



THIS PROJECT IS CO-FINANCED BY THE EUROPEAN UNION

# EUROPEAN CERTIFICATE OF SUCCESSION

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# INTRODUCTION

- Cross - border succession – high complexity:
  - from divergences in the substantive rules, the procedural rules and the conflict rules applicable in the Member States
  - increasing number of marriages between nationals of the different Member States
- original twin-track solution:
  - acts under national law can also be enforced in an other MS
  - introduces a completely new instrument the European Certificate of Succession (ECS): a sui generis Union legal instrument
- High cost, high value system
- Flexible system
- Recitals 67 - 72



# EUROPEAN CERTIFICATE OF SUCCESSION

- Chapter VI. of the Regulation (650/2012 EU Regulation)
- Authentic instrument
- Optional : **Article 62. 2.**



# DEFINITION

- **Article 63:**

The Certificate is for use by heirs, legatees having direct rights in the succession and executors of wills or administrators of the estate who, in another Member State, need to invoke their status or to exercise respectively their rights as heirs or legatees and/or their powers as executors of wills or administrators of the estate.

- Certificate may be used to demonstrate :
  - the status and/or the rights of each heir ... and their respective shares
  - the attribution
  - the powers of the person



# COMPETENCE TO ISSUE THE CERTIFICATE

- **Article 64.**

The Certificate shall be issued in the Member State whose courts have jurisdiction under Article 4, Article 7, Article 10 or Article 11.

The issuing authority shall be:

- (a) a court as defined in Article 3(2); or
- (b) another authority



# APPLICATION FOR A CERTIFICATE

- **Article 65.**
- The Certificate shall be issued upon application by any person referred to in Article 63(1)
- The application shall contain the information listed below: a - m



# EXAMINATION OF THE APPLICATION

- **Article 66**

- fair treatment

- The issuing authority shall

- verify the information and declarations and the documents and other evidence provided by the applicant.
- take all necessary steps to inform the beneficiaries of the application for a Certificate
- take the necessary steps to ensure that all the interested parties can exercise the right to be heard

- The competent authority of a Member State shall, upon request, provide the issuing authority of another Member State with information held: land registers, the civil status registers, etc.



# ISSUE OF THE CERTIFICATE

- **Article 67**
- issued on a **form**
- the form sheets are contained in the regulation (**1329/2014/EU 9 December 2014**) implementing the European Succession Regulation.
- **Annex I - VI:**
  - Annex I: details of the applicant if it is a legal person
  - Annex II: data concerning the representative of the applicant
  - Annex III: information relating relating to the matrimonial property regime between the deceased and the surviving spouse
  - Annex IV: the data relating to the heir and his/her entitlement to specific assets of the estate
  - Annex V: details of the legatee and his/ her legacy
  - Annex VI: the executor's or administrator's status





# CONTENT OF THE CERTIFICATE

- **Article 68**
- The Certificate shall contain the following information: a - o



# EFFECTS OF THE CERTIFICATE

- **Article 69**

- ECS produces completely uniform legal effects, irrespective of the issuing state and the applicable substantive law.
- Evidentiary effect: ECS accurately certifies the facts stated therein ( in accordance with the governing law) and the entitled persons (heirs or legatees) or estate administrators ( or executors) indicated therein actually have the legal status claimed.
- Protection value: ECS protects third parties ...
- valid document for the recording of succession property in the relevant register (but only for movable property)
- Effects only in the EU – except 3. country accepts it - Switzerland



# CERTIFIED COPIES OF THE CERTIFICATE

- **Article 70**

- the original of the Certificate: issuing authority
- It issues one or more certified copies to the applicant and to any person demonstrating a legitimate interest
- List of person to whom certified copies have been issued
- valid for a limited period of six months (can be extended)



# REDRESS PROCEDURES

- **Article 72.**

- Decisions may be challenged by any person entitled to apply for a Certificate.
- The challenge shall be lodged before a judicial authority in the Member State of the issuing authority in accordance with the law of that State.
- If, as a result of a challenge, it is established that the Certificate issued is not accurate, the competent judicial authority shall rectify, modify or withdraw the Certificate or ensure that it is rectified, modified or withdrawn by the issuing authority.



# **THANK YOU FOR YOUR ATTENTION**

**Gabriella Breczkáné dr. Békési**

**judge**

**District Court of Nyíregyháza - Hungary**