

Judgment of the Court of Justice of the European Union of March 27, 2025, Case No. C-57/24

Key excerpts from the ruling:

1. Jurisdiction over matters concerning the acceptance or renunciation of an inheritance, a bequest, or a statutory share
2. Validity of the declaration of acceptance or renunciation of an inheritance in terms of form (Article 28 of Regulation No. 650/2012)
3. Exclusion, pursuant to Article 13 of Regulation (EU) No 650/2012, of jurisdiction to approve an heir's waiver of the legal consequences of failing to file a declaration of renunciation of the inheritance within the required time limit

Why can't Polish courts help?

- ▶ The case was referred to the CJEU by the **Regional Court in Gliwice**. It concerned the estate of a deceased person who was a permanent resident of **Germany**, while his heirs were residents of **Poland**. Under EU Regulation No. 650/2012, German courts have primary jurisdiction, and Polish courts may only accept declarations of **acceptance or renunciation of the inheritance**.
- ▶ The problem arose when the **minor heir** failed to file a declaration of renunciation of the inheritance within the prescribed time limit (six months from the date on which the minor's legal representative—a parent or guardian—became aware of the child's entitlement to the inheritance; this is usually the moment when the parent renounced the inheritance themselves), which, under the law, means **automatic acceptance of the inheritance with the benefit of an inventory**. Her father, acting on her behalf, applied to a Polish court for **approval to avoid the consequences of this omission**.

Could a Polish court have intervened?

The court in Gliwice had doubts as to whether it had jurisdiction to rule on this matter. Pursuant to **Article 13 of Regulation No. 650/2012**, Polish courts may accept declarations of renunciation of an inheritance, but they do not have the authority to approve the waiver of the consequences of failing to submit such a declaration within the prescribed time limit.

In these circumstances, the Regional Court in Gliwice decided to stay the proceedings and refer the following question to the Court of Justice for a preliminary ruling:

“Should Article 13 of Regulation [No. 650/2012] be interpreted as meaning that it does not apply to a situation in which, in addition to the mere acceptance of a declaration of renunciation of an inheritance, its validity requires—in accordance with the laws of the Member State of the declarant’s habitual residence — for it to be effective, for example, where such a declaration is made after the prescribed time limit has expired?”

The CJEU confirmed that the jurisdiction of Polish courts in such cases is limited—they may only accept declarations of acceptance or renunciation of an inheritance but cannot remedy procedural errors that occur after the deadline has passed.

Consequences for the heirs

1. Renouncing an inheritance results in the heir being excluded from the succession, while his or her children take that person's place (Article 1020 of the Civil Code).
2. Failure to make a declaration within the prescribed time limit constitutes acceptance of the inheritance, which may expose the heir to liability for the deceased's debts.
 3. Avoiding the consequences of failing to submit a declaration is possible only in exceptional circumstances (e.g., due to mistake or duress) but requires approval by the competent court—in this case, a German court.

Summary of the Application of the CJEU Judgment

The CJEU ruling confirms that Polish courts **do not have the authority** to correct errors in cross-border inheritance cases when it comes to **avoiding the consequences of failing to file a declaration on time**. Heirs of deceased persons from abroad should therefore **pay particular attention to deadlines** and, in case of doubt, consult lawyers specializing in international law.

EU Regulation No. 650/2012

is an EU legal instrument governing international succession matters.

- ▶ Under Polish law, it facilitates cross-border inheritance by, among other things, establishing the principle of a single applicable law for the entire estate and introducing the European Certificate of Succession (ECS).
- ▶ With regard to Polish law, this regulation introduces the following key principles:

- ▶ **Uniform applicable law:** The estate is governed by the law of the country where the deceased had their **last habitual residence** (unless the will expressly designates the law of their home country). This means that a Polish court or notary handling the estate of a Polish citizen living, for example, in France, will apply French law.
- ▶ **European Certificate of Succession (ECS):** This is a standardized document recognized in all EU countries (except Denmark and Ireland). It allows an heir or executor to prove their rights abroad without having to go through separate, lengthy procedures in each country. In Poland, ECSs are issued by courts and notaries.
- ▶ **National jurisdiction:** Polish courts have jurisdiction (the right to adjudicate) in cases where, among other things, the deceased had their last habitual residence in Poland or left their estate here, and the heirs have consented to this.

