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Towards the entry into force of the succession regulation:  
building future uniformity upon past divergencies



SEMINAR AND EXCHANGE OF BEST PRACTICES | MADRID, 30 OCTOBER 2015  
Jurisdiction, competence and application of the EU Regulation 650/2012

## PRACTICAL CASES

**Daniele Muritano**  
*Civil law notary in Empoli, TEP*

THE PROJECT IS IMPLEMENTED BY COORDINATOR



UNIVERSITÀ DEGLI STUDI DI MILANO  
DIPARTIMENTO DI DIRITTO PUBBLICO  
ITALIANO E SOVRANAZIONALE



UNIVERSITÀ DEGLI STUDI DI MILANO  
DIPARTIMENTO DI STUDI INTERNAZIONALI,  
GIURIDICI E STORICO-POLITICI



CO-BENEFICIARIES



**Carlo**  
**(case about issue of “internal” ECS)**

Carlo is an Italian national and unfortunately his father died a couple of months ago. Carlo asks to an Italian notary to issue an European Certificate of Succession because his father worked in Spain and he believes that the deceased may have a bank account in Madrid. Carlo does not have any evidence of the existence of the bank account.

*Can the Italian notary issue the ECS?*

## **Pedro**

### **(choice of law and pluri-legislative States)**

- Pedro is a Spanish national, he is retired and lives with his wife in Italy. He owns a bank account and an apartment in Italy, a bank account and an apartment in Madrid and another apartment in Barcelona. Pedro sons live both in Madrid.
- Pedro wishes to plan his future succession drafting a will and electing the Spanish law as governing the succession.

*How can the notary advise Pedro taking into account that Spain is a pluri-legislative State?*

## **Anna**

### **(succession planning – choice of law)**

Anna is a German national and lives in London where she works in a bank in the City of London. She owns an apartment in London, in addition to her old apartment in Frankfurt, that she has rented out. She is not sure to come back to Germany, especially because she wishes to marry James, that she met in London and with whom she wishes to have a family.

*Anna wants to draft a will in England, excluding her relatives in Germany and leaving all her assets to her (future) husband James. How Anna can plan her future succession?*

## **Anna – variation**

**(succession planning – choice of law – forced heirship)**

Anna is originally German and lives in London. She has obtained the British citizenship and is “domiciled” in London. Her assets are located in London and in Vienna (Austria).

*Anna wishes her German relatives not to inherit anything. Are German forced heirship provisions applicable to Anna’s succession?*

**Eduardo**  
**(succession planning – applicable law)**

Eduardo is originally Spanish but has been UK resident for over 20 years. He has no valid Spanish passport, it has expired. He has no UK passport, as he never did it. He has no valid UK driving licence. He does have a bank account and is on Council tax bill.

He would like his half of the Spanish property to pass to his wife. If it has to pass to his children then they have one son in common that he would be happy to inherit and two daughters that he would rather exclude.

*Advise Eduardo on these issues*

**Giorgio**  
**(applicable law)**

Giorgio is an Italian national habitually resident in China. He owns immovables in Italy.

*Which is the law applicable to Giorgio's succession. How can Giorgio plan his succession?*

## **Shozo (applicable law)**

Shozo is a Japanese and Chinese national (double citizenship), habitually resident in Japan. He owns immovables in Italy.

*Which is the law applicable to Shozo succession? How can Shozo plan his succession?*



**Karl e Josephine**  
**(agreement as to succession)**

Karl, a German national habitually resident in Germany and his wife Josephine, a French national habitually resident in France, wish to enter an agreement as to their successions.

*Is it possible to stipulate the agreement?*

**Karl e Josephine – variation  
(agreement as to succession)**

Karl, a German national habitually resident in Germany and his wife Josephine, a Swiss national habitually resident in Switzerland wish to enter an agreement as to their successions.

*Is it possible to stipulate the agreement?*

**Francois e Anna**  
**(agreement as to succession)**

Francois, a French national habitually resident in Germany, and his wife Maria, an Italian national habitually resident in Switzerland, wish to enter an agreement as to their successions.

*Is it possible to stipulate the agreement?*