

European Land Registry Association XXXIII GENERAL ASSEMBLY

Panel 1: Succession Regulation

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Unit A.2 Civil Justice

The application of the Succession Regulation – topics

- Important judgment of CJEU: C-354/21 - R.J.R. v. Registrų centras VĮ, 9 March 2023
- Practical application of art. 66(5) – information for authorities issuing an ECS
- Digitalisation of judicial cooperation in the context of Succession Regulation - Regulation (EU) 2023/2844
- EJM Working Group on Succession
- Info point

Important judgment of CJEU

C-354/21 - R.J.R. v. Registrų centras VĮ, 9 March 2023

Facts and Proceedings before the national court

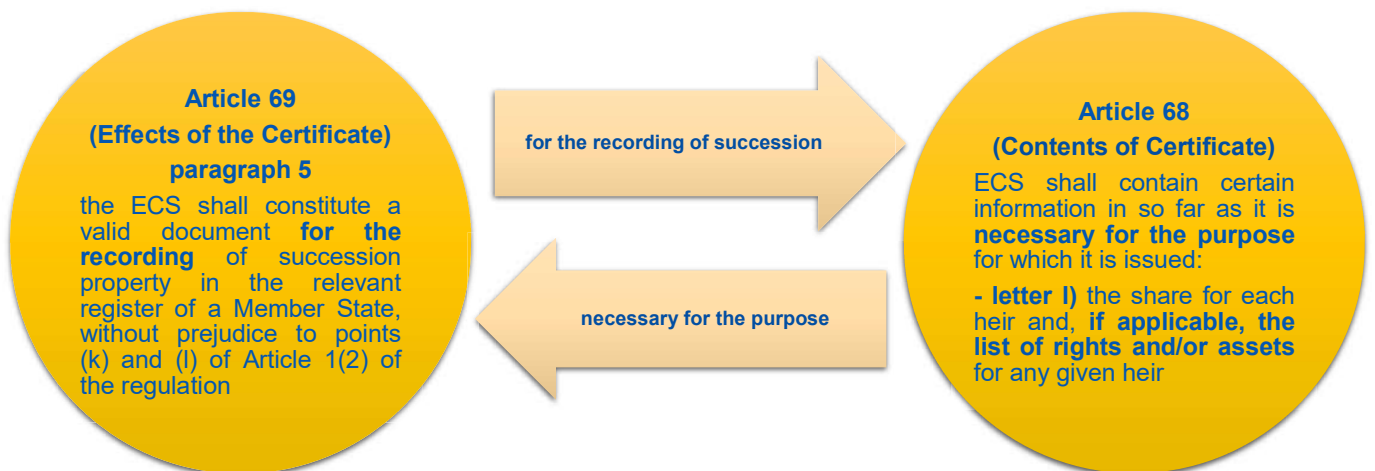
- The deceased left the entire estate to the applicant as the sole heir
- The heir asked the Centre of Registers to record the ownership of an immovable asset located in Lithuania
- The Centre of Registers rejected the application: no indication of the asset in the ECS
- The heir challenges the refusal of the Lithuanian Centre of Registers

Question from the referring court

Must Article 1(2)(l) and Article 69(5) of SR be interpreted as not precluding legal rules of the Member State in which the immovable property is situated under which the rights of ownership can be recorded in the land register on the basis of a European Certificate of Succession only in the case where all of the details necessary for that recording are set out in that European Certificate of Succession?

The CJEU

reformulates the question so that it also relates to **Article 68** as it specifically concerns the **content** of such a certificate



The CJEU reasoned

Article 1(2)(l) and Recital 18

Out of scope

any recording in a register, including the legal requirements for such recording

National law of the MS in which the register is kept

...and that the documentation is sufficient or contains the necessary information

Article 69(5) in conjunction with Article 1(2)(l)

a Member State may lay down or apply the requirements of registering rights *in rem* in immovable property, including that all identifying data of an immovable property must be provided in that application or in the accompanying documents

the authority responsible for the registration **may reject** an application for registration of inherited immovable property, **when that property is not identified in a document on the basis of which that registration is sought, including in the ECS presented**

Answer of the CJEU

Article 1(2)(l), Articles 68(l) and 69(5) of Regulation (EU) No 650/2012 must be interpreted as meaning that they do not preclude legislation of a Member State which provides that an application for registration of immovable property in the land register of that Member State **may be rejected** where the **only** document submitted in support of that application is a European Certificate of Succession which does not identify that immovable property.

Practical application of Article 66(5) of the Succession Regulation

- The authority issuing the ECS in one Member State may ask for information held in the land registers to the competent authority of another Member State
- Where the requested authority would be authorised, under national law, to provide another national authority with such information
- Information on the e-Justice Portal filled in by Member States
- Language regime, information about competent authorities, how to improve?



