

## **The new European regulation related international inheritances.**

The new Regulation (EU) No 650/2012 of the European Parliament and of the Council, of 4<sup>th</sup> 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 was published on the 27<sup>th</sup> July 2012 on the Official Journal of the European Union.

This European Regulation shall apply to succession to the estates of deceased people (who shall die after the 17<sup>th</sup> August 2015 into the territory of the European Union, except United Kingdom, Ireland and Denmark); excluding revenue, customs and administrative matters; status of natural persons; family relationships; matrimonial property regimes or maintenance obligations; inter alia.

It permits everyone to choose, as the Law to govern his/her succession as a whole, the Law of the State whose nationality he/she possesses at the time of making the choice or at the time of death. The sole requirement is to be made expressly in a declaration in the form of a disposition of property upon death or it should be demonstrated by the terms of such a disposition.

In case of no previous chose, the Law to govern his/her succession as a whole shall be the Law of the State in which the deceased had his/her habitual residence at the time of death, unless it is clear from all the circumstances of the case that, at the time of death, the deceased was manifestly more closely connected with another State.

For that purpose, the European Regulation gives some elements who could help determining the habitual residence, taking a general evaluation of the circumstances of his/her life during his/her last years, particularly duration and regularity of the stay of the deceased in that State, conditions and reasons of that stay, etc.



It is important to know that the Law specified by the European Regulation shall apply whether or not it is the Law of a Member State and it shall govern the succession as a whole, so that we can forget the general and automatic application of the Law of the State whose nationality the deceased possesses (if he/she did not choose it).

This European Regulation establishes the jurisdiction to rule on the succession as a whole of the Courts of the Member State in which the deceased had his/her habitual residence at the time of death; unless the deceased had chosen another Law of a Member State, in which case the parties concerned may agree that the Courts of that Member State are to have exclusive jurisdiction to rule on any succession matter.

Regarding the recognition of decisions given in a Member State, the Regulation establishes that they shall be recognized in the other Member States without any special procedure being required.

In order to apply for a declaration of enforceability, the Regulation establishes the jurisdiction of the Courts of the Member State of the place of domicile of the party against whom enforcement sought, or of the place of enforcement.

Finally, one innovation of this European Regulation is the creation of a European Certificate of Succession, which shall not be mandatory and shall not take the place of internal documents used for similar purposes in the Member States, but we hope it shall help the arrangements of international successions, as it shall demonstrate the status and rights of each heir, their respective shares, the powers of the person mentioned to execute the will or administer the estate, etc.

Even though this Regulation shall apply to successions of people deceased after the 17<sup>th</sup> August 2015, all of us can advance some of its effects. We would be glad to help you planning your future succession, so that you have everything arranged for your heirs, avoiding their problems.

**Mercedes Cuevas Martínez.**  
**November 2013.**