



## **Managing a Cross Border Succession**

If someone in your family or close to you dies and you are an heir, as a general rule you can settle their succession with:

- Courts of the EU country where the deceased last lived;
- Notaries of any EU country.

The authority dealing with the succession will usually apply the national law of the EU country where the deceased last lived – unless the deceased had made a choice of law so that the law of their country of nationality would apply to their succession.

### **Possibility for heirs to choose the court**

If a succession issue needs to be resolved by a court, as an heir, you will usually have to go to the courts of the EU country where the deceased last lived. However, if the deceased chose the law of their nationality to apply to their succession and that is the nationality of an EU country you and the other heirs or parties concerned can agree to bring the issue to the courts of that EU country.

All concerned must agree on this choice of court.

### **Accepting or waiving a succession**

The national law that applies to the succession may allow you to declare before a court if you accept or waive a succession. Under EU rules, you can make such a declaration before a court in the EU country in which you live, even if the court dealing with the succession is located in another EU country.

### **Effects of court decisions from another EU country**

A court decision on succession given in an EU country will be recognised in other EU countries without any special procedure. However, if the party in the other EU country does not comply voluntarily with the court decision, you can apply for the decision to be declared enforceable so that the police or a bailiff can intervene to enforce the decision.

The other party may only appeal against the recognition or enforceability of the decision for the following reasons:



- the decision is clearly incompatible with the public policy of the EU country in which it should be recognised or enforced: for example, because it is discriminatory
- the decision contradicts previous court decisions of the EU country in which it should be recognised or enforced
- any of the persons involved in the proceeding were not given a chance to prepare their defence

Decisions issued by courts in Denmark, Ireland and the UK do not benefit from these simplified rules when they need to be recognised or enforced in another EU country.

### **The European Certificate of Succession**

If you are an heir, you may need to prove to an authority or a bank in another EU country that you are entitled to the ownership of the deceased's assets located there. The executor of the will and the administrator of the estate may also need to prove their status to exercise their rights in another EU country.

#### ***Sample story n° 1***

*João from Portugal dies in Germany while living for one year. Maria, João's wife and heir, lives in Portugal and, following João's death, needs to access his German bank account to pay bills and the last month of rent. However, the bank requests an official document proving that she is João's heir and is authorised to access his account. Administrative barriers thus make grief even harder to bear.*

The authority of the EU country handling the succession can provide you with a document certifying your status as an heir, executor or administrator of the estate.

Alternatively, you can ask that authority to provide you with a European Certificate of Succession. The advantage of a European Certificate of Succession is that its effects are the same throughout the EU regardless of the country in which it is issued. A national document, on the other hand, will have different effects depending on the EU country in which it is issued; this may delay the recognition of your rights in another EU country.



In addition, the European Certificate of Succession is recognised in other EU countries without any special procedure. You can get a European Certificate of Succession from a court in the EU country with the power to rule on the succession, or from another competent authority - for example a notary - in the same country.

You can appeal against a refusal to issue a European Certificate of Succession. The authority that issues the European Certificate of Succession will keep the original and will issue certified copies to the heir, executor of the will or administrator of the estate, valid for a period of 6 months, which can be extended.

The issuing authority can modify or withdraw the European Certificate of Succession if it turns out it is not accurate.

### ***Sample story***

*João died in Germany while living and working there temporarily. His life was however centred in Portugal, where his wife Maria and other family and friends live. This is why Portugal authorities are in charge of João's succession. Maria gets a European Certificate of Succession from Portuguese courts. She can use it to prove to João's bank in Germany that she is entitled to access his account there, and use her late husband's money to pay his bills and last month of rent.*

*(Portions of this text were excerpted from [www.europa.eu](http://www.europa.eu))*

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