

EXAMINATION OF THE APPLICATION FOR A EUROPEAN CERTIFICATE OF SUCCESSIONS: A COMMON STANDARD FORM TO REQUEST INFORMATION

under Article 66 (1) and (5) of the
Regulation (EU) N° 650/2012 of 4.7.2012

Enquiries carried out by the issuing authority

Article 66(1)

Examination of the application for the ECS

(European Certificate of Successions)

“Upon receipt of the application the issuing authority shall verify the information and declarations and the documents and other evidence provided by the applicant.

It shall carry out the enquiries necessary for that verification of its own motion where this is provided for or authorised by its own law, or shall invite the applicant to provide any further evidence which it deems necessary.”

A cooperation mechanism to facilitate enquiries

Article 66(5) “For the purposes of this Article [the examination of the application for a ECS], the **competent authority** of a Member State shall, upon **request**, provide the **issuing authority** of another Member State 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, where that competent authority would be **authorized**, under national law, to provide another national authority with such information.”

Article 66(5) establishes a cooperation mechanism and points out five notions on which cooperation should focus:

- (i) Requesting authorities
- (ii) Requested authorities
- (iii) Scope of the information
- (iv) Request
- (v) Authorisation under national law, to provide information.

(i) Requesting authorities

The authorities competent to issue the ECS pursuant to Article 64

(ii) Requested authorities

Any competent authorities in another Member State

In this regard it seems that Article 66(5) is not exhaustive

It exemplifies:

- The land registers

- The civil status registers

- The registers recording documents and facts

It allows:

- Other authorities (e.g. Courts, Notaries), to be requested.

(iii) Scope of the information

- Information of relevance for the succession
- Information of relevance for:
 - the matrimonial property regime of the deceased or
 - an equivalent property regime of the deceased.

(iv) Request

The information shall be provided upon **request** addressed by the issuing authority of the ECS to a competent authority in another Member State.

(v) Authorization, under national law, to provide information

The competent authority (requested) in the other Member State has to be authorized, under national law, to provide another national authority with such information

A common standard form to request information

To request the elements to be certified in the ECS from an authority in another Member State a common standard form could be useful.

The standard form should be:

- **Flexible**
- **Non mandatory**
- **Multilingual**

The aim would be:

- **To facilitate enquiries by the issuing authority**
- **To ask the requested authority to append the relevant documents**
- **To overcome the language barrier**

Examples of information and documents that may be requested through a common standard form

(Form V, points 7.2.1 to 7.2.6)

- ☐ **Will**
- ☐ **Joint will**
- ☐ **Agreement as to the succession**

(Form V, point 7.3)

- ☐ **Other dispositions of property upon death made by the deceased which have been revoked or declared null and void**

(Form V, annex III, points 4, 5 and 9)

- ☐ **Marriage contract**
- ☐ **Contract on property in the context of a relationship with comparable effects to marriage**
- ☐ **Liquidation of matrimonial property or other equivalent property regime and sharing of assets**

(Form V annex IV)

- ☐ **Acceptance of the succession**
- ☐ **Waiving of the succession**
- ☐ **Disqualification to inherit**
- ☐ **Adoptive children when adoption implies a restriction on inheritance rights**

(Form V annex V)

- ☐ **Acceptance of the legacy**
- ☐ **Waiving of the legacy**
- ☐ **Conditions and restrictions relating to the rights of the legatee**

(Form V footnotes 13 and 15)

- ☐ **Ownership or other rights of the heir/legatee in the assets**
- ☐ **The nature of these rights**
- ☐ **The other persons having also rights in the assets**
- ☐ **Information required under the law of the Member State in which the register is kept to permit the identification of the asset**

- ❑ Formalities required for the registration of immovable property in the Member State in which the register is kept

Recital 68

“The authority which issues the Certificate should have regard to the formalities required for the registration of immovable property in the Member State in which the register is kept.

For that purpose, this Regulation should provide for an exchange of information on such formalities between the Member States.”

THANK YOU SO MUCH FOR YOUR ATTENTION



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