



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

GOINEU



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by the European Union's
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A general overview of Regulation 650/2012

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Sezione Distrettuale di Firenze

Una aproximación general al Reglamento 650/2012

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General features

- “Comprehensive” Regulation
- Does not allow the application of domestic laws in any case: international jurisdiction nor applicable law
- In force since 16 August 2012; applicable since 17 August 2015
- Transitional provisions (art. 83)
- Scope of application (art. 1)
- Definitions (art. 3): “succession”; “court”



Características generales

- Reglamento “completo”
- No permite en ningún caso la aplicación del Derecho interno: en la CJI y en la ley aplicable
- En vigor desde 16 agosto 2012; entrada en aplicación desde 17 agosto 2015
- Régimen transitorio (art. 83)
- Ámbito de aplicación (art. 1)
- Definiciones (art. 3): “sucesión”; “tribunal”



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International jurisdiction

- General jurisdiction (art. 4): habitual residence of the deceased
- Choice-of-court agreement (art. 5, 6 y 7 + art. 22)
- Amicable settlement (art. 8)
- Jurisdiction based on appearance (art. 9)
- Subsidiary jurisdiction (art. 10)
- *Forum necessitatis* (art. 11)
- Acceptance or waiver of succession or legacy (art. 13)
- *Lis pendens* and related actions (art. 17 y 18)



Competencia judicial internacional

- Competencia general (art. 4): residencia habitual del causante
- Elección de foro (art. 5, 6 y 7 + art. 22)
- Arreglo extrajudicial (art. 8)
- Prórroga tácita del foro (art. 9)
- Competencia subsidiaria (art. 10)
- *Forum necessitatis* (art. 11)
- Aceptación o renuncia de herencia o legado (art. 13)
- *Litispendencia* y conexidad (art. 17 y 18)



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Applicable law

- Universal application (art. 20)
- General rule (art. 21): habitual residence of the deceased / exceptionally, more closely connected
- Choice of law (art. 22): law of nationality
- Scope of applicable law: succession as a whole (art. 23)
- *Conmorientes* and estate without a claimant
- *Renvoi*, public policy, States with more than one legal system



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Ley aplicable

- Aplicación universal (art. 20)
- Regla general (art. 21): residencia habitual del causante / excepcionalmente, vinculación más estrecha
- Elección de ley (art. 22): ley nacional
- Ámbito de la ley aplicable: rige la totalidad de la sucesión (art. 23)
- *Conmorientes* y sucesión vacante
- *Reenvío*, orden público, sistemas plurilegislativos



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Recognition and enforcement

- Automatic recognition and incidental question of recognition (art. 39)
- Enforceability (art. 43) – *inaudita parte* (art. 48)
- Grounds of non-recognition (art. 40)
- No review as to the substance (art. 41)
- Jurisdiction of local courts (art. 45)
- Authentic instruments (art. 59, 60) and court settlements (art. 61)

Reconocimiento y ejecución

- Reconocimiento automático e incidental (art. 39)
- Fuerza ejecutiva (art. 43) – *inaudita parte* (art. 48)
- Motivos de denegación del reconocimiento (art. 40)
- Imposibilidad de revisión en cuanto al fondo (art. 41)
- Competencia territorial (art. 45)
- Documentos públicos (art. 59, 60) y transacciones judiciales (art. 61)



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European Certificate of Succession

- Purpose and effects (art. 62, 63 y 69)
- Competence to issue the ECS (art. 64)
- Application, examination and issue of ECS (art. 65, 66 y 67)
- Contents (art. 68)
- Rectification, modification or withdrawal of ECS (art. 71)
- Redress procedures (art. 72)
- Suspension of the effects (art. 73)



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Certificado sucesorio europeo

- Finalidad y efectos (art. 62, 63 y 69)
- Competencia para la expedición (art. 64)
- Solicitud, examen y expedición del CSE (art. 65, 66 y 67)
- Contenido (art. 68)
- Rectificación, modificación o anulación del CSE (art. 71)
- Recursos (art. 72)
- Suspensión de los efectos (art. 73)



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