

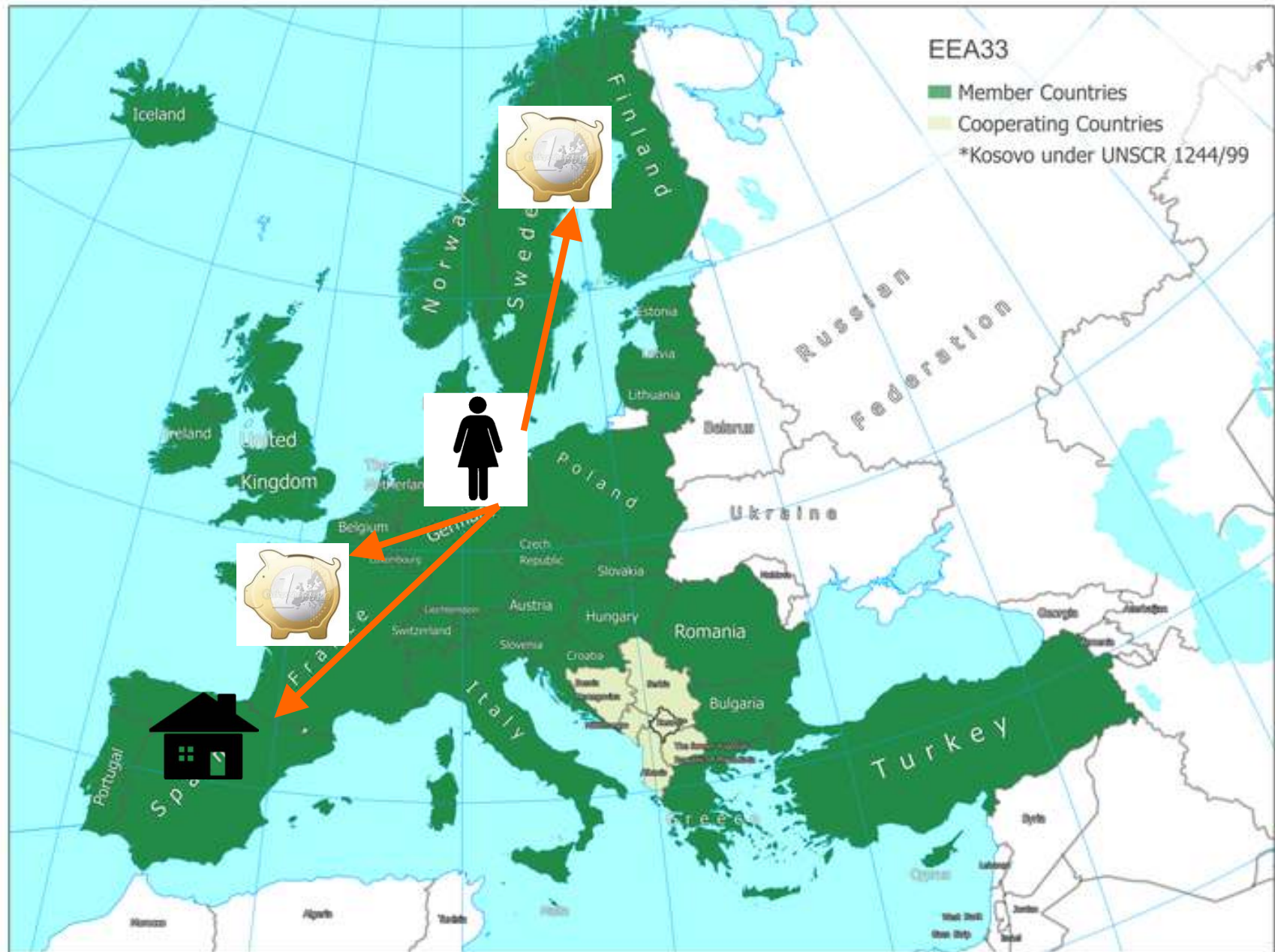
THE GROWING IMPORTANCE OF CROSS-BORDER TRANSACTIONS IN THE EUROPEAN UNION:

Challenges and potential benefits of the European Certificate of Succession

Mireia Artigot i Golobardes

Crobeco Conference, Barcelona, May 2014

European cross-border transactions



Cross-border transactions might take place:



