OUT OF THE FRYING PAN INTO THE FIRE

The UK’s rejection of the new EU Regulation on international successions

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European Zones

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EU Succession Regulation

Dispositions of Property upon Death

Form of Wills, but subject to reservations of the Hague Wills Conventions

Inheritance Contracts and Succession Agreements.
  • mutual wills
  • proprietary estoppel evidenced in writing

EU Succession Regulation

• Choice of the internal succession law of **Nationality**.
• Within the UK and USA this would be the Law district of domicile or of most close connection.
• Does Art.34 (ex Art.26) abolish *renvoi* – **internal law only**?
• Art.34 exceptions
  if the applicable law is that of a non-Brussels IV zone state, the private international law rules of that third state are included in so far as they make a *renvoi* back to
  • the law of a Brussels IV Zone state or
  • the law of another third state which would apply its own law
• No Renvoi if a choice of law made under Art.22 (and some other exceptions)
EU Succession Regulation

- The inherent conflict between Art 34, that partial renvoi can be valid, and Art. 21.1 that the law determined shall govern the succession as a whole, has not been resolved.
- It is to be presumed that partial renvoi will apply.

Effect of the Succession Regulation

- UK Nationals resident in the SR Zone
- UK Nationals resident in the UK with assets in the SR Zone
- US Nationals resident in the UK with assets in the SR Zone
- SR Zone Nationals resident in the UK with assets in the SR Zone
- Former SR Zone Residents resident in the UK with assets in the SR Zone
Succession Law and Choice of Law

Choice of law before 2015 valid and also if valid in accordance with law of habitual residence or nationality

- Netherlands — Hague XXXII – nationality or habitual residence
- Finland — nationality or habitual residence or MPR law
- Italy — habitual residence, but protection for Italians
- Switzerland — nationality
- Poland - nationality or habitual residence

Is Hague XXXII a possible option?
Or wider choices of succession law?
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