



CALL FOR EXPERTS

for the selection of experts to elaborate two guides containing useful information for the familiarization of the MS partners' specialists with the legal instruments and procedures in the field of international private law (family and successions matters)

1. Presentation of the project

The Romanian Ministry of Justice is currently implementing, as coordinator, the project "Improving cooperation between judges and public notaries in cross-border civil matters", financed by the European Commission under the "Civil Justice 2011" Programme.

The project, having as beneficiary the Department for International Law and Judicial Cooperation, is implemented by the Romanian Ministry of Justice in partnership with the National Union of the Notaries from Romania (UNNPR), the German Foundation for International Judicial Cooperation - IRZ) and two Associate Partners, namely the Council of the Notariats of the European Union (CNUE) and Fondazione Italiana per il Notariato (Italian Notaries Foundation - FIN).

The overall objective of the project is to improve the judicial cooperation between the legal professionals as regards the application of the EU instruments adopted on the basis of article 81 TFUE in the field of family and civil law.

The specific objective of the project is to enhance the juridical knowledge of the practitioners (public notaries and judges) in the field of international private civil and family law by means of specialized professional training, thus allowing them to properly and promptly solve the cross border cases. The project also aims at improving the contacts, exchange of information and networking between the competent authorities involved in the application of the most recent European instruments in the field of international private family and successions law.

For this purpose, the project also includes the elaboration of **two guides** containing useful information for the familiarization of the MS partners' specialists with the legal instruments and the procedures applicable in the field of international private family and successions law. The guides will be printed and distributed to the professionals in the partner states both on paper and on electronic version and will be published on the websites of the partner institutions, thus ensuring a better access for a large number of specialists.

In order to elaborate the two guides, we envisage the selection of 4 experts from the EU Member States (2 experts / guide) who will elaborate, each, a theme of the four themes proposed at point 2.





2. Selection of experts

The Romanian Ministry of Justice announces the selection of **4 experts** to elaborate **two guides** (two experts / guide) for the specialists – judges, public notaries, staff of the central institutions and other practitioners in the field of international private family and successions law.

3. Description of the results to be achieved by the selected experts

- **3.1. Elaboration of a GUIDE IN THE FIELD OF INTERNATIONAL PRIVATE FAMILY LAW**, that will comprise the following main topics:

Topic no. 1 – Legal provisions on jurisdiction in international private law and legal provisions solving the conflicts of law in family law matters (min. 50 pages). The following aspects will be tackled:

- ***A synthesis of the legal provisions on jurisdiction¹ in international private law in family matters*** (divorce, exercising the parental authority, maintenance obligations, matrimonial property regime)² – **min. 4 pages**; ***synthesis of the legal provisions solving the conflicts of laws³ in family law matters⁴*** – min. 4 pages; **theoretical aspects related to the obtaining of the content of the foreign law** through the European Notarial Network and the European Judicial Network in civil and commercial matters. **min. 2 pages.**

¹ The relevant legal provisions from:

Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility,

Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations,

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes,

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships

² Shaped as a text, as well as cascades, diagrams, rectangles, circles, arrows etc.

³ The relevant legal provisions from:

Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation,

Hague Convention of 19 October 1996 on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children (only the aspects referring to the applicable law in respect of parental responsibility and measures for the protection of children),

Protocol of 23 November 2007 on the law applicable to maintenance obligations,

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes,

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships

⁴ Shaped as a text, as well as cascades, diagrams, rectangles, circles, arrows etc.





- **10 practical cases**, with solutions included, determining the applicable jurisdiction. The cases will concern practical aspects for the public notaries (4 cases) and for the judges (6 cases). **min 20 pages**
- **10 practical cases**, with solutions included, containing the legal provisions determining the solving of the conflicts of law. The cases will concern practical aspects for the public notaries (4 cases) and for the judges (6 cases). **min. 20 pages**

It is advised that the topic should not exceed 60 pages.

Topic no. 2 – The exequatur procedure applied in family law matters (min. 50 pages). The following aspects will be tackled:

- **Theoretical aspects related to the exequatur procedure applied in family law matters (divorce, exercising the parental authority, matrimonial property regime, the changing of the name after divorce, the protection order)⁵. The removal of the exequatur in family law matters (the return of the child, exercising the right to visit). min. 5 pages;**
- **Theoretical aspects related to the exequatur procedure applied in family law matters (maintenance obligations)⁶. The removal of the exequatur. The administrative cooperation between the central authorities.– min. 5 pages;**
- **13 practical cases, with solutions included, containing the exequatur procedure applied in the field of family law (divorce, exercising the parental authority, matrimonial property regime, the changing of the name after divorce, the civil protection order).** The cases will concern

⁵ The relevant legal provisions from:

The Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility,

The Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations,

The Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes,

The Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships,

Other legal provisions from:

Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters,

The proposal to reduce bureaucratic aspects for citizens, promoting the free movement of public documents and the recognition of the effects of civil status,

⁶ Relevant legal provisions from:

The Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, Convenția de la Haga din 23 noiembrie 2007 privind obținerea pensiei de întreținere în străinătate pentru copii și alți membri ai familiei.

Other relevant provisions of the following documents:

Proposed Regulation of the European Parliament and Council for creating a European Account Preservation Order (EAPO) to facilitate cross-border debt recovery in civil and commercial matters

Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims

Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure.

The Lugano Convention of 30 October 2007:





practical aspects for the public notaries (5 cases) and for the judges (8 cases).
min. 25 pages

- **7 practical cases, with solutions included, containing the exequatur procedure applied in the field of family law (maintenance obligations).** The cases will concern practical aspects for the public notaries (3 cases) and for the judges (4 cases). **min. 15 pages.**

It is advised that the topic should not exceed 60 pages.

- **3.2. Elaboration of a GUIDE IN THE FIELD OF INTERNATIONAL PRIVATE SUCCESSIONS LAW**, that will comprise the following main topics:

Topic no. 3 – Legal provisions on jurisdiction in international private law and legal provisions solving the conflicts of law in successions law matters (min. 50 pages)

- **Theoretical aspects related to the jurisdiction in international private law in successions law matters** (including the interaction with the matrimonial property regime, successions involving real estates)⁷ - **min. 4 pages;**
theoretical aspects related to the legal provisions solving the conflicts of laws in successions law matters (including the interaction with the matrimonial property regime, drawing up the wills)⁸ – **min. 4 pages;**
theoretical aspects related to the obtaining of the content of the foreign law through the European Notarial Network and the European Judicial Network in civil and commercial matters. **min. 2 pages;**
- **11 practical cases**, with solutions included, determining the applicable jurisdiction. The cases will concern practical aspects for the public notaries (5 cases) and for the judges (6 cases). **min. 20 pages;**
- **11 practical cases**, with solutions included, containing the legal provisions determining the solving of the conflicts of law. The cases will concern practical

⁷ Relevant provisions of the following documents:

Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 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

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships

⁸ Relevant provisions of the following documents

Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 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 an European Certificate of Succession

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships



aspects for the public notaries (5 cases) and for the judges (6 cases). **min. 20 pages.**

It is advised that the topic should not exceed 60 pages.

Topic no. 4 – The exequatur procedure in successions law matters (min. 50 pages)

- ***Theoretical aspects related to the exequatur procedure applied in successions law matters*** (including the interaction with the matrimonial property regime)⁹ – **min. 5 pages**; ***theoretical aspects related to the issuing procedure of a European certificate of succession***¹⁰ - **min. 5 pages**;
- **11 practical cases**, with solutions included, concerning practical aspects for the public notaries (5 cases) and for the judges (6 cases). **min. 20 pages**;
- **11 practical cases**, with solutions included, concerning practical aspects for the public notaries (5 cases) și pentru judecători (6 cases). **min. 20 pages**.

It is advised that the topic should not exceed 60 pages.

4. Experts' profile

Each expert applying for this assignment will chose **one out of the four topics** presented above. For each topic, the experts must comply with a certain profile in terms of required qualifications, abilities and of specific professional experience necessary for performing the task, as follows:

- **For Guide no.1 (topics no.1 or no.2) in the field of international private family law (divorce, exercising the parental authority, maintenance obligations, matrimonial property regime, the changing of the name after divorce, the protection order)**

Requirements at minimal level

- University degree in Law;

⁹ Relevant provisions of the following documents:

Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 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

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes

Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships

¹⁰ Relevant provisions of the *Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 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*





- Minimum 7 years of general professional experience following the graduation of the Law School;
 - Minimum 5 years of professional experience in the civil law field (divorce, exercising parental authority, maintenance obligations, matrimonial property regime, the change of name after the divorce, the protection order, other law institutions provided by the EU Regulations in the field of the project, etc.), as a judge, notary, university professor, trainer for the law practitioners;
 - At least 2 publications (articles, reviews, studies, reports, thesis, etc.) on the topics which also include those of the Guide, namely international private family law (in matters such as: the divorce, exercising the parental authority, maintenance obligations, matrimonial property regime, the changing of the name after divorce, the protection order, etc.);
- **For Guide no.2 (topics no. 3 or 4) in the field of international private successions law**

Requirements at minimal level

- University degree in Law;
- Minimum 7 years of general professional experience following the graduation of the Law School;
- Minimum 5 years of professional experience in the civil law field (successions matters), as a judge, notary, university professor, trainer for the law practitioners;
- At least 2 publications (articles, reviews, studies, reports, thesis, etc.) on the topics which also include those of the Guide, namely international private successions law.

The chosen topic will be drafted in one of the following languages depending on the expert's choice: English, French, German or Romanian. The final integrated versions of the guides will be translated into the above mentioned languages.

5. Deadline for submitting the assignment

The experts will submit their contributions to the elaboration of the best practice guide to the Romanian Ministry of Justice, **within 2 months starting from the signing of the contract.**

6. Provisions regarding the performance of the requested activities:

The experts will assume full responsibility for the performance of the activities described in the present call for experts within the deadline set and by observing professional standards required. Failure to meet the above mentioned conditions will allow the Romanian Ministry of Justice to either terminate the agreement concluded with the experts or will result in penalties equivalent to the damage caused by the





non performance of the obligations undertaken, according to the agreement concluded with selected experts.

7. Financial offer:

In order to elaborate the contributions to the two guides, each expert is entitled to receive, depending on the actual performance of the tasks, as calculated by timesheets, maximum 350 Euro/ day for 8 working days.

The experts will indicate in the notice of intent that will be sent to the Romanian Ministry of Justice their financial offer for the requested fee/working day.

8. Procedural aspects

Selection of experts – documents that are requested to be sent by the candidates:

In order to demonstrate the compliance with the requirements presented above, the experts will submit the following documents:

- ✓ Copy of the diploma/s of the university degree;
- ✓ Copy of the identity card;
- ✓ Curriculum vitae (Europass format, signed – in pdf format), comprising references and contact details of the persons that might provide relevant information on the expert's activity. The CV will also reflect the fulfilling of the minimum requirements.
- ✓ List of publications
- ✓ For the experts choosing to elaborate the material in another language than their mother tongue, documents proving the excellent knowledge of the chosen language and, in case of absence of such documents, declarations stating that the expert has an excellent command of that language;
- ✓ financial offer regarding the requested fee/working day

NOTE: The evaluation committee reserves the right to require, during the evaluation of the candidates, relevant documents proving the fulfillment of the requirements concerning professional experience (e.g. employment certificate/ certificate attesting the experience in the field of civil law, etc.).



Following the finalization of the public selection procedure, the selected experts who reside on the territory of other MS than Romania will be also asked to provide a tax residence certificate¹¹ and a VAT registration code¹².

Payment:

The payment of the fees will be made considering the actual performance of the tasks by the experts and upon filling in the following documents: (i) invoice (ii) time sheet and (iii) receipt. The templates of these documents will be put at the experts' disposal by the Project Coordinator (the Romanian Ministry of Justice).

Payments for work delivered shall be made only after the two guides are approved by an evaluation committee composed of representatives of the project partners.

9. Special conditions

Ownership / use of the results:

The experts elaborating the guides will transfer the ownership of the results of the action, including industrial and intellectual property rights, to the Project Coordinator (the Romanian Ministry of Justice) and to their legal successors. Thus the Romanian Ministry of Justice and their legal successors will have the exclusive right to publish, multiply, distribute and translate the guide, under the provisions of the contract concluded between the parties.

The guides elaborated by the experts will also be sent to the European Commission and the project partners, who have the right to use the results of the project as they deem fit.

Clauses in respect of non-performance/mis-performance of the activities:

In case of **non-performance/mis-performance** of the activities, the owed fees will not be paid to the experts. Moreover, the expert will be held responsible for the non-performance/miss-performance of the activity, depending on the damage caused.

¹¹ For the purpose of avoiding the double payment of taxes on Romanian territory and also on the territory of the Member State where the selected experts reside, they should provide the Project Coordinator (the Romanian Ministry of Justice) with tax residence certificates issued by the competent body from the Member State country where the experts reside. In case that such a document is not provided by the expert, a tax in the amount provided by the Romanian law will be applied to the fees owed to the expert.

¹² A VAT registration code will be provided by those experts (either natural or legal persons) who are registered for VAT purposes. In case experts are not registered for VAT purposes an explanation must be given for the reason why they are not registered as such (e.g. by providing an official document issued by the competent body from the Member State country where the expert resides that confirms that he is not a VAT payer or is exempted from VAT payment).



The expert shall not be held in breach of his obligations as provided for at point 3 of the present call for proposals if he/she is prevented from fulfilling them by force majeure. The expert shall make every effort to minimise any damage due to force majeure.

Force majeure shall mean any unforeseeable exceptional situation or event beyond the expert's control which prevents him/her from fulfilling any of his obligations under the present call for proposals, was not attributable to error or negligence from his/her part and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available (unless due to force majeure), labour disputes, strikes or financial difficulties cannot be invoked as force majeure by the defaulting party. If such a situation occurs the expert shall inform about it, in writing and without delay, the Romanian Ministry of Justice, stating the nature, probable duration and foreseeable effects.

10. Final provisions and contact details

The present terms of reference shall form part of the agreement concluded between the Ministry of Justice of Romania and the selected experts.

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