

GINEBRA I MOLLINS, Esperança; TARABAL BOSCH Jaume (eds). *El Reglamento (UE) 650/2012: su impacto en las sucesiones transfronterizas*. Madrid: Marcial Pons, 2016, pp. 479.

review by

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ZAŁUCKI, Mariusz. Review on GINEBRA I MOLLINS, Esperança; TARABAL BOSCH, Jaume (eds). *El Reglamento (UE) 650/2012: su impacto en las sucesiones transfronterizas*. Madrid: Marcial Pons, 2016, pp. 479. *International and Comparative Law Review*, 2017, vol. 17, no. 2, pp. 195–198. DOI 10.2478/iclr-2018-0024.

The problems related to the application of the EU Succession Regulation 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* spread in widening circles. The legal act, which revolutionised the international law of succession in the European Union, has become an object of many doctrinaire stances in the particular European countries. It is commonly known that post 17 August 2015 the Regulation has become basis for determining jurisdiction and applicable law for succession cases of EU citizens. Doubts which originate on the background of the Regulation are not only of domestic nature. The act should be interpreted autonomously, separately from the domestic interpretation of the succession law. The discrepancies in the legal doctrine of the particular EU countries may be removed by publication of their stances and perception of the achievements of the others. Therefore the object of this paper is to discuss the Spanish doctrine with regard to that legal act, as in Spain the issues originating in reference to the application of Regulation No. 650/2012 are the object of an animated doctrinaire discussion. The presented publication, pretending to the status of a commentary is an important voice in that discussion.

The reviewed publication is a collective piece of work. The authors have perceived that succession cases of cross-border nature are no longer exceptional. In Spain this has become the object of many scientific conferences, with the results being published in the reviewed book. The book comprises lectures delivered during the scientific conference entitled “*Jornadas sobre el Reglamento sucesorio europeo*”, held in Barcelona on 25–26 June 2014 and a series of conferences entitled “*La inminente aplicación del Reglamento (UE) 650/2012: su impacto en las*

*sucesiones transfronterizas*”, organised by the Faculty of Law of the University of Barcelona on 4, 11, 18 and 25 March 2015. Both events gathered eminent lawyers, who presented the new European Regulation and its influence on the practice in a specialised and comprehensive manner. The book consists of 14 articles on the particular issues related to the Regulation No. 650/2012, introduction and general comments by the editors. This is basically an exhaustive discussion of the selected problems which, in the opinion of the authors, are faced when applying the new law in practice.

The book starts with the introduction by *J.C. Ollé i Favaró*, in which the author shortly explains the circumstances of cooperation between the Society of Notaries Public in Catalonia (*Collegi de Notaris de Catalunya*) and the Faculty of Law of the University of Barcelona, which had jointly organised the afore-said events resulting in the reviewed publication. Further comes a preamble to the whole volume by *M. E. Ginebra Molins, A. Serrano de Nicolas* and *J. Tarabal Bosch*. The authors explain the idea of the book, indicating – among other things – that the EU Succession Regulation has already come into force and there is a need to diagnose the first problems with applying that legal act in practice. Subsequently there follow 14 articles devoted to the particular areas of the new Regulation. The layout is typical for such publications, particularly because the respective subject-matter chapters basically comply with the nomenclature and sequence of the Regulation applied by the EU regulator.

The first subject-matter chapter (pages 17–54) has been written by *A. Serrano de Nicolas* and devoted to the general assumptions of the EU Regulation, with particular emphasis on the problems regarding the application of property law and matrimonial regime. The author explains the general issues, including the law applicable to the succession cases, thus, referring to exclusion of certain matters, i.e. the areas which have not been covered by the provisions of the Regulation. In that scope, on the background of the solution assumed in Article 1.2, in reference to Article 23 of the Regulation, there may appear some doubts. Therefore the approach of the Spanish doctrine may seem interesting. Similar assessment may refer to transition and inter-temporal provisions, the practical importance of which is of no small importance. The second chapter (pages 55–77) is significantly related to the first one, as the author – *C. Gonzalez Beilfuss* – discusses the problems related to the scope of the Regulation application. The author mainly presents the detailed catalogue of exclusions comprised in Article 1.2 of the Regulation, indicating that, among other things, the issues related to the marital status and family relationships, the legal capacity or the legal capacity of natural persons, the questions relating to disappearance or presumed death fall outside of the Regulation, which may be of major importance in succession cases. Further, in chapter three (pages 79–92), *M. Alvarez Torne* discusses mainly the competencies of the EU with regard to the succession law and refers to some issues of jurisdiction in reference to Articles 4–10 of the Regulation.

