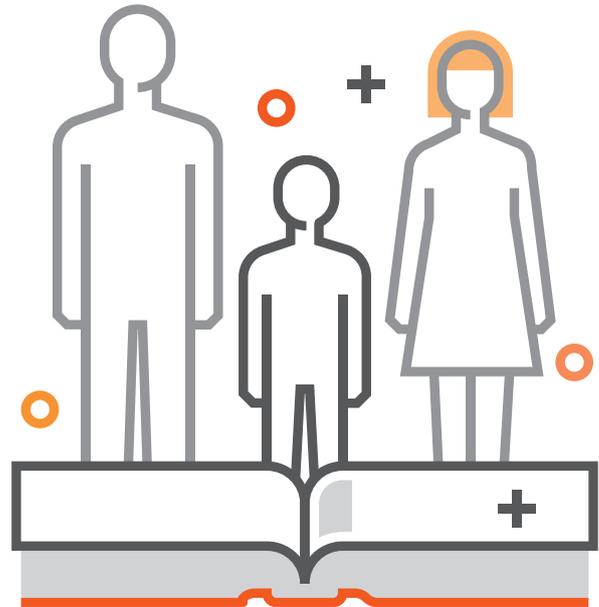
### → Can I register my will?

The registration of a will ensures that it is well kept and that it will be found after the testator's death. Whether or not a will can be registered depends on the law of the country where the will is drawn up.

## PART III:

### → SUCCESSION — THE HEIRS

The EU regulation makes it easier for heirs to manage a cross-border succession. Under the regulation, only the authorities of one EU Member State will handle the succession and only one law will apply to the succession, regardless of where the assets are located. In addition, the ECS helps heirs prove their status in all EU Member States.



## PART III: SUCCESSION — THE HEIRS

### → Which authority will deal with the succession?

Depending on the EU Member State, a succession can be handled by a court, a notary, a registry office or another administrative authority such as the tax authorities.

In some EU Member States, successions must be handled by a court. The term 'court' includes not only courts but also other authorities that, under national law, can rule on succession matters by acting as a court or on behalf of a court.

Depending on the EU Member State, authorities that can act as a court or on behalf of a court are, for example, notaries or registrars.

In EU Member States where the intervention of a court is not mandatory, successions are in most cases settled amicably outside court, often before a notary not acting as a court. However, if there is a dispute between heirs, a court will have to resolve it.

### → If a court needs to intervene, which EU Member State's courts will handle the succession?

As a rule, the courts of the EU Member State where the **deceased had his/her last habitual residence** will handle the deceased's succession. The courts of the EU Member State of the deceased's last habitual residence will rule on the succession of **all** the deceased's assets, regardless of where they are located.

## PART III: SUCCESSION — THE HEIRS

## → Example

Brina from Slovenia lives with her husband in the Czech Republic. One of her children lives in Slovenia and the other lives in Denmark. She owns a bank account and a car in the Czech Republic and an apartment in Slovenia. Brina drew up a will before a notary in Slovenia and chose Slovenian law to apply to her succession. As the Czech Republic is the EU Member State where Brina had her last habitual residence, the Czech courts will be competent to rule on her succession. The Czech courts will rule on the succession of all of Brina's assets, both those located in the Czech Republic (her bank account and her car) and those located in Slovenia (her apartment). And as Brina chose Slovenian law to apply to her succession, the Czech courts will apply Slovenian law to determine how all of Brina's assets, both those located in the Czech Republic and those located in Slovenia, should be distributed and transferred to her heirs.

## → What if the deceased did not live in an EU Member State?

If the deceased had his/her last habitual residence **outside the European Union**, the courts of an EU Member State where assets of the deceased are located will be competent to rule on the succession as a whole, that is, over all the assets of the deceased, if:

- at the time of death, the deceased had the nationality of the EU Member State where the assets are located; or
- if the deceased did not have the nationality of the EU Member State where the assets are located, he/she had his/her habitual residence in that EU Member State and no more than 5 years have elapsed since he/she changed habitual residence.

Even if the deceased did not have the nationality of the EU Member State where his/her assets are located and never had his/her habitual residence in that country, the courts of the EU Member State where the assets are located will nevertheless be competent to rule on the succession of those assets.

Making the courts of the EU Member State where assets are located competent to deal with the whole of the succession or at least with the assets located there gives heirs the possibility to have access to the courts of an EU Member

## PART III: SUCCESSION — THE HEIRS

State with which the deceased was connected either by nationality, habitual residence or ownership of assets.

