Figyelem: az oldal eredeti nyelvű változata en nemrég módosult. Az Ön által kiválasztott nyelvi változatot most készítik fordítóink.

horvát

Swipe to change

Dologi jogok egymáshoz igazítása

Egy uniós tagállambeli örökösök egy másik uniós tagállam öröklési jogának kedvezményezettjei lehetnek, amikor a jogokat úgy igazítják ki, hogy azok megfeleljenek a lakóhelyük szerinti országukban fennálló jogoknak.

Annak érdekében, hogy egy másik tagállam örökösei vagy hagyományosai számára biztosítva legyenek az öröklés révén létrehozott vagy átszállt jogok, az **öröklési rendelet** előírja, hogy az ismeretlen dologi jogot (ingatlannal vagy ingósággal kapcsolatos jogok) a másik tagállam jogában létező, az eredetihez legközelebb álló dologi joghoz kell hozzáigazítani. A jog kiigazításának keretében figyelembe kell venni az adott dologi jog célját, valamint az abból eredő joghatást.

Ezzel összefüggésben a **polgári és kereskedelmi ügyekben illetékes Európai Igazságügyi Hálózat** közzétett néhány nemzeti jogról szóló adatlapot, amelyek részletezik:

az öröklés által keletkeztetett esetleges dologi jogokat

ezen jogok ingatlan-nyilvántartásban vagy ingó dolgok nyilvántartásában való szerepeltetésének kérdését

a bejegyzésükből eredő joghatást

egy adott dologi jog kiigazítására vonatkozó különös szabályokat és különleges eljárásokat

A nemzeti jogról szóló adatlap és a dologi jogok kiigazítására vonatkozó eljárások megtekintéséhez kérjük, kattintson a megfelelő nemzeti zászlóra ezen az oldalon.

Utolsó frissítés: 30/05/2023

A honlapot az Európai Bizottság tartja fenn. Az ezen az oldalon található információ nem feltétlenül tükrözi az Európai Bizottság hivatalos álláspontját. A Bizottság semmilyen felelősséget vagy kötelezettséget nem vállal az e dokumentumban foglalt vagy említett információk és adatok tekintetében. Kérjük, az európai oldalak szerzői jogi szabályai vonatkozásában vegye figyelembe a jogi nyilatkozatot.

Adapting rights in rem - Belgium

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 can arise from a succession under Belgian law are the right of ownership and its subdivisions, i.e.:

- usufruct (Article 745*bis* of the Civil Code (*Code civil*));
- use and habitation (Article 625 of the Civil Code);
- easement (Article 637 of the Civil Code);
- building and emphyteusis (long lease rights).

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?

When a person becomes the holder of a right of ownership or one of its subdivisions due to this right being transferred on death, that person becomes the *erga omnes* holder. In other words, when such a right is transferred on death (succession or will), this transfer does not have to be recorded in a property register. Article 1 of the Mortgage Law (*loi hypothécaire*), which specifies the cases in which the transfer of a right *in rem* must be registered in order to be binding on third parties, does not refer to this case.

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

N/A

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?

At this stage, no specific rules or procedures have been laid down for the adaptation of a right *in rem*.

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Adapting rights in rem - Bulgaria

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

All rights *in rem* could arise from a succession under the Bulgarian legislation in force. There is no special provision restricting or excluding any of these rights from the estate that devolves to the decedent’s heirs after his or her death.

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?

Under Article 112 of the Ownership Act (*Zakon za sobstvenostta*) (ZS), compulsory registration applies to:

(1) all instruments transferring a right of ownership or establishing, transferring, modifying or ending another right *in rem* in immovable properties, and instruments recognising such rights;

(2) the contracts transferring a decedent's estate incorporating immovable properties;

(3) the instruments renouncing rights *in rem* in immovable properties;

(4) the agreements on the sharing-out of immovable properties and the records of distribution by court in respect of such properties;

(5) the requests by the decedent’s or the legatees’ creditors for segregation of the decedent’s immovable property;

(6) the settlements on disputes regarding instruments that are subject to registration and the legally valid court decisions substituting the instruments referred to in point 1, and the decisions ascertaining the existence of instruments under the foregoing points that are subject to registration;

(7) true copies of published wills having as their subject immovable property and rights in immovable property;

(8) the requests for quashing court decisions that are subject to registration.