- ▶ **Conflict with Polish private international law:** EU regulations have fully replaced the previous Polish conflict-of-laws rules regarding inheritance. In cross-border cases, Polish authorities directly apply Regulation 650/2012.
- ▶ Note: The Regulation applies exclusively to civil law matters (i.e. who inherits and in what shares). It does not govern tax matters—these continue to be subject to Polish national law and the Tax Offices.

The Impact of EU Regulation No. 650/12 on Land Registry Entries

- ▶ EU Regulation No. 650/2012 does not alter the way Polish land registers are maintained or their structure, but it simplifies the procedure for certifying inheritance rights to cross-border real estate. It introduces the following effects and rules:
- ▶ The European Certificate of Succession (ECS) as the basis for registration: The ECS can be used directly before a Polish land registry court. It is an official document that confirms, throughout the European Union, who is an heir, legatee, or executor of a will, and what rights they are entitled to.
- ▶ Legal presumption: The content of the ECS gives rise to a presumption that the person named therein has the status of an heir and holds specific rights to the estate. Courts in Poland treat it as the equivalent of a domestic order confirming the acquisition of an inheritance or a certificate of inheritance (APD).

- ▶ No automatic entry: The Regulation does not require EU courts or land registries to automatically register the new owner in the land registers. Disclosure of the heir in the land and mortgage register in Poland requires the submission of an application by an authorized person (in accordance with Polish procedure on the KW-WPIS form).
- ▶ Substantive legal issues excluded from the Regulation: EU Regulation 650/2012 itself does not address the effects of registering a right in the registry or who has priority in real estate transactions. These matters—as well as, for example, the taxation of the estate or the validity of the mortgage itself—are governed by the national law of the location of the real estate (in Poland: the Act on Land and Mortgage Registers).

Renunciation of an inheritance and issues related to the land registry

- ▶ Under Polish law, **renouncing an inheritance has no effect on the land registry**. The only option is to enter a note indicating that the land registry entry does not reflect the actual legal status of the property, based on the property owner's death certificate—Article 626(13) of the Code of Civil Procedure.
- ▶ If no family member accepts the inheritance, **the municipality** of the deceased's last place of residence inherits the property; if that Polish municipality cannot be determined, **the State Treasury** inherits it. The basis for entering the change of ownership to the municipality or the State Treasury is a civil court order.

Registers of Renunciations of Inheritance

- ▶ In Poland, there is no single, separate, and publicly accessible register of renunciations of inheritance. Information regarding whether someone has renounced an inheritance is recorded in internal court records (not in real estate land registers) and in the nationwide Inheritance Register maintained by the National Council of Notaries.

- ▶ Inheritance Register (National and European)

This register collects information on issued Certificates of Inheritance (APD) and court rulings confirming the acquisition of an inheritance.

How it works: An entry regarding the renunciation of an inheritance does not automatically appear in the registry as the first document. However, this registry indicates whether and where probate proceedings were conducted regarding the deceased (at which notary's office or in which court).

Access: Any citizen can check this information for free using the online form on the Notarial Registers Search Engine website (simply enter the deceased's PESEL number).

Round table questions

- ▶ Please briefly describe the process for renouncing an inheritance in your country; is it possible to do so, what is the procedure, is there a central registry of renunciations, and can the renunciation of an inheritance serve as the basis for an entry in the registry, e.g., in the form of a notice?
- ▶ Has a case regarding the application of the provisions of EU Regulation No. 650/12 been referred to the CJEU in connection with cross-border inheritance from your country?