- Inter vivos
- Mortis causa

INTER VIVOS CROSS-BORDER TRANSACTIONS



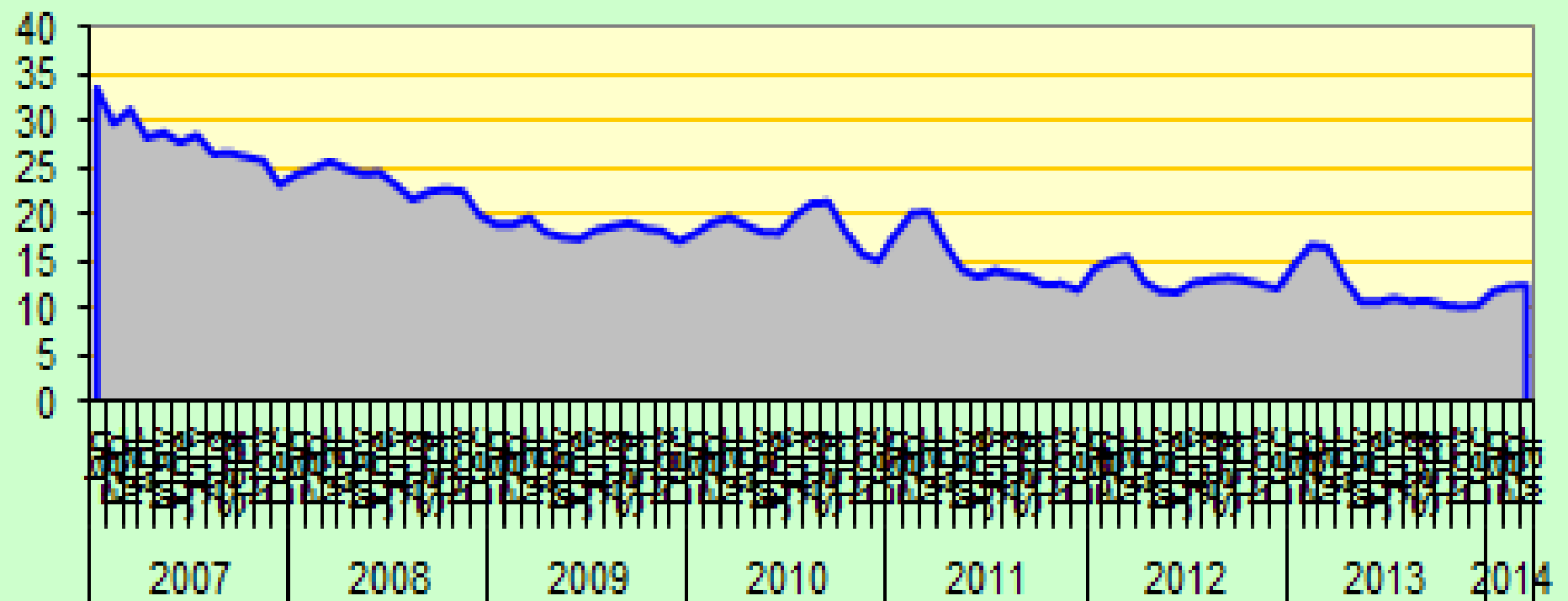
- Cross-border transactions take place when parties in the transaction are
 1. Individuals/corporations nationals/domiciled in different member states
 2. Individuals/corporations residing/domiciled in different member states
 3. Individuals acquiring property in a state they are not nationals of or in a country they do not reside in

Looking at intra-european migration across member states of individuals 15 years old and older (Eurostat 2013)