The recording of the instruments listed above is compulsory.
In principle, such recording has the effect of making the instruments publicly available which, under Article 1 of the Rules on Registration (*Pravilnik za vpisvaniyata*), consists in giving visibility to the instruments subject to registration.
Such recording also has a protective effect which, however, is limited to particular cases referred to in Article 114 of the ZS, where applications expressly specified in that rule are registered in order to ensure that the claimant's rights can be relied on against all rights acquired by third parties after the recording.
Recording is effected by order of the registration judge of the registry office with jurisdiction over the location of the immovable property by filing the instruments subject to registration in registers accessible to the general public, which are formed:
(1) by filing the notarised instruments referred to in Article 4(a) and
(2) by filing all other instruments referred to in Article 4.
The notarised instruments referred to in Article 4(a) of the Rules on Registration (all instruments transferring a right of ownership (sale, donation, exchange, giving in payment, alienation against an obligation to provide care and sustenance, etc.) or establishing, transferring; modifying or ending another right *in rem* (a right of use, ownership of a building, etc.) in immovable properties, and instruments recognising such rights (notarised instruments of ascertainment, State ownership instruments, municipal ownership instruments and other instruments expressly provided for in law) are recorded at the written request of the notary who executed these instruments, and all other instruments under Article 4 or their true copies are recorded at the written request of the parties, of a notary or of any party interested in the recording.
Notarised instruments executed by a registration judge and true copies of wills published by a registration judge are recorded on that judge's own initiative.
Two identical originals of the notarised instruments referred to in Article 4(a) must be submitted for their recording.
The original of any other instrument referred to in Article 4 and an officially certified true copy of that original or two such copies must be produced in order to have such an instrument recorded, and if it is impossible to produce the original, two notarised true copies of the published wills having as their subject immovable property and rights in immovable property must be produced accordingly. Where the recording is effected at the request of a notary, three identical originals and, respectively, three true copies, must be produced.
It is also admissible to register officially certified extracts, which must state the essential terms and conditions of the instrument that is being recorded.
Recording is effected by order of the registration judge immediately after the instrument is entered in the appropriate incoming register and, to this end, the number under which the instrument is entered in the register, the date and the volume and page of the book of records in which the entry is made are written on the instrument itself.
At the registry offices which use software to keep auxiliary records on immovable properties, the number of the record, too, is entered in the instrument subject to registration.
The instrument is inserted in the appropriate book, and the second original of the instrument as recorded is returned to the applicant within three days.
If recording is effected at the request of a notary, the third and any further originals of the instrument as recorded are returned with the particulars under paragraph 1 written on each of these originals.
An instrument executed by a registration judge is recorded immediately after the execution of the instrument itself. The registration judge may not, on pain of liability, order the performance of any acts whatsoever once the instruments subject to registration have been executed by that judge and before these instruments have been recorded.
When marriage contracts, instruments on the sharing-out, on settlement and on exchange of immovable properties located in different districts are recorded, at least two true copies for each of the districts must be produced, enclosing the requisite costs.
Once registration has been duly effected, the originals applicable to other districts are sent immediately for registration at the location of the properties, indicating that the fees due have been collected. Such instruments are recorded by order of the registration judge of each district in which registration has been requested.

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

Registration applies to any instruments transferring a right of ownership or establishing, transferring, modifying or ending another right *in rem* in an immovable property and any instruments recognising such rights except in the situations referred to in Article 5 of the Rules on Registration (when they are not subject to registration). All these instruments come under Article 113 of the Ownership Act, which provides that they may not be relied on against third parties until they are recorded if these third parties have acquired earlier rights *in rem* in the immovable property from the same owner and have registered these rights.
In this sense, the law makes the effect of reliance contingent on the fact of registration in respect of all instruments disposing of rights in rem in immovable property if such registration is provided for such instruments because the purpose of recording these instruments is to make the holding of rights in rem in immovable properties clear, certain and stable and to reconcile the competition of instruments invoked by different persons as fountains of rights in one and the same property from one and the same predecessor, i.e. the registration of such instruments has the effect of making them publicly available and a protective effect.
As already mentioned in point 2, registration has such effect in respect of all instruments indicated in Article 112 of the Ownership Act and in Article 4 of the Rules on Registration, and when two such instruments come into competition, resolving the dispute as to which instrument has precedence depends precisely on the moment of registration.

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?

Bulgarian legislation does not lay down any specific rules or procedures for the adaptation of unknown rights *in rem*.

