EUROPEAN NETWORK OF REGISTERS OF WILLS ASSOCIATION (ENRWA)

"EUROPE WILLS" PROGRAMME

Status report on schemes of wills registration and search in Europe

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Index

Belgium

1. International Conventions

Belgium signed the Basel Convention of 16th May 1972 on the Establishment of a Scheme of Registration of Wills on the date it was opened for signature and ratified it on 8th February 1977.

Belgium also signed the Hague Convention of 5th October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions on 10th October 1968 with the reservation provided for in article 10. Such article provides that "each Contracting State may reserve the right not to recognize testamentary dispositions made orally, save in exceptional circumstances, by one of its nationals possessing no other nationality".

The Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will was signed on 17th May 1974 and ratified on 21st April 1983.

2. Circulation of wills within Europe

A will is deemed valid as regards its form if it respects:

- the internal law applicable to the place where the testator made his will (local form), or
- the internal law applicable to a nationality possessed by the testator, either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or

- the internal law applicable to the place in which the testator had his habitual residence either at the time when he made the disposition, or at the time of his death, or
- so far as immovables included in the succession are concerned, the law applicable to the place where they are situated.

A will established by a foreign public authority may be deemed valid and have the same effect as a will of the same form (or of equivalent form) established in Belgium subject to control of ifs form and substance. Such control will establish the capacity of the will to have its full effect. For example provisions contrary to Belgian public order are unacceptable.

The above private international law regulations do not alter whether the public authority having established the will is located within the European Union or not.

3. Types of wills

Belgian law allows authentic, holographic, international and privileged wills.

Authentic wills are drawn up by a notary.

Holographic wills are handwritten, dated and signed by the testator himself.

International wills comply with the provision of the Washington Convention of 26th October 1973.

Privileged wills are military wills or wills made at sea.

Belgian law used to allow sealed wills but these ceased to exist following incorporation of the rules regarding international wills.

4. Registration and search for wills

Succession proceedings are carried out by civil law notaries in Belgium. There is a central will register administered by the Royal Federation of Belgian Notaries (FRNB): the central register of dispositions of last wills "*registre central des dispositions de dernières volontés (CRT)*". Definition and administration of this register are regulated in a Royal Decree which was recently adapted for the introduction of a new register of prenuptial agreements. (Royal decree of 21 June 2011 concerning the management of central registers of wills and prenuptial agreements, entered in force on 1st September 2011, *MB* 01/08/2011)

Electronic registration and search in the CRT are possible. 67 % of the registrations and 22 % of the searches are performed electronically. Alternatively registrations and searches may be made by postal mail or by fax.

The Act of 6 March 2009 provides for the creation of a register of prenuptial agreements which may be consulted during the spouses' lifetime by notaries, public authorities, and by the spouses themselves. The management of both these registers is entrusted to the Royal Federation of Belgian Notaries (FRNB).

- **Wills registration**

Wills may be deposited with a civil law notary or with a Belgium diplomatic representative in a foreign country. Such qualified professionals will then record the wills in the will register through the medium of the FRNB.

Civil law notaries (and diplomatic representatives) are required to register the wills referred to in article 4 of the Basel Convention. This article refers to "formal wills declared to a notary, a public authority or any person authorised by the law of that State to record them, as well as other wills deposited with an authority or a person authorised by law to accept such deposit, with a formal act of deposit having been established" as well as "holographic

wills which have been deposited with a notary, a public authority or any person authorised by the law of that State to accept them, without a formal act of deposit having been established, subject to that law permitting such deposit."

Registration of these dispositions must occur within 15 days from the date of the deposit or of drawing up of the formal deed.

Registration is mandatory for deeds referred to in the article 4 of Basel convention, and also for deeds for which, by Royal Decree dated 28 October 1977, the registration obligation was extended, namely contractual institutions between spouses, prenuptial agreements waiving the equal division of joint estate in kind, donations between spouses, deeds containing changes to the prenuptial agreement if those changes modify the previously determined devolution. Failure to register subjects the notary to disciplinary sanctions.

For other deeds not concerned by Article 4 of the Basel Convention, registration is still optional, for example for holographic wills that might not have been deposited at a notary's. The testator may request the registration of his holographic will at a later date.

When a holographic will is deposited with the notary, a testator may object to his will being recorded in the register.

Entry in the register does not subject the testator to any nationality or residence requirement.