The law applicable to succession based on the Regulation No. 650/2012 has been referred to in chapter four of the book by *J. J. Forner Delaygua*. The author explains the complexities of applying the new connector in cross-border succession cases – the place of usual residence of the testator – referring also to other connectors referred to in the Regulation, particularly in Articles 24, 25 or 27 thereof. He also refers to the principle of universal nature and unity of the inheritance in the case of a conflict of laws. To some extent the idea is also referred to in chapter five by *S. Alvaro Gonzalez* (page 135–159), chapter six by *A. Font i Segura* (pages 161–192) and chapter seven by *L. Arnau Raventos* (pages 193–218), where the authors refer to the problem of law applicable to succession, and discuss the specific provisions imposing limitations on succession and affecting the succession in reference to some assets of the testator's estate, as well as the agreements relating to inheritance and the formal validity of dispositions upon death.

Extremely interesting are the comments of *J. Tarabal Bosch* presented in chapter eight and regarding the mechanisms of adjusting the property law on the background of the Regulation provisions. Obviously the provisions of Article 31, reading that “Where a person invokes a right *in rem* to which he is entitled under the law applicable to the succession and the law of the Member State in which the right is invoked does not know the right *in rem* in question, that right shall, if necessary and to the extent possible, be adapted to the closest equivalent right *in rem* under the law of that State, taking into account the aims and the interests pursued by the specific right *in rem* and the effects attached to it”, is going to raise major problems in practice. Chapter nine (pages 237–262) of the publication by *M. E. Ginebra Mollins* refers to the application of the Regulation provisions in countries in which more than one legal system applies, namely the territorial conflict of laws. Owing to obvious reasons, the Spanish approach to that problem must be intriguing, whereas some provisions of the Regulation, e.g. Article 36, were written with Spain in thought.

The problems related to official documents and their enforceability in the light of the Regulation provisions have been discussed by *J. Bayo Delgado* (pages 263–283), and the problem of documenting the rights to inheritance, including the European Certificate of Succession, and the competencies of notaries public in that regard are referred to by *J. Gomez Taboada* in chapter eleven (pages 285–298), *J. L. Valle Munoz* in chapter twelve (pages 299–326) and *J. Carascosa Gonzalez* in chapter thirteen (pages 327–440). In the latter article, the author reaches deeper than the European Certificate of Succession, presenting the selected practical problems of notaries public operation in the light of the new European Regulation. A resume is provided in the form of comments by *A. Domingo Castella* regarding, basically, the liability for the debts under the succession and problems related to the consequences of practical application of the provisions of Regulation No. 650/2012.

Owing to the comparatively small number of domestic doctrinaire stances in many of the above discussed issues, viewing the practice of applying the new legal act through the light of foreign doctrinaire stances seems to be indispensable. Therefore, short presentation of some foreign articles may contribute in the future to certain universality of views propagated on the background of the EU Succession Regulation, which seems to be vital and indispensable for the harmonious application of that legal act in the domestic practice. Therefore, reading publications analogous to the presented book in the nearest future is justified also due to those reasons. Surely, the publication entitled “*El Reglamento (UE) 650/2012: su impacto en las sucesiones transfronterizas*” edited by *M. Ginebra Mollins* and *J. Tarabal Bosch* may serve as a point of reference for many concepts which will be presented in the future on the background of the Succession Regulation in the domestic literature of the EU member States.