



GOVERNING INHERITANCE STATUTES
AFTER THE ENTRY INTO FORCE
OF EU SUCCESSION REGULATION



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Report on the Budapest Seminar of 12th April 2019

**Eötvös Loránd University (ELTE), Faculty of Law and Political Sciences, Aula Magna
(1053-Budapest, Egyetem tér 1-3, Hungary)**

“Diversity in Unity: The Succession Regulation in Hungary and Beyond”

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The Budapest Seminar was realized within the framework of the GoInEu project (Governing Inheritance Statutes after the Entry into Force of EU Succession Regulation) as the third training event after that of Valencia (23rd March 2018) and Brussels (25th October 2018). The GoInEu is a project co-funded by the EC DG Justice and Consumers, Justice Programme. The project has more participants: the University of Florence as the coordinator, the Italian Foundation of Notaries, the Italian Association of Family Lawyers, the Universities of Budapest, Valencia and Coimbra and CNRS from France.

1. The Morning Session

The participants were greeted and the opening remarks were held by *Attila Menyhárd*, Dean of the Faculty of Law, Eötvös Loránd University; *Sara Landini*, Associate professor of private law, Università di Firenze, and *Ádám Tóth*, President of the Hungarian Chamber of Civil Law Notaries. The Chairman of the morning session of the conference was *Ádám Fuglinszky*, Professor of civil law, Faculty of Law, Eötvös Loránd University, Budapest, Head of the GoInEu Hungarian project team.

During the morning session two renowned speakers held their lectures. *Lajos Vékás* (emeritus professor of ELTE Law School, vice president of the Hungarian Academy of Sciences, Head of the Codification Committee on the new Hungarian Civil Code) held his presentation under the title: “*Behind the European Succession Regulation: Differences between the Member States’ Rules on Inheritance.*” In his lecture he explained how the succession rules vary considerably in different Member State jurisdictions with specific emphasis on the *ipso iure succession*, the succession rights of the *surviving spouse*, *ascendants* and *collateral relatives*. As a summary he underlined the importance of the issue of jurisdiction and that of the applicable law, and concluded that the European Succession Regulation – with unification of the rules on jurisdiction and of the choice-of-law rules – helps to avoid discrepancies and to achieve international decision-harmony in cross-border succession cases.

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As a second presenter of the morning session the audience had a chance to greet *Tibor Szócs*, Director of the Hungarian Notaries' Institute, who held his practical and interesting lecture under the title: *"The European Succession Regulation – from the point of view of the first three years of application"*. In Tibor Szócs's presentation the legal institution of the „joint will” in the national legal systems was emphasized first. By using comparative methods he spoke about the attitude of some legal systems towards joint wills, like for example the German, Austrian, Scandinavian legal systems and touched upon the relevant Hungarian succession rules. He also explained about legal systems where the joint will is prohibited: Romania, Italy and France. He elaborated on the validity of joint wills and other related problems in the light of the uncertainties of the EU Succession Regulation. In the next part of his presentation he talked about the rules concerning the *substantive validity* of the dispositions of property upon death, the possibilities and significance of *renvoi*, and at the end he came to speak about the problematics of *acquiring information from abroad on assets of the deceased* for the purposes of the succession proceedings in cross-border cases.

2. The Afternoon Session

The interesting presentations during the morning session were followed by a lunch break, after which the afternoon session had begun, where Orsolya Szeibert, Habil. Associate Professor of civil law, Faculty of Law, Eötvös Loránd University Budapest, Member of the GoInEU project overtook the chair.

The first speaker of the afternoon session was *András Osztovits*, Judge of the Curia (Supreme Court of Hungary), with his presentation *„First experiences of the application of the Succession Regulation in Hungarian judicial practice."* In the course of his highly interesting presentation he spoke about the question of jurisdiction and applicable law according to the Succession Regulation and beyond, furthermore he explained that the concept of the habitual residence defined by the EU Succession Regulation is an autonomous concept, and that the practice developed in one branch of the law for the concept of habitual residence cannot be directly implemented in another, thus, a special concept of this kind cannot be implemented in line with national regulations only. He also talked about the aspects of the determination of the habitual residence of the deceased according to the EU Succession Regulation.

After the presentation of *András Osztovits* the International Round Table took place, moderated by *Tamás Balogh*, Vice Director of the Hungarian Notaries' Institute. The group of the participants of the international round table was made out of five professionals from five countries, namely:

- *Germany*: Rembert Süß, Director of the Department for private international law at the German Notary Institute, Würzburg
- *Austria*: Stephan Matyk-d'Anjony, Expert in European private law, Austrian Notary Chamber



- *Poland*: Agata Srokowska, Judge, Expert in European private law, Polish Ministry of Justice, Warsaw
- *Romania*: Dan Andrei Popescu, Civil law notary, Associate Professor, Babes-Bolyai University, Cluj-Napoca
- *Slovakia*: Vojtech Kavečanský Civil law notary, Košice

During the round table the main topic was the *European Succession Certificate*, and the participants shared the most important facts about the ESC referring to their countries. First, they shared their experience concerning the application of the ESC in the past three and a half years. After they discussed the additional information or documents required by the foreign authorities keeping the registers, the fees of the ESC, the number of ECS issued in their countries, the filling in the ECS form and its annexes, and the practical issues related to the use of ECS form. Due to the information shared by the participants of the international round table the colleagues present could get an insight into the most important questions concerning the ESC in the neighbouring countries, and they also could learn how and to what degree the ECS is used in these countries.

3. Case Studies and Case Solving Discussions in Small Groups

In the last section of the conference, practical cases prepared by the Hungarian GoInEU team and the Hungarian Chamber of Civil Law Notaries were solved. The cases were sent out in advance to all participants via e-mail in order they could get read into if they wished.

The participants of the seminar were divided into eleven groups of 6-10 persons based on their professions: judges, notaries, attorneys and other legal practitioners. The participants were enthusiastic and curious about this session. The cases, which had to be solved, had more possible solutions, which allowed for diverse argumentations and interpretations resulting in vivid discussions in all groups.

The instructors were:

- Prof.ssa Sara Landini (UNIFI) who lead the case solving group in English;
- Judge Ms. Gabriella Breczka-Békési (County Court Nyíregyháza);
- Chief Advisor to the Curia Ms Mónika Csöndes;
- Ms Inez Potrák and Mr Tamás Balogh (Hungarian Chamber of Civil Law Notaries);
- Mr Zoltán Nemessányi, Ass. Prof. of the Corvinus University, Budapest;
- Laura de Negri, Orsolya Szeibert, Norbert Csizsmazia, Balázs Tőkey and Ádám Fuglinszky from the ELTE Law School.

All instructors pointed out that the problems, which were explained during the plenary lectures earlier had shown up during the case solving. The groups of participants successfully solved the cases based on the information they acquired from the lectures and using the text



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of the EU Succession Regulation. They enjoyed especially those situations, when they could mutually set a counter-argument to their colleagues' argumentations. The instructors had the proper solutions ready for all the cases; therefore, at the end after the clash of argumentations the real solutions of the cases were revealed.

This was a new element in the GoInEU events; a kind of experiment. Next time or a next project the case solving groups will probably be mixed in order to compare the judges', notaries' and attorneys' view directly.

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