Year 2013	Country of Citizenship																												
Country of Residence	Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Republic	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania	Slovakia	Slovenia	Spain	Sweden	UK	Total
Austria		1.572	11.968	49.968	122	8.798	855	310	1.183	5.734	137.713	3.263	31.254	914	15.652	824	937	607	61	6.338	38.829	1.907	43.420	21.123	8.118	3.694	2.362	7.922	405.448
Belgium	2.261		19.205	923	320	2.642	2.369	712	2.453	134.502	33.901	14.382	4.519	3.418	149.510	1.374	1.770	4.008	353	116.638	49.661	32.252	40.839	4.233	771	46.598	3.517	21.130	692.000
Bulgaria	197	176		33	123	351	70	41	49	365	1.009	2.495	133	85	685	81	80	4	13	295	852	46	473	184	37	175	84	3.037	10.976
Croatia	0	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cyprus	0	0	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Czech Republic	3.303	534	7.663	2.093	96		296	117	276	2.672	16.769	983	934	612	3.099	270	511	21	19	2.606	18.704	253	5.235	80.334	294	827	657	4.960	150.835
Denmark	1.153	937	4.561	476	50	834		1.245	2.226	5.228	20.266	1.463	2.527	1.420	5.327	3.621	7.592	35	56	5.682	22.907	1.373	11.177	1.207	272	4.298	12.358	14.225	131.363
Estonia	17	32	68	10	3	21	96		1.637	126	446	21	35	35	195	1.740	1.282	2	0	102	190	32	38	11	7	100	334	320	6.883
Finland	406	307	1.072	265	44	379	633	32.686		1.617	3.669	613	1.412	477	1.726	1.093	885	15	18	1.114	2.477	417	1.470	275	71	1.593	7.890	3.719	65.937
France	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Germany	183.325	24.426	111.263	227.817	1.200	40.551	19.634	5.039	13.259	114.485		295.857	106.206	11.058	530.938	20.820	30.840	13.141	498	138.118	519.309	117.574	196.381	34.090	22.156	122.077	17.537	102.894	2.837.168
Greece	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hungary	3.522	663	560	642	165	368	207	87	335	1.805	16.641	367		390	1.912	85	109	28	36	1.987	1.515	293	32.245	7.071	248	829	873	2.142	71.603
Ireland	562	856	1.562	748	72	4.737	654	2.141	704	7.865	9.143	431	6.886		6.289	16.557	29.505	31	154	3.460	97.323	2.136	14.544	9.337	163	5.495	1.387	102.476	324.656
Italy	5.783	5.144	44.193	14.814	190	5.184	1.976	912	1.503	27.285	35.126	7.662	7.081	2.648		2.074	3.889	232	766	7.185	84.863	5.162	785.746	7.185	2.390	19.241	3.021	25.161	1.100.633
Latvia	22	21	137	6	0	17	127	619	83	75	340	14	17	32	120		2.752	0	2	82	193	17	41	12	3	49	147	195	5.101
Lithuania	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0	0	0	0
Luxembourg	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0	0	0
Malta	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0	0
Netherlands	3.722	26.115	14.669	1.430	276	2.708	2.527	792	2.250	15.802	67.256	10.745	8.254	4.257	21.786	2.699	3.683	369	187		62.655	15.155	8.527	3.328	723	20.140	3.452	38.246	338.031
Poland	621	222	965	239	20	833	322	14	43	1.053	4.612	640	429	180	1.263	127	844	14	5	734		95	532	490	47	476	594	1.340	16.133
Portugal	489	1.637	6.567	85	12	205	470	93	365	4.777	8.033	152	387	766	4.908	328	503	119	20	4.467	1.155		30.753	165	59	8.713	931	15.707	91.377
Romania	961	311	1.044	74	142	115	157	13	56	1.846	2.497	1.222	1.574	80	4.890	21	60	12	4	534	449	362		92	33	741	363	1.064	17.756
Slovakia	2.205	428	1.979	436	35	13.732	225	46	118	1.432	4.110	337	9.433	185	2.045	142	130	10	20	521	6.866	183	5.839		240	594	263	1.607	50.956
Slovenia	423	59	1.676	8.110	0	140	28	18	29	197	863	20	208	40	1.123	22	26	3	5	139	211	33	257	415		76	65	391	14.154
Spain	9.007	28.596	128.043	1.317	213	7.935	10.841	1.526	10.764	93.184	144.675	3.942	8.062	13.797	164.100	3.571	17.054	549	241	43.393	63.789	106.561	658.354	7.214	1.227		19.261	297.184	1.835.393
Sweden	2.927	1.094	3.933	2.088	206	1.151	33.173	3.393	60.880	6.035	24.683	5.614	4.677	1.984	6.234	3.679	7.044	46	86	7.390	36.094	1.745	9.417	992	601	5.479		17.244	244.962
United Kingdom	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			0
TOTAL	220.906	93.130	361.128	311.574	3.289	90.701	74.660	49.804	98.213	426.085	531.752	350.223	194.028	42.378	921.802	59.128	109.496	19.246	2.544	340.785	1.008.042	285.596	1.845.288	177.758	37.460	241.195	75.096	660.964	8.411.365

