



EU-ADAPT

Project Presentation

EU project 101007501 - EU-ADAPT - GAP-10100750

What is EU-ADAPT?

- Scientific project, supported by the European Union, in order to facilitate cross-border successions.
- 5 Universities:
 - Coimbra (Portugal)
 - Valencia (Spain)
 - Genoa (Italy)
 - Heidelberg (Germany)
 - Turkuu (Finland)
- ELRA supports the project as an Associated Party, both contributing to the Project achievement and benefiting from its results.

Purpose of the Project

- The final purpose of the Project is to provide an *informatic tool* for national authorities dealing with cross-border successions which are called upon to the *adaptation of rights in rem* (article 31 of European Succession Regulation).
- The Project will ease the problem generated when a person invokes a right *in rem* to which he is entitled under the law applicable to the succession and the law of the Member State in which the right is invoked does not know the right in rem in question.
- The Project will:
 - Make a standard description of each right in rem in the 25 Member States bound to the European Succession Regulation;
 - Identify the aims and the interests pursued by the specific right *in rem* and the effects attached to it (cf. Article 31 ESR);
 - Suggest a correspondence between the right *in rem* granted by the *lex successionis* and the rights *in rem* known in the country where the property is located;
 - Provide sufficient juridical support for Land Registrars (or any other authority dealing with the succession).

Example

Portuguese Law grants, to a certain beneficiary, a *Direito Real de Habitação* over property located in Finland



Portuguese Law applies to the succession (article 21 ESR)

Finish citizen, with habitual residence in Portugal



Finish Law applies to the Property Rights (*lex rei sitae*)

Finish Law does not know “Direito Real de Habitação”



How can the Finish Registrar proceed?

Article 31 RES

“When a person invokes a right in rem to which he is entitled under the law applicable to the succession and the law of the Member State in which the right is invoked does not know the right in rem in question, that right shall, if necessary and to the extent possible, be adapted to the closest equivalent right in rem under the law of that State, taking into account the aims and the interests pursued by the specific right in rem and the effects attached to it”.

EU-ADAPT will help

- Using the EU-ADAPT informatic tool, the Finish Registrar will:
 - Select Portuguese Law as applicable to the succession;
 - Select *Direito Real de Habitação* as the right *in rem* granted by Portuguese Law;
 - Select Finish Law as applicable to Property Rights



Results of EU-ADAPT

- **Simple description, in English of *Direito Real de Habitação*: “right to use a residential house - *re aliena*”**
- **Identification of its main features** (transmissibility; duration; powers granted to the holder)
- Identification of its ***aims, purposes and effects***.
- Proposal of a correspondence (the closest equivalent right) under Finish Law.

Phases of the Project

- 1. Identification and analysis of all rights *in rem* in all Member States bound to the European Succession Regulation;**
2. Drawing of a standard description of all rights *in rem* in all Member States bound to the European Succession Regulation;
3. Making correspondences among all rights identified;
4. Building a EU-ADAPT informatic tool.
 - *Possibly*, the tool could be integrated in ELRN.

How can ELRA, being a supporter of the Project, help in its goals?

- At this phase, the main collaboration is filling an *on-line questionnaire*, answering (essentially multiple choice) to the features the rights *in rem* of each country.
- The questionnaire is already available on the internet:
<https://forms.gle/7vGK5uGqhpekvGZu8>



Thank you