

**EU Succession Regulation: First Decade of Application,
Strengths, Challenges, Future Outlooks**
(*EUSuccess*)

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Call for proposals for action grants to promote judicial cooperation in civil and criminal matters.

QUESTIONNAIRE

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Introduction

This Questionnaire was prepared with the *EU Succession Regulation: First Decade of Application, Strengths, Challenges, Future Outlooks* (EUSuccess) project. EUSuccess is focused among others on the assessment of the practical functioning of the Succession Regulation¹ in the first 10 years of its application. The assessment of the functioning of the Succession Regulation is conducted in several selected European Union Member States (MS) based on National Reports. These National Reports will be prepared on the basis of this detailed Questionnaire and thorough research into case-law of domestic courts of Member States. EUSuccess has a practical focus on law in action. If needed the research will also be supplemented by findings presented in legal literature, decisions of domestic authorities other than courts, conclusions resulting from the case-law of the Court of Justice of the European Union (CJEU) and data collected during National Seminars aimed at exchange of experiences with legal professionals.

Guidelines for Authors

Please include your answers under each question. In case you would like to share your findings, but you are not able to find an adequate question to which your answer could be allocated, use the last question under each heading. If needed, please explain or define expressions used in your answers.

When citing case law and literature, please use OSCOLA (see: [full version](#) or [quick reference guide](#)). As for the case law, please use citation format, which will allow the reader to find a given decision, for example: “Sentencia Audiencia Provincial Alicante (Judgment of the Provincial Court of Alicante) 29 February 2024, ECLI:ES:APA:2024:22”.

¹ Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 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, OJ L 201, 27.7.2012, p. 107–134. See also Commission Implementing Regulation (EU) No 1329/2014 of 9 December 2014 establishing the Forms referred to in 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, OJ L 359, 16.12.2014, p. 30–84.

Setting the scene

Succession cases in your Member State

Please describe shortly how the succession cases are dealt with in your MS. Which authorities are competent and to what extent? Is it possible to handle a succession case without recourse to any public authority? Which legal professionals (e.g. notaries, legal advisors, attorneys, tax authorities, land registrars, civil status registrars) and at which stage (planning, liquidating, recognizing foreign decisions, etc.) might interpret or apply the Succession Regulation? Which authorities and legal professionals are considered ‘courts’ within the meaning of Article 3(2) Succession Regulation? Are there any other authorities, which are not ‘courts’, but do intervene in succession matters? How do such authorities establish their jurisdiction? Please explain shortly which authorities in your MS are competent to issue an ECS? What kind of authentic instruments² within the meaning of Article 3(1)(i) Succession Regulation may authorities of your MS produce? What are their effects?

State of digitalisation of the succession proceedings

Please explain briefly also the state of digitalisation of cross-border succession proceedings in your Member State. May parties or their representatives communicate with competent authorities by means of electronic communication? May they file applications / claims by means of electronic communication? Is service of documents by means of electronic communication possible? Do documents sent electronically have legal effects?

Methodology of the research

Please explain briefly how the research for the purpose of the National Report was made. How was the case law collected? Is it publicly available? How many decisions/cases were identified? What kind of effects, if any, country specific framework had for data collection?

² See case C-658/17 *WB* ECLI:EU:C:2019:444.

Questions

General

1. Were there any doubts in your MS as to the scope of application³ (substantive– Article 1(1), temporal – Article 83(1), territorial – Recitals (82), (83)) Succession Regulation?
2. Are there any challenges caused by the fact that Ireland and Denmark (and the UK – before its withdrawal from the EU) are not applying the Succession Regulation?
3. Are there any international agreements binding your MS, the application of which Succession Regulation ‘shall not affect’ (Article 75(1), Succession Regulation)? Were there any challenges caused by the interplay between international agreements and the Succession Regulation (Article 75(1), Article 75(3) Succession Regulation)⁴? Please outline the main problematic issues briefly.
4. Were there instances in your MS where the notion of ‘habitual residence of the deceased at the time of death’⁵ was interpreted for the purpose of the application of the Succession Regulation? What factors were considered? Are there any factors to which more weight is given than to the others? Is this expression understood the same way as for the purpose of establishing jurisdiction and designating applicable law? Please outline the main problematic issues briefly?
5. Are there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to the application of the Succession Regulation, and therefore, should be signaled within the National Report?

Jurisdiction

6. Are you aware of any doubts / challenges to the application of the rules on jurisdiction of the Succession Regulation in your MS⁶? Are there any voices suggesting any amendments to these rules?
7. Were there instances in your MS where the court or another authority established its jurisdiction based on Article 10(1) Succession Regulation⁷, namely on the basis of location of assets and nationality or previous habitual residence? What were the assets and what was their value? Were there any doubts or challenges to the application of these provisions in practice?
8. Were there instances in your MS where the court or another authority established its jurisdiction based on Article 10(2) Succession Regulation, namely on the basis of the location of assets / asset? What were the assets / asset and what was their / its value? Were there any doubts or challenges to the application of this provision in practice?