Year 2013	Country of Citizenship																												
Country of Residence	Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Republic	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania	Slovakia	Slovenia	Spain	Sweden	UK	Total
Austria		1.572	11.968	49.968	122	8.798	855	310	1.183	5.734	137.713	3.263	31.254	914	15.652	824	937	607	61	6.338	38.829	1.907	43.420	21.123	8.118	3.694	2.362	7.922	405.448
Belgium	2.261		19.205	923	320	2.642	2.369	712	2.453	134.502	33.901	14.382	4.519	3.418	149.510	1.374	1.770	4.008	353	116.638	49.661	32.252	40.839	4.233	771	46.598	3.517	21.130	692.000
Bulgaria	197	176		33	123	351	70	41	49	365	1.009	2.495	133	85	685	81	80	4	13	295	852	46	473	184	37	175	84	3.037	10.976
Croatia	0	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cyprus	0	0	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Czech Republic	3.303	534	7.663	2.093	96		296	117	276	2.672	16.769	983	934	612	3.099	270	511	21	19	2.606	18.704	253	5.235	80.334	294	827	657	4.960	150.835
Denmark	1.153	937	4.561	476	50	834		1.245	2.226	5.228	20.266	1.463	2.527	1.420	5.327	3.621	7.592	35	56	5.682	22.907	1.373	11.177	1.207	272	4.298	12.358	14.225	131.363
Estonia	17	32	68	10	3	21	96		1.637	126	446	21	35	35	195	1.740	1.282	2	0	102	190	32	38	11	7	100	334	320	6.883
								22.68																		1.59			
Germany	183.325	24.426	111.263	227.817	1.200	40.551	19.634	5.039	13.259	114.485	:	295.857	106.206	11.058	530.938	20.820	30.840	13.141	498	138.118	519.309	117.574	196.381	34.090	22.156	122.077	17.537	102.894	2.837.168
Hungary	3.522	663	560	642	165	368	207	87	335	1.805	16.641	367		390	1.912	85	109	28	36	1.987	1.515	293	32.245	7.071	248	829	873	2.142	71.603
Ireland	562	856	1.562	748	72	4.737	654	2.141	704	7.865	9.143	431	6.886		6.289	16.557	29.505	31	154	3.460	97.323	2.136	14.544	9.337	163	5.495	1.387	102.476	324.656
Italy	5.783	5.144	44.193	14.814	190	5.184	1.976	912	1.503	27.285	35.126	7.662	7.081	2.648		2.074	3.889	232	766	7.185	84.863	5.162	785.746	7.185	2.390	19.241	3.021	25.161	1.100.633
Latvia	22	21	137	6	0	17	127	619	83	75	340	14	17	32	120		2.752	0	2	82	193	17	41	12	3	49	147	195	5.101
Lithuania	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0	0	0	0
Luxembourg	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0	0	0
Malta	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0	0
Netherlands	3.722	26.115	14.669	1.430	276	2.708	2.527	792	2.250	15.802	67.256	10.745	8.254	4.257	21.786	2.699	3.683	369	187		62.655	15.155	8.527	3.328	723	20.140	3.452	38.246	338.031
Poland	621	222	965	239	20	833	322	14	43	1.053	4.612	640	429	180	1.263	127	844	14	5	734		95	532	490	47	476	594	1.340	16.133
Portugal	489	1.637	6.567	85	12	205	470	93	365	4.777	8.033	152	387	766	4.908	328	503	119	20	4.467	1.155		30.753	165	59	8.713	931	15.707	91.377
Romania	961	311	1.044	74	142	115	157	13	56	1.846	2.497	1.222	1.574	80	4.890	21	60	12	4	534	449	362		92	33	741	363	1.064	17.756
Spain	9.007	28.596	128.043	1.317	213	7.935	10.841	1.526	10.764	93.184	144.675	3.942	8.062	13.797	164.100	3.571	17.054	549	241	43.393	63.789	106.561	658.354	7.214	1.227	:	19.261	297.184	1.835.393
United Kingdom	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			0
TOTAL	220.906	93.130	361.128	311.574	3.289	90.701	74.660	49.804	98.213	426.085	531.752	350.223	194.028	42.378	921.802	59.128	109.496	19.246	2.544	340.785	1.008.042	285.596	1.845.288	177.758	37.460	241.195	75.096	660.964	8.411.365

