



# QUESTIONS BASED ON CASE C-354/21

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**ELRN WORKSHOP**

**1. WHAT DOCUMENTS AND REQUIREMENTS ARE NECESSARY TO REGISTER AN IMMOVABLE GOOD IN YOUR LAND REGISTRY BASED ON A TITLE OF SUCCESSION?**

**2. IS THERE ANY DIFFERENCE WHEN THERE IS JUST ONE HEIR?**

- 14 ANSWERS:

- 1.AUSTRIA
- 2.BULGARIA
- 3.CROATIA
- 4.ESTONIA
- 5.FINLAND
- 6.ITALY (AGENZIA DELLE ENTRATE)
- 7.ITALY (SERVIZIO LIBRO FONDIARIO DE TRENTO)
- 8.LITHUANIA
- 9.MALTA
- 10.POLAND
- 11.PORTUGAL
- 12.SPAIN
- 13.SWEDEN
- 14.SLOVAK REPUBLIC

# WHAT DOCUMENTS AND REQUIREMENTS ARE NECESSARY TO REGISTER AN IMMOVABLE GOOD IN YOUR LAND REGISTRY BASED ON A TITLE OF SUCCESSION?

- COMMON REQUIREMENTS:

- PUBLIC DOCUMENT:

- **Public deed** (digital, electronic)/Document issued by a Notary: Estonia, Bulgaria, Lithuania, Spain, Italy, Malta, Slovak Republic, Sweden, Croatia, Portugal, Poland
    - **Court Decision:** Austria, Spain, Italy (LF), Poland
    - **European Certificate of Succession**

- REGISTRY APPLICATION

# WHAT DOCUMENTS AND REQUIREMENTS ARE NECESSARY TO REGISTER AN IMMOVABLE GOOD IN YOUR LAND REGISTRY BASED ON A TITLE OF SUCCESSION?

- DIFFERENCES:

- Some countries require/ admit a PARTITION DOCUMENT: Finland, Spain, Sweden
- Others, require some ADDITIONAL DOCUMENTS:
  - **Finland:** Report on family relationships (in some cases)
  - **Spain:** Will/Declaration of legal heirs, Certificate of last will, Death certificate
  - **Malta:** Will, contract of transmission mortis causa
  - **Bulgaria:** Certificate of succession
  - **Lithuania:** the certificate of succession is issued after providing the documents that confirm the right of ownership of the property.
  - **Italy (Agenzia):** Certificate of death, authentic copy of the will, the acceptance of the inheritance whose transcription is mandatory.
  - **Italy (LF):** Only the Certificate of Succession, and it is not mandatory but is required for further circulation of the property

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- FURTHER REQUIREMENTS:
  - **Lithuania, Spain, Austria:**
    - Payment of inheritance tax / Tax certificate
  - **Italy (Agenzia):**
    - The application must detail: identification of the heirs, date of death, if the succession is devolved by law/by will, nature and situation of the property, any conditions attached to the testamentary disposition
  - **Slovak Republic:** The Certificate of inheritance must be:
    - In Slovak Language, Czech language or in an officially certified translation
    - Must specify the object inherited (parcel number, type of register, area, cadastral territory...)
  - **Spain:**
    - The deceased and the heirs must be identified, as well as the immovable goods that will be registered (LR number, cadastral reference, description)

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- **FURTHER REQUIREMENTS:**
  - **Portugal:**
    - Identification of the heirs, cadastral reference of the immovable goods
    - If the decease has occurred less than 8 years ago, it is necessary the stamp duty with reference to the assets belonging to the deceased
  - **Estonia:** The registration application shall:
    - Include the digital copy of the certificate of succession issued by a Notary
    - Specify: the number of the register part of the registered immovable in which the making of an entry is applied for, and the content of the real right.
- **Some countries have specialities WHEN THE PROPERTY BELONGS TO THE SPOUSES:**
  - **Spain:** previous liquidation of the joint property of the spouses
  - **Slovak Republik:** the Notary first dissolves and settles the community of property of the spouses.
  - **Estonia:** the certificate of ownership which certifies that the real property belongs to the joint property of spouses, must be added to the registration application

# IS THERE ANY DIFFERENCE WHEN THERE IS JUST ONE HEIR?

- MAIN ANSWER: NO
  - Poland, Malta, Portugal, Bulgaria, Sweden, Estonia, Austria.
- COUNTRIES WITH SPECIALITIES:
  - **Finland:** the division of the inheritance does not need to be submitted
  - **Spain:** the acceptance and attribution of the property can be made in a private document with a legitimized signature instead of in a deed.
  - **Slovak Republic:** It has some specialities related to agricultural and forest land.
  - **Lithuania:** No. But if heirs address the notary at different times, the certificate of succession rights will express that it has been issued just for that heir(s).
  - **Italy (LF):** No, but also, when there is more than one heir, a “partial” certificate regarding a specific position or a single certificate for one heir can be issued.



# CONCLUSIONS

- **Public documents** are needed for registering rights related to a succession.
- These documents must usually detail some **information** about the property/the deceased/the heirs to be able to make an entry into the Land Registry.
- **Additional documents** are always required to prove ownership and rights related to succession: certificates of death/wills/certificates of ownership...
- Additional **requirements** are usual in many countries: tax payment, language restrictions
- The **European Certificate of Succession** might comply with many of the national requirements but may be not with all that are established in each national law.



THANK YOU