At the time of registration of a will, the civil law notary (or diplomatic representative) must communicate at least the following data to the register (as provided in the Basel Convention):

- Testator's family name and first name(s),
- Date and place of birth,
- Testator's address,
- Testator's last spouse's name,

- Type of deed,
- Date of deed or date of registration of the will,
- Name and address of the depository or witnessing notary.

The testator is identified by an official identification number.

The date of death is recorded in the register.

Amendments, withdrawals and revocations are possible in the Belgian register.

In 2008, 41,550 wills have been recorded in the register (19,290 authentic wills, 20,758 holographic wills and 1,502 international wills).

The cost of registration of a will amounts to 25 Euros.

- **Search for wills**

The existence of the will remains secret during the testator's life.

After the testator's death, a will search request is sent to the Royal Federation of Belgian Notaries (FRNB). Any person (civil law notaries, judges, lawyers, private persons) in possession of a document proving the death of the testator (a death extract or an extract of the national register) may perform a search in the register. Provision of a death certificate is mandatory.

Query of the register is mandatory at the time of carrying out succession proceedings, failing which the civil law notary may incur disciplinary sanctions.

The register also responds to queries from and towards other member States.

The Belgian register is interconnected with the French register through the European Network of Registers of Wills (ENRW).

In 2008, 54,015 queries were processes in the CRT.

The cost of a search is free.

Croatia

1. International conventions

Croatia has not signed the Basel Convention of 16th May 1972 on the Establishment of a Scheme of Registration of Wills.

The Hague Convention of 5th October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions was signed by Yugoslavia on the day it was opened for signature and ratified on 25th September 1962. On 5th April 1993 Croatia declared itself to be bound by the Convention.

The Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will has not been signed. Nevertheless, the provisions of such convention have been incorporated in the Croatian succession law.

2. Circulation of wills within Europe

According to Croatian international private law, a will is deemed valid as regards its form if it respects:

- the internal law applicable to the place where the testator made his will (local form), or
- the internal law applicable to a citizenship possessed by the testator, either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his habitual residence either at the time when he made the disposition, or at the time of his death, or

- the laws of the Republic of Croatia, or
- so far as immovables included in the succession are concerned, the law applicable to the place where they are situated.

No foreign regulatory form may be deemed contrary to public order or to the content of mandatory rules.

A will may also be deemed valid if its form is that of an international will.

These international private law regulations do not alter whether the public authority having established the will is located within the European Union or not.

3. Types of wills

Two main types of wills exist under Croatian law: public wills and private wills.

Public wills are drawn up by a civil law notary, by a municipal court or by consular bodies. Thus this type groups authentic wills and international wills (also allowed since the provisions of the Washington Convention have been incorporated in Croatian law).

Private wills group holographic wills, handwritten dated and signed by the testator himself and allographic or witnessed wills. The latter type needs not be handwritten by the testator himself but it must be signed by the testator and by two witnesses.

Finally, the last type of private will is the oral will, admitted under some extraordinary circumstances.

4. Registration and search for wills

In Croatia, after the death of a person, a succession procedure is initiated by the court. Then, the civil law notaries will entrust with the settlement of inheritance.

There is a Croatian will register administered by the notariat.

Registration and search may be performed electronically.

- **Wills registration**

Civil law notaries, judges, lawyers, consular bodies and private persons who made their will may record wills in the register.

Wills of all forms may be registered but registration is not mandatory.

Foreign citizens may not record their wills in the register.

The following data is communicated to the register:

- Testator's family name and first name(s),
- Date of birth,
- Type of will,
- Date of registration of the will,
- Place where the will is held.

The testator is not identified by an official number.

The date of testator's death is not recorded in the register.

Withdrawals, revocations and other amendments are possible in the register.

Each year around 1,900 are recorded in the register.

Registration cost amounts to around 15 Euros.

- **Search for wills**

Before his death, the filed information may be accessed by the testator himself or by a person who receive a special power of attorney from the testator. After his death, the register may be accessed by lawyers, civil law notaries, courts and consular bodies.

In accordance with legal provisions, the wills register must be queried at the time of carrying out succession proceedings.

Disclosure of a will is legally mandatory.

The existence of the will remains secret during the testator's life. It's not necessary to provide a death certificate to perform a search in the register because the inheritance proceeding is initiate by the court. Before the court, the death should be proved.