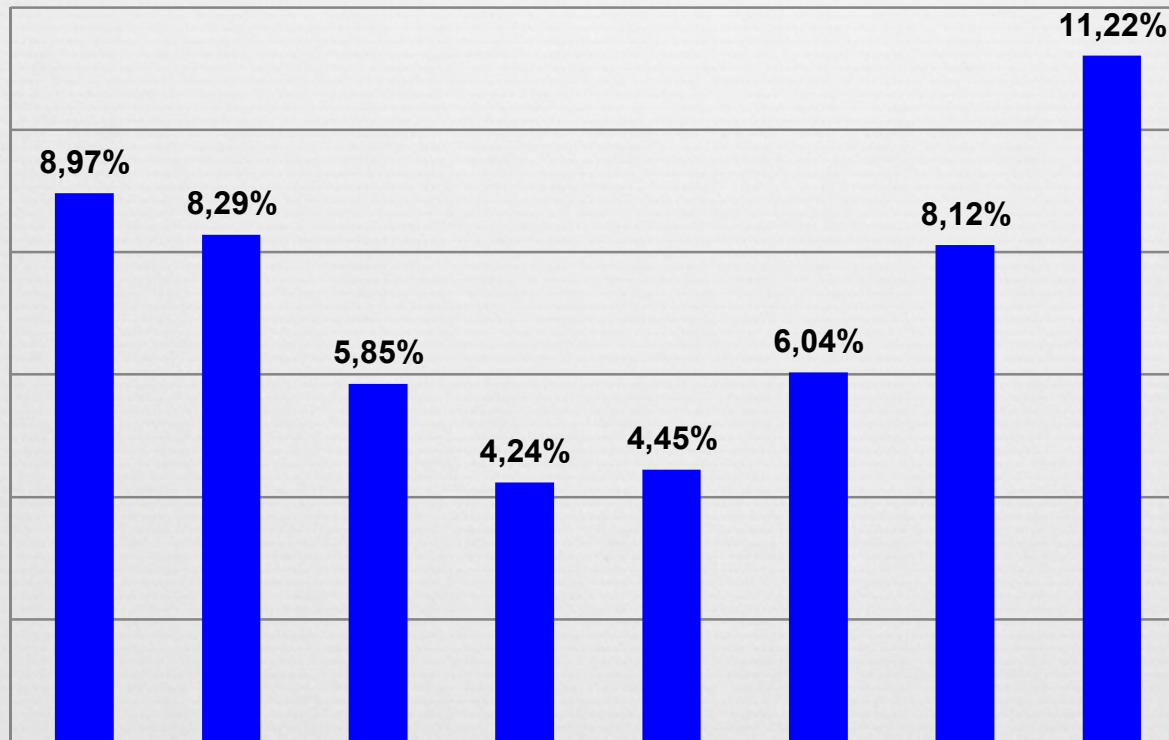
Spain New Houses Sold (monthly, 3 month moving average, thousand)



Source: INE Spain

Statistics of Public Registrars 2006-2013

Purchase of dwelling by foreigners in Spain (%)



Housing sales involving a foreign party have steadily increased since 2009 in Spain.

Residential property sales by purchaser's nationality in Spain during 2013 (%)

United Kingdom continues leading the purchasers, with 15,10% of the total number of transactions involving a foreign party in Spain during 2013.

Followed by France (9,84%) and Russia (8,58%).

NATIONALITIES	% of transactions involving a foreign party by nationality
United Kingdom	15.10%
France	9.84%
Russia	8.58%
Belgium	7.26%
Germany	7.01%
Sweden	5.63%
Norway	5.27%
Italy	3.65%
Algeria	3.23%
China	3.06%
The Netherlands	2.62%
Morocco	2.29%
Rumania	2.22%
Luxemburg	1.46%
Switzerland	1.32%
Ukraine	1.32%
Denmark	1.29%
Finland	1.21%
Poland	0.94%
Other	16.7
TOTAL	100%

In light of the current and future importance of cross-border transactions in Europe

- Crobeco cross-border registry will be successful as long as it
 1. Reduces transaction costs inherent in cross-border transactions.
 2. Increases transparency and access to information by the different registries involved
 3. Advised by practitioners and acknowledged by public authorities – including EU registrars

Cross-border mortis causa property transfers

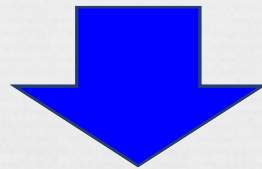


- The European Commission, estimated in 2005 that
 - Around **4.5 million people die in the European Union** every year and that the assessed value of the average estate is about **137.000 euro**.
 - Around 10% of the successions in Europe involve an international element - **450.000** - and the assessed value of such estates around double the value of the average estate - around **274.000 euro**.
 - The European Commission estimates that the **aggregate value of cross-border successions in Europe is around 123.3 billion euro per year**.
- Growing phenomenon

International elements present in cross-border successions



1. **By the location of the assets of the deceased's estate.**
An deceased individual national + resident in one state + owning property in more than one state.
2. **By the individual involved in it:** A national of one state, resident and deceading in another with property in either of them



- On July 4 2012 the European Commission adopted the *Regulation 650/2012 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*

