CJEU in Marwanak C 873/24 on the interpretation of the Succession Regulation in light of its objectives

In its judgment C-873/24 Marwanak, 22 October 2026, ECLI:EU:C:2026:887, the Court of Justice of the European Union (CJEU) ruled on the interpretation of the Succession Regulation (Regulation 650/2012 on matters of succession and the creation of a European Certificate of Succession). Specifically, the CJEU addressed the question of whether the applicants for issuing a European Certificate of Succession had the right to request (and the issuing authority had an obligation to ensure) that the Certificate included an identification of the immovable property that forms part of the estate and is located in a country other than the State of the issuing authority. The CJEU answered this question in the affirmative, interpreting the Succession Regulation in light of the purpose of the European Certificate of Succession and the regulation's broader objectives.

1. Facts and procedural history

Application for a European Certificate of Succession

In 2013, a testator and his spouse executed a joint will. In the will, they designated each other as the sole beneficiary of the one who died first and stipulated that their daughter would inherit from the surviving spouse. The testator died in 2015, his daughter died in 2019, and his spouse died in 2022. The deceased's last habitual residence was in Germany. His estate included immovable property located in the Czech Republic. The five children of the testator's deceased daughter submitted an application for the issuance of a European Certificate of Succession (the 'Certificate') to the *Amtsgericht Fürth* (Local Court, Fürth, Germany).

Request to identify immovable property

Their application included, inter alia, a request to identify the immovable property in the Czech Republic in the Certificate, because such identification was required for the succession to be recorded in the land register in the Czech Republic. This request was dismissed.

The applicants appealed the dismissal before the *Oberlandesgericht Nürnberg* (Higher Regional Court, Nuremberg, Germany). The latter confirmed the dismissal, considering that a 'purely informative reference to specific assets (…) does not contribute either to the presumptive effect or to the protection of legitimate expectations' under the Regulation. The court stated as well that such identification 'would be contrary to the objective of that regulation, which is to create a uniform instrument, capable of being used easily in all the Member States.' More specifically, as the court recalled, the Succession Regulation does not require the issuing authority to verify whether the deceased owned a specific asset at the time of death. Consequently, according to the *Oberlandesgericht Nürnberg*, 'the security of transactions could be compromised if mere declarations by an heir were reproduced in that certificate and were thus given an official appearance of authenticity' (at [26]). The applicants challenged this dismissal before the *Bundesgerichtshof* (Federal Court of Justice, Germany).

Diverging views

The *Bundesgerichtshof* observed that scholars were not unanimous on this question. According to one view, the identification of assets would not be needed if the suggestion is governed by German law to the extent it entails universal succession (at [28]), and would be needed only in the situation where the succession is governed by foreign law while the application is submitted by several heirs, one of whom 'intends to establish his or her rights in respect of assets attributed to him or her individually' (at [28]).

According to another view, based on the CJEU ruling of 9 March 2023, *Registrų centras* (C-354/21, EU:C:2023:184), the objective of issuing the Certificate should enable private parties to settle the succession, while this objective supports the specification of assets in the Certificate.

Practical concerns

According to the *Bundesgerichtshof*, opting for the second reading might entail additional time and costs in the procedure for issuing the Certificate. If the

issuing authority has doubts as to whether a specific immovable property forms part of the estate, it might need to obtain legal advice or translations of documents and gather evidence to verify the relevant information. This verification can entail delays in the proceedings and additional costs (at [29]).

To clarify the matter, the *Bundesgerichtshof* submitted three questions for a preliminary ruling to the CJEU.

2. Questions referred for preliminary ruling (at [32])

In Question 1, the Bundesgerichtshof enquired whether Article 68(1) of the Succession Regulation requires that a Certificate must contain

> 'the information required under the national law of the State in which the property is located for the recording of the heir as its owner in the land register in respect of immovable property forming part of the estate and located in a Member State other than the State of the issuing authority where the heir has requested that such information be included [in that certificate] for the purposes of recording him or her as its owner (…) and where if [that certificate] is the only document presented in support of the application for registration, the recording, under the national law of the State in which the property is located, in the land register of that State can take place only if [that certificate] contains such information.'

Question 2 was whether the answer to Question 1 is different in a situation where the transfer of estate takes place by way of universal succession under the law governing the succession.

Question 3 was whether the answer to Question 1 is different if the heirs can obtain the recording in the land register by presenting another 'document containing a declaration by the heir, or, after his or her death, by his or her heir, to the land registry of the State in which the property is located in addition to presenting' a Certificate 'that does not contain the information referred to in Question 1'

3. The ruling

Question 1

Certificate: autonomous regime and variable, purpose-driven content

The CJEU answers Question 1 in the affirmative. The answer is based on an interpretation of the Succession Regulation in light of its objectives, primarily the objective to effectively guarantee the rights of private persons involved in a succession with cross-border implications.

