

THE EU SUCCESSION REGULATION

The European Succession Regulation is a landmark in the field of EU private international law. It unifies the conflicts of laws, jurisdiction and recognition of foreign judgements, and of some other legal instruments in the field of succession and wills. This volume provides an article-by-article commentary on the individual provisions of the regulation, introduced by an overview of its general framework and underlying principles. As a reference tool for the regulation, this book is intended to promote a high standard of interpretation and application. With contributions from leading scholars in the field, it uses a comparative approach in its analysis to enrich the academic debate and highlight the problems likely to arise in the practical application of the regulation.

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Session of the Hague Conference of Private International Law in 1988, when the Succession and Wills Draft Convention was adopted, and he was invited in 2004 to present a report on the issue of applicable law at the conference held in Brussels for discussing the study “Conflict of Law of Succession in the European Union. Perspectives for a Harmonisation” made by the *Deutsches Notarinstitut*, upon request of the EU Commission, in view of the adoption of a EU regulation on matters of succession and wills. He is the author of several monographs and articles in legal journals in the areas of private international law, public international law and European law, as well as a comprehensive commentary of the EU Succession regulation together with Professor Alessandra Zanolibetti, published in 2014. A lecturer at the Hague Academy of International Law, Davì taught a course entitled “*Le renvoi en droit international privé contemporain*”, which was published in the Academy Collected Courses in 2012 (vol. 352) and awarded the prize for 2013 of the Italian Ministry of Culture, upon selection by the *Accademia Nazionale dei Lincei*. He is a member of the Italian Bar (Rome), admitted to practice before the Italian Supreme Court.

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A Commentary

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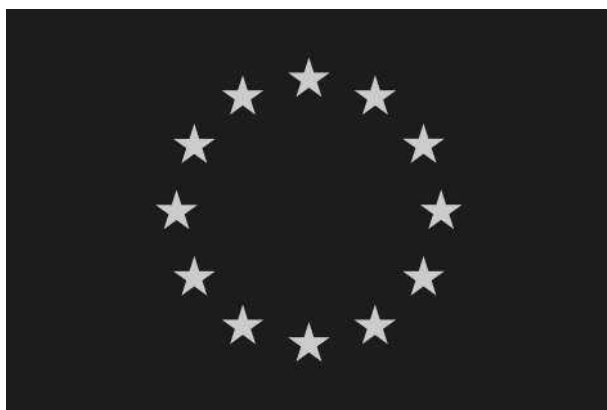
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FOREWORD AND ACKNOWLEDGEMENTS

As from 17 August 2015, all Courts and other authorities within the European Union Member States (with the exception of Denmark, Ireland and the United Kingdom) have to apply in matters of cross-border succession and wills the *Regulation (EU) No 650/2012 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*.

With this Regulation, European Private International Law has erected a new corner stone of unification. The Regulation has broken with some national traditions in autonomous private international succession law, such as the nationality principle, which was central for a number of European legal systems, or the application of different succession laws for movables (*lex loci domicilii*) and immovables (*lex rei sitae*), as it was known in French – and English – inspired conflicts laws. The Regulation is a comprehensive codification of private international law of succession and wills, including jurisdiction, recognition and enforcement of judicial decisions and authentic acts, and the establishment of a European Certificate of Succession.

This article-by-article Commentary aims to provide help and advice for the application of the Regulation in legal practice, to secure a high standard in its autonomous interpretation and to enrich the scholarly discussion. It may be useful also for practitioners of third countries, or of Member States not bound by the Regulation, having to deal with a succession connected with one or more Member States which are bound by this instrument. The fact that the authors come from different Member countries and that most of them have an international background has prompted the adoption of a comparative and genuinely European approach in the analysis of the regulation.

The book's origins lie in the European Commission Research Project "The Europeanization of Private International Law of Successions" (JUST/2013/JCIV/AG/4000004710) led by Angelo Davì. As the editors,

and on behalf of all the contributors to this volume, we are very grateful to the European Commission for the support it has granted to our work.

We express our deep appreciation to the scholars who willingly participated with their experience, knowledge, scholarship and thoughtful commitment in this project and in the Commentary. We would also gladly acknowledge that in the drafting of this book we benefitted from the help and advice of our colleagues Alessandra Zanolotti, Professor at the University of Bologna, and Fabrizio Marongiu Buonaiuti, Professor at the University of Macerata. We greatly appreciate their most valuable contribution.

Finally, we would like to convey our gratitude to Cambridge University Press for accepting the Commentary in their publishing programme and to their collaborators for their indispensable help.

May the book find its way in practice and scholarship and be a valuable assistance to its readers.