Year 2013	Country of Citizenship																												
Country of Residence	Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Republic	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania	Slovakia	Slovenia	Spain	Sweden	UK	Total
Austria		183	539	3.072	6	255	112	3	104	450	16.888	226	655	46	1.378	14	7	25	2	926	1.122	45	1.034	281	571	125	442	1.021	29.532
Belgium	202		254	86	10	26	217	6	64	17.617	5.337	3.164	107	191	38.086	18	24	813	7	20.115	869	1.969	473	37	43	7.160	298	2.761	99.752
Bulgaria	25	28		4	10	90	7	7	6	36	247	284	23	8	114	10	8	0	0	39	106	1	41	18	2	12	19	744	1.864
Croatia	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Cyprus	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Czech Republic	562	29	618	212	4		23	1	16	146	2.560	213	78	23	437	6	8	5	0	317	1.962	3	215	1.921	30	40	109	307	9.283
Denmark	145	53	30	45	1	2		8	349	253	2.167	54	18	72	258	15	20	2	1	347	356	23	62	2	6	128	1.875	1.695	7.842
Estonia	1	3	3	1	0	0	11		329	6	56	0	2	0	7	241	229	1	0	7	26	0	0	0	0	0	52	16	990
Finland	27	12	20	22	0	6	85	1.259		39	376	31	16	8	70	18	16	2	1	68	47	6	19	2	1	39	1.880	253	4.296
France	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Germany	44.949	4.662	2.211	43.933	62	1.810	3.683	278	2.212	14.059		53.526	3.579	705	75.225	1.106	731	1.638	42	31.245	16.711	14.598	4.672	389	5.196	20.038	3.492	15.840	321.643
Greece	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Hungary	1.010	97	54	61	1	22	18	0	34	90	4.845	29		14	193	3	1	6	0	422	72	0	1.783	199	20	17	108	241	8.330
Ireland	21	59	15	3	5	24	42	18	14	130	797	15	22		220	102	138	2	13	378	235	30	81	29	3	86	49	15.233	17.743
Italy	858	754	1.082	566	18	68	256	5	87	3.435	6.590	523	189	311		30	32	41	187	979	1.599	316	5.052	34	98	2.343	332	3.824	28.751
Latvia	3	2	4	0	0	0	14	125	3	1	56	0	0	1	5		512	0	0	8	34	0	1	0	0	3	15	19	803
Lithuania	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Luxembourg	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Malta	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Netherlands	501	4.103	59	140	3	13	207	3	78	626	7.140	589	38	153	3.087	11	15	39	1		208	1.111	77	5	13	2.086	212	3.576	23.593
Poland	74	36	93	10	0	78	19	0	5	104	1.283	248	63	4	269	0	50	11	0	87		0	40	12	7	44	127	151	2.741
Portugal	99	357	62	3	1	8	123	0	112	709	1.762	8	4	145	476	1	12	24	0	1.244	16		114	0	1	1.502	246	5.348	12.278
Romania	43	13	7	2	12	0	10	0	1	81	329	66	39	5	611	0	0	2	2	55	1	1		0	0	35	23	83	1.378
Slovakia	274	29	302	77	2	2.228	17	1	4	69	611	12	1.341	22	192	6	4	0	0	69	634	0	165		14	7	14	88	5.908
Slovenia	146	8	5	860	0	5	4	0	2	20	386	0	6	5	232	1	1	1	1	16	9	0	2	2		5	25	66	1.662
Spain	1.809	7.853	2.328	56	10	128	3.874	30	4.387	14.947	42.712	208	204	2.677	13.842	81	221	151	18	11.208	894	5.966	5.647	77	25		6.194	107.174	230.912
Sweden	844	51	147	454	7	31	5.857	72	17.633	355	4.556	446	203	74	871	47	52	1	1	701	1.370	136	415	19	123	373		1.868	35.863
United Kingdom	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
TOTAL	51.593	18.332	7.833	49.607	152	4.794	14.579	1.816	25.440	53.173	98.698	59.642	6.587	4.464	135.573	1.710	2.081	2.764	276	68.231	26.271	24.205	19.893	3.027	6.153	34.043	15.512	160.308	845.164

