



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

GOINEU



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# Regulation 650/12 and agreements as to succession : existing problems

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This Project is implemented by Coordinator



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# Main problems

## a) Agreements as to succession made in order to renounce the inheritance :

- unilateral (with the participation only by future heirs) ?
- different opinions



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## b) Hypothetical Law applicable to the succession

- is it possible for an Italian Notary to draw and act based on the hypothetical law applicable to succession?
- the rule of validation is not included in the final version of the regulation;

## C) *professio iuris* in an agreements as to a succession may be changed by the testator afterwards :

- no legal certainty



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## d) public policy:

Court of Cassation 1984 n. 2215 : admissibility

Court of Cassation 1983 n. 4827 and Court of Cassation 2009 n. 24450: not admissible (but the case was related to a national agreement related to a succession not a foreign one )



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## e) right to a reserved share (forced heirs) :

**Article 18.4 of the proposal** "The application of the law provided for in this Article shall not prejudice the rights of any person who is not party to the agreement and who, in accordance with the law determined in Article 16 or 17, has an indefeasible interest or another right of which it cannot be deprived by the person whose succession is involved."

No provision in the final text: consequences?



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# Main problems

## f) matrimonial property regimes containing agreements as to succession :

- How to coordinate the two different regulations?
- Consequences in the national legal orders



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