The register does not reply to requests from and towards foreign States.

Yearly about 20,000 searches are performed in the register.

The cost of a search amounts to 3 Euros.

Finland

1. International conventions

Finland has not signed the Basel Convention of 16th May 1972 on the Establishment of a Scheme of Registration of Wills.

The Hague Convention of 5th October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions was signed on 3rd March 1962 and ratified on 24th June 1976.

The Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will has not been signed by Finland.

2. Circulation of wills within Europe

A will is deemed valid as regards its form if it respects:

- the internal law applicable to the place where the testator made his will (local form), or
- the internal law applicable to a nationality possessed by the testator, either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his habitual residence either at the time when he made the disposition, or at the time of his death, or
- so far as immovables included in the succession are concerned, the law applicable to the place where they are situated.

In Finland, some foreign regulatory forms may, in very exceptional cases, be deemed contrary to public order or to the content of mandatory rules. Such could be the case, for example, for regulations placing men and women in unequal conditions.

A will established by a public authority from another country may be deemed valid in Finland and have the same effect as a will of the same form (or of equivalent form) established in Finland provided it complies with one of the forms provided for by The Hague Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions. Yet, as a rule, in accordance with the provisions of Finnish conflict of law regulations the applicable law to a succession is the law of the State in which the deceased had his domicile at the time of his death. Nevertheless, if the testator previously had his domicile in another State, the law of the place where the deceased had his domicile at the time of his death will only apply if the testator was a national of the related State at the time of his death or if he has had his residence in it for at least five years.

The above international law regulations do not alter whether the public authority having established the will is located within the European Union or not.

3. Types of wills

As a rule, only witnessed wills are allowed in Finland. Notwithstanding, holographic wills and oral wills may be deemed valid.

Witnessed wills are made in writing and signed by the testator in the presence of two impartial witnesses; both must be simultaneously physically present. The witnesses and the testator must sign the will.

Notwithstanding, a person who is ill or unable to make a witnessed will due to a compelling reason may draft a holographic will, handwritten and signed by himself but without the presence of witnesses. In similar compelling circumstances, it is also possible to express one's last will orally in the presence of two witnesses present at the same time. Should the

cause of the impossibility to make the will in its ordinary form cease to exist, the testator must establish a witnessed will.

4. Registration and search for wills

The settlement of a succession may take place without involvement of a law practitioner if all the beneficiaries of the succession agree. In case of difficulty, an administrator or a distributor of the estate may be appointed by the court. In case of disagreement as to the distribution of the estate, a lawsuit may be filed.

There is no register of wills administered by public authorities in Finland. During the work carried out in 2004 with a view to reforming the Finnish Succession Code, the Ministry of Justice set up a working group which supported the creation of a register of wills.

There is a register of matrimonial contracts administered by local registration offices.

In the absence of a register, the will is kept by the testator in the place of his choice. In order for the will to be found, the testator discloses its existence and reveals the place where it is kept to a trusted person. Wills are generally kept in the family, with the testator's lawyer or in a safety deposit box in a bank. Heirs can thus perform their search in these locations.

After the testator's death, disclosure of the will is mandatory. Destruction of a will is punished by law; the offender may lose his rights in the succession.

France

1. International conventions

France signed the Basel Convention of 16th May 1972 on the Establishment of a Scheme of Registration of Wills on the date it was opened for signature and ratified it on 20th September 1974.

The Hague Convention of 5th October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions was signed on 9th October 1961 and ratified on 20th September 1967 with the following reservation: "in accordance with the provisions of Article 10 of the Convention, France reserves the right not to recognize testamentary dispositions made orally, save in exceptional circumstances, by one of its nationals possessing no other nationality".

The Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will was signed by France on 29th November 1974 and ratified on 1st June 1994.

2. Circulation of wills within Europe

In accordance with the provisions of French international private law, a will is deemed valid as regards its form if it respects:

- the internal law applicable to the place where the testator made his will (local form), or,
- the internal law applicable to a nationality possessed by the testator, either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or

- the internal law applicable to the place in which the testator had his habitual residence either at the time when he made the disposition, or at the time of his death, or
- so far as immovables included in the succession are concerned, the law applicable to the place where they are situated.

