

МІНІСТЕРСТВО ОСВІТИ І НАУКИ УКРАЇНИ
КИЇВСЬКИЙ УНІВЕРСИТЕТ ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ ТА ПРАВА



ТРАНСФОРМАЦІЯ СУЧАСНОГО СУСПІЛЬСТВА:

МІЖДИСЦИПЛІНАРНИЙ ВИМІР ПРАВА, ТЕХНОЛОГІЙ
ТА ГУМАНІТАРИСТИКИ

МАТЕРІАЛИ

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22–24 травня 2026 року

м. Київ

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KIRIIAK OKSANA

Candidate of science,

Private Law Department

Yuriy Fedkovych Chernivtsi National University

Historical Development of the European Succession Certificate (ESC)

The European Succession Certificate (ESC) was introduced as part of a broader effort by the European Union to simplify and harmonize legal procedures in cross-border matters. The legal basis for the ESC can be found in Regulation (EU) No 650/2012, which came into effect on August 17, 2015 [2], and aimed to standardize rules on jurisdiction, applicable law, and the recognition of judgments in cross-border inheritance cases within the EU (Council of the European Union, 2012). Before the regulation's enactment, the complexity of succession laws varied significantly between EU member states, often resulting in inefficiencies, disputes, and legal uncertainty when dealing with estates spanning multiple jurisdictions.

Before the introduction of the ESC, individuals involved in cross-border succession frequently encountered the necessity of navigating conflicting legal systems, with differing rules regarding inheritance, probate procedures, and documentation requirements. In many cases, heirs had to produce multiple sets of documents – often requiring translations and notarizations – before gaining recognition for their claims in different countries. These processes were both costly and time-consuming, leaving heirs vulnerable to delays and legal ambiguity. The creation of the ESC emerged as a direct response to these challenges, marking a significant shift towards simplification, standardization, and digitalization of inheritance procedures across the EU.

In addition to the ESC, Regulation (EU) No 650/2012 [2] introduced rules regarding the determination of applicable law in cross-border successions, the jurisdiction of courts, and the recognition of foreign judgments in the context of

inheritance. It sought to create a more unified approach to inheritance matters, which could resolve issues of competing national laws and the disparate recognition of legal documents across borders. Marino emphasized that the ESC is a direct manifestation of this regulatory vision, designed to enable cross-border recognition of an heir's status and their rights to an estate, with the aim of reducing legal and procedural barriers across member states [6, c. 495].

The primary legal purpose of the European Succession Certificate is to provide a single, unified document that confirms an individual's status as an heir or executor of an estate within the EU. The certificate is intended to replace the cumbersome process of obtaining multiple national documents and legal recognitions from different EU member states, thus simplifying the entire succession process.

In the absence of the ESC, an heir would typically need to present a series of documents such as wills, probates, and national succession certificates, all of which might be recognized only in specific jurisdictions. This process often led to conflicts between different national legal systems, especially when determining the applicable law for the estate and the formalities required for succession. The ESC aims to resolve this by providing a document that is recognized in all EU member states, irrespective of where the estate is located or the nationality of the deceased.

The European Succession Certificate (ESC) was introduced to address the legal complexities that arose from cross-border inheritance within the European Union. Before its introduction, inheritance law in Europe was often fraught with inconsistency, creating significant challenges for individuals dealing with estates spanning multiple jurisdictions. As researchers underscore the importance of such key message as: "the lack of a standardized mechanism for confirming heirship led to an inefficient and costly process for heirs, who were forced to navigate varying legal requirements in different member states" [8, c. 97]. These complications ranged from differences in the formalities of inheritance proceedings to the recognition of foreign legal documents.

By offering a standardized solution, the ESC allows heirs to bypass many of the procedural obstacles that would have otherwise slowed or complicated the succession process. Furthermore, it ensures that heirs, administrators, and other stakeholders

involved in the inheritance process have a clear and legally binding certificate that affirms their rights to the estate in question. Thus, the ESC facilitates legal certainty, reduces the likelihood of disputes, and expedites the transfer of assets across EU borders.

The European Succession Certificate is characterized by several key features that distinguish it from traditional, national succession documents. It is a formal legal document that confirms the identity of the heirs, their respective shares of the estate, and their rights to administer or inherit assets according to the applicable national laws of the EU member state where the deceased was domiciled. The certificate is issued by the courts or relevant authorities in the state where the deceased had their habitual residence or, in certain cases, where the estate is situated.