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Adapting rights in rem - Czechia

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

The following rights in rem may arise from a succession:
right to own property (its registration does not hinder other rights in rem),
right to build (its registration – for immovable property – does not hinder other rights in rem),
easement (its registration – for immovable property – does not hinder other rights in rem),
mortgage (1) where a piece of land is charged with a mortgage, this may only be done with the agreement of the mortgagee, (2) transfer of ownership of a mortgaged aircraft requires the agreement of the mortgagee,

lien,
transfer of title as security of obligation (its registration – for cases entered in the public register (e.g. for immovable property, a share in a limited liability company, a trade mark) – does not hinder other rights in rem),
right of pre-emption (registration of a contractually established right of pre-emption – for immovable property – does not hinder other rights in rem).

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?

Possessory title:
is registered for immovable property in the land registry, registration is mandatory. For the registration requirements and registration procedure see: http://www.cuzk.cz/English/Cadastre-of-Real-Estate/Registration-into-the-Cadastre-of-Real-Estate/Registration-into-the-Cadastre-of-Real-Estate.aspx.
is registered for some movable property, e.g. for:
shares in a limited liability company (registered in the commercial register): registration is mandatory, for the registration requirements and registration procedure see: https://or.justice.cz/ias/ui/podani,
registered securities (registered in the Central Securities Depositary): registration is mandatory, for the registration requirements and registration procedure see: https://bit.ly/2wjlka6,
applied designs, industrial designs, trademarks, patents, geographical designations and designations of origin (registered by the Industrial Property Office): registration is mandatory, for the registration requirements and registration procedure see: http://www.upv.cz/cs/sluzby-uradu/formulare/vyplnitelne-pdf.html,
vehicles (registered in the vehicles register): registration is mandatory, for the registration requirements and registration procedure see: https://www.mdcr.cz/Dokumenty/Silnicni-doprava/Registrace-vozidel/Jak-registrovat?returl=/Dokumenty/Silnicni-doprava/Registrace-vozidel,
vessels (registered in the vessels register): registration is mandatory, for the registration requirements and registration procedure see: https://www.mdcr.cz/Dokumenty/Namorni-urad-CR/Namorni-rejstrik-CR,
aircraft (registered in the aircraft register): registration is mandatory, for the registration requirements and registration procedure see: http://www.caa.cz/letadla/letecky-rejstrik.
Right to build: always registered for immovable property in the land registry, registration is mandatory, for the registration requirements and registration procedure see the right to own immovable property.
Easement: always registered for immovable property in the land registry, registration is mandatory, for the registration requirements and registration procedure see the right to own immovable property.
Lien:
with respect to immovable property is registered in the land registry, registration is mandatory, for the registration requirements and registration procedure see the right to own immovable property,
with respect to a share in a limited liability company is registered in the commercial register, registration is mandatory, for the registration requirements and registration procedure see the right to own a share in a limited liability company,
with respect to registered securities is registered in the Central Securities Depositary, registration is mandatory, for the registration requirements and registration procedure see the right to own registered securities,
with respect to trademarks, industrial designs and patents, is registered by the Industrial Property Office, registration is mandatory, for the registration requirements and registration procedure see the right to own applied designs, industrial designs, etc.,
with respect to immovable property not registered in the land registry, collective property, works and other movable property (where the security agreement is written in the form of a notarial deed) is registered in the security register, Registration is mandatory, for the registration requirements and registration procedure see: https://www.nkcr.cz/sluzby/overovani-a-vypisy-z-rejstriku/vyhledavani-v-rejstricich-a-kontaktni-misto-czech-point.
Lien: not registered in any records.
Transfer of title as security of obligation:
with respect to immovable property is registered in the real estate cadastre, registration is mandatory, for the registration requirements and registration procedure see the right to own immovable property,
with respect to a share in a limited liability company is registered in the commercial register, registration is mandatory, for the registration requirements and registration procedure see the right to own a share in a limited liability company,
with respect to trademarks, industrial designs and patents, is registered by the Industrial Property Office, registration is mandatory, for the registration requirements and registration procedure see the right to own applied designs, industrial designs, etc.,
Right of pre-emption:
a contractually established right of pre-emption with respect to immovable property is registered in the land registry, registration is mandatory, for the registration requirements and registration procedure see the right to own immovable property,
a contractually established right of pre-emption with respect to a share in a limited liability company is registered in the commercial register, registration is mandatory, for the registration requirements and registration procedure see the right to own a share in a limited liability company,
a contractually established right of pre-emption with respect to trademarks, industrial designs and patents, is registered by the Industrial Property Office, registration is mandatory, for the registration requirements and registration procedure see the right to own applied designs, industrial designs, etc.,

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

As regards the registration of rights in rem as a result of the death of the original owner (i.e. the transfer of rights in rem), their registration always has declaratory effects. Succession is acquired, namely, through the death of the testator, whereby such acquisition must be confirmed by a court. The court's resolution on succession declares the legal relationships effective on the date of the testator's death. This principle is not expressly laid down by law in relation to the individual public registers.

