



Facilitating the issuing of an
ECS through the use of ELRD

About ELRD: the European Land Registry Document

- **IMOLA I**, developed the European Land Registry Document through an XSD/ XML scheme that allows semi-automatic processing of information through shared rules with metadata derived from a thesaurus.
- **The ELRD** gives homogeneity to the registration information which flows through the e-Justice portal and becomes the interface through which the interconnection of Land Registers may operate.
- **IMOLA II**, as a follow-up project, provides a platform of semantic interoperability among Land Registers in Europe, using controlled vocabularies and a semantic shared repository (Knowledge Repository) integrated in the e-justice portal (Thesaurus).
- **As a result, through a web page, national Land Registers' Systems become costumers of this web service.**

The cooperation mechanism of Article 66(5) of the Succession Regulation

- Article 66(5) of the EU Succession Regulation 650/2012 provides for a cooperation mechanism at the stage of the examination of an application for an ECS – European Certificate of Succession.
- The authorities competent to issue the ECS in a Member State may ask the Land Registers in another Member State information relevant to issue the ECS.

The conditions that have to be met are the ensuing:

- I. The national law of the requesting authority authorizes it to carry out enquiries of its own motion.
- II. The requested authority in the other Member State is authorized, under its national law, to provide another national authority with such information.
- III. The information is of relevance for the succession, or for the matrimonial property regime or an equivalent property regime of the deceased.
- IV. The information is necessary for the establishment of certain elements to be certified in the ECS.

Obtaining information on the identification details of the assets relevant for registration



According to **recital 68** of the Succession Regulation ***“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”.***



The Commission Implementing Regulation 1329/2014 establishes the forms referred to in Regulation 650/2012, among which **Annex 5 form V and its annexes I to VI by means of which the ECS shall be issued.**



The text of the ECS form explicitly mentions the need to indicate the **identification details of the assets**, namely those that are **relevant for the registration of immovable property** attributed to heirs or legatees, **in the Member State in which the register is kept.**

Information needed to certify the status and rights of heirs and legatees held by a Land Register in another Member State

In Annex 5 – Form V and its Annexes I to VI – the ECS form – foot note 13 reads as follows:

- “ Indicate if the heir acquired the ownership or other rights on the assets (in the latter case please indicate the **nature of these rights and the other persons having also rights** on the assets). In case of a registered asset , please indicate **the information required under the law of the Member State in which the register is kept so as to permit the identification of the asset** (e.g. for immovable property exact address of the property, land register, land parcel or cadastral number, description of the property (if necessary append relevant documents)).”
- This information is necessary to fill point 9 of Form V – Annex IV (status and rights of the heirs) of the ECS.
- According to foot note 15, the same information is necessary regarding the legatees, to fill point 5 of Form V – Annex V (status and rights of legatees having rights in the succession).



Usefulness of the ELRD to issue the ECS

The use of the ELRD may prove very useful to obtain a quick, reliable and accurate information on the following issues:

- ✓ The **exact address** of the property
- ✓ The **land parcel** or **cadastral number**
- ✓ The **description of the property**
- ✓ The **nature of the rights** acquired by the heirs or legatees, in order to respect the limited number (*numerus clausus*) of rights *in rem* known in the national law of the Member State where the register is kept
- ✓ If there are **other persons having also rights** on those assets.

The advantages of ELRD:

- ✓ Knowledge repository integrated on the e-justice portal
- ✓ Use of controlled vocabularies
- ✓ Semantic interoperability
- ✓ Standardized common output.

This will allow the authorities issuing an ECS to obtain a standardised piece of information regarding the elements to be certified in the ECS by means of a uniform European Land Register Document.

To that end, issuing authorities of the ECS may be admitted as costumers of the web service provided by IMOLA through a web page, for the purposes of Article 66(5) of Regulation 650/2012.



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Thank you so much for your attention!

