# Adapting rights in rem

Slovenija

## 1 Which are the rights in rem that could arise from a succession under the law of this Member State?

The rights in rem that could arise from a succession include the right of ownership of the movable and immovable property and working tools of a craftsman and sole trader and other rights in rem (the right of pledge, the right of access, rights and obligations arising from legal and non-business relationships, copyright (both financial assets and non-material component), the rights of a patent applicant or owner, the right to compensation of the author of a technical improvement, design rights.

Property rights which are related to a particular person, such as personal servitudes, the right to a life annuity, and the right to maintenance, cannot be the subject of succession.

## 2 Are these rights in rem recorded in a register of rights in immovable or movable property and, if so, is such recording compulsory? In which register(s) are they recorded and what are the registration requirements and procedure?

On completion of the probate proceedings, the court issues a decision on inheritance, which is a court decision on the merits of the case and declaratory in nature. This means that the decision declares the persons to be the heirs, the legatees or other beneficiaries who have acquired the right to inheritance, the right to legacy or other rights to inheritance at the moment of the testator's death. This further means that the decision on inheritance does not impose specific fulfilment or duties, but rather that the persons whose rights have been identified in the final decision on inheritance/legacy themselves are responsible for the enforcement of these rights.

The foregoing rules do not apply to *the delivery of the property retained by the court*. The court orders the delivery of the property immediately after the decision on inheritance has become final and orders the registration in the land register. However, prior to the delivery, the beneficiaries must provide evidence that they have fulfilled or secured the obligations imposed on them by the testator for the benefit of persons who cannot care for their affairs and benefits or a generally useful purpose (Article 216 of the Inheritance Act).

*Registration in the Land Register:*

A specific rule also applies to *the registration of the rights in rem to immovable property. They are registered in the Land Register*. The court shall ex officio order the necessary entries in respect of the property to be made in the Land Register immediately after the decision on inheritance becomes final. This includes, for example, the registration of the heir's right of ownership as well as any other burdens or restrictions on the right of ownership (the legatee's right to usufruct or discharge of mortgage, both in the form of legacy).

*Registration in the business register:*

Participating interests in companies and the assets of sole traders are entered in the business register. All registered changes regarding company partners in the court register are only declaratory in nature, as the status of a partner is obtained only following registration in the court register. In the case of inheritance of a participating interest, the submission of a consolidated text of the amended provision of the memorandum of association is required, including the amended provisions on partners and their participating interests, with notarised certification that the amended provisions of the memorandum of association are in accordance with the final decision on succession. A sole trader is registered in the business register on the basis of his/her full application. In the case of an incomplete application, the register's administrator asks the applicant to supplement the application within eight days. If the applicant fails to supplement the application within the specified time limit the register's administrator will dismiss the application by means of a decision. An appeal may be lodged against this decision with the register's administrator within eight days of the date on which the decision is served.

*Registration in other registers:*

Register of transaction accounts (registration of transaction accounts)

Register of book-entry securities, provided by Central Securities Clearing Corporation *(Centralna klirinško depotna družba d.d.- KDD)*

E-RISK register (Register of firearms, Register of motor vehicles)

Register of Boats

Register of Aircraft

Register of authors and copyright works, Register of rights and compensation from the reproduction of copyright works, Register of copyright works, Register of audiovisual works

pension benefits

## 3 Which effects are linked to the registration of the rights in rem?

*Registration in the Land Register:*

Registration of rights in rem to immovable property in the Land Register is regulated in the Land Register Act *(Zakon o zemljiški knjigi)* (Official Gazette of the Republic of Slovenia, Nos 58/03, 37/08 – ZST-1, 45/08, 28/09, 25/11 and 14/15 – ZUUJFO).

*Registration of rights in rem to immovable property in the Land Register* based on the decision on inheritance has a *declaratory effect* as the heir acquired the right of ownership at the moment of the testator's death.

Registration in the Land Register has a publicity effect. This means that if the right is registered in the Land Register, no one may plead ignorance.

The principle of trust in the Land Register also applies. A person registered in the Land Register is presumed to be the beneficiary (owner).

*Registration in the business register:*

The registration procedure is regulated by the Business Register of Slovenia Act *(Zakon o poslovnem registru)* (Official Gazette of the Republic of Slovenia, Nos 49/06, 33/07 – ZSReg-B and 19/15). Registration in the business register is merely declaratory in nature. An heir does not need to wait until an entry is made in the court register in order to acquire the status of partner, as the testator's estate, including the business share, is transferred to his/her heirs at the time of his/her death.

*Registration in other registers:*

In the Register of transaction accounts:

The Register of Transaction Accounts (RTR) is a single computerised database on transaction accounts and their holders, be they business entities or natural persons. When a person becomes a holder of a transaction account, information on the account is entered in the register.

In the Register of book-entry securities:

The holder acquires a book-entry security when the book-entry security is entered in the holder's account in the central register of book-entry securities.

In the E-RISK register, the Register of Boats and the Register of Aircraft:

The register of registered vehicles contains all information on a particular vehicle which must appear on the registration certificate, its registration, the vehicle registration certificate issued, the vehicle owner or the person in whose name the vehicle is registered, technical inspections, compulsory insurance and other information. The entry in the register of registered vehicles has no publicity effect, as this record is not a public register. The same applies to the records of civilian firearms (administrative units keep records of firearm certificates issued, while the ministry responsible for internal affairs keeps the central register of firearm certificates issued, records of authorisations issued to firearms dealers and operators of firing ranges). In contrast, entries in the Register of Boats and the Register of Aircraft have a publicity effect.

In the Register of copyright works:

Entry in the register creates a legal presumption that the author or copyright holder of a particular work is the one listed in the register until proven otherwise. The register is public.

In the Register of Insured Persons and Beneficiaries of Rights Provided under Pension and Disability Insurance:

The register of insured persons includes: the register of beneficiaries of rights provided under pension and disability insurance, the register of insurance benefits payments, the register of persons obliged to pay compulsory social security contributions and the register of expert opinions. The act governing the official register does not lay down that this register is public and that registration therein has a publicity effect.

**4 Are there specific rules and procedures in place for the adaptation of a right in rem to which a person is entitled under the law applicable to the successions in case the law of the Member State in which the right is invoked does not know such right in rem?**

There are no specific rules or procedure for the adaptation of rights in rem in national law.

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