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 for the adaptation of foreign rights in rem unknown in the Czech legal system.

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Adapting rights in rem - Germany

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

Under German law all of the deceased's property, i.e. all rights and obligations, are transferred to the heirs upon death. If the deceased leaves his/her estate to several heirs, it becomes the joint property of the heirs in accordance with Section 2032 of the Civil Code (*Bürgerliches Gesetzbuch* – BGB). New rights in rem do not arise by virtue of succession. Bequests and instructions on the division of the estate by the deceased are only effective under the law of obligations.

However, experience since the entry into force of the EU Succession Regulation has shown that limitations on dispositions in particular can pose problems because of provisions relating to provisional and reversionary succession (*Vor- und Nacherbfolge*) in German law (Sections 2100 to 2146 of the Civil Code). Under this process the deceased appoints a number of successive heirs, whereby one person (*Nacherbe*) becomes heir under subsequent succession only after another person (*Vorerbe*) has been heir beforehand. However, the reversionary heir acquires expectancy (*Anwartschaftsrecht*) on the death of the deceased. Expectancy is a legally secure position arising in cases of acquisition covered by several acts whereby the first beneficiary can no longer unilaterally prevent the property from subsequently being acquired (Eigentumserwerb) by the other beneficiary. Expectancy is not explicitly regulated by the Civil Code. Therefore, because of the exhaustive list of rights in rem (numerus clausus in property law), it cannot be characterised as such a right. However, it does represent a subjective right with effect in rem.

Provisional and reversionary succession come with numerous limitations and obligations for the provisional heirs, in particular limits on their powers of disposition. Dispositions of land are invalid under subsequent succession if they infringe upon the rights of the reversionary heir (Section 2113(1) of the Civil Code). The same applies to dispositions of gifts (Section 2113(2) of the Civil Code). The deceased can, however, exempt the provisional heir from some of these restrictions under a disposition of property upon death. Restrictions on disposition under subsequent succession must be entered in the German land register.

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?

Under German law, all of the deceased's rights are automatically transferred to the heir or joint heirs upon his/her death. These rights, and even rights that require registration, need not be recorded in a register for that purpose. In so far as rights that require registration are involved, the relevant registers (land register, register of companies) will no longer be accurate upon accrual of the inheritance and must be amended. For this purpose, succession must be proved by official or authenticated instruments or a European Certificate of Succession. Certain subsequent transactions (e.g. encumbrance of inherited land) require correction by means of registration of the heir or joint heirs in the land register.

The restrictions on disposition linked to provisional and reversionary succession and the expectancy of the reversionary heir also arise directly on the death of the deceased. However, provisional and reversionary succession are recorded in the land registry in order to prevent good faith acquisition without encumbrances by third parties.

If individual heirs or beneficiaries have a claim (under the law on obligations) on specific assets by law or disposition of property upon death, ownership of these assets must be transferred to them by means of a contract with the heirs and any real estate rights must be recorded in the land register on the basis of official or authenticated instruments.

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

The registration of rights in rem transferred to an heir or joint heirs as a result of succession is merely declaratory. It does, however, form the basis for the good faith of third parties and is necessary for certain subsequent transactions.

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?

Rights in rem not known under German law are generally adapted to a similar German legal concept by law. As any registration procedure always requires a secure basis for registration, it may be necessary for the heirs to issue an additional act of transfer, as is necessary in German law for claims under the law on obligations. In accordance with Article 1(2)(l) of the EU Succession Regulation, registration procedures are unaffected by the Regulation.

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Adapting rights in rem - Estonia

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

In general, Estonian law applies the principle of universal succession, according to which the property of the deceased person (the estate), including all the rights and obligations of the deceased, is transferred to another person (the successor). If there is more than one successor, the estate is owned by them jointly in accordance with section 147 of the Law of Succession Act. No new rights arise from inheritance. The instructions set out in a will (bequests and instructions on how the estate is to be divided) fall within the law of obligations only.