The reasoning starts with a reminder that the Regulation (in particular its Chapter VI) establishes an autonomous regime for the content of the Certificate. Within this autonomous regime, according to Article 68 of the Succession Regulation, the content of the Certificate should be determined inter alia by reference to the 'purpose for which it is issued' (at [34]). Furthermore, the CJEU contends that a number of other provisions and Recitals of the Succession Regulation explicitly refer to the purpose of the Certificate. In this regard, the CJEU notes that Article 68 of the Succession Regulation 'lays down a minimum amount of information that must be included in that certificate'. However, as the purpose of the Certificate may vary from case to case, so may the content of the Certificate.

The CJEU concludes, therefore, that the issuing authority is required to include information identifying the immovable property in the Certificate in a situation where the incomplete nature of the Certificate (as in the present case) may preclude registration in the land register, as this reading of the Succession Regulation is entailed by the objective of effectively guaranteeing the rights of heirs across Member States.

Practical concerns dismissed

Although the CJEU shares the concerns about the difficulties (relating to possible costs and delays that may be entailed by the need to verify whether a specific asset belonged to the deceased), these difficulties cannot call into question the answer to Question 1. The CJEU refers in this regard to the availability of the mechanisms established by the EU legislature for investigating and transmitting information between competent authorities that might help overcome the practical difficulties (at [54]).

Evidentiary effects

Aside from the practical concerns, the CJEU pays attention to the evidentiary effects of the Certificate in which the immovable property is identified. The CJEU reminds that, in accordance with Recital 71 of the Succession Regulation, the

evidentiary effects of the Certificate 'should not extend to the question whether a specific asset belonged to the deceased's estate' (at [57]). This matter falls outside the scope of the Succession Regulation provided in Article 1. According to the CJEU, the Succession Regulation may *not be interpreted as imposing an obligation* to certify elements outside the scope of the Succession Regulation, such as the question whether a specific property actually belonged to the deceased (at [62]).

What are then the exact requirements imposed by the Succession Regulation? The Certificate 'is presumed to demonstrate accurately only elements which have been established under the law applicable to the succession, designated by the provisions of Chapter III', as the CJEU states at [59], with references to Article 69(2) and Recital 71 of the Succession Regulation. Accordingly, in principle, Articles 66 and 67 of the Succession Regulation requires the issuing authority to verify the information, declarations or evidence provided by the applicants (at [60]), but it should issue the Certificate only if there are no challenges to the elements to be certified, as the CJEU has already considered in the case *Albausy,* Case C-187/23, ECLI:EU:C:2025:34, January 25, 2025 (at [61]); see also here. The CJEU holds that

> 'the issuing authority is required to indicate, in the European Certificate of Succession, the information which permits the identification of immovable property forming part of the succession concerned where the purpose for which that certificate is issued so requires, even though that obligation may involve, where appropriate, carrying out the necessary checks with regard to the elements to be certified. In addition, that authority must refuse to issue that certificate where there are challenges relating to those elements.' (at [63]).

Question 2

The answer Question 1 remains unchanged, even if the law governing the succession provides for transfer by universal succession. The CJEU comes to this conclusion by recalling that the Succession Regulation establishes an autonomous regime for the Certificate. According to the CJEU, the interpretation of the autonomous regime should not vary depending on the law governing the succession.

At first sight, this consideration resembles the CJEU's considerations stated at the beginning of its answer to Question 1. On closer reading, it appears that, according to the CJEU, the *content* of the Certificate may vary depending on the *purpose* for which it is issued in a specific case. By contrast, the *interpretation* of the autonomous regime for the Certificate may not depend on (the content of) the *law governing* a specific succession. This distinction is logical but abstract and delicate.

Question 3

To answer Question 3, the CJEU refers to Article 68(1) along with Recitals 7, 18, 67, and 80 of the Succession Regulation. The CJEU rules that the Certificate must contain all the necessary information for the heirs to establish their rights in the Member State where the succession property concerned is located (at [88]). Therefore, the issuing authority is not exempt from an obligation to include in the Certificate the 'information permitting the identification of immovable property forming part of the succession, where the reference to that information is sought for the purposes of an entry in the land register of the Member State in which that property is located' even in a situation where 'under the law of that Member State, that entry may be obtained on the basis of a supplementary document, submitted together with a European Certificate of Succession that does not contain such a reference.'

To conclude, the case *Marwanak* provides an example of a reasoning in which, in order to apply the Succession Regulation – an act of EU law that is directly applicable, as the CJEU explicitly recalls at [71] – to diverging domestic systems to settle a cross-border succession, the CJEU searches for (and finds) flexibility in the interpretation of the Succession Regulation in light of its objectives and the purpose of the specific provisions interpreted.