³ See case C-98/24 *Koda* (pending), case C-618/24, *Isergartler* (pending).

⁴ See case C-21/22 *OP* ECLI:EU:C:2023:766.

⁵ See case C-80/19 *EE*, ECLI:EU:C:2020:569.

⁶ See case C-20/17 *Oberle* ECLI:EU:C:2018:485.

⁷ See case C-645/20 *VA, ZA*, ECLI:EU:C:2022:267, case C-55/23 *Jurtukala* ECLI:EU:C:2023:599, case 291/23 *Hantoch*, ECLI:EU:C:2024:938.

9. Were there instances in your MS where the court exercised jurisdiction or declined jurisdiction based on one of the mechanisms provided for in Articles 5 – 9 Succession Regulation?⁸ If yes, could you please explain which mechanism was used and whether there were any doubts or challenges to their application in practice?
10. Were there cases in your MS where the court exercised jurisdiction based on Article 11 Succession Regulation on *forum necessitatis*? If yes, what were the reasons justifying the need of exercising jurisdiction? What circumstances were considered to justify the sufficient connection with your MS?
11. Were there cases in your MS where the court limited its jurisdiction based on Article 12 Succession Regulation? If yes, please explain which third state was considered and how the need of limiting jurisdiction was justified?
12. Are courts in your MS competent to receive a declaration mentioned in Article 13 Succession Regulation (namely, ‘a declaration concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or a declaration designed to limit the liability of the person concerned in respect of the liabilities under the succession’)? Are any other authorities competent to receive such declarations (for example, notaries)? Are you aware of any challenges related to making such declarations in your MS⁹ is cases where jurisdiction in succession matters was with the courts of another MS?
13. Are you aware of any challenges in your MS when it comes to accepting a declaration mentioned in Article 13 Succession Regulation (namely, ‘a declaration concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or a declaration designed to limit the liability of the person concerned in respect of the liabilities under the succession’) made in other MSs?
14. Are there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to jurisdictional rules of the Succession Regulation, and therefore, should be signaled within the National Report?

Applicable law

15. Are you aware of any doubts / challenges to the application of the rules on applicable law of the Succession Regulation in your MS? Are there any voices suggesting any amendments to these rules?
16. Were there cases where the escape clause of Article 21(2) Succession Regulation was applied? If yes, please explain which laws were considered and what circumstances of the case were considered to justify that the deceased was manifestly more closely connected with another law?
17. Were there instances of doubts as to choice of applicable law under Article 22 Succession Regulation? Were there instances where a tacit choice (‘demonstrated

⁸ See case C-422/20 *RK* ECLI:EU:C:2021:718.

⁹ See case C-57/24 *Lawida* ECLI:EU:C:2025:217.

by the terms of a disposition of property upon death’) within the meaning of Article 22(2) Succession Regulation was identified?

18. Were there any instances where the substantive validity of a choice of applicable law was discussed? What was the exact doubt?
19. Were there any instances where the modification / revocation of a choice of applicable law within the meaning of Article 22(4) Succession Regulation was discussed?
20. Are there any doubts in your MS as to which matters are governed by the law applicable to succession (*lex successionis*)? Are there any doubts in delineating the scope of the law applicable to succession (*lex successionis*) and other matters¹⁰ (for example, law applicable to rights *in rem*, law applicable to matrimonial property regimes, legal capacity)?
21. Were there cases concerning a choice of law made prior to 17 August 2015, which triggered application of Article 83(2) Succession Regulation?
22. Were there instances in which Article 83(4) Succession Regulation was applied¹¹ (and the law in accordance with which ‘a disposition of property upon death was made prior to 17 August 2015’ and ‘which the deceased could have chosen in accordance with this Regulation’ was found to ‘have been chosen as the law applicable to the succession’)? How was the requirement of being made ‘in accordance’ with the given law understood?
23. Were there instances where Article 83(3) Succession Regulation concerning the validity of a disposition of property upon death made prior to 17 August 2015 was applied? Please elaborate?
24. Were there any cases in your MS concerning the ‘substantive validity’ of a disposition of property upon death within the meaning of Article 26 Succession Regulation and Articles 24-25 Succession Regulation? Where there any doubts as to the designation of applicable law for this purpose or with respect to the notions of ‘admissibility’, ‘substantive validity’, ‘binding effects between the parties’ or ‘conditions of its dissolution’?
25. Were there any doubts as to the delineation of ‘substantive validity’ and ‘formal validity’?
26. Were there any challenges to the application of Article 28 on validity as to form of ‘a declaration concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or a declaration designed to limit the liability of the person making the declaration’?
27. Is there an institution of an administrator whose appointment is mandatory or mandatory upon request in your MS within the meaning of Article 29 Succession

¹⁰ See case C-218/16 *Kubicka* ECLI:EU:C:2017:755, case C-558/16 *Mankopff* ECLI:EU:C:2018:138.

