

Implementation of EU instruments: study on Succession Regulation. Feedback of the European Commission Working Group

ELRA

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Mihail Taus –President of the European Land Registry Association (ELRA

Dr Marta Rekawek – Pachwicz – ELRA's representative to the EJN Working Group on Succession, EC
Coordinator for international cooperation District Court in Bialystok, Poland



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ELRA Report on the application of the Succession Regulation

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EJN Working Group Succession Law

– ELRA's Contribution: the map



The idea of the Report is to develop a specific map based on the *lex rei sitae* principle and the national laws of individual Member States, identifying two key issues:

- the identification of the most typical, national requirements for the ECS registration in the land registry, e.g. identification of assets, identifications of all heirs, identification of shares for each heir, valid copy, validation of issuer or legal translation and some additional issues as mandatory registration, additional documents, constitutive effects and tax document
- reasons of rejection of applications for registration of the European Certificate of Succession (ECS)

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– ELRA's Contribution: assumptions



Assumptions of the research on national requirements to register rights on real estate in a cross-border context – aim, methodology and representative sample:

- practical issue presented in Question 8.2 analysed in relation to registration practice in the Member States and the relationship between:

EU law (the Regulation) vis. national law (lex rei sitae v. lex registrationis)

- detailed survey via European Land Registry Network by CPs (professionalisms, experts),
- written responses submitted by **19 ELRN member organisations** presenting the actual state of play in a **total of 18 Member States**, i.e. Austria, Bulgaria, Cyprus, Estonia, Finland, Hungary, Ireland, Italy, Latvia, Lithuania, The Netherlands, Poland, Portugal, Romania, Spain, Slovakia and Sweden.

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– ELRA's Contribution: summary of 1st key issue national requirements (description)



The survey's summary of the first key issue—national requirements for registration—is presented in Table 1, which illustrates these requirements and proposes solutions to enable a more flexible approach within the ECS:

- registration requirements of each Member State,
- what should be included in the European Certificate of Succession in any of its part (Annex V),
- the inclusion of this information should be displayed as an additional field in the ECS (Annex V), combined with the information coming from the individual national orders e.g. on the e-Justice portal or in another user-friendly form (e.g. an annex to the instructions on the form, instruction on an ECS).

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- ELRA's Contribution: summary of 1st key issue
- national requirements (map)

Table 1. National requirements for registration of rights in the land registers under the ECS

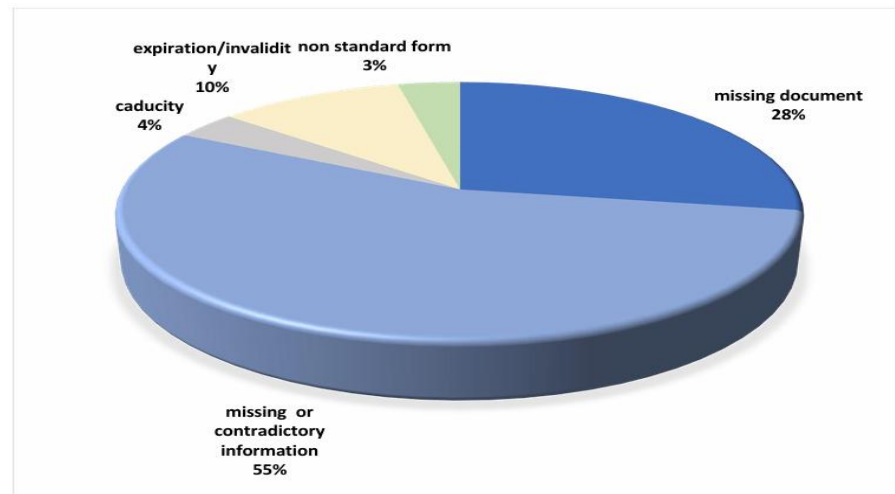
COUNTRY	NATIONAL REQUIREMENTS									
	IDENTIFICATION OF ASSETS	ALL HEIRS	ALL SHARES	VALID COPY	VALIDATION OF ISSUER	LEGAL TRANSLATION	MANDATORY REGISTRATION	ADDITIONAL DOCUMENTS	CONSTITUTIVE EFFECT	TAX DOCUMENT
AUSTRIA	X	X	X*	X	X	X	X			
BULGARIA				X	X	X	X	X	X	
CYPRUS	X	X	X	X	X	X	X**	X		X
ESTONIA		X		X	X	X		X	X	
FINLAND	X***	X	X				X			
HUNGARY	X	X		X		X	X	X	X	
ITALY-Servizio Libro Fondario e Catasto – Provincia Autonoma di Trento	X****		X	X	X	X	X	X		
LATVIA	X									
LITHUANIA	X	X	X	X	X	X	?	X	X	
MALTA								X		
THE NETHERLANDS		X	X	X	X					
POLAND	X	X	X	X	X	X	?			
PORTUGAL	X	X	X	X	X	X	X	X*****		X
ROMÂNIA The Romanian Land Registry Association	X	X	X	X		X	X			
ROMÂNIA - National Agency for Cadastre and Land Registration	X	X	X	X		X	X			
SLOVAK REPUBLIC	X	X	X	X				X		
SPAIN	X	X	X	X	X	X		X		X
SWEDEN							X	X		