Some foreign regulatory forms may be deemed contrary to public order or to the content of mandatory rules. Thus, joint wills (wills containing the testamentary disposition of two or more testators) used to be deemed contrary to French public order. It was later admitted that the joint nature pertaining to matters of form of the will, it was deemed valid as regards its form if, for example, the law of the place where the will was drafted allows this type of will. Nevertheless, the possibility remains that some forms of wills may not be deemed valid under French law (e.g. an oral will only recorded on an audio tape or file).

A will established by a foreign public authority may have the same effect in France as a will established in France. A foreign will is presumed legal and valid: it is therefore deemed valid and is enforced as long as it remains undisputed.

The above private international law regulations do not alter whether the public authority having established the will is located within the European Union or not.

3. Types of wills

Four types of wills are allowed in France: authentic wills, holographic wills, secret wills (also called sealed wills) and international wills.

Authentic wills are drawn up by a civil law notary. They are established in the presence of two notaries or of one notary and two witnesses. They are signed by the notary and by the witnesses.

Secret wills are sealed. They are deposited with a civil law notary in the presence of two witnesses. The testator, the civil law notary and the two witnesses sign the envelope containing the will.

Holographic wills are handwritten, dated and signed by the testator himself.

International wills comply with the conditions provided for by the Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will.

4. Registration and search for wills

In France, succession proceedings are carried out by civil law notaries. French consulates located in countries outside of the European Union may also discharge this function.

There is a will register: the Central Register of Testamentary Dispositions "*Fichier Central des Dispositions de Dernières Volontés"* (FCDDV), administered by the Association for the Development of Notarial Services "*Association pour le Développement du Service Notarial"* (ADSN). Definition and administration of the register are provided for by law.

Such register complies with the provisions of the Basel Convention.

Currently, civil law notaries perform most registrations and searches electronically. Electronic access is only possible for civil law notaries. Others must send a written request by postal mail.

- **Wills registration**

French civil law notaries, consuls and ambassadors only may register a will.

It is mandatory to record a will in the register in accordance with a deontological obligation.

All types of wills allowed under French law may be recorded in the register.

Registration of wills is performed by means of a record in the Central Register of Testamentary Dispositions.

Registration of a will is not legally mandatory. Nevertheless, a civil law notary may be professionally liable in case of failure to register a will that the testator wished to be registered. A testator may also wish his will not to be registered and the notary must abide by this choice while keeping the justification of this choice.

Foreign citizens may register their wills.

The following data is communicated to the register:

- Testator's family name and first name(s),
- Testator's date and place of birth,
- Testator's address,
- Name of spouse,
- Type of will,
- Date of will,
- Date of registration of the will,
- Name and address of the depository notary.

The testator is not identified by an official number.

The date of death is recorded in the register.

Amendments, withdrawals and revocations are possible in the register.

Yearly between 320,000 and 330,000 wills are registered in the central register (since 2012).

The cost of registration amounts to 8.95 Euros excluding taxes.

- **Search for wills**

The register may be queried by civil law notaries, bailiffs, lawyers, judges, public administrations, embassies and consulates, and all private persons in possession of a death certificate.
The search for a will is performed through query of the Central Register of Testamentary Dispositions.
The law doesn't impose this query. However if it can be proven that a civil law notary had knowledge of the existence of a will discovered belatedly, he may be professionally liable.

In accordance with deontological regulations, query of the register is mandatory at the time of carrying out succession proceedings.

The existence of a will must remain secret during the testator's life. As a rule, provision of a death certificate is mandatory to access the register. Nevertheless, a civil law notary querying the register electronically does not have to provide a death certificate but must certify that he has one in his possession.

The register responds to requests from foreign registers; the response time is generally relatively short. The French register is interconnected with the Belgian register through the European Network of Registers of Wills (ENRW).

Yearly between 480,000 and 492,000 searches are performed (2007 and 2008 data).

The cost of a query of the central register amounts to 12.54 Euros excluding taxes for non notaries, whichever the response, to 8.95 Euros excluding taxes for notaries in case of negative response and to 17.90 Euros for notaries in case of positive response.
These amounts remain unchanged for requests originating from abroad.

Germany

1. International Conventions

Germany signed the Basel Convention of 16th May 1972 on the Establishment of a Scheme of Registration of Wills on the date it was opened for signature. Such convention has subsequently not been ratified.

The Hague Convention of 5th October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions was signed on the date it was opened for signature and ratified on November 20th 1965.

However the Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will has not been signed by Germany.