¹¹ See case C-80/19 *EE* ECLI:EU:C:2020:569.

Regulation? Were there instances where foreign applicable law (*lex successionis*) interfered with the powers of administrator exercised under the law of the forum?

28. Were there cases where the *renvoi* provided for in Article 34 Succession Regulation operated? If yes, please explain the laws of which states were considered? Is partial *renvoi* possible?
29. Were there cases where the rule on *commorientes* of Article 32 Succession Regulation was applied? If yes, please describe.
30. Were there cases where the rule on estate without claimant of Article 33 Succession Regulation was applied? If yes, please describe.
31. Were there cases in your MS, in which certain provisions of the law of your MS or another state were qualified as special rules mentioned in Article 30 Succession Regulation (namely as ‘special rules which, for economic, family or social considerations, impose restrictions concerning or affecting the succession’ in respect of certain specific assets, which ‘are applicable irrespective of the law applicable to the succession’)? If yes, please describe which rules and relating to what kind of assets were considered? How did the court establish that these rules are indeed applicable irrespective of applicable law?
32. Were there cases in your MS in which an adaptation of a foreign right *in rem* was performed in accordance with Article 31 Succession Regulation? Please provide details of such adaptation. What was the original right and what was the equivalent?
33. Were there instances in your MS where the public policy clause of Article 35 Succession Regulation was applied or considered but not applied? If yes, please describe the context of the case and the reasoning of the court.
34. Were there instances in your MS where ‘mechanisms designed to tackle the evasion of the law, such as fraude à la loi’ were applied as suggested in Recital (26) Succession Regulation? If yes, please explain the circumstances and outcome of this application?
35. Were there instances where the rules on territorial conflict of laws (Article 36) or inter-personal conflict of laws (Article 37) were applied in your MS? Were there any doubts / challenges to their application? Please elaborate.
36. Does your MS comprise several territorial units each of which has its own rules of law in respect of succession within the meaning of Article 38 Succession Regulation? If yes, are domestic rules or the Succession Regulation applied to resolve conflicts of laws arising between such units? Please explain.
37. Are there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to the rules on applicable law of the Succession Regulation, and therefore, should be signaled within the National Report?

Authentic Instruments and Court Settlements

38. Are you aware of any doubts / challenges to the application of the rules on Authentic Instruments and Court Settlements of the Succession Regulation in your MS? Are there any voices suggesting any amendments to these rules?
39. Are you aware of any challenges to the use of authentic instruments produced in your MS in another MS?
40. Are you aware of any challenges to the use in your MS of authentic instruments within the meaning of Article 3(1)(i) Succession Regulation, which were produced in another MS?
41. Were there any challenges to the enforcement in your MS of a foreign court settlement under Article 61 Succession Regulation?
42. Were there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to circulation of authentic instruments and court settlements under the Succession Regulation, and therefore, should be signaled within the National Report?

Recognition and Enforcement of Judgements

43. Were there cases in your MS, in which the rules on recognition and enforcement caused doubts / were analyzed and discussed?
44. Were there any cases in your MS, in which a decision on succession matters originating from another MS faced refusal of recognition / enforcement? If yes, please provide details.
45. Does the Succession Regulation have any influence on the recognition and enforcement of decisions coming from third states (for example, when it comes to the assessment of indirect jurisdiction of the foreign court)?
46. Are there any other decisions / doubts / challenges, which do not fit within any of the above questions, but are related to the recognition and enforcement of judgements under the Succession Regulation, and therefore, should be signaled within the National Report?

European Certificate of Succession

47. Where there any doubts or challenges with respect to the issuance / use of an ECS¹² in your MS?
48. Are there any statistics on ECSs made in your MSs available?
49. Are there any statistics on ‘foreign’ ECSs used in your MSs available?

¹² See case C-301/20 *UE, HC*, ECLI:EU:C:2021:528, case C-354/21 *RJR* ECLI:EU:C:2022:587, case C-187/23 *Albausy* ECLI:EU:C:2025:34, case C-240/24, *BNP Paribas Fortis* (pending), case C-873/24 *Marwanek* (pending).

50. Are there any other decisions / doubts / challenges¹³, which do not fit within any of the above questions, but are related to the issuance or use of the ECS, and therefore, should be signaled within the National Report?

Other aspects

51. Are there any other decisions / doubts / challenges, which do not fit within any of the above headings and questions, but are related to the application of the Succession Regulation, and therefore, should be signaled within the National Report?

¹³ See case C-102/18 *Brisch* ECLI:EU:C:2019:34.