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Changes to inheritance laws affecting Britons and other non-French EU nationals

The European parliament has progressed with a proposal which allows expatriates in France to dictate in a will that they want the law of the state of their nationality to apply to their estate and not French inheritance law. This, in effect, means Britons in particular can leave their estate to whoever they wish and not be bound by strict inheritance rules as at present.

This is not yet a regulation however the next step is the need for drafting and finalizing the regulation for the approval of the Council of 27 Justice Ministers (Ken Clarke in the UK).

The UK has said it will opt out but not block, but France is likely to do so. If so then French Succession Law will be able to be circumnavigated – **BUT NOT THE INHERITANCE TAX!**

So clients still need to be careful in structuring their purchase else they might end up leaving beneficiaries in with a 60% tax liability of the value of their French estate.

It also has potential detrimental impact for UK expatriates in France since at present a directly owned French property would fall outside the scope of UK IHT.

It is therefore not an open and shut case.

The press release is available on the following page.

For information on Charles Hamer's Anglo-French Inheritance Tax Planning Services and how we can help you devolve your French interests without incurring an excessive tax burden in this and other areas please visit our webpage

<http://www.charleshamer.co.uk/french-inheritance.aspx> or email me, Mark Gould, mark@charleshamer.co.uk and ask for our Inheritance Tax planning information pack"

The press release:

Brussels, 13 March 2012

Statement by EU Justice Commissioner Reding on the positive vote by the European Parliament on new EU legislation regarding cross-border successions

EU Justice Commissioner Viviane Reding, the European Commission's Vice-President, said after the vote in the European Parliament's plenary in Strasbourg:

"The death of a family member is a sad and traumatic event, without additional legal headaches. I therefore welcome today's vote of the European Parliament plenary, which constitutes a major step towards providing legal certainty for thousands of families confronted with international successions. I would like to congratulate in particular rapporteur Kurt Lechner, who worked tirelessly to successfully steer this legislation through the European Parliament. In the interests of the more than 12 million EU citizens potentially affected by the new EU law on international successions, I hope a final agreement between the Parliament and the Council can now be reached as soon as possible. I know that the Danish Presidency is working on a final agreement, and I strongly support their efforts."

Following today's vote in the European Parliament plenary, the new EU legislation (a Regulation) now requires the approval of the Council of the 27 Justice Ministers.

Legislation on cross-border successions

The rules applicable to international successions are highly complex and difficult to predict. Legislation governing jurisdiction and the law applicable vary considerably from one Member State to another. This leads to great legal uncertainty and distress for people who want to plan their succession and their heirs, or who may become embroiled in legal and administrative difficulties on inheriting property in another Member State. For example, if a German citizen with a house in southern France dies, would French or German succession law apply to his property? The new EU Regulation will bring legal certainty to this issue.

There are around 4.5 million successions a year in the EU, of which about 10% have an international dimension. These successions are valued at about €123 billion a year.

On 14 October 2009, the Commission proposed an EU Regulation to simplify the settlement of international successions (see [IP/09/1508](#)). Under the new EU Regulation, there would be 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.

Today's vote is an important step towards the introduction of a European Certificate of Succession, which will allow people to prove that they are heirs or administrators of a succession without further formalities throughout the EU. This will represent a considerable improvement from the current situation in which people sometimes have great difficulty exercising their rights. The result will be faster, cheaper procedures.

To help citizens become better informed about these laws, the Council of Notaries of the EU has created a website (www.successions-europe.eu), with the support of the European Commission, in 22 EU languages plus Croatian.

The proposal for an EU Regulation that facilitates international successions is a concrete example of how the EU works towards creating an area of justice that will ease citizens' daily lives, as set out by Vice-President Reding on 20 April 2010 in an [Action Plan for 2010-2014](#) as well as in the EU Citizenship Report 2010 (see [IP/10/1390](#)).

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