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EU LAW TRAINING IN ENGLISH LANGUAGE:
BLENDED AND INTEGRATED CONTENT AND LANGUAGE TRAINING
FOR EUROPEAN NOTARIES AND JUDGES



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Justice Programme 2014-2020

Key

LAW PROVISIONS

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REGULATION (EU) No 650/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

(of 4 July 2012)

Article 3

Definitions

1. For the purposes of this Regulation:

- a) **'succession'** means succession to the estate of a deceased person and covers all forms of transfer of assets, rights and obligations by reason of death, whether by way of a voluntary transfer under a disposition of property upon death or a transfer through intestate succession;
- b) **'agreement as to succession'** means an agreement, including an agreement resulting from mutual wills, which, with or without consideration, creates, modifies or terminates rights to the future estate or estates of one or more persons party to the agreement;
- c) **'joint will'** means a will drawn up in one instrument by two or more persons;
- d) **'disposition of property upon death'** means a will, a joint will or an agreement as to succession;
- e) **'Member State of origin'** means the Member State in which the decision has been given, the court settlement approved or concluded, the authentic instrument established or the European Certificate of Succession issued;
- f) **'Member State of enforcement'** means the Member State in which the declaration of enforceability or the enforcement of the decision, court settlement or authentic instrument is sought;
- g) **'decision'** means any decision in a matter of succession given by a court of a Member State, whatever the decision may be called, including a decision on the determination of costs or expenses by an officer of the court;
- h) **'court settlement'** means a settlement in a matter of succession which has been approved by a court or concluded before a court in the course of proceedings;

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- i) **'authentic instrument'** means a document in a matter of succession which has been formally drawn up or registered as an authentic instrument in a Member State and the authenticity of which
- relates to the signature and the content of the authentic instrument; and
 - has been established by a public authority or other authority empowered for that purpose by the Member State of origin.

2. For the purposes of this Regulation, the term **'court'** means any judicial authority and all other authorities and legal professionals with competence in matters of succession which exercise judicial functions or act pursuant to a delegation of power by a judicial authority or act under the control of a judicial authority, provided that such other authorities and legal professionals offer guarantees with regard to impartiality and the right of all parties to be heard and provided that their decisions under the law of the Member State in which they operate:

- may be made the subject of an appeal to or review by a judicial authority; and
- have a similar force and effect as a decision of a judicial authority on the same matter.

The Member States shall notify the Commission of the other authorities and legal professionals referred to in the first subparagraph **in accordance with Article 79**.

Article 4

General jurisdiction

The courts of the Member State in which the deceased had his habitual residence at the time of death shall have jurisdiction to rule on the succession as a whole.

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OPINION OF ADVOCATE GENERAL (SZPUNAR) **delivered on 22 February 2018 - Case C-20/17 - Vincent Pierre Oberle**

(...) The term 'court' in the context of Regulation No 650/2012

58. For the purposes of Regulation No 650/2012, the term 'court' is defined in Article 3(2) thereof. It covers 'any judicial authority' and also all other authorities and legal professionals with competence in matters of succession, provided, however, that the other requirements laid down in that provision are met.

59. In the light of the guidance set out in the second sentence of recital 20 of Regulation No 650/2012, the term 'court' should be given a broad meaning so as to cover not only 'courts in the true sense of the word, exercising judicial functions', but also other persons who, in certain matters, exercise judicial functions like courts.

60. This might suggest that an authority which formally falls within the judicial structure of a particular Member State, but which does not exercise judicial functions within a specific procedure, is not in fact a 'court' for the purpose of Regulation No 650/2012.

61. However, the wording of Article 3(2) of Regulation No 650/2012 may also militate against a restrictive interpretation of the term 'court' in so far as it concerns 'judicial authorities'. That provision stipulates that the term 'court' covers 'any judicial authority'.

