International Successions:
The New Rules Introduced In Greece
By Eu Regulation 650/2012, In Force Since August 2015
INTRODUCTION

The application of the Regulation (EU) No 650/2012 of the European Parliament and of the Council dated 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 (hereinafter the “Regulation”) entered into force in Greece on 17th August 2015 and brought significant changes in the field of international succession law.

The main purpose of the Regulation is to simplify cross-border successions by setting out uniform rules to be applied by member-states of the EU, thus avoiding the application of conflicting rules and court decisions, as well as allowing persons to better plan their succession by allowing them to choose the applicable law. It further introduces the European Certificate of Successions, allowing heirs, executors and legatees to prove their rights, powers and authority in other EU member-states.

The Regulation is applicable to succession matters concerning persons deceased on or after 17th August 2015. It does not apply to tax, customs and administrative matters or the civil law issues beyond the scope of succession, as expressly provided in the Regulation.

The main principles introduced by the Regulation, are the following:

APPLICABLE LAW

The applicable law, as determined on the basis of the Regulation, is applied notwithstanding that it may be the law of a non-member state of the EU.

As a general rule, the law of the state where the deceased had his last habitual residence at the time of death is applicable to the succession as a whole, unless it is clear from all the circumstances that the deceased had manifestly closer connections with another state, in which case the laws of that latter state shall be applicable.

The Regulation further introduces the possibility for a person to select the law of the state whose nationality he possesses at the time of selection or at the time of death, to be the applicable law. As such, the law of choice shall apply notwithstanding any subsequent changes of residence.

The applicable law, as determined according to the aforementioned rules, is applicable on the whole of the succession of the deceased, including property (movable or immovable) situated abroad.

JURISDICTION

The courts of the member-state where the deceased had his last habitual residence during the time of death have international jurisdiction to rule on the succession as a whole.

In case the deceased selected the law of a member-state to be the applicable law, the interested parties may agree that a court or the courts of that member-state have exclusive jurisdiction to decide on any succession issue.
The courts of the member-state of which the law was selected by the deceased have international jurisdiction if:

- The first court which was seized declined jurisdiction;
- The parties agreed to confer jurisdiction to a court or the courts of the said member-state; and
- The parties have expressly accepted the jurisdiction of the court seized.

In case the habitual residence of the deceased during the time of death was not in a member-state, the courts of a member-state in which are located the assets of the succession have jurisdiction, if:

- The deceased had the nationality of the said member state at the time of death; or
- The deceased had his previous habitual residence at the said member-state, provided that the time elapsed between the time the court was seized and the change of the habitual residence.

In case no member state has jurisdiction according to the provisions of the previous paragraph, the courts of the member state where the assets are located have jurisdiction to decide in relation to those assets.

When no court of a member-state has jurisdiction under the aforementioned provisions, the courts of a member-state may, in exceptional circumstances rule on the succession, provided it is not reasonably possible or it is impossible to carry proceedings in a third country with which the case is closely connected.

**RECOGNITION AND ENFORCEMENT**

The court decisions issued in a member state shall be recognised in the other member-states without any special procedure.

The decisions issued in a member state and which are enforceable in that state must be declared enforceable in another member state, further to a relevant application of any interested person.

**EUROPEAN CERTIFICATE OF SUCCESSION**

The Regulation introduces a European Certificate of Succession. This certificate is not intended to replace the national documents used for similar purposes by the member-states. If however a European Certificate is issued in order to be used in another member-state, it shall produce its effects also in the member-state in which it was issued.

The European Certificate of Succession is intended to be used by the heirs, legatees and executors of wills or the administrators of the estate, which must invoke their capacity or exercise their rights or powers in another member-state.
The European Certificate of Succession may be used in particular in order to demonstrate:

- The capacity and/or rights of each heir or, as the case may be, legatee which is mentioned on the said certificate and their share in the estate;
- The attribution of one or more assets which form part of the estate to the heir or heirs or, as the case may be, the legatees which are mentioned in the certificate;
- The powers of the person which is determined in the European Certificate of Succession to execute the will or administer the estate.

It is presumed that the Certificate of Succession certifies accurately the elements which have been established under the law applicable to the succession or under any other law applicable to specific elements. It is further presumed that the person stated in the said certificate as the heir, legatee, executor or administrator of the estate has the said capacity and/or the rights or authority mentioned therein.

The Certificate of Succession constitutes a valid document for the recording of the estate in a member-state’s register. This does not apply however to the nature of rights in rem and to 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, which are not included in the scope of application of the Regulation, and thus national registries may require additional documents for that purpose.

*This document is intended for informational purposes only and does not amount to professional legal advice.*

For any further information

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