In certain cases, the surviving spouse of the deceased may request an easement for a property that was the matrimonial home of the spouses (section 16(3) of the Law of Succession Act), provided this right is a claim under the law of obligations and not a right in rem.

The right of the successor to property rights associated with the estate may be restricted in cases where he or she is a provisional successor for whom a subsequent successor has been designated (Section 48 of the Law of Succession Act). In such cases, an entry is made in the Land Register stating that the successor is a provisional successor (Section 491 of the Land Register Act).

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?

Immovable properties and related rights are entered in the Land Register. All property rights are transferred to the successor by means of the Land Register. In the event that the Land Register has become incorrect due to the transfer of a right in rem outside the Land Register, the land registry department will correct the entry on the basis of the registration application submitted by the new owner of the right in rem. A document certifying the transfer of the right in rem (certificate of succession) must be appended to the registration application (section 651(1) of the (Land Register Act). In order to establish whether the bequestor was the sole owner of the right in rem or whether the right in rem is a joint property, a certificate of ownership must in some cases be appended to the registration application in addition to the certificate of succession. A registration application must be notarised or digitally signed (section 34 (21) of the Land Register Act.

The land registry department may require the owner of a right in rem or the executor of a will to submit a registration application and the documents necessary for the correction and making of an entry in the Land Register under the threat of a fine (section 651(5) of the Land Register Act).

Any other property subject to registration is also transferred to the successor regardless of the entry in the register. As a rule, an heir is required to present to the relevant register the necessary information and documents concerning the inheritance of an asset or right. However, in the case of inheritance of shares or membership in a limited liability company or a building association, a notary public is required, after the notarisation of the certificate of succession, to send a notice of the inheritance of the shares or membership to the Commercial Register.

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

All rights in rem are transferred to heirs by law and are independent of the registration of these rights. As a rule, registry entries become invalid when a succession is opened and the heir is generally required to have the entries altered.

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?

According to section 6291 of the Code of Civil Procedure, a court may initiate a proceeding for adaptation of a right in rem of a foreign country based on the petition of the person who is entitled thereto. If necessary, the court hears the petitioner. The court sets out in the ruling on adaptation of a right in rem whether Estonian laws prescribe a right in rem which is equivalent to the right in rem of the foreign country that is to be adapted. If an equivalent right in rem exists, the court indicates it in the ruling. If, for the purpose of enforcement of a ruling on adaptation of a right in rem, the petitioner must contact a non-judicial registrar or another person or institution, this fact must be set out in the ruling. The petitioner may file an appeal against the ruling.

According to section 475(1)(101) of the Code of Civil Procedure, adaptation of rights in rem in accordance with Article 31 of Regulation (EU) No 650/2012 of the European Parliament and of the Council is dealt with in proceedings on petition.

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Adapting rights in rem - Greece

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

Under Greek law, the rights in rem which could be inherited are ownership, easements in rem, pledges, notional pledges, mortgages and mine ownership.

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?

Of the rights in rem referred to, ownership of immovable property, mortgages, mine ownership and notional pledges must be registered. Ownership of immovable property, mortgages and mine ownership must be registered at the Cadastral Office of the region in which the property is located, whereas notional pledges must be registered with the Pledge Registry at the pledgor's place of residence or at its registered seat, or if the pledgor is not resident or does not have its registered seat in the territory of Greece at the Athens Pledge Registry.

It is essential to submit an application to the Cadastral Office to register such rights and the fees specified by law must also be paid (see Law 2664/1998). The application must be accompanied by the deed to be registered, a copy of the survey diagram which has been prepared and appended to the registrable deed, a summary of the registrable deed and a certified extract from the cadastral diagram for the property the registrable deed relates to.

An application must be submitted to register a pledge with the Pledge Registry, along with the relevant form.

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

Registration of those rights in rem is, in law, constitutive of the rights (see Article 12 of Law 2664/1998), in the sense that any failure to register means transfer of ownership of the immovable property does not occur or the establishment, transfer or abolition of the right in rem on the immovable property does not take place. The same also applies to registration of notional pledges.

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?

In Greece, rules of law or procedures have not been enacted to adapt a right in rem unknown in Greek law to the closest right known in that law.