62. Furthermore, no excessively remote conclusions can be drawn from the guidance set out in the second sentence of recital 20 of Regulation No 650/2012 (the term 'court' covers 'courts in the true sense of the word, exercising judicial functions'). The fact that the term 'court' must be interpreted in a certain manner in order to remove any doubt that not only a court exercising a judicial function is covered by that term cannot lead to the unequivocal conclusion that that term does not cover 'a court in the true sense of the word' which does not exercise such functions in specific proceedings.

63. Nor is such a conclusion supported by other recitals of Regulation No 650/2012, namely the third and fourth sentences of recital 20 and recitals 21, 22 and 36, which make it clear that 'non-judicial authorities' which do not exercise judicial functions are not bound by the rules of jurisdiction under that regulation. Those recitals do not relate to 'judicial authorities'.

64. I therefore consider that a literal interpretation of the term 'court' mentioned in Article 3(1)(g) of Regulation No 650/2012 cannot establish that Article 4 of that regulation determines jurisdiction only over procedures in which a judicial authority exercises judicial functions.

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ARTICLE 79

Establishment and subsequent amendment of the list containing the information referred to in Article 3(2)

1. The Commission shall, on the basis of the notifications by the Member States, establish the list of the other authorities and legal professionals referred to in Article 3(2).
2. The Member States shall notify the Commission of any subsequent changes to the information contained in that list. The Commission shall amend the list accordingly.
3. The Commission shall publish the list and any subsequent amendments in the *Official Journal of the European Union*.
4. The Commission shall make all information notified in accordance with paragraphs 1 and 2 publicly available through any other appropriate means, in particular through the European Judicial Network in civil and commercial matters.

RECITAL no. 20 of Regulation 650/2012

This Regulation should respect the different systems for dealing with matters of succession applied in the Member States. For the purposes of this Regulation, the term 'court' should therefore be given a broad meaning so as to cover not only courts in the true sense of the word, exercising judicial functions, but also the notaries or registry offices in some Member States who or which, in certain matters of succession, exercise judicial functions like courts, and the notaries and legal professionals who, in some Member States, exercise judicial functions in a given succession by delegation of power by a court. All courts as defined in this Regulation should be bound by the rules of jurisdiction set out in this Regulation. Conversely, the term 'court' should not cover non-judicial authorities of a Member State empowered under national law to deal with matters of succession, such as the notaries in most Member States where, as is usually the case, they are not exercising judicial functions.

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COMMISSION IMPLEMENTING REGULATION (EU) No 1329/2014

of 9 December 2014

1. The form to be used for the attestation concerning a decision in a matter of succession referred to in Article 46(3)(b) of Regulation (EU) No 650/2012 shall be as set out in Annex 1 as Form I.
2. The form to be used for the attestation concerning an authentic instrument in a matter of succession referred to in Articles 59(1) and 60(2) of Regulation (EU) No 650/2012 shall be as set out in Annex 2 as Form II.

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FORM I

ATTESTATION

concerning a decision in a matter of succession

(Article 46(3)(b) of Regulation (EU) No 650/2012 of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession ⁽¹⁾)

1. Member State of origin (*)

- Belgium Bulgaria Czech Republic Germany Estonia Greece Spain France
- Croatia Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta Netherlands
- Austria Poland Portugal Romania Slovenia Slovakia Finland Sweden

2. Court or competent authority issuing the attestation

- 2.1. Name and designation of court or authority (*):
- 2.2. Address
 - 2.2.1. Street and number/PO box (*):
 -
 - 2.2.2. Place and postcode (*):
- 2.3. Telephone (*):
- 2.4. Fax
- 2.5. E-mail:
- 2.6. Other relevant information (please specify):
-
-

3. Court ⁽²⁾ which gave the decision (to be completed ONLY if different from the authority referred to in section 2)

- 3.1. Name and designation of court (*):
- 3.2. Address
 - 3.2.1. Street and number/PO box (*):
 -
 - 3.2.2. Place and postcode (*):
- 3.3. Telephone (*):
- 3.4. Fax
- 3.5. E-mail:

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4. Decision

4.1. Date (dd/mm/yyyy) of the decision (*):

4.2. Reference number of the decision (*):

4.3. Parties to the decision (³)

4.3.1. Party A

4.3.1.1. Surname and given name(s) or organisation name (*):

4.3.1.2. Date (dd/mm/yyyy) and place of birth or, if organisation, date (dd/mm/yyyy), place of registration and designation of the register/registration authority:

4.3.1.3. Identification number (⁴)

4.3.1.3.1. Identity number:

4.3.1.3.2. Social security number:

4.3.1.3.3. Registration number:

4.3.1.3.4. Other (please specify):

4.3.1.4. Address

4.3.1.4.1. Street and number/PO box:

4.3.1.4.2. Place and postcode:

4.3.1.4.3. Country

- Belgium Bulgaria Czech Republic Germany Estonia Greece Spain France
- Croatia Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta
- Netherlands Austria Poland Portugal Romania Slovenia Slovakia Finland
- Sweden

Other (please specify ISO-code):

4.3.1.5. E-mail:

4.3.1.6. Role in the proceedings (*)

4.3.1.6.1. Claimant

4.3.1.6.2. Defendant

4.3.1.6.3. Other (please specify):

4.3.1.7. Status in the succession (please tick more than one box, if relevant) (*)

4.3.1.7.1. Heir

4.3.1.7.2. Legatee

4.3.1.7.3. Executor

4.3.1.7.4. Administrator

4.3.1.7.5. Other (please specify):

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4.3.2. Party B

4.3.2.1. Surname and given name(s) or organisation name (*):

4.3.2.2. Date (dd/mm/yyyy) and place of birth or, if organisation, date (dd/mm/yyyy), place of registration and designation of the register/registration authority:

4.3.2.3. Identification number (4)

4.3.2.3.1. Identity number:

4.3.2.3.2. Social security number:

4.3.2.3.3. Registration number:

4.3.2.3.4. Other (please specify):

4.3.2.4. Address

4.3.2.4.1. Street and number/PO box:

4.3.2.4.2. Place and postcode:

4.3.2.4.3. Country

- Belgium Bulgaria Czech Republic Germany Estonia Greece Spain France
- Croatia Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta
- Netherlands Austria Poland Portugal Romania Slovenia Slovakia Finland
- Sweden

Other (please specify ISO-code):

4.3.2.5. E-mail:

4.3.2.6. Role in the proceedings (*)

4.3.2.6.1. Claimant

4.3.2.6.2. Defendant

4.3.2.6.3. Other (please specify):

4.3.2.7. Status in the succession (please tick more than one box, if relevant) (*)

4.3.2.7.1. Heir

4.3.2.7.2. Legatee

4.3.2.7.3. Executor

4.3.2.7.4. Administrator

4.3.2.7.5. Other (please specify):

4.4. The decision was given in default of appearance (*)

4.4.1. Yes (please indicate the date (dd/mm/yyyy) on which the document instituting the proceedings or the equivalent document was served on the person concerned):

4.4.2. No

4.5. Is registration in a public register sought?

4.5.1. Yes

4.5.2. No

4.6. If YES under point 4.5.1., the decision is no longer subject to ordinary appeal, including any appeal to the Court of last instance:

4.6.1. Yes

4.6.2. No

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6.2.2. Statutory interest to be calculated in accordance with (please specify relevant statute):

6.2.2.1. Interest due from: (date (dd/mm/yyyy) or event) to: (date (dd/mm/yyyy) or event) (5)

6.2.2.2. Method to calculate the interest

6.2.2.2.1. Rate: %

6.2.2.2.2. Rate: % over reference rate (ECB/reference rate of national central bank:)

in force on: (date (dd/mm/yyyy) or event)

6.2.2.2.2.1. First date of the respective semester in which the debtor is overdue

6.2.2.2.2.2. Other event (please specify):

6.2.3. Capitalisation of interest (please specify):

6.2.4. Currency

euro (EUR) lev (BGN)

Czech koruna (CZK) kuna (HRK)

forint (HUF) zloty (PLN)

