

STEP



ADVISING FAMILIES ACROSS GENERATIONS

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Quantum of Success



I used to understand the Succession Regulation, but now I am not so sure.

The EU Commission put together an excellent conference in Brussels on 19 November, on the subject, which many STEP members attended.

Although several interesting individual topics were covered, the overriding impression I obtained was that we are all still looking at the Regulation through the prism of our own individual national systems. Not all of us have quite made the mental leap that the Regulation introduced a new system that is supra national.

The most contentious debate probably related to the legal effects of the Succession Certificate (ECS). Does it really replace local certificates? France may be concerned as to the fact that an ECS is not an *Acte Authentique*, while Germany worries as to the preservation of the purity of its Land and other Registers.

If a notary is not acting as a 'Court', are notaries subject to the jurisdictional limits of the Regulation? Who is asking?

The Italian perspective was expressed in the view that a *professio juris* of the national law might not be effective, if it coincided with the current habitual residence. Everyone else disagreed.

Many differing opinions were expressed, but the only real conclusion was that we are all feeling our way in territory that has never been explored before. We need to keep talking to professionals and advisors in other jurisdictions and try to discuss these matters with as few preconceptions as possible.

As ever, the real benefit of the conference was the opportunity to spend time meeting others from different Member States, and discussing the problems of international succession. We all shared a common interest in trying to find solutions to the problems faced by EU citizens attempting to plan their succession.

Clients and advisors like certainty. Helping everyone understand that it does not exist, and finding the best route through, has always been the unhappy job of the quantum mechanic.

For more analysis of the Regulation see *EU Regulation on Succession and Wills*, Commentary by: Ulf Bergquist, Domenico Damascelli, Richard Frimston, Paul Lagarde, Felix Odersky, Barbara Reinhartz. STEP members receive a 20% discount: www.step.org/discounted-books (log in).



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