The content of the ESC typically includes [2]:

- Details of the deceased (name, date of birth, and date of death);
- Details of the heirs (full identification of the individuals recognized as heirs, their relationships to the deceased, and their entitlements to the estate);
- Rights of the heirs (a detailed description of each heir's share in the estate, including whether they are entitled to act as the administrator or executor);
- Legal standing (a statement affirming the certificate's recognition under EU law, confirming its validity across all EU member states).

A fundamental feature of the ESC is its legal standing across all EU member states. Once issued, the ESC is directly applicable in all other EU countries, making it a powerful tool in overcoming jurisdictional barriers. For instance, an heir in Germany who inherits property in Spain can use the ESC to prove their inheritance rights in Spain without needing to go through the Spanish probate system. This cross-border recognition eliminates the need for revalidation or translation of national documents and avoids the complications of navigating multiple legal systems. The certificate confirms the identity of the heirs, their relationships to the deceased, and the respective share they are entitled to, based on the laws of the jurisdiction in which the certificate is issued [7, c. 77].

The recognition of the ESC across EU member states is grounded in the principle of mutual recognition of legal acts within the EU. This principle is enshrined in the Regulation, which mandates that the ESC must be accepted without the need for further authentication or legalization. The legal basis for this lies in the EU's commitment to the free movement of persons and assets, which is reflected in the Union's efforts to harmonize laws governing civil matters. The ESC plays a pivotal role in this context, offering a clear and binding document that simplifies the process of cross-border inheritance.

One of the most significant advancements introduced by the European Succession Certificate is its transition from a physical document to a digital one. This shift reflects the broader trend of digitalization within the EU's legal infrastructure and is instrumental in streamlining inheritance proceedings [4, c. 91]. By adopting electronic formats, the ESC can be issued, stored, and transmitted more efficiently, significantly reducing the time and administrative costs associated with traditional paper-based procedures.

The digital issuance of the ESC ensures that heirs and legal professionals can access the certificate electronically, facilitating faster communication and decision-making processes. As a digital document, the ESC can be transmitted across borders without the delays typically associated with mailing physical copies or seeking authentication from foreign authorities. Furthermore, the use of digital platforms allows for real-time updates to the certificate's content, ensuring that it remains accurate and reflective of any changes in the status of the estate or the heirs.

Moreover, the digital infrastructure supporting the ESC includes secure online databases and systems that ensure the integrity and confidentiality of the information contained within the certificate. These digital systems are governed by EU regulations on data protection, including the General Data Protection Regulation (GDPR), which safeguards the privacy of individuals involved in the succession process [1]. The use of encryption, secure identification methods, and trusted digital signatures ensures that the ESC maintains its legal validity and serves as a secure instrument for inheritance proceedings. Hertel argues that the ESC "serves not only as a tool for identifying heirs

but also as a formalized recognition of their entitlement under EU law," making inheritance proceedings more efficient and predictable across jurisdictions [5, c. 42]. As Mansel emphasizes, "the ESC is legally binding in all EU member states, eliminating the need for additional authentication or legalization that was once required for cross-border inheritance documents" [3, c. 784].

In addition to simplifying the administrative aspects of inheritance, the transition to digital formats enables the ESC to be more accessible to all EU citizens, regardless of their geographic location or legal knowledge. For instance, heirs who may be living abroad or who may not be familiar with the national legal system in which the estate is being administered can quickly obtain and verify the ESC online, reducing both logistical and financial barriers.

However, the digital shift also introduces challenges, particularly in terms of ensuring equal access to technology across EU member states. While some regions are well-equipped to handle digital legal instruments, others may face difficulties in implementing and integrating these systems. Nonetheless, the move toward digitalization is an essential step in making the European Succession Certificate a more effective and universally accepted tool in the inheritance process [4, c. 93-94].

The ESC simplifies this by providing a single, standardized document that is recognized in all EU member states, allowing heirs to establish their legal rights to an estate across borders without the need for multiple national certifications. The certificate serves as proof of the heir's status and their rights to the estate in question, bypassing the complexities of national probate systems.

The European Succession Certificate (ESC) represents a significant advancement in the legal framework governing cross-border inheritance within the European Union. As a standardized, digital tool, the ESC addresses long-standing challenges in international succession, providing heirs with a means to establish their legal entitlement to an estate across EU member states in a simplified and efficient manner. By facilitating the recognition of inheritance rights across national boundaries, the ESC fosters legal certainty, reduces procedural burdens, and contributes to the harmonization of succession law within the EU.

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