



European Certificate of Succession

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Main features of Succession Regulation (No 650/2012)

- One single instrument covering jurisdiction, applicable law, recognition and enforcement of court decisions, acceptance of authentic instruments and a European Certificate of Succession
- A cross-border succession is treated under a single law and by a single authority, regardless of nature of assets (moveable or immovable) and their location (no scission)
- One connecting factor for jurisdiction and applicable law: last habitual residence of deceased – however: possibility for testator to choose national law as applicable law
- Parallel proceedings and conflicting judicial decisions are avoided
- Court decisions are recognised and authentic instruments are accepted throughout the Union
- The status of heir, legatee, executor of will and administrator of estate can be proved by a European Certificate of Succession

Features of ECS

- Most innovative aspect of Succession Regulation:
 - issued pursuant to Union (not national) law
 - for use by heirs, legatees, executors of wills and administrators of the estate over assets located in another Member State
 - to prove status, rights and shares of heir (or legatee) or attribution of specific asset(s) to heir (or legatee)
 - to exercise powers of the executors of wills and administrators of the estate

Features of ECS

- Most innovative aspect of Succession Regulation:
 - use not mandatory: does not replace national certificates, but once issued for cross-border purposes, effects recognised also in issuing MS
 - flexible document: may be issued at different stages of proceedings, for different purposes
 - procedure for issuance of the ECS is laid down in the Regulation
 - contents of the ECS are laid down in the Regulation
 - effects of the ECS are laid down in the Regulation

Procedure to issue an ECS

- Application for an ECS can be made in Form IV of Regulation No 1329/2014. ECS must be issued in Form V of said Regulation
- ECS must be issued by an authority of the Member State which has jurisdiction under the Regulation: (i) a court, or (ii) an authority competent on succession (e.g. notary)
- Issuing authority must inform beneficiaries of the application for an ECS and of the issuing of the ECS
- Information provided in the ECS must be established in accordance with the applicable law
- Original of ECS is kept by issuing authority. Certified copies issued with validity of 6 months, extendable
- ECS can be refused, rectified, modified, suspended or withdrawn
- Decisions by ECS issuing authority can be challenged before a court



Contents of the ECS

- The Succession Regulation lays down the contents of the ECS, which must be provided in accordance with the applicable law
- Main information to be provided (as applicable):
 - elements proving jurisdiction
 - details concerning the applicant, the deceased and the beneficiary
 - matrimonial property regime
 - law applicable to the succession
 - shares and list of rights and assets of heir (or legatee) and any restriction thereto
 - powers of executor of will and administrator of estate



Effects

- ECS is presumed to be evidence of the information it contains (not an enforceable title)
- ECS has advantages over national certificates of succession:
 - ECS has the same effects in all Member States (effects of national certificates are different depending on MS of issue)
 - ECS produces effects without any procedure being required and cannot be opposed on public policy grounds (national certificates subject to declaration of enforceability)
 - ECS is a valid document for registration of succession property in national registers, including land registers (Art 69(5) and recital 18). No national duplicate documents can be requested
 - rights of third parties acting in good faith on the basis of an ECS are protected