In the above cases, the courts of the EU Member State where the assets are located will generally apply the law of the country where the deceased had his/her last habitual residence.

### → Example 1

Zsófia, a Hungarian citizen, works and has her habitual residence in Switzerland. She owns a bank account in Switzerland, a house in Hungary and a holiday apartment in Croatia.

Although Zsófia does not live in an EU Member State, she has a house in Hungary and she is a Hungarian citizen, so the courts in Hungary will be competent to rule on the succession of all of Zsófia's assets (her bank account in Switzerland, her house in Hungary and her holiday apartment in Croatia) in accordance with Swiss law, as that is the law of the country of her last habitual residence.

### → Example 2

Valérie from Luxembourg has lived all her adult life in Mexico. She has a bank account in Mexico and owns a holiday house in the south of France.

Although Valérie is not French and has never had her habitual residence in France, Valérie's heirs can, if they so wish, ask the French courts to deal with the succession of Valérie's house in France, as the French courts are competent. The French courts will settle the succession of Valérie's house in France in accordance with Mexican law, as that is the law of the country of Valérie's last habitual residence. However, the French courts are not competent to deal with the succession of Valérie's bank account in Mexico.

## PART III: SUCCESSION — THE HEIRS

### → What if the deceased had assets in non-EU countries?

If the court of the EU Member State handling the succession rules on the succession of assets located in a non-EU country (for example a house), it is possible that the authorities of the non-EU country where the assets are located refuse to accept the decision of the court regarding those assets. In such cases, in order to avoid unnecessary costs and procedures, the heirs can ask the EU Member State court handling the succession not to rule on assets located in the non-EU country.

### → Example

Rozina from Malta worked and lived in the United States with her family. Her children still live there. She owned an apartment in the United States and a house and a bank account in Malta. Although Rozina lived in a non-EU country, she was a Maltese citizen and, therefore, the courts in Malta are competent to rule on the succession of all of her assets: her house and bank account in Malta, but also her apartment in the United States.

Rozina's heirs are not certain, however, that United States courts will accept the decision of a foreign court about the succession of an immovable asset (Rozina's apartment) located in the States. They think that to include the apartment in the United States in the succession proceedings in Malta will only increase the cost and the duration of the proceedings. They therefore ask the court in Malta not to rule on the succession of the apartment in the United States and instead decide to settle the succession of this asset in American courts.



## PART III: SUCCESSION — THE HEIRS

### → Can the heirs choose the EU Member State where the succession should be handled?

In general, they cannot. Heirs can only choose the courts of the EU Member State that should rule on the succession in a specific case: if the testator had his/her last habitual residence in an EU Member State but chose the law of his/her nationality as the law that should apply to his/her succession, and the chosen law is the law of another **EU Member State**, heirs can agree that the courts of the EU Member State of the deceased's nationality should deal with the succession. Heirs must express their agreement in writing.

### → Example

Pablo from Spain lives with his wife and three children in Belgium. He owns a bank account, a house and a car in Belgium and an apartment in Spain. In his will Pablo chooses Spanish law as the law that should apply to his succession. As Pablo had his last habitual residence in Belgium, the Belgian courts are competent to deal with the succession of all of Pablo's assets, those located in Belgium as well as those located in Spain. However, as Pablo chose the law of an EU Member State, his wife and three children, who are his heirs, agree (and they express their agreement in writing) that it would be more convenient to settle the succession before the Spanish courts.

## PART III: SUCCESSION — THE HEIRS

Similarly, if the testator chose the law of another **EU Member State** as the law that should apply to his/her succession, the court of the EU Member State where the deceased had his/her last habitual residence may decide, at the request of one of the heirs, that the courts of the EU Member State of the deceased's nationality are better placed to rule on the succession (for example because the heirs have their habitual residence there or the assets are located there). In this case, therefore, the decision belongs to the court.

→ Can the heirs bring a succession case in an EU Member State if it is impossible to bring the case in the non-EU country with which the succession is closely connected?

In some cases, it is not possible for the heirs to bring a succession case to the courts of the non-EU country with which the succession is closely connected (the succession would be closely connected to the non-EU country if, for example, the deceased was a national of that country, had his/her habitual residence there or had assets there). This impossibility may arise in cases of civil war in the non-EU country or where the situation in the non-EU country makes it unreasonable to expect that the heirs can bring succession proceedings there.