Year 2013	Country of Citizenship																												
Country of Residence	Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Republic	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania	Slovakia	Slovenia	Spain	Sweden	UK	Total
Austria		183	539	3.072	6	255	112	3	104	450	16.888	226	655	46	1.378	14	7	25	2	926	1.122	45	1.034	281	571	125	442	1.021	29.532
Belgium	202		254	86	10	26	217	6	64	17.617	5.337	3.164	107	191	38.086	18	24	813	7	20.115	869	1.969	473	37	43	7.160	298	2.761	99.752
Bulgaria	25	28		4	10	90	7	7	6	36	247	284	23	8	114	10	8	0	0	39	106	1	41	18	2	12	19	744	1.864
Croatia	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Cyprus	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Czech Republic	562	29	618	212	4		23	1	16	146	2.560	213	78	23	437	6	8	5	0	317	1.962	3	215	1.921	30	40	109	307	9.283
Denmark	145	53	30	45	1	2		8	349	253	2.167	54	18	72	258	15	20	2	1	347	356	23	62	2	6	128	1.875	1.695	7.842
Estonia	1	3	3	1	0	0	11		329	6	56	0	2	0	7	241	229	1	0	7	26	0	0	0	0	0	52	16	990
Finland	25	18	28	22	8	6	25	258		28	256	24	16	8	58	18	16	2	1	68	15	6	18	2	1	28	1.808	222	1.886
Germany	44.949	4.662	2.211	43.933	62	1.810	3.683	278	2.212	14.059	:	53.526	3.579	705	75.225	1.106	731	1.638	42	31.245	16.711	14.598	4.672	389	5.196	20.038	3.492	15.840	321.643
Hungary	1.010	97	54	61	1	22	18	0	34	90	4.845	29		14	193	3	1	6	0	422	72	0	1.783	199	20	17	108	241	8.330
Ireland	21	59	15	3	5	24	42	18	14	130	797	15	22		220	102	138	2	13	378	235	30	81	29	3	86	49	15.233	17.743
Italy	858	754	1.082	566	18	68	256	5	87	3.435	6.590	523	189	311		30	32	41	187	979	1.599	316	5.052	34	98	2.343	332	3.824	28.751
Latvia	3	2	4	0	0	0	14	125	3	1	56	0	0	1	5		512	0	0	8	34	0	1	0	0	3	15	19	803
Lithuania	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Luxembourg	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Malta	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
Netherlands	501	4.103	59	140	3	13	207	3	78	626	7.140	589	38	153	3.087	11	15	39	1		208	1.111	77	5	13	2.086	212	3.576	23.593
Poland	74	36	93	10	0	78	19	0	5	104	1.283	248	63	4	269	0	50	11	0	87		0	40	12	7	44	127	151	2.741
Portugal	99	357	62	3	1	8	123	0	112	709	1.762	8	4	145	476	1	12	24	0	1.244	16		114	0	1	1.502	246	5.348	12.278
Romania	43	13	7	2	12	0	10	0	1	81	329	66	39	5	611	0	0	2	2	55	1	1		0	0	35	23	83	1.378
Slovakia	274	29	302	77	2	2.228	17	1	4	69	611	12	1.341	22	192	6	4	0	0	69	634	0	165		14	7	14	88	5.908
Spain	1.809	7.853	2.328	56	10	128	3.874	30	4.387	14.947	42.712	208	204	2.677	13.842	81	221	151	18	11.208	894	5.966	5.647	77	25	:	6.194	107.174	230.912
Kingdom	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	0
TOTAL	51.593	18.332	7.833	49.607	152	4.794	14.579	1.816	25.440	53.173	98.698	59.642	6.587	4.464	135.573	1.710	2.081	2.764	276	68.231	26.271	24.205	19.893	3.027	6.153	34.043	15.512	160.308	845.164

Regulation 650/2012

1. **Harmonizes the court's jurisdiction** (Chapter II, articles 4-19)
 - Habitual residence.
2. **Harmonizes the conflict of laws rule** (Chapter III, articles 20-38)
 - Applicable law: **habitual residence** (art 21)
 - Professio iuris (article 22)
 - Exception (article 21.2)
3. **Regulates the recognition, enforceability and enforcement of decisions** (Chapter IV, articles 39-58)
4. **Regulates the acceptance and enforcement of authentic instruments** (Chapter V, articles 59-61)
5. **Creates a certificate of succession (Chapter VI, articles 62-73)**



- The Regulation will be fully applicable to the successions of individuals who die on or after 17 August 2015
- Opted out: Denmark, the UK and Ireland.

The European Certificate of Succession “the Certificate” (articles 62-73)

1. **Characteristics and purpose** of the Certificate
2. **Competent authority** to issue and examine the Certificate
3. **Applicants** of the Certificate
4. **Content** of the Certificate
5. **Effects** of the Certificate
6. **Possibility to rectify, modify or withdraw** the Certificate
7. **Suspension of the effects** of the Certificate

Characteristics and purpose of the Certificate

1. The Certificate is meant to be used by

- Heirs, legatees having direct rights in the succession

- Proof their status

- Shares of the estate

- Attribution of a specific asset

BUT it is NOT a succession title

- Executors of wills or administrators of the estate who need to invoke their status.