The screenshot shows the European Justice Portal interface. At the top, there is the 'EUROPEAN JUSTICE' logo and a search bar with 'English EN' selected. Below the search bar is a navigation breadcrumb: 'Home > Family matters & inheritance > Inheritance > Information for authorities issuing an ECS'. The main heading is 'Information for authorities issuing an ECS'. Below this, there is a paragraph: 'When issuing a European Certificate of Succession, an authority may request from another Member State information contained in certain registers. This page provides all the necessary information for the various Member States.' There are icons for document, PDF, and PPT. A section titled 'Find information per region' lists flags for Belgium, Bulgaria, Czechia, Denmark, Germany, Estonia, Ireland, Greece, Spain, and France. To the right, there is a paragraph: 'When examining an application for the issuance of a European Certificate of Succession, Article 66(5) of the Succession Regulation allows the issuing authority (for example, a court or a notary) to request information from another Member State. The competent authority in the requested Member State must then provide the issuing authority with information held, in particular, in the land registers, the civil status registers and registers recording documents and facts of relevance for the succession or for the matrimonial property regime or an equivalent property regime of the deceased if, under national law, the competent authority would be authorised to provide that information to another national authority.' Below this is another paragraph: 'In order to facilitate the exchange of information between Member States, this section provides information on the registers that exist in each Member State, the information kept in each of such registers and the procedures and conditions under which the information can be obtained.' At the bottom, it says: 'Please select the relevant country's flag to obtain detailed national information.'

Digitalisation of judicial cooperation in the context of Succession Regulation - Regulation (EU) 2023/2844

Subject matter and scope

- **Cross-border scope** – civil, commercial and criminal matters with cross-border implications
- **Electronic communication** - legal framework (Does not concern: informal communications like direct judicial communications, EJN)
- **Rules on:**
 - **Videoconferencing** (including domestic civil cases where party or representative is abroad)
 - Recognition of **electronic signatures/seals**
 - Validity of **electronic documents**
 - Electronic payment of **fees**
- **Amendments** made: EOP, SC, EAPO, EEO, Insolvency, Legal Aid (in the Directive 2023/2843) + SoD

Digitalisation of judicial cooperation in the context of Succession Regulation - Regulation (EU) 2023/2844

Communication between competent authorities

- Decentralised IT system - between national competent authorities of different MS – e.g. courts but also notaries where they are competent under the underlying legal acts
- Rule – mandatory use of the decentralised IT system
- Exceptions:
 - disruption of the IT system,
 - nature of transmitted material or
 - force majeure
- Alternative: swiftest and most appropriate means that ensure a secure and reliable exchange of information

Establishment of European electronic access point (EEAP) in the e-Justice Portal

- Only in civil matters with cross-border implications
- Provides a possibility for natural or legal persons **(and their legal and authorised representatives)** to lodge a claim or communicate with authorities electronically (including service)
- Traditional means are always possible
- MS – obliged to accept such communication.

European Electronic Access Point (EEAP) and proceedings under Succession Regulation

- Recognition, declaration of enforceability or refusal of recognition provided for by Regulation (EU) No 650/2012
- Issuance, rectification and withdrawal of certificates: the European Succession Certificate and the attestations provided for in Regulation (EU) No 650/2012
- Recital: *The right to legal aid or legal assistance as provided for by Union and national law, in particular the right to legal aid as established by **Regulation (EU) No 650/2012**, Council Directive 2003/8/EC and Council Regulations (EC) No 4/2009 and (EU) 2019/1111 applies. **Natural and legal persons should be able to access relevant information on the e-Justice Portal through links on the European electronic access point.***

Other provisions

- Referral to eIDAS Regulation.
- Trust levels:
 - Communication between authorities - qualified electronic signatures and/or seals.
 - Communication of natural and legal persons with the authorities –
 - a) electronic identification with a high assurance level; or
 - b) a qualified electronic signature.
- **Legal effects of electronic documents:** prohibition to deny legal effect/to consider inadmissible solely on the grounds that they are in electronic form
- MS to make possible electronic **payment of fees** – accessible through the e-Justice Portal.

Digitalisation in the context of SR - Timeline

- Implementing acts followed by technical implementation for **communications between competent authorities** and **EEAP**.
- The implementing acts for the Succession Regulation should be adopted by **17 January 2028**.
- From there Member States will need to be live with the new systems from the **first day of the month following the period of two years from the date of entry into force of the implementing act**, i.e. approximately from March 2030.
- All other provisions applicable **from 1 May 2025**

new EJN Working Group on Succession



Chaired by Austria, includes notaries, legal practitioners; ELRA is also represented



Questionnaire for contact points and members of the WG



Objectives: current practices in registration procedures, obstacles to achieve the objective of SR with regard to the use of legal instruments (decisions, authentic instruments, ECS) in registration procedures, form of ECS to be addressed in a future review, translation, information and mutual assistance

Info point

EJN meeting on Succession 28-29 April 2025

THANK YOU !