Even when no court of any EU Member State is competent to deal with a succession because the deceased did not have assets or his/her habitual residence in an EU Member State, the courts of an EU Member State can exceptionally rule on the succession in order to enable an heir to have access to a court. The EU Member State where the succession is being handled, however, must have a sufficient connection with the case (for example the deceased or the heir has the nationality of that EU Member State or the heir has his/her habitual residence there).

## PART III: SUCCESSION — THE HEIRS

**→ Example**

Alexandros, a Cypriot national, was born and lived all his life in a non-EU country, where all his assets are located. His daughter Helena, who lives in Cyprus, cannot bring succession proceedings in the non-EU country where her father had his habitual residence and assets because a civil war has broken out there.

No EU Member State's courts are competent to deal with Alexandros' succession because he never had his habitual residence or any assets in an EU Member State. In order to settle her father's succession, Helena brings proceedings before a Cypriot court. As Alexandros was a Cypriot national and Helena, his heir, has her habitual residence in Cyprus, the Cypriot court may decide to handle the succession to remedy the impossibility of Helena having the succession settled in the courts of the non-EU country.

**→ As an heir, in which country should I accept or refuse the inheritance?**

The law applicable to the succession may require that heirs accept or waive the succession. Moreover, sometimes this acceptance or waiver must or may be made before a court (or another institution acting as a court or on behalf of a court). When an heir has his/her habitual residence in an EU Member State different from the EU Member State where the succession is being handled, the regulation allows the heir to accept or waive the succession before a court of the EU Member State in which he/she habitually resides (if under the law of the EU Member State of his/her habitual residence the acceptance or waiver can be made before a court or another institution acting as a court or on behalf of the court). This avoids the heir having to travel to the EU Member State where the succession is being handled to accept or waive the succession before the court there.

## PART III: SUCCESSION — THE HEIRS

### → Example

Marek from Slovakia worked and lived with his wife in Romania. He owned a bank account and a car in Romania and a house in Slovakia. His son Anton lives in Slovakia.

As Marek's habitual residence was in Romania, Romanian courts are competent to deal with the succession of all of Marek's assets. Anton has his habitual residence in Slovakia but can make his declaration of acceptance (or waiver) of the succession before a Slovak court if, under Slovak law, such declarations may be made before a court (or another institution acting as a court or on behalf of a court). This will save Anton the costs and inconvenience of having to make his declaration of acceptance before the Romanian court dealing with Marek's succession.



### → Can I ask for protection of the assets bequeathed to me?

The adoption of provisional protective measures by a court may be necessary while succession proceedings are ongoing if, for example, the assets you have inherited can deteriorate or are in the possession of another person. Provisional protective measures to preserve and identify the assets you have inherited will ensure that the assets are kept in good condition and that they are transferred to you.

You can ask the courts of an EU Member State (for example the courts of the EU Member State where the assets are located) to adopt provisional protective measures available in that EU Member State, even if the courts of another EU Member State — usually the EU Member State where the deceased had his/her last habitual residence — are competent to deal with the succession.

## PART III: SUCCESSION — THE HEIRS

**→ Example**

Maaïke, a Dutch national, inherited a holiday house in Slovenia from her father. However, the second wife of Maaïke's father thinks that she, not Maaïke, is the rightful heir to the house. Maaïke's father had his last habitual residence in the Netherlands, so the Dutch courts are competent to resolve the succession dispute. As the house in Slovenia is rarely occupied, it has fallen into disrepair. Pending the resolution of the dispute between Maaïke and her stepmother, Maaïke can ask the courts in Slovenia to adopt provisional protective measures available in Slovenia to ensure the good state of the house even if the Dutch courts are competent to deal with the succession of Maaïke's father.

**Can a court decision issued in one EU Member State have effects in another EU Member State?**

A court decision means a decision on a succession matter given by a court or by another institution acting as a court or on behalf of a court.

A court decision given in one EU Member State will be recognised in all other EU Member States without any special procedure being required.

**→ Example**

Tatiana from Bulgaria has been declared by a Bulgarian court as the heir to a bank account that Tatiana's mother had in Italy. On presentation of the Bulgarian court's decision, the Italian bank will have to recognise Tatiana as the new owner of the account without any procedure being required.



## PART III: SUCCESSION — THE HEIRS

### → But what if someone does not want to recognise and comply with a decision issued by the court of another EU Member State?

You can ask a court in the EU Member State in which you want to claim your rights as an heir to recognise and declare enforceable the decision issued by the court of another EU Member State.