ABBREVIATIONS

AC	Appeal Cases (UK)
<i>Actes et doc.</i>	<i>Actes et documents</i> , Hague Conference on Private International Law
<i>An esp der int priv</i>	<i>Anuario español de derecho internacional privado</i>
AJCL	<i>American Journal of Comparative Law</i>
All ER	All England Law Reports
<i>Ann Inst dr int</i>	<i>Annuaire de l'Institut de droit international</i>
ATF	<i>Arrêts du Tribunal fédéral suisse</i>
BayObLGZ	<i>Sammlung der Entscheidungen des Bayerischen Obersten Landesgerichts in Zivilsachen</i>
BGB	<i>Bürgerliches Gesetzbuch</i> (Germany)
BGBI	<i>Bundesgesetzblatt</i>
BGHZ	<i>Sammlung der Entscheidungen des Bundesgerichtshofs in Zivilsachen</i>
Bull civ	<i>Bulletin des arrêts des chambres civiles de la Cour de cassation</i> (France)
BVerfG	<i>Bundesverfassungsgericht</i> (Germany)
BVerfGE	<i>Entscheidungen des Bundesverfassungsgerichts</i>
CdT	<i>Cuadernos de derecho transnacional</i>
CLJ	<i>Cambridge Law Journal</i>
CMLRep	<i>Common Market Law Reports</i>
CMLRev	<i>Common Market Law Review</i>
Dalloz	<i>Recueil Dalloz</i>
ECR	<i>European Court of Justice Reports</i>
ELRev	<i>European Law Review</i>
ER	<i>English Reports</i>
ERA	<i>Europäische Rechtsakademie</i> (Academy of European Law, Trier)
<i>Eur Rev Priv Law</i>	<i>European Review of Private Law</i>
EuZW	<i>Europäische Zeitschrift für Wirtschaftsrecht</i>
EWiR	<i>Entscheidungen zum Wirtschaftsrecht</i>
FamErbRÄG	<i>Familien- und Erbrechts-Änderungsgesetz</i> (Austria)
FamRZ	<i>Zeitschrift für das gesamte Familienrecht</i>

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<i>Foro it</i>	<i>Il foro italiano</i>
<i>Gaz pal</i>	<i>Gazette du palais</i>
<i>German LJ</i>	<i>German Law Journal</i>
<i>Giur it</i>	<i>Giurisprudenza italiana</i>
<i>Giust civ</i>	<i>Giustizia civile</i>
<i>Hague Recueil</i>	<i>Recueil des cours de l'Académie de droit international de la Haye</i>
<i>Harvard LR</i>	<i>Harvard Law Review</i>
<i>ICJ Reports</i>	<i>Reports of the International Court of Justice</i>
<i>ICLQ</i>	<i>International and Comparative Law Quarterly</i>
<i>IPRax</i>	<i>Praxis des Internationalen Privat- und Verfahrensrechts</i>
<i>IPRspr</i>	<i>Die deutsche Rechtsprechung auf dem Gebiete des internationalen Privatrechts</i>
<i>JCP</i>	<i>Juris-classeur périodique (La semaine juridique)</i>
<i>JDI</i>	<i>Journal du droit international (Clunet)</i>
<i>JPIL</i>	<i>Journal of Private International Law</i>
<i>KGE</i>	<i>Sammlung der Entscheidungen des Kammergerichts</i>
<i>LQR</i>	<i>Law Quarterly Review</i>
<i>LR</i>	<i>Law Reports</i>
<i>MLR</i>	<i>Modern Law Review</i>
<i>NILR</i>	<i>Netherlands International Law Review</i>
<i>NIPR</i>	<i>Nederlands Internationaal Privaatrecht</i>
<i>NJW</i>	<i>Neue Juristische Wochenschrift</i>
<i>N giur civ comm</i>	<i>La nuova giurisprudenza civile commentata</i>
<i>N l civ comm</i>	<i>Le nuove leggi civili commentate</i>
<i>OJ</i>	<i>Official Journal of the European Union (formerly: of the European Communities)</i>
<i>RabelsZ</i>	<i>Rabels Zeitschrift für ausländisches und internationales Privatrecht</i>
<i>Rev der not</i>	<i>Revista de derecho notarial</i>
<i>Rev dr priv</i>	<i>Revista de derecho privado</i>
<i>Rev crit dr int priv</i>	<i>Revue critique de droit international privé</i>
<i>Rev esp der int</i>	<i>Revista española de derecho internacional</i>
<i>Rev hell dr int</i>	<i>Revue hellénique de droit international</i>
<i>RGZ</i>	<i>Sammlung der Entscheidungen des Reichsgerichts in Zivilsachen</i>
<i>Riv dir int</i>	<i>Rivista di diritto internazionale</i>
<i>Riv dir int priv proc</i>	<i>Rivista di diritto internazionale privato e processuale</i>
<i>Riv dir proc</i>	<i>Rivista di diritto processuale</i>
<i>Riv not</i>	<i>Rivista del Notariato</i>
<i>Riv trim dir proc civ</i>	<i>Rivista trimestrale di diritto e procedura civile</i>
<i>RIW</i>	<i>Recht der internationalen Wirtschaft</i>

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<i>RSuisseDIE</i>	<i>Revue suisse de droit international et de droit européen</i>
<i>S Ct</i>	<i>Supreme Court/Supreme Court Reporter (USA)</i>
<i>SZ</i>	<i>Entscheidungen des österreichischen Obersten Gerichtshofes in Zivil- (und Justizverwaltungs-)sachen (Austria)</i>
<i>TPR</i>	<i>Tijdschrift voor privaatrecht</i>
<i>Trust LI</i>	<i>Trust Law International</i>
<i>US</i>	<i>United States Supreme Court Reports</i>
<i>WPNotReg</i>	<i>Weekblad voor Privaatrecht, Notariaat en Registratie</i>
<i>YPIL</i>	<i>Yearbook of Private International Law</i>
<i>ZEuP</i>	<i>Zeitschrift für europäisches Privatrecht</i>
<i>ZEV</i>	<i>Zeitschrift für Erbrecht und Vermögensnachfolge</i>
<i>ZfRV</i>	<i>Zeitschrift für Europarecht, internationales Privatrecht und Rechtsvergleichung</i>
<i>ZVglRWiss</i>	<i>Zeitschrift für vergleichende Rechtswissenschaft</i>