

Mediation in cross-border succession conflicts and the effects of the ‘Succession Regulation’: challenges, opportunities and recommendations for policymakers

The research report, newly released by the EU-funded project FOMENTO, highlights juridical changes and real-life implications of EU provisions on mediation in cross-border succession cases.

IN A NUTSHELL

The **EU Mediation Directive** has significantly enhanced the role of mediation in the field of extra-judicial disputes resolution, giving citizens a wider access to and a more extensive use of this conflicts resolution method. Conversely, mediation systems greatly vary across the examined Countries and there are no uniform quality standards in mediation training across Europe.

Mediation in cross-border succession conflicts: which benefits?

TIME and cost saving effects on legal proceedings;
IMPROVED opportunity to keep human and personal relationships between disputing parties;
PROFESSIONAL SKILLS capable to overcome cultural differences and communication barriers;
CONSENSUAL SOLUTIONS fulfilling the personal needs of each litigant.

Recommendations for policymakers:

RAISE public awareness about the Succession Regulation;
RAISE public awareness about mediation in general and in succession conflicts specifically;
FOSTER the opportunity of mediation in the forefront of a succession case;
STRENGTHEN the cooperation between lawyers, notaries, judges and mediators;
DEVELOP AND IMPROVE quality standards of mediation training;
ENHANCE the index and validity period of the European Certificate of Succession.

Rome, 26 September 2018 - The issue of cross-border succession conflicts is gaining an increasing importance in Europe due to the growing mobility of European citizens. Therefore, ever more people are and will be affected by inheritance controversies with international links. Juridical aspects along with interpersonal conflict matters are at stake when dealing with succession cases in a cross-border context.

In order to develop proposals for conflicts prevention in cross-border civil and succession matters, the EU-funded project ‘[FOMENTO - Fostering mediation in cross-border civil and succession matters](#)’ has conducted an in-depth analysis of the innovations brought along by the recent EU legislation in the mediation and inheritance law sector.

The theoretical part of the research is focused on the implementation effects of the Directive 2008/52/EC (‘Mediation Directive’) and of Regulation (EU) No 650/2012 (‘Succession Regulation’) in six European Countries: Austria, France, Germany, Italy, Poland and Sweden. The qualitative and quantitative analysis reports the views and the opinions of legal professionals and mediators dealing with cross-border succession cases in their practice. The quantitative analysis is grounded on statistical figures and on an online survey involving 752 legal professionals and citizens, whereas the qualitative part of the research paper is based on interviews with 105 experts among lawyers, notaries, judges and mediators specialized in succession cases.

The Succession Regulation introduced [many novelties in the field of cross-border succession cases](#) (applicable law according to the habitual residence, choice of law, European Certificate of Succession), but the new legislation and its effects are still quite unknown among European citizens.

Mediation itself is not yet very common in the context of inheritance disputes, as outlined by many interviewed experts, who claim the need to carry out more awareness-raising campaigns informing EU citizens about the new legislation.

The research findings are available at <http://www.fomentonet.eu>.

In the **RESOURCES** page of the website you can download multilingual guidelines for citizens and professionals providing hands-on information and real-life examples about the correct use of mediation in cross-border succession conflicts.

The 2-year project FOMENTO (2017-2019), co-funded by the European Commission in the framework of the Justice Programme, combines the juridical and mediation skills of 5 Partners from 3 EU States (Germany, Italy and Poland). Its main goal is to contribute to a widespread use of mediation as a cost-effective solution to prevent and solve international disputes in civil and succession matters.

On the basis of the hints and outcomes provided by the study, FOMENTO will undertake the following steps:

The **CREATION** of a European network of legal professionals and stakeholders with the purpose of promoting further cooperation in the mediation field.

The **ORGANIZATION** of training events designed to enhance the skills and competences of the mediators.

The **PRODUCTION** of animated videos clearly providing information about the benefits of using alternative methods of international disputes resolution.

RESOURCES



- [Barth, J., Böhm, B., Pfützenreuter, J. Research Report: Mediation in cross-border succession conflicts and the effects of the 'Succession Regulation', 2018](#)
- [Research Summary: Mediation in cross-border succession conflicts and the effects of the 'Succession Regulation'](#)
- [Succession conflicts with a cross-border impact: Guidelines for citizens](#)
- [Succession conflicts with a cross-border impact: Guidelines for professionals](#)

What are the main opportunities of mediation in cross-border inheritance conflicts?

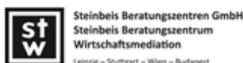
In its theoretical part the research highlights the **positive impact of the European Mediation Directive on the legal developments** and advancements of national mediation systems in the examined Countries. Similarly, the study emphasizes the contributions of national legislations to the institutionalization of mediation, for example the standardization in terms of enforceable settlements, suspension of prescription period and duty of confidentiality for mediators. Further opportunities for mediation are provided by national financial incentive schemes (Italy) and by the increasing use of online tools as a timesaving and cost-effective method to handle cross-border succession cases (Sweden). A large number of interviewed experts also underline the importance of cooperation between legal professional groups and recommend setting-up ever more European networks, allowing citizens and professionals to better identify experts in the field.

What are the critical points of mediation in a cross-border succession context?

One of the main obstacles hindering a wider application of the EU legislation in this context is the **lack of public knowledge and awareness about the opportunities and advantages of using mediation** in cross-border hereditary matters. Accordingly, most EU citizens prefer to follow the well-known pathways and to resolve their disputes through the court.

Another weak point arising from the research report regards the professionalization of mediators. The theoretical analysis, indeed, points out the lacking uniformity in mediation training standards and in selection procedures of mediators. The differences of minimum training standards in EU Countries have a negative impact on the public reputation of mediation and inhibits its widespread application as an alternative method of conflict resolution.

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