



**Hungarian National Assembly  
Committee on European Affairs**

**Opinion  
of the Committee on European Affairs of the Hungarian National Assembly  
concerning the subsidiarity check**

of the Proposal for Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession

COM (2009) 154, 2009/0157/COD

By virtue of Paragraph 1 of Article 134/D of the Standing Orders of the Hungarian National Assembly, the Committee on European Affairs is competent to examine the enforcement of the principle of subsidiarity in the draft legislations of the European Commission.

The Committee on European Affairs discussed the Proposal on its meeting of 17 November 2009.

The Committee on European Affairs welcomes the goals of the Proposal concerning the establishment of harmonised rules in the field of cross-border succession issues. The Committee agrees that the current number of possible positive and negative conflict of laws and jurisdictions in cross-border cases should be reduced in order to guarantee legal certainty and equal legal protection.

The Committee underlines that mutual recognition of judgments and mutual trust between the Member States' authorities concerned are the prerequisites for the effectiveness of the Proposal. The Committee emphasizes that the Proposal should contribute to the abolishment of the current limitations with regard to the full exercise of private property rights in cases involving cross-border successions.

The Committee finds that the chosen legal basis, Article 61 c) and the second indent of Article 67(5) of the EC Treaty provide sufficient ground for cooperation in this field.

The Commission's obligation to justify the respect for the subsidiarity principle seems to have been fulfilled since the Explanatory Memorandum, the Preamble and the attached Impact Assessment contains a declaration and brief reasoning on the necessity and added-value of the Proposal. The Committee recognises that Community-level measures may bring real added-value to the current practice and the daily life of the EU citizens.

The Committee on European Affairs calls the attention to the necessity of the respect of Member States' national traditions in the field of successions. In particular, it is necessary to

assure that the Proposal does not have any impact on the national substantive regulations concerning the effects of *inter vivos gifts*.

It also should be pointed out that the relations between the European Certificate of Succession to be introduced by the Proposal and decision issued by competent national authorities should be clearly determined since the eventual difference in the content of these types of documents may lead to legal uncertainty.

Finally, the Committee finds that the consistency between the definitions of habitual residence applied by the Proposal and the term “residence” used in national regulations should be examined.

The Committee concludes that **the breach of subsidiarity was not found** since the Proposal respects the relevant competence of the Member States.

Budapest, 17 November 2009