2. Circulation of wills within Europe

According to German law a will is deemed valid as regards its form if it respects:

- the internal law applicable to the place where the testator made his will (local form), or
- the internal law applicable to a nationality possessed by the testator, either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his habitual residence either at the time when he made the disposition, or at the time of his death, or

- so far as immovables included in the succession are concerned, the law applicable to the place where they are situated.

A will established by a foreign public authority may be deemed valid in Germany and have the same effect as a will of the same form (or of equivalent form) established in Germany provided the form of such will respects the law of the place of disposition, the law of the country of which the testator was a national, the law of the place of usual residence or of domicile or the law of the place where the immovable is located.

No foreign regulatory form may be deemed contrary to public order or to the content of mandatory rules.

The above private international law regulations do not alter whether the public authority having established the will is located within the European Union or not.

3. Types of wills

In Germany, a testator may state his last wills through an authentic will, a holographic will or a testamentary contract.

Authentic wills are valid only if they are drawn up by a civil law notary.

Holographic wills are entirely handwritten by the testator himself and bear the testator's signature composed of his family name and first name(s). The testator may deposit his holographic will with a local court. This does not condition the validity of the act but ensures safekeeping of the will.

Testamentary contracts are valid only if they are drawn up by a civil law notary.

4. Registration and search for wills

In Germany, succession proceedings are carried out by judges.

There is a central will register since 2012 hosted and operated by the Federal chamber of German civil law notaries.

In addition, the Federal chamber of German civil law notaries manages the register of general powers of attorney (www.vorsorgeregister.de).

- **Wills deposit and registration**

In compliance with legal provisions, authentic wills must be deposited with the local court. This is a mere possibility for holographic wills. The wills themselves are forwarded to the court.

Thus a notary establishing a will through authentic deed must deposit such will with the court failing which he will be held professionally liable. It must also be registered with the register of wills.

Testamentary contracts can be deposited either with the local court or with the notary. It must also be registered with the register of wills.

If a holographic will is deposited with the local court, the court must register the will.

- **Search for wills**

After the testator's death the civil law notary or the court of the deposition will be advised by the register of wills of the death of the testator. The civil law notary or the court of the deposition will send the will or the testamentary contract to the court carrying out the

succession proceedings (generally the court of the place where the testator had his domicile or his habitual residence). Dissimulation and/or destruction of a will are punished by civil and criminal law under German law.

Since 2012, the national register of wills provides information about all existing wills except for holographic will which have not been deposited with a local court. The register may be queried by civil law notaries and judges only. The register informs both the probate court and the depositary in case of death ex officio.

Hungary

1. International conventions

Hungary has not signed any of the international conventions related to the form of wills and to their scheme of registration: Basel Convention of 16th May 1972 on the Establishment of a Scheme of Registration of Wills, the Hague Convention of 5th October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions and Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will.

Nevertheless some of the provisions of the Hague Convention have been included in Hungarian international private law.

2. Circulation of wills within Europe

According to Hungarian international private law, a will is deemed valid as regards its form if it respects:

- Hungarian law or,
- the internal law applicable to the place where the testator made his will (local form), or
- the internal law applicable to a nationality possessed by the testator, either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his habitual residence either at the time when he made the disposition, or at the time of his death, or

- so far as immovables included in the succession are concerned, the law applicable to the place where they are situated.

No foreign regulatory form may be deemed contrary to public order or to the content of mandatory rules.

A will established by a foreign public authority may be deemed valid and have the same effect as a will of the same form (or of equivalent form) established in Hungary provided it complies in its form with the provisions of Hungarian law, the law of the place of disposition, the law of the country of which the testator was a national, the law of the place of habitual residence or of domicile or the law of the place where the immovable is located.

The above private international law regulations do not alter whether the public authority having established the will is located within the European Union or not.

3. Types of wills

Hungarian law allows several types of wills: authentic wills, holographic wills, allographic wills, wills deposited with a civil law notary and oral wills.

Authentic wills are drawn up by a civil law notary or by a judge.

Holographic wills are handwritten by the testator.

Allographic wills (or witnessed wills) are handwritten or typed by a person who is not the testator. They must be signed in the presence of two witnesses or the testator must declare having signed it in the presence of two witnesses.

Wills deposited with a civil law notary may be sealed (they will then be assimilated to secret wills) or remain unsealed. They are not necessarily handwritten by the testator.