#### → Example

If the Italian bank where Tatiana's mother had her bank account refuses to recognise the decision of the Bulgarian court, Tatiana can ask the Italian courts to recognise the decision and declare it enforceable in Italy. Once the decision of the Bulgarian court has been recognised and declared enforceable in Italy, Tatiana can, if necessary, request the assistance of Italian law enforcement officers to compel the bank to give her access to the bank account she has inherited.

Also, if you are involved in a legal dispute before a court of an EU Member State and the outcome of the dispute depends on the recognition of a decision on succession issued by the court of another EU Member State, you may ask the court dealing with your dispute to recognise, in that same proceeding, the decision issued by the court of the other EU Member State.

#### → Example

Stavros from Greece lives in Finland with his parents. He inherits a house on a Greek island from his mother. In order to be able to ask the land registrar in Greece to register him as the new owner of the house, Stavros obtains a decision from a Finnish court declaring him as the heir to the house. But Nick, Stavros' American cousin who lives in Greece, has undertaken to sell the house arguing that Stavros' mother promised him that the house would be his. In a legal dispute in Greece between Stavros and Nick about who is entitled to sell the house, Stavros can ask the Greek court to recognise the decision of the Finnish court declaring him as the heir to the house.

## PART III: SUCCESSION — THE HEIRS

### → On what grounds can the recognition and enforcement of a court decision in another EU Member State be opposed?

A person may oppose the recognition and enforcement of a court decision issued in another EU Member State for the following **reasons**:

- the recognition of the court decision would be contrary to the essential laws (public policy) of the EU Member State in which recognition is sought (for example because it would violate the country's law on non-discrimination);
- the person was not able to properly defend him/herself in the proceedings which resulted in the court decision whose recognition is sought;
- the court decision conflicts with another court decision between the same parties given in the EU Member State where recognition is sought, or with an earlier court decision given in another EU Member State on the same issue and between the same parties.

Once a decision is given in an EU Member State on the recognition and enforcement of a court decision issued in another EU Member State, both the party who asked for enforcement and the party against whom enforcement is sought can **appeal** the decision. Once the decision on appeal has been given, both parties can again **contest** the decision. In either case, only the abovementioned grounds for non-recognition can be invoked.

## PART III: SUCCESSION — THE HEIRS

### → Can I ask for protection of the assets bequeathed to me pending the recognition and enforcement of a court decision issued in another EU Member State?

If a court decision given in an EU Member State declares you heir of assets located in another EU Member State, you will need to ask the courts of the EU Member State where the assets are located to recognise and declare enforceable the court decision so that you can have access to such assets. Pending the recognition and enforcement of the court decision, you can ask the courts of the EU Member State where you are seeking recognition and enforcement to adopt provisional protective measures to preserve and identify the assets you have inherited.

### → Example

Mikk from Estonia inherited a valuable collection of old books from his aunt. Mikk's aunt had her last habitual residence in Estonia. The book collection is kept by a friend of Mikk's aunt in Finland. Following a disagreement with his cousins, Mikk obtained from a court in Estonia a decision declaring him the heir to the book collection. Pending the recognition and enforcement in Finland of the court decision given by the Estonian court, Mikk can ask a court in Finland (as the EU Member State where he is seeking recognition and enforcement of the court decision) to adopt provisional protective measures available in Finland ensuring that the book collection stays intact.

## PART III: SUCCESSION — THE HEIRS

### National certificates of succession (or declarations of inheritance)

#### → What is a certificate of succession?

A certificate of succession is a document that proves your status as an heir. It can be issued by a court or by another competent authority under national law.

In some EU Member States, the heir will receive such a certificate from the court handling the succession at the end of the procedure.

In other EU Member States, the heir can request the competent public authority, for example a notary or a registrar, to issue a certificate of succession. In this case, the certificate will be drawn up as an official document that guarantees the authenticity of the signature and the contents of the document (a so-called authentic instrument).

As an heir, you can present the certificate of succession to a bank, for example, in order to have access to the money in an inherited bank account, or to a land registrar to have the ownership title of an inherited house changed.

#### → Will my certificate of succession issued in one EU Member State have effects in another EU Member State?

If the bank account or the house that you have inherited is located in another EU Member State, the certificate of succession will enable you to prove your status as heir in that other EU Member State.

If your certificate is drawn up in one EU Member State *in a document issued by a court or by another institution acting as a court*, your certificate will be recognised as a court decision in the EU Member State in which it is presented without any special procedure being required (see [Can a court decision issued in one EU Member State have effects in another EU Member State?](#)).