Romanian leu (RON) krona (SEK)

Other (please specify (ISO code)):

7. Costs or expenses

7.1. Parties having benefited from complete or partial legal aid

7.1.1. Party A

7.1.2. Party B

7.1.3. Other Party (please specify):

7.2. Parties having benefited from exemption from costs or expenses

7.2.1. Party A

7.2.2. Party B

7.2.3. Other Party (please specify):



7.3. Is recovery of costs or expenses sought? (*)

7.3.1. Yes ⁽⁶⁾

7.3.2. No

7.4. If YES under point 7.3.1., the following person(s) against whom enforcement is sought has/have been ordered to bear the costs or expenses (*)

7.4.1. Party A

7.4.2. Party B

7.4.3. Other Party (please specify):

7.4.4. If more than one person has to bear the costs or expenses, may the whole amount be collected from any of them?

7.4.4.1. Yes

7.4.4.2. No

7.5. If YES under point 7.3.1., the costs or expenses for which recovery is sought are as follows (in the event that the costs or expenses may be recovered from several persons, insert the breakdown for each person separately) (*)

7.5.1. The costs or expenses have been fixed in the decision by way of a total amount (please specify the amount):

7.5.2. The costs or expenses have been fixed in the decision by way of a percentage of total costs (please specify percentage of total): %.

7.5.3. Liability for the costs or expenses has been determined in the decision and the exact amounts are as follows:

7.5.3.1. Court fees:

7.5.3.2. Lawyers' fees:

7.5.3.3. Cost of service of documents:

7.5.3.4. Other (please specify):

7.5.4. Other (please specify):

7.6. If YES under point 7.3.1. (*)

7.6.1. Interest on costs or expenses

7.6.1.1. Not specified in the decision

7.6.1.2. Yes, specified in the decision as follows

7.6.1.2.1. Interest due from: (date (dd/mm/yyyy) or event)
to: (date (dd/mm/yyyy) or event) ⁽⁵⁾

7.6.1.2.2. Final amount:

7.6.1.2.3. Method to calculate the interest

7.6.1.2.3.1. Rate: %

7.6.1.2.3.2. Rate: % over reference rate (ECB/reference rate of national central bank:) in force on: (date (dd/mm/yyyy) or event)



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7.6.2. Statutory interest to be calculated in accordance with (please specify relevant statute):

.....

.....

.....

7.6.2.1. Interest due from: (date (dd/mm/yyyy) or event)
to: (date (dd/mm/yyyy) or event) ⁽⁵⁾

7.6.2.2. Method to calculate the interest

7.6.2.2.1. Rate: %

7.6.2.2.2. Rate: % over reference rate (ECB/reference rate of national central bank)
in force on: (date (dd/mm/yyyy) or event)

7.6.3. Capitalisation of interest (please specify):

.....

.....

.....

7.6.4. Currency

euro (EUR) lev (BGN)

Czech koruna (CZK) kuna (HRK)

forint (HUF) zloty (PLN)

Romanian leu (RON) krona (SEK)

Other (please specify (ISO code)):

If additional sheets have been attached, state the total number of pages (*):

Done at (*): on (*): (dd/mm/yyyy)

Signature and/or stamp of the court or competent authority issuing the attestation (*):

.....

.....

(*) Mandatory information.

⁽¹⁾ OJ L 201, 27.7.2012, p. 107.

⁽²⁾ In accordance with Article 3(2) of Regulation (EU) No 650/2012, the term 'court' includes under certain conditions, in addition to judicial authorities, other authorities and legal professionals with competence in matters of succession which exercise judicial functions or act pursuant to a delegation of power by a judicial authority or act under the control of a judicial authority. The list of these other authorities and legal professionals is published in the *Official Journal of the European Union*.

⁽³⁾ If the decision concerns more than two parties, please attach an additional sheet.

⁽⁴⁾ Please indicate the most relevant number if applicable.

⁽⁵⁾ Add the number of periods necessary if more than one period.