Oral wills are only allowed under extraordinary circumstances.

4. Registration and search for wills

In Hungary, succession proceedings are carried out by civil law notaries and by judges. The civil law notary settles the succession as would a district court, without involvement of other law practitioners. The proceedings are concluded by a decision taken by the civil law notary. In case of dispute, the heirs may refer the matter to the Court of Appeal. The heirs may thus not freely elect the civil law notary as he is appointed by law according to the date of death and to the domicile of the deceased.

There is a will register provided for by law. This register is administered by the Hungarian National Chamber of Notaries. This register also records succession contracts and gifts *mortis causa*, the provisions of which may impact the settlement and liquidation of the succession.

There is also a will register administered by the bar. Indeed in Hungary more than half of the wills are drafted by lawyers.

Negotiations are ongoing towards interconnection of the two registers.

To date lawyers may communicate the information in their possession to the register administered by the Notariat through their Chamber. The aim is to allow lawyers to register the data in their possession directly in both registers.

All registrations and searches in the register administered by the notariat are performed electronically.

- **Wills registration**

Many qualified professionals may register a will: civil law notaries, judges, lawyers and consuls.

Registration modalities vary according to the type of qualified professional involved.

Civil law notaries communicate specific data electronically to the register.

However, other professionals authorised to register wills must use a printed form which they fill in and forward to the notarial archives from where they will be registered.

It is mandatory to record wills drafted by or deposited with civil law notaries in the register failing which a civil law notary may be held professionally liable. Registration of other wills is optional.

Foreign citizens may record their wills in the register.

All wills allowed in Hungary may be recorded in the register.

The following data is communicated to the register:

- Testator's family name and first name(s),
- Testator's birth family name and first name(s),
- Testator's date and place of birth,
- Type of will,
- Date of will,
- Date of registration of will,
- Name and address of the person (notary or not) with whom the will is deposited,
- Reference number (of file or document) at the depository's.

The testator is not identified by an official number but each record receives a unique number allowing identification.

The date of death is not recorded in the register but the succession proceedings file number is recorded.

Amendments, withdrawals and revocations are possible in the register.

Yearly nearly 4,000 wills are recorded in the register.

Registration of a will in the register is free of charge.

- **Search for wills**

The register may only be queried by the civil law notary in charge of the succession proceedings. The National Chamber of Hungarian Notaries' archives may also have to query the register. Searches are performed through a secured intranet connection.

During the settlement of a succession, the civil law notary in charge of the succession proceedings must perform the search and disclose the existence of a will, failing which he may be held professionally liable. This obligation only applies to a search in the register administered by the notariat.

The existence of a will remains secret during the testator's life and provision of a death certificate is mandatory to perform a search.

The register, more precisely the archives of the National Chamber of Hungarian Notaries doesn't answer to requests from other States, due to the lack of a law allowing it.

Yearly about 94,000 searches are performed in the register.

The cost of a search is free

Poland

1. International conventions

Poland has not signed the Basel Convention of 16th May 1972 on the Establishment of a Scheme of Registration of Wills.

Poland signed the Hague Convention of 5th October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions on the date it was opened for signature and ratified it with the reservation provided for in article 12, ("Each Contracting State may reserve the right to exclude from the application of the present Convention any testamentary clauses which, under its law, do not relate to matters of succession").

The Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will has not been signed.

2. Circulation of wills within Europe

According to the private international law rules of 4 February 2011, the law governing the form of wills and their revocation is that determined by the provisions of the Hague Convention of 5 October 1961 on the conflicts of laws relating to the form of testamentary dispositions.

3. Types of will

Polish law recognises authentic wills, holographic wills as well as ordinary and special wills.

An authentic will is drawn up by a civil law notary.

A holographic will is written, dated and signed by the testator's own hand.

An ordinary will is one in which the testator declares his or her last wishes verbally in the presence of two witnesses and a representative of the local government authority: the mayor, the president of the city council, the starosta, the president of the voïvodie, the secretary of the district or municipality, or the chief registration officer. This representative records the testator's last wishes in a "verbal protocol" in the presence of the testator and the witnesses.

A special verbal will is made when there are fears that the testator's death is imminent or in exceptional circumstances where it is impossible to use the above forms of wills. In this type of will, the testator verbally declares his or her last wishes in the presence of three witnesses at the same time.