If your certificate is drawn up in one EU Member State *as an official document other than a court document (authentic instrument)* — for example as a notarial document — it will have the same effects in the EU Member State in which it is presented as it has in the EU Member State in which it was drawn up, unless the certificate is contrary to the essential laws (public policy) of the EU Member State where it is presented. You can ask the authority that prepared the document — for example the notary — to fill in a form

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explaining the effects that the certificate of succession has in the EU Member State where it was drawn up.

A certificate of succession drawn up in an EU Member State may not be recognised or accepted in a non-EU country (acceptance will depend on the law of the non-EU country).

### → Example

Romina, an Italian national living in Italy, inherited a house in France from her mother. Romina's mother had her last habitual residence in Italy. Romina asked an Italian notary to deal with the succession of her mother and requested the notary to issue a certificate of succession that she could present to the land registrar in France in order to have the ownership title of her mother's house changed. The certificate issued by the Italian notary is as legally valid in France as it is in Italy. Romina can ask the Italian notary to fill in a form explaining the effects of such a certificate.



## PART III: SUCCESSION — THE HEIRS

### The European Certificate of Succession

#### → What is an ECS?

An ECS is a document that enables heirs, legatees, executors of the will (the persons who implement the wishes of the testator) and administrators of the estate (the persons that take care of the estate before it is transferred to the heirs) to **prove their status** and **exercise their rights** in other EU Member States.

#### → Who can apply for an ECS and when?

An ECS is not automatically issued; it must be requested after a person's death (regardless of whether or not the deceased left a will). Any heir, legatee, executor of the will or administrator of the estate who needs to prove their status or exercise their rights in another EU Member State can apply for an ECS.

#### → How do I apply for an ECS?

Although it is not compulsory, the easiest is to apply for an ECS using a standard form laid down in EU law. You can find

the form in your language here: [http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=uriserv:OJ.L\\_2014.359.01.0030.01.ENG](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=uriserv:OJ.L_2014.359.01.0030.01.ENG).

#### → How much does it cost to get an ECS?

The cost of an ECS varies depending on the EU Member State in which it is issued.

#### → Who is authorised to issue the ECS?

An ECS can only be issued by the authorities of the EU Member State that is competent to deal with the succession. These may be the authorities of the EU Member State where the deceased had his/her last habitual residence or the authorities of the EU Member State of the deceased's nationality if heirs have agreed to choose the courts of that EU Member State (see [Can the heirs choose the EU Member State where the succession should be handled?](#)).

Each EU Member State decides which specific authority within its territory will issue an ECS. An ECS will often be issued by a court or a notary. On the European e-Justice portal <sup>(1)</sup> you can find a list of the authorities that can issue an ECS in each EU Member State.

Upon receipt of the application for an ECS, the issuing authority will inform all other possible heirs of the application

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(1) [https://e-justice.europa.eu/content\\_succession-166-en.do](https://e-justice.europa.eu/content_succession-166-en.do)

## PART III: SUCCESSION — THE HEIRS

so that they can invoke their rights. The issuing authority will also inform all heirs of the issue of the ECS.

### → What are the contents of an ECS?

The authority that issues the ECS will fill in all the data required in the certificate in accordance with the law applicable to the succession, that is, either the law of the deceased's country of habitual residence or the law of the deceased's nationality if he/she chose that law.

The certificate includes information such as:

- details of the deceased and of the person who applied for the ECS;
- details of all possible heirs;
- the property regime of the deceased's marriage or registered partnership (i.e. the rules that govern how property should be divided between spouses or registered partners so that the share of the deceased can be transferred to his/her heirs);
- the law applicable to the succession and how that law has been determined;
- whether or not the deceased left a will;
- the share of the estate that corresponds to each heir;

→ the powers of the executor of the will and/or the administrator of the estate.

### → What are the advantages of an ECS?

An ECS does not replace equivalent documents existing in each EU Member State (the national certificates of succession). It is an optional alternative.

However, applying for an ECS instead of the equivalent national document simplifies things if you need to prove that you are an heir (or a legatee, executor of the will or administrator of the estate) in several EU Member States because the deceased had assets in more than one EU Member State.

This is so because, in accordance with the regulation, **an ECS has the same effects in all EU Member States regardless of where it is issued and its recognition requires no special procedure**. In contrast, the effects of a national certificate of succession are different depending on the EU Member State which issues it, and these effects may therefore need to be explained in an additional form filled in by the issuing authority. In addition, the acceptance of a national certificate of succession may be opposed if the certificate is contrary to the essential laws (public policy) of the EU Member State where it is presented.