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Adapting rights in rem - Spain

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

Rights in rem **are transferred** upon death if the holder is the deceased and these rights are not extinguished by death. They include property rights, easements (along with dominant tenement rights) and securities (mortgages, along with secured credit). However, usufruct rights are extinguished by the death of the usufructuary (Article 513(1) of the Spanish Civil Code [*Código Civil*]).

The succession **may give rise** to new rights in rem, due to either the wishes of the deceased (e.g. bequests of usufruct, use or habitation rights, creation of an easement) or the law (legal usufruct which the law confers on a spouse in testate or intestate 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?

Registration is not obligatory, i.e. the law does not require this in order to obtain the right (except in the case of mortgages). However, as being entered in the Property Register does offer protection to the party whose right is registered, in practice the holder of a right usually applies for registration.

Succession instruments may take the form of a will, testamentary contract, declaration of intestate successors or European Certificate of Succession (Article 14 of the Spanish Mortgage Law [*Ley Hipotecaria*]). However, in general, even if such an instrument confers the status of heir or legatee to a person, it is not possible to immediately re-register rights formerly registered in the name of the deceased. The allocation of rights to a specific item of property from the division of the estate must be carried with the agreement of all other heirs (and before a notary for registration to be possible). If no agreement is reached between all the heirs, the matter will have to be settled in court.

Before the division of an inheritance has been carried out, an heir can only request that a note be made in the Register that they have a right to a specific registered item in the inheritance, so that third parties are aware of this right.

The law allocates the right to a specific item of property in an inheritance to a legatee at the moment of death of the holder (Article 882 of the Civil Code), but the legatee cannot take possession of it on their own authority (Article 885 of the Civil Code) unless the deceased has authorised them to do so. The law gives the legatee the right to demand that the heir transfer a specific item to him/her and it is this notarial deed that may be registered. If the heir refuses to transfer a specific item, the legatee will have to take the matter to court.

There are exceptions to the division of an inheritance after death, i.e. if the division by the testator was an anticipated inheritance or the will only has one heir.

Before an item can be registered, it is also necessary to make the relevant declaration to the tax authorities so that the transfer taxes can be paid.

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

The effect of registration is that the heir to a property right is considered the legal holder of it, he/she is able to dispose of it and he/she enjoys the same protection as the original holder from any other possible heirs that have not registered their rights.

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?

Law 29/2015 on international legal cooperation states in Article 61:

‘1. If a decision or a foreign authentic instrument orders measures or transposes rights which are not recognised by Spanish law, the registrar will, as far as is possible, adapt them to a measure or right laid down in, or recognised by, Spanish law which has similar effects or a similar purpose or interests, as long as the effects of adapting them does not go beyond the effects they would have had in the law of the country of origin. Before registering a right, the registrar will inform the holder of the right or measure that needs to be adapted.

‘2. Any interested party may challenge the adaptation of a right or measure in court.’

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Figyelem: az oldal eredeti nyelvű változata hr nemrég módosult. Az Ön által kiválasztott nyelvi változatot most készítik fordítóink.

Adapting rights in rem - Croatia

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

Article 1(1) of the Ownership and Other Rights *in Rem* Act (*Zakon o vlasništvu i drugim stvarnim pravima*) (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 91/96, 68/98, 137/99, 22/00, 73/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12 and 152/14; hereinafter referred to as: “the Act”) states that, unless otherwise provided by law, any natural person or legal entity may hold the right of ownership or other rights *in rem*: servitude, rights arising from an encumbrance *in rem*, the right to build, and a lien on anything that can be the object of such rights.

Article 128(2-3) of the Act states that any heir is entitled to request that his/her right of ownership in immovable property be entered in a land register and that the acquisition of title by inheritance does not terminate any rights *in rem* that other persons previously held in the relevant property, other than those for which it is prescribed by law or those which, by the nature of circumstances, can no longer exist.

Articles 199(2) and 201 of the Act specify the following as personal servitudes: usufruct, right of use and right of residence. The articles also provide that, unless otherwise provided for by law, personal servitudes last only for the length of time for which they have been established and that they cease no later than on the date of the beneficiary’s death.

Article 285(1) of the Act states that, unless otherwise provided by law, the right to build is as alienable and inheritable as other immovable property.

Article 299(1) of the Act states that no lien can be separated from the collateral to which it is attached. This means that, unless otherwise provided for by law, anyone who acquires a collateral on any legal basis has acquired it under a lien.

It therefore follows from the foregoing that rights *in rem* other than personal servitudes are inheritable. Unless otherwise provided by law, personal servitudes cease no later than on the date of the beneficiary’s death.