4. Registering and tracing wills

Civil law notaries and the courts are responsible for successions in Poland.

Poland has a register of wills (NORT), managed by the National Chamber of Civil Law Notaries pursuant to a directive dated 4 June 2011. The registration procedure and searches are carried out electronically. The Polish National Chamber of Civil Law Notaries also manages the register of certificates of inheritance.

- **Wills registration**

Only a notary may register a will in the NORT register, at the request of the testator. The following wills may be entered in the NORT register:

- an authentic will, drawn up by a civil law notary in the form of a notarial deed, and

- a holographic will, if it is deposited with the notary who entered it in the register.

Polish citizens, like citizens of other countries, whether or not they are members of the European Union, may request a Polish notary to register their will in NORT.

When a will is registered in NORT, the following information is communicated:

1) The entry number in the register;
2) The date of registration;
3) The place and date where the will was drawn up or deposited;
4) The first names, surname and registered address of the notary's office, and any successor, if applicable;
5) The first names and surname of the parents as well as the date and place of birth of the testator;
6) The testator's PESEL number if he or she is entered in the register of inhabitants or, otherwise, a similar register number assigned to the testator abroad.

As no additional information is entered in the register after the testator's death, the date of their death is not entered in the register.

A will can be deleted from the NORT register at the testator's request. It is also automatically deleted when the testator recovers the will from the notary with whom it was deposited.

At the current time there is no charge for entering a will in the register.

- **Search for wills**

It is possible to consult the NORT register via a civil law notary.

Anyone who has documentary proof of the testator's death may consult the NORT register via a notary who will check the document presented.

It is not compulsory to search the NORT register to trace a will. As the NORT register is managed by the professional order of notaries, the Polish Chamber of Civil Law Notaries is not competent to make it compulsory for either citizens or notaries to search the register for

a will. Notaries may only search the NORT register at the request of the testator or persons close to the latter if they have documentary proof of the testator's death. They may not carry out a search automatically or for their own purposes.

The existence of a will remains secret – even from other notaries – during the life of the testator.

Because the NORT is interconnected with foreign registers of wills within ENRW (European Network of Registers of Wills), it has been possible since 5 October 2012 to search other interconnected registers and respond to their search requests.

At the current time there is no charge for a register search. However, notaries receive a fee for activities resulting in the issuance of notarial documents, including searching for wills. The maximum amount of this fee is €50, but in practice it is generally half that amount.

A search via ENRW for a will deposited abroad is subject to an additional fee.

Romania

1. International conventions

Romania has not signed any of the international conventions regarding the form of wills and their scheme of registration: Basel Convention of 16th May 1972 on the Establishment of a Scheme of Registration of Wills, Hague Convention of 5th October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions, Washington Convention of 26th October 1973 providing a Uniform Law on the Form of an International Will.

Nevertheless some of the provisions of the Hague Convention have been included in Romanian international private law.

2. Circulation of wills within Europe

According to international private law, a will is deemed valid as regards its form if it respects:

- the internal law applicable to the place where the testator made his will (local form), or
- the internal law applicable to the nationality possessed by the testator, either at the time when he made the disposition, or at the time of his death, or
- the internal law applicable to the place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or
- so far as immovables included in the succession are concerned, the law applicable to the place where they are situated.

No foreign regulatory form may be deemed contrary to public order or to the content of possible mandatory rules.

A will established by a foreign public authority may have the same effect as a will of the same form (or of equivalent form) established in Romania provided an *apostille* is attached to the formal deed, or that the signature of the notary having established the will has been supervised by a recognized authority. Some existing bilateral agreements may exempt from these formalities.

3. Types of wills

Four types of wills are allowed under Romanian law.

Authentic wills are drawn up by a civil law notary.

Holographic wills are handwritten, dated and signed by the testator himself.

Privileged wills are drafted under extraordinary circumstances (will at sea, military will or will made in case of catastrophic event). Such a will is only deemed valid if its author dies during the course of such an extraordinary event.

4. Registration and search for wills

In Romania succession proceedings are carried out by civil law notaries and by judges.

The wills register is administered by the Romanian Notariat (The National Union of Notaries Public from Romania). Definition and administration of the register are provided for by law.

The register is computerized, but currently it is not directly accessible via internet. Registrations and searches are therefore currently performed by means of printed forms and e-mail. However, data processing is already computerized. It is expected that by the beginning of 2013, it will be possible to perform all formalities through an Internet portal.

