

THE INTENDED AND UNINTENDED EFFECTS OF THE UK'S NOT OPT-IN TO REGULATION 650/2012 ON CROSS-BORDER SUCCESSION

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1. Intra-European migration and default rules in cross-border successions
2. Regulatory context before Regulation 650/2012: The diverse nature and approach of the succession laws in the European member states
3. The road to Regulation 650/2012: international initiatives dealing with complex aspect arising from cross-border successions
4. The EU's Regulation on Cross-Border Successions
5. The UK's decision not to opt-in to the Regulation
6. The intended and unintended effects of the UK's decision not to opt-in to the Regulation: Minimizing the exposure without avoiding it
7. Conclusions

Abstract

The European Commission adopted a "Regulation on jurisdiction, applicable law, recognition and enforcement of decisions in matters of succession." One of the most important issues that this Regulation addresses is the determination of the law applicable to a given succession for nationals of one member state with habitual residence in another member state. The Regulation provides that in such cases, the governing law to the succession will be the law of the state in which the deceased had his or her habitual residence at death.

The UK, together with Ireland and Denmark, did not opt-in to this Regulation. This paper analyzes the impact of the UK's decision not to opt-in to the Regulation and argues that the UK will manage to preserve its system of private international law but will not avoid being affected by the provisions of the Regulation. In this sense the UK will minimize, but not escape, the effects of the European Regulation on cross-border succession.

Keywords: European Regulation on cross-border successions, succession, harmonization, forced inheritance shares, endowment effect, transaction costs.

JEL classification: Law and Economics, family and personal law

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