Civil justice - Cross-border successions - Vote by the European Parliament

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On 13 March 2012, the European parliament voted in plenary session on the proposal for a regulation on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession.

The new regulation aims to make it easier to settle inheritances and avoid disputes when the legal systems of more than one Member State are involved. EU-wide criteria would it make clear which Member State's legal system applies when an inheritance could arguably be subject to the laws of more than one, thus avoiding costly legal disputes and cutting red tape for heirs. There will be full mutual recognition of judgments in succession matters.
The proposal provides for the application of a single criterion for determining both the jurisdiction of the authorities and the law applicable to a cross-border succession: the deceased's habitual place of residence. People living abroad will, however, be able to opt to have the law of their country of nationality apply to the entirety of their succession.
First, if someone dies in a Member State that is not their home country, their succession would generally be dealt with under the law of the Member State where they last had their place of "habitual residence", by the courts and authorities of that Member State. This would avoid conflicts that could otherwise arise if several courts in different Member States declared themselves competent. However, the person drawing up a will would also have the option of having his or her will read under the law of his or her Member State of origin.

The new regulation will also introduce a European Certificate of Succession designed to make the legal position clearer for the person who draws up the will and to safeguard the rights of heirs, as well as other parties, such as creditors. It will enable a person to prove their capacity as heir or their powers as administrator or executor of a succession without further formalities. However, use of this certificate would not be mandatory.

The regulation would not apply in UK and Ireland, as their respective governments decided to exercise their right to opt out, nor in Denmark, as it is always the case for these matters.

Parliament and Council have already reached an informal agreement but it will have now to be confirmed by the Council to enter into force.

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