The portal is now in beta tests, and any notary office haves the possibility to access and work with the portal, but without this to have at this moment any legal recognition (just testing the platform). The access to the portal is granted only to notaries owning digital signature tokens.

After the complete computerization of the register, interconnection with the ENRW will be possible. Some works in this direction already have been done (interconnection with RERT Light).

The Romanian Notariat administers several other registers:

- Register of succession options whereby heirs having accepted or refused the succession are listed,
- proxy revocation register,
- succession register for Romanian citizens whose domicile is abroad but whose succession is partially located in Romania.

The new Romanian Civil Code also entrusted the Notariat with the administration of the register of matrimonial contracts, of the donations register and of the register of debtors.

- **Wills registration**

A civil law notary must register the authentic will by communicating the required information to the central register.

Registration of a will in the register is mandatory in accordance with legal provisions. A civil law notary is professionally liable in case of failure to comply with this requirement. Nevertheless, only authentic wills may be registered.

Foreign citizens may record their wills in the register.

The following data is communicated to the register:

- Testator's family name and first name(s), according to his/hers birth certificate, ID card, marriage certificate, death certificate, and eventually other names/first names one may have during his life (the register keeps one distinct position for any of this),
- Date and place of birth,
- Testator's parents names and first names, according to his/hers birth certificate,
- Testator's gender,
- Testator's address,
- Testator's identification number,
- Testator's date and place of death (optional, the testator may be alive at the moment of the registration),
- Type of will,
- Date of will (year-month-day-hour-minute),
- Date and authentication number of registration of the will,
- Name and address of the depository notary.

The testator is identified by an official number.

The date of death is recorded in the register (either at the moment of processing a new entry in the registry, or on the occasion of queries).

Amendments, withdrawals and revocations are possible in the register.

Yearly about 25,000 wills are recorded in the register

Registration cost is about 5€.

- **Search for wills**

A civil law notary is in charge of carrying out the succession proceedings. At that time he is legally requested to query the register in order to gain knowledge of any testamentary dispositions the deceased may have left; failing which he may be held professionally liable.

Disclosure of a will is legally mandatory. Thus, when a civil law notary is in charge of carrying out the succession proceedings, the heirs must disclose all the wills they are cognizant of failing which they may lose their rights in the succession.

The existence of a will remains secret during the testator's life. Provision of a death certificate, or the presence of the testator himself at the notary office, is required to query the register.

Yearly about 100,000 searches are performed in the register.

The register responds to requests from and towards other States with the same response time as for national requests: 1 working day more or less.

The cost of a search amounts to around 5 Euros whether it emanates from a Romanian civil law notary, a foreign register or civil law notary.

ANNEXE

The indicative cost of registering and searching for a will in the European registers

The indicative cost of registering and searching for a will in the European registers

~ Updating November 2012 ~

Country	Registration (in euro) (legal professional fees not included if applicable)	Search (in euro)
Austria	22	Free
Belgium	25	Free
Bulgaria	0.1% of the financial value of the inherited property	NC[1]
Croatia	15	3
Cyprus	6	2
Czech Republic	12	3
Denmark	Free	Free
Estonia	32,55 exclusive of tax (38,40 inclusive of tax)	Free
France	8.95 exclusive of tax	Between 8.95 and 17.90 as the case may be[2]
Germany	- 15 when it is made by the notary -18 when it is made by court	Free

[1] NC = Not communicated.

[2] The cost of querying the Central register amounts to 12.54 euro exclusive of tax for customers who are not notaries irrespective of whether the answer is negative or affirmative, to 8.95 euro exclusive of tax if the customer is a notary and the answer is negative and to 17.90 euro exclusive of tax if the customer is a notary and the answer is affirmative.

Hungary	Free	Free
Italy	14.80 of tax + 43.86 of stamp duty	20; if search in a foreign register 28€ per queried register
Lithuania	Free	1
Luxembourg	9.92	9.92
Malta	5	11,65
The Netherlands	9	Free
Poland	Free	Free (included in a fee for activities in the issuance of Notarial documents)
Portugal	Free	Free
Romania	5	5
Slovakia	3.30	3.30
Slovenia	41	22
Spain	Free	3.47
United Kingdom	10 € approximately (£15)	NC