- Proof of their status - BUT it is NOT the title from which their powers derive

2. Issued by one member state + effects in all member states

3. Not mandatory

4. Rebuttable presumption of accuracy of its content

5. Compatible with internal succession documents.

Who can issue and examine the Certificate?



1. Courts
2. Any other authority which has competence to deal with matters of succession
 - Of the member state where the deceased had his habitual residence at the time of death.

Parties entitled to apply for the certificate



- Heirs, legatees
- Executors of wills or administrators of estates
- When applying for the Certificate, “*all relevant documents*” either original or by way of copies need to be provided

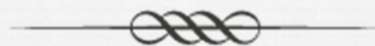
Content of the Certificate

- a. Name and address of the issuing authority;
 - b. The reference number of the file;
 - c. Elements on the basis of which the issuing authority considers itself competent to issue the Certificate;
 - d. Date of issue;
 - e. Details concerning the applicant:
 - f. Details concerning the deceased: surname
- a.Surname at birth + given name(s),
 - b.sex,
 - c.Date
 - d.place of birth,
 - e.Civil status,
 - f.Nationality,
 - g.Identification number (if applicable), address at the time of death, date and place of death;
- g. Details concerning the beneficiaries: surname (if applicable, surname at birth), given name(s) and identification number (if applicable);
 - h. Information concerning a marriage contract entered into by the deceased or, if applicable, a contract comparable effects to marriage, and information concerning the matrimonial property regime or equivalent property regime;
 - i. The law applicable to the succession
 - j. Whether the succession is testate or intestate
 - k. Information in respect of each beneficiary concerning the nature of the acceptance or waiver of the succession;
 - l. The share for each heir and, if applicable, the list of rights and/or assets for any given heir;
 - m. The list of rights and/or assets for any given legatee;
 - n. The restrictions on the rights of the heir(s) and, as appropriate, legatee(s)
 - o. the powers of the executor of the will and/or the administrator of the estate and the restrictions on those powers
- Low formal requirements

Effects of the Certificate

- **Free circulation** in all Member states “without any special procedure being required”.
- **Presumption of accuracy** under the applicable law regarding
 - The status of the persons mentioned in the Certificate
 - Third party protection –
- The Certificate shall constitute a **valid document for the recording of succession property in the relevant register of a Member State**, without prejudice to points (k) and (l) of Article 1(2).
 - (k) the nature of rights *in rem*; and
 - (l) any recording in a register of rights in immovable or movable property, including the legal requirements for such recording, and the effects of recording or failing to record such rights in a register.

Three major effects:



1. Documental evidence

- Rebuttable presumption of accuracy
- Protection of third parties relying on the content of the Certificate

2. Legitimacy - For the persons mentioned in the certificate to

- Acquire title based on their position in the certificate
- Claim the payment of pre-existing and outstanding debts with the deceased

3. Access to public registries

Rectification, modification or withdrawal of the Certificate



- At the request of any person demonstrating a legitimate interest or the issuing authority at its own motion it is possible to
 - **Rectify**
 - **Modify**
 - **Withdraw**
- Any rectification/modification/withdrawal of the Certificate must be communicated to any person who has certified copies of the Certificate.
- The effects of the Certificate may also be **suspended**

Left for the member states to determine



- Sharing/distribution of the estate
- The types, nature and content of rights *in rem*
- Requirements for registering immovable property in public registries
- Effects of registration or failing to register immovable property

Benefits of the introduction of the Certificate

1. Effects

- Evidence
- Legitimacy
- Acces to public registries

2. Flexibility

- adjusts to the particular circumstances and phases of succession of the different member states

3. Free circulation + automatic recognition across the different member states

Challenges of the introduction of the Certificate

- 1. Dealing with multiple and/or contradictory Certificates:**
- 2. Determining the relationship between the Certificate and internal succession documents**
- 3. Legitimate to register, but which right ? May the Certificate be equivalent to title ?**

- 4. Where is the Certificate positioned regarding the common sphere between property and succession law?**
- 5. Publicity of any modification, suspension or rectification of the Certificate in the other member states**
- 6. How to challenge it and who could challenge its content?**
- 7. Effects of the Certificate in states that opted out**
 - UK, Denmark and Ireland

Thank you for your attention

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