## PART III: SUCCESSION — THE HEIRS

The uniform effects of an ECS are as follows:

- once an ECS has been issued, it will be recognised in all other EU Member States without any special procedure being required;
- the information contained in the ECS will be presumed accurate;
- the rights of persons who, relying on the information contained in the ECS, make payments or transfer property to a person named in the ECS or buy property from a person named in the ECS will be protected;
- the ECS will be a valid document to register inherited property on the land register of an EU Member State.

### → Example

Mirna from Croatia lives in Austria. She has a bank account in Croatia and a house in Malta. Her son Janko lives in Austria and her daughter Vesna, who acquired Australian nationality by marriage, lives in Australia. As Mirna had her last habitual residence in Austria, Austrian courts are competent to deal with her succession. Mirna did not choose Croatian law to apply to her succession, so the Austrian courts will apply Austrian law to settle the succession.

Mirna's children are her sole heirs. As they need to prove their status as heirs in two different EU Member States (Croatia and Malta), they decide to apply for an ECS instead of the equivalent Austrian document to avoid having to fill in a form explaining the effects of the national document and to ensure that no opposition will be raised to the document proving their status as heirs.

## PART III: SUCCESSION — THE HEIRS

As Austrian courts are competent to deal with the succession, they are also competent to issue the ECS in accordance with Austrian law, which is the law applicable to the succession. Janko and Vesna will each obtain a certified copy of the ECS for an initial period of 6 months to claim their money from the bank account in Croatia and register their mother's house in Malta under their name in the relevant Maltese land register.

### → For how long is an ECS valid?

The authority that issues the ECS will keep the original certificate and will issue one or more certified copies to the person that applied for the ECS and to any other person who can show a legitimate interest (for example, if the applicant was an heir, a certified copy of the ECS can be issued to another heir, a legatee or the administrator of the estate). The certified copies of the ECS are valid for 6 months, although this period of validity can be extended on request.

### → What happens if the ECS contains a mistake or is inaccurate?

If you can demonstrate a legitimate interest in the certificate, you can request that the issuing authority correct mistakes. The issuing authority can also correct mistakes on its own initiative.

Also, if it has been established that the ECS or some of its individual elements are inaccurate, you can request the issuing authority to modify or withdraw it. The issuing authority must inform all persons to whom certified copies of the ECS have been issued that the ECS has been corrected, modified or withdrawn.

If you disagree with the issuing authority's refusal to issue an ECS or with the rectification, modification or withdrawal of the ECS, you can file an appeal against these decisions in the courts of the EU Member State of the issuing authority. If you win the appeal, the court or the issuing authority will issue the ECS and, if the ECS was inaccurate, the court or the issuing authority will correct, modify or withdraw it.

## PART III: SUCCESSION — THE HEIRS

### → The European certificate of succession

- It can be requested by heirs, legatees, executors of a will and administrators of the estate.
- It enables heirs, legatees, executors of a will and administrators of the estate to prove their status and exercise their rights and powers over assets located in other EU Member States, for example:
  - to have access to inherited money in a bank account located in another EU Member State;
  - to have inherited property registered in the land register of another Member State.
- It can be requested instead of the equivalent national documents.
- The information contained therein is presumed accurate.
- Its effects are the same in all EU Member States.
- It must be recognised in all EU Member States without any special procedure being required.



## Find out more

You can get more information about the EU succession regulation and about whom to contact for help in your EU Member State on the following sites:

### **Succession in the European e-Justice Portal**

[https://e-justice.europa.eu/content\\_succession-166-en.do?init=true](https://e-justice.europa.eu/content_succession-166-en.do?init=true)

### **European Commission, Directorate-General for Justice and Consumers**

[http://ec.europa.eu/justice/index\\_en.htm](http://ec.europa.eu/justice/index_en.htm)

### **Your Europe Portal**

[http://europa.eu/youreurope/citizens/family/successions/index\\_en.htm](http://europa.eu/youreurope/citizens/family/successions/index_en.htm)

### **Notaries of Europe**

<http://www.cnue.eu>

### **The European Network of Registers of Wills Association**

<http://www.arert.eu>

### **The European Land Registry Association**

<https://www.elra.eu>

**Contact**

European Commission  
Directorate-General for Justice and Consumers  
European Judicial Network  
in civil and commercial matters  
[just-ejn-civil@ec.europa.eu](mailto:just-ejn-civil@ec.europa.eu)  
<https://e-justice.europa.eu/ejncivil>