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– ELRA's Contribution: summary of 2nd key issue (mistakes' identification)

Diagram 2 is based on identification the most common mistakes/deficiencies made in applications for registration of a right in the land register using ECS as the basis for entry.

Diagram 2. ECS form deficiencies causing an obstacle to registration in LR national procedure



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– ELRA's Contribution: summary of 2nd key issue (mistakes' identification in details - table 3)

Table 3. The reasons of rejection of applications of ECS in transnational procedures

What were the reasons, If applications for registration of ECS were rejected?	Country
1 Assets do not exist or cannot be found or have been forwarded by the deceased persons before	AU
2 Caducity	ES
3 Lack of precise information	ES
4 Internal contradiction in ECS	ES
5 Contradictions of facts and legal considerations included in the ECS with other evidences	ES
6 Not all mandatory are filled in	NL
7 ECS differs from the standard form V	NL
8 Pages are missing	NL
9 The declaration of the competence of a foreign notary is lacking	NL
10 ECS is not translated in the dutch language	NL
11 Not all the annexes that ae applicable are submitted for registration	NL
12 The main reason is that a unique number of the real property object related to the registration is not specified in the certificate.	LITH
13 The issuer is not clear	EST
14 The registration application is not added	EST
15 Missing data	EST
16 Form not fully filled	IT LF
17 Lack of personal data	IT LF
18 Missing translation of free text	IT LF
19 No hereditary shares	IT LF
20 In case of legacy, missing identification of ther asset	IT LF
21 Expiration of the validity term	IT LF
22 Expiry of 6 month validity period	PL
23 Lack of tax documents	PT
24 Lack of identification of assets	PT
25 Lack of legal representation of minors	PT
26 The share due to the heirs from the succession patrimony	RO
27 Ecs does not contain data regarding the identification of inherited assets	RO
28 Lack of data (natural identifxation data, home address, pin, property address)	HU
29 Invalidity of ECS	HU

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– ELRA's Contribution: Summary



Conclusions of ELRA's Report:

- Succession law is very diverse in the EU Member States, so it is important to have a proper understanding of the type and consequences of succession actions
- The great diversity of national law requirements in the area of land registrations, due to different legal traditions and histories - the principle of *lex rei sitae* linked to the law of a particular register
- The subject of the ECS and the information contained, and the legal effects gives rise to it also in the sphere of registration of rights to immovable property
- ECS should be explored in greater depth, in terms of both the popularity and its problematic nature
- Study on effect of ECS by registration would have ensured the smooth use of this instrument
- The e-Justice Portal plays a very important and positive role in this respect, but it is not always sufficient

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– ELRA's Contribution: Summary



Conclusions of ELRA's Report:

- ECS plays an important role in the legal process of registering the right to real estate in the national land registers
- Trans-national information concerning the properties, forming part of the estate should be collected, analysed and completed, what will help to prevent problems of entry in the land register
- It is important that the ECS captures information that considers national specificities
- Information from the CPs of the Member States made available on the e-Justice Portal will help issuing authorities to individualize a specific ECS across borders
- It is a pity that there is not yet a central register of ECS issued



EJA Meeting on Succession in Brussels, April 2025

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EJN Meeting on Succession in Brussels, April 2025



European Judicial Network in civil and commercial Matters, 100th Meeting of the Contact Points on Regulation 650/2012 on Succession – 28-29 April 2025, Brussels

- ☐ the meeting took place on 28-29 April 2025 in Brussels with web streaming and in-person (130)
- ☐ different ongoing topics:
 - ✓ update on the EJN activities: a new version of the eJustice Portal (went live on 03/03), updated Taking of Evidence Practice Guide,
 - ✓ digitalisation Regulation and overview of the digitalisation process in the field of civil judicial cooperation digitalisation process of Succession Regulation is planned for the 3rd batch (17/01/2028)

EJN Meeting on Succession in Brussels, April 2025



Update on the work of the EJN Working Group on Succession

- ❑ Presentation of the Swiss new International Succession Law, which entered into force on 01/01/25
- ❑ Presentation of the European Land Registry Association (ELRA) **Report on the application of the Succession Regulation** by Mihail Taus and Marta Rekawek-Pachwicewicz
- ❑ Presentation of the European Notarial Network handbook on Successions
- ❑ Presentation of the European Notarial Network Transnational Forum - Alpe-Adria Seminar: daily practice issues on the implementation of the Succession Regulation
- ❑ Overview of recent CJEU case law:
 - CJEU, 23 January 2025, C-187/23 – E.V.G.T. v P.T. and Others (Albausy)
 - CJEU, 7 November 2024, C-291/23 – LS v PL (Hantoch)
 - CJUE, 27 March 2025, C-57/24 - BA + EQ, CJ, LF, AA (Lawida)
 - CJUE, C-873/24 – GK, NU, TZ, MV, UK (Marwanak) (*pending case*)

EJN Meeting on Succession in Brussels, April 2025



☐ **Meeting of the Working Group of Succession**

- the Group's work agenda in terms of time and subject matter – end till 1/2026
- EJN-civil Working Group Succession Draft summary of replies to the questionnaire EU Succession Regulation and Registers, practically in its entirety concerns the registration of ECS in land registers as the basis for entry in cross-border situations
- the need to support the dissemination of the instrument through the potential substantive and informational involvement of the ELRN: future challenge?

☐ **Discussion on the application of the Succession Regulation**



ERA Annual Conference on Succession in Trier, May 2025

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ERA Annual Conference on Succession in Trier May 2025



Report on Annual Conference on European Succession Law Trier & Online by ERA in Trier, Germany (www.era.int), 22-23 May 2025 by Marta Rekawek-Pachwicz

- ERA Conference addressed practical problems in succession planning, particularly with cross-border implications
- 10 years of application of the EU Succession Regulation made a summary the effects of this instrument in the Member States and answer the following questions:
 - How does the Regulation work in practice?
 - What have been the crucial judgments of the Court of Justice?
 - Participants: lawyers in private practice and notaries involved in succession planning, judges, ministry officials and academics from different EU countries and UK - 29 participants in Trier and 17 participants on-line

ERA Annual Conference on Succession in Trier May 2025



The agenda divided into six main thematic blocks:

- case law (I)
- family law and succession law (II)
- intestate rights (III)
- protection of adults (IV)
- forced heirship (V)
- the way forward (VI)

The presentations were based on practical examples and real situations that had occurred in Member States in the area of cross-border succession.

The importance of the work of experts supporting the Commission within the Succession Working Group, which is actively involved was emphasized .

The next Annual ERA Conference on Transnational Succession will take place in mid-2026 in Barcelona.



THANK YOU FOR YOUR ATTENTION!



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