

CJEU cases

EU succession regulation

Kubicka, C-218/16 of 12/10/2017

- ▶ On those grounds, the Court (Second Chamber) hereby rules:
- ▶ Article 1(2)(k) and (l) and Article 31 of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession **must be interpreted as precluding refusal**, by an authority of a Member State, **to recognise the material effects of a legacy ‘by vindication’**, provided for by the law governing succession chosen by the testator in accordance with Article 22(1) of that regulation, where that refusal is based on the ground that the legacy concerns the right of ownership of immovable property located in that Member State, whose law does not provide for legacies with direct material effect when succession takes place.

Mahnkopf, C-558/16 of 1/3/2018

- ▶ On those grounds, the Court (Second Chamber) hereby rules:
- ▶ Article 1(1) of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession must be interpreted as meaning that a national provision, such as that at issue in the main proceedings, which prescribes, on the death of one of the spouses, a **fixed allocation of the accrued gains by increasing the surviving spouse's share of the estate falls within the scope** of that regulation.

Oberle, C-20/17, 21/6/2018

- ▶ On those grounds, the Court (Second Chamber) hereby rules:
- ▶ Article 4 of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which provides that, although the deceased did not, at the time of death, have his habitual residence in that Member State, the courts of that Member State are to retain **jurisdiction to issue national certificates of succession**, in the context of a succession with cross-border implications, **where the assets of the estate are located in that Member State or the deceased was a national of that Member State**.

Pending case

WB, C-658/17

► Questions referred

- 1. Must Article 46(3)(b) of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, in conjunction with Article 39(2) thereof, be interpreted as meaning that the issuing of an attestation concerning a decision in a matter of succession, the **model for which is set out in Annex 1** to Commission Implementing Regulation (EU) No 1329/2014 of 9 December 2014 establishing the Forms referred to in Regulation (EU) No 650/2012, **is permissible also in relation to decisions which declare the status of heir but are not enforceable** (even in part)?
- 2. Must Article 3(1)(g) of Regulation (EU) No 650/2012 be interpreted as meaning that a deed of certification of succession drawn up by a notary in accordance with a **non-contentious application** by all the parties to the certification proceedings, which produces the legal effects of a final court order declaring succession – such as a deed of certification of succession drawn up by a Polish notary – **constitutes a decision** within the meaning of that provision?
 - and consequently:
 - must the first sentence of Article 3(2) of Regulation (EU) No 650/2012 be interpreted as meaning that the **notary drawing up that kind of deed of certification of succession must be regarded as a court** within the meaning of that provision?
 - 3. Must the second sentence of Article 3(2) of Regulation (EU) No 650/2012 be interpreted as meaning that **notification effected by a Member State pursuant to Article 79 of the regulation has informational value and is not a condition for regarding a legal professional** with competence in matters of succession who exercises judicial functions **as a court** within the meaning of the first sentence of Article 3(2) of the regulation, where he satisfies the conditions arising from the latter provision?
- 4. In the event that the answer to Question 1, 2 or 3 is in the negative:
 - Must Article 3(1)(i) of Regulation (EU) No 650/2012 be interpreted as meaning that if a national procedural instrument certifying the status of heir, such as the Polish deed of certification of inheritance, is regarded as a decision within the meaning of Article 3(1)(g) of Regulation (EU) No 650/2012, it **cannot be regarded as an authentic instrument**?
- 5. In the event that the answer to Question 4 is in the affirmative:
 - Must Article 3(1)(i) of Regulation (EU) No 650/2012 be interpreted as meaning that a deed of certification of succession drawn up by a notary in accordance with a non-contentious application by all the parties to the certification proceedings – such as a deed of certification of succession drawn up by a Polish notary – constitutes an authentic instrument within the meaning of that provision?

Klaus Manuel Maria Brisch, C-102/18,

- ▶ Question referred
- ▶ **Is the use of the form as set out in Annex 4 as Form IV**, established in accordance with the advisory procedure under Article 81(2) of the EU Succession Regulation, **mandatory or merely optional** for the purposes of an application for a European Certificate of Succession under Article 65(2) of the EU Succession Regulation, in accordance with Article 1(4) of the Implementing Regulation for the EU Succession Regulation?