⁽⁶⁾ This point also covers situations where the costs or expenses are awarded in a separate decision.

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FORM II

ATTESTATION

concerning an authentic instrument in a matter of succession

(Articles 59(1) and 60(2) of Regulation (EU) No 650/2012 of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession ⁽¹⁾)

1. Member State of origin (*)

- Belgium Bulgaria Czech Republic Germany Estonia Greece Spain France
- Croatia Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta Netherlands
- Austria Poland Portugal Romania Slovenia Slovakia Finland Sweden

2. Authority having established the authentic instrument and issuing the attestation

- 2.1. Name and designation of authority (*):
- 2.2. Address
- 2.2.1. Street and number/PO box (*):
- 2.2.2. Place and postcode (*):
- 2.3. Telephone (*):
- 2.4. Fax
- 2.5. E-mail:
- 2.6. Other relevant information (please specify):

3. Authentic instrument

- 3.1. Date (dd/mm/yyyy) on which the authentic instrument was drawn up (*):
- 3.2. Reference number of the authentic instrument:
- 3.3. Date (dd/mm/yyyy) on which the authentic instrument was
 - 3.3.1. registered at the register in the Member State of origin OR
 - 3.3.2. deposited at the register in the Member State of origin
 (3.3.1 or 3.3.2 to be completed ONLY if different from the date indicated in point 3.1. and if the date of registration/deposit at the register determines the legal effect of the instrument)
- 3.3.3. Reference number in the register:
- 3.4. Parties to the authentic instrument ⁽²⁾

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3.4.1. **Party A**

3.4.1.1. Surname and given name(s) or organisation name (*):

3.4.1.2. Date (dd/mm/yyyy) and place of birth or, if organisation, date (dd/mm/yyyy), place of registration and designation of the register/registration authority:

3.4.1.3. Identification number ⁽³⁾

3.4.1.3.1. Identity number:

3.4.1.3.2. Social security number:

3.4.1.3.3. Registration number:

3.4.1.3.4. Other (please specify):

3.4.1.4. Address

3.4.1.4.1. Street and number/PO box:

3.4.1.4.2. Place and postcode:

3.4.1.4.3. Country

- Belgium Bulgaria Czech Republic Germany Estonia Greece Spain France
- Croatia Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta
- Netherlands Austria Poland Portugal Romania Slovenia Slovakia Finland
- Sweden

Other (please specify ISO-code):

3.4.1.5. Status of Party A (please tick more than one box, if relevant) (*)

3.4.1.5.1. Heir

3.4.1.5.2. Legatee

3.4.1.5.3. Executor

3.4.1.5.4. Administrator

3.4.1.5.5. Testator

3.4.1.5.6. Other (please specify):

3.4.2. **Party B**

3.4.2.1. Surname and given name(s) organisation name (*):

3.4.2.2. Date (dd/mm/yyyy) and place of birth or, if organisation, date (dd/mm/yyyy), place of registration and designation of the register/registration authority:

3.4.2.3. Identification number ⁽³⁾

3.4.2.3.1. Identity number:

3.4.2.3.2. Social security number:

3.4.2.3.3. Registration number:

3.4.2.3.4. Other (please specify):

3.4.2.4. Address

3.4.2.4.1. Street and number/PO box:



3.4.2.4.2. Place and postcode:

3.4.2.4.3. Country

Belgium Bulgaria Czech Republic Germany Estonia Greece Spain France
 Croatia Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta
 Netherlands Austria Poland Portugal Romania Slovenia Slovakia Finland
 Sweden

Other (please specify ISO-code):

3.4.2.5. Status of Party B (please tick more than one box, if relevant) (*)

3.4.2.5.1. Heir

3.4.2.5.2. Legatee

3.4.2.5.3. Executor

3.4.2.5.4. Administrator

3.4.2.5.5. Testator

3.4.2.5.6. Other (please specify):

4. Acceptance of the authentic instrument (Article 59 of Regulation (EU) No 650/2012)

4.1. Is acceptance of the authentic instrument sought? (*)

- 4.1.1. Yes
- 4.1.2. No

4.2. Authenticity of the instrument ((*) If YES under point 4.1.1.)

4.2.1. Under the law of the Member State of origin, the authentic instrument has specific evidentiary effects compared to other written documents (*).

4.2.1.1. The specific evidentiary effects concern the following elements: (*)

- 4.2.1.1.1. the date the authentic instrument was drawn up
- 4.2.1.1.2. the place where the authentic instrument was drawn up
- 4.2.1.1.3. the origin of the signatures from the parties of the authentic instrument
- 4.2.1.1.4. the content of the declarations of the parties
- 4.2.1.1.5. the facts that the authority declares as having been verified in its presence
- 4.2.1.1.6. the actions which the authority declares to have carried out
- 4.2.1.1.7. other (please specify):
-
-
-

4.2.2. Under the law of the Member State of origin, the authentic instrument loses its specific evidentiary effects on the basis of (please indicate if relevant):

- 4.2.2.1. a judicial decision given in
- 4.2.2.1.1. an ordinary judicial procedure

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4.2.2.1.2. a special judicial procedure provided by the law for this purpose (please indicate the name and/or the relevant legal references):

.....

.....

4.2.2.2. Other (please specify):

.....

4.2.3. To the knowledge of the authority, the authentic instrument has not been challenged in the Member State of origin as to its authenticity (*).

4.3. **Legal acts and relationships recorded in the authentic instrument ((*) if YES under point 4.1.1.)**

4.3.1. To the knowledge of the authority, the authentic instrument (*):

4.3.1.1. is not challenged as to the legal acts and/or legal relationships recorded

4.3.1.2. is being challenged as to the legal acts and/or legal relationships recorded on specific points not covered by this attestation (please specify):

.....

.....

.....

4.3.2. Other relevant information (please specify):

.....

.....

.....

.....

5. **Other information**

5.1. In the Member State of origin, the authentic instrument is a valid document for the purposes of recording a right in immovable or movable property in its registers (⁴).

5.1.1. Yes (please specify):

.....

.....

.....

5.1.2. No

6. **Enforceability of the authentic instrument (Article 60 of Regulation (EU) No 650/2012)**

6.1. Is enforcement of the authentic instrument sought? (*)

6.1.1. Yes

6.1.2. No

6.2. If YES under point 6.1.1., is the authentic instrument enforceable in the Member State of origin without any further conditions having to be met? (*)

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6.2.1. Yes (please specify the enforceable obligation(s)):

.....

.....

6.2.2. Yes, but limited to part(s) of the authentic instrument (please specify the enforceable obligation(s)):

.....

.....

6.2.3. The obligation(s) is(are) enforceable against the following person(s): (*)

6.2.3.1. Party A

6.2.3.2. Party B

6.2.3.3. Other (please specify):

.....

.....

7. Interest

7.1. Is recovery of interest sought? (*)

7.1.1. Yes

7.1.2. No

7.2. If YES under point 7.1.1. (*)

7.2.1. Interest

7.2.1.1. Not specified in the authentic instrument

7.2.1.2. Yes, specified in the authentic instrument as follows

7.2.1.2.1. Interest due from: (date (dd/mm/yyyy) or event)
to: (date (dd/mm/yyyy) or event) ⁽⁵⁾

7.2.1.2.2. Final amount:

7.2.1.2.3. Method to calculate the interest

7.2.1.2.3.1. Rate: %

7.2.1.2.3.2. Rate: % over reference rate (ECB/reference rate of national central bank:)
in force on: (date (dd/mm/yyyy) or event)

7.2.2. Statutory interest to be calculated in accordance with (specify relevant statute):

.....

.....

7.2.2.1. Interest due from: (date (dd/mm/yyyy) or event)
to: (date (dd/mm/yyyy) or event) ⁽⁵⁾

7.2.2.2. Method to calculate the interest

7.2.2.2.1. Rate: %

This Project is implemented by Coordinator



Partners