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?

Article 2(3-4) of the Act defines ‘immovable property’ as a lot, tract, or parcel of land, including anything that is permanently attached to the land, either above or below ground level, unless otherwise provided by law, and ‘movable property’ (or ‘chattels’) as any item that can be moved from one place to another without any loss to its essential characteristics or substance. For legal purposes, property that by nature is movable is considered immovable if it belongs to an item of immovable property or if it is equated by law with immovable property.

Article 119(1) of the Act states that ownership in immovable property is acquired once the acquirer registers ownership in a land register, as provided for by law. For this to happen, the previous owner must have expressed his/her wish for the ownership to pass to the acquirer, unless otherwise provided for by law. Under Article 122(1) of the Act, a land register is considered to reflect, truly and in full, the factual and legal status of an item of immovable property. Therefore, anyone acting in good faith, i.e. with confidence in the accuracy of land registers, who is unaware of the incompleteness of a particular record made in the land register or of the fact that the record differs from the actual situation, will have his/her rights protected under law in terms of acquisition.

Article 277(1) states that any encumbrance *in rem* that is not entered in a land register ceases to exist when the encumbered item of immovable property is acquired by a person who was neither aware nor should have familiarised him/herself with the fact that the encumbrance exists. Moreover, Article 278(1) of the Act states that, unless otherwise provided for, any encumbrance *in rem* created for the benefit of a natural person or legal entity will cease to exist when the natural person dies or when the personality of the legal entity lapses.

The procedure to follow for the entering in a land register of rights *in rem* held in immovable property is given in the provisions of the Land Registers Act (*Zakon o zemljišnim knjigama*) (NN Nos 91/96, 68/98, 137/99, 114/01, 100/04, 107/07, 152/08, 126/10, 55/13 and 60/13). A land register consists of the main register (in which all plots of land of a given cadastral municipality are entered and which is comprised of title deeds) and a compendium of identification documents. An application for a right *in rem* to be entered, temporarily or permanently, in the land register is made to the local land register court by a person seeking to acquire, change or waive his/her right to register. An application for a right *in rem* to be entered in the land register in the form of a register note is made by a person in whose legal interest it is that a note be created for his/her property or who is entitled to this procedure under a special regulation. The title deed contains details of the estate and any changes made thereto, as well as rights *in rem* and other rights conferred and enforced by a land register court. It consists of a document specifying the estate owned (*posjedovnica*) (specification sheet, sheet A), the certificate of title (*vlastovnica*) (proprietor’s sheet, sheet B), and the encumbrances (*teretovnica*) (encumbrance sheet, sheet C)].

The procedure to follow for the registration of rights *in rem* held in vehicles is given in the Vehicles (Registration and Marking) Rules (*Pravilnik o registraciji i označavanju vozila*) (NN Nos 151/08, 89/10, 104/10, 83/13, 52/15 and 45/16). The Ministry of Internal Affairs keeps records of all registered vehicles. In response to a request from competent authorities (courts, the Croatian Financial Services Agency, notaries, etc.), the Ministry is required, under special regulations, to add certain notes relating to vehicles to said records and to driving licences. If a vehicle passes from one owner to another, the new owner is required to register the vehicle in his/her name or to deregister it within 15 days of the date of acquisition. An application to that effect is made to the responsible police directorate for the place where the new owner has a permanent home address or head office, or to a police station or a vehicle test centre, provided that the centre is approved and complies with the conditions set.

The procedure to follow for the registration of rights *in rem* held in nautical craft is given in the Maritime Code (*Pomorski zakonik*) (NN Nos 181/04, 76/07, 146 /08, 61/11, 56/13 and 26/15). The right of ownership and other rights *in rem* in a ship, boat or yacht can be acquired, assigned, limited and terminated only by entering the details of such an action into an appropriate register or into records kept by competent port authorities, which are managed by the ministry in charge of maritime affairs. In response to an application by the owner, operator or shipping company, entries in the register of ships are made based on a decision of the relevant port authority. The register consists of the main register and a compendium of identification documents. The main register consists of deeds comprised of sheet A (particulars identifying the maritime vessel and its basic technical features), sheet B (the name and registered office of the company, i.e. legal entity, or the name and home address of the natural person who owns the maritime vessel and the personal limitations of the owner relating to the free use of the vessel) and sheet C (rights *in rem* with which the maