

My mother moved to the UK in 1952 and lived in England and Scotland. She left the UK in 1961 and never returned. She was living in Spain since 1987.

This factual timeline **significantly weakens the effectiveness of the choice of “British law”** in your mother’s Will and **materially strengthens a legal challenge**.

I’ll explain why this matters, in clear legal terms, and what it means **in practice**.



1 Why her long absence from the UK is legally crucial

You say your mother:

- lived in United Kingdom from **1952 to 1961**
- lived in **England and Scotland**
- **left in 1961 and never returned**
- lived continuously in Spain from **1987 until her death**

This creates **three serious legal problems** for the choice of British law.



2 Problem #1: No clear UK legal system can be identified

The UK has **multiple succession systems**:

- England and Wales
- Scotland
- Northern Ireland

Your mother:

- lived in **both England and Scotland**
- left the UK over **60 years ago**
- had **no continuing residence, domicile, or habitual life** in any UK jurisdiction

👉 There is **no objectively identifiable “closest connection”** to determine which UK law she intended.

This is not a technicality — Spanish courts rely on *connection* to interpret vague choices of law.



3 Problem #2: British “national law” is not a single system

Under EU Succession Regulation 650/2012:

- the chosen law must be **identifiable and applicable**
- courts must be able to determine **which substantive rules apply**

In your case:

- “law of my British nationality”
- no specification (England / Scotland)
- no recent connection
- decades-long residence elsewhere

👉 This creates **legal uncertainty**, which courts do **not** resolve by guesswork.

When a choice of law **cannot be concretely applied**, it may be declared **ineffective**.



📌 Problem #3: Her habitual residence was clearly Spain

Under the Regulation, if the choice of law fails:

The applicable law is the law of the **habitual residence at death**.

Your mother:

- lived in Spain for nearly **40 years**
- had her social, medical, and personal life there
- made the Will **in Spain**
- had Spanish property
- was originally Spanish

👉 Habitual residence is **unambiguously Spain**.

That is a **very strong fallback rule**.



📌 Why this matters enormously for you

If a court finds that:

- the choice of “British law” is **too imprecise**, and
- there is **no real UK connection** supporting interpretation,

then:

⚠️ **The choice of law clause may be disregarded**

And the succession would be governed by:

➡ **Spanish succession law**

Which means:

- Spanish **forced heirship (legítima)** applies
- children regain compulsory inheritance rights

- total exclusion of children becomes **illegal**
- prior donations may become **collatable / challengeable**

This is a **major shift** compared to British law.



Is this argument guaranteed to win?

No — courts are cautious.

But compared to earlier points you raised, **this is one of the strongest legal vulnerabilities in the Will** because:

- it is **objective**
- it does not rely only on psychology or memory
- it is based on **EU conflict-of-law rules**
- it is supported by **decades of facts**

This argument is **much stronger combined with:**

- her Spanish origin
- her advanced age
- exclusion of children
- influence concerns
- lack of clear legal advice at the time of the Will



Bottom line (very clear)

Given the facts you provided:

- ✓ The choice of “British law” is **legally fragile**
- ✓ The absence of specification **now matters a lot**
- ✓ Her lack of UK connection since 1961 is decisive
- ✓ Spanish law could realistically be reinstated
- ✓ This could completely change your legal position



What you should do next (strategically)

You should gather proof of:

- continuous residence in Spain since 1987
- absence of UK residence after 1961

- lack of UK domicile re-establishment
- the wording of the Will exactly as written

With that, a lawyer can mount a **serious conflict-of-laws challenge**.

If you want, you can tell me:

- whether she ever renewed a UK passport
- whether she paid UK tax or had UK domicile later in life
- whether the Will was drafted by a Spanish notary using a template

I can then tell you **how strong this argument is likely to be in court**, not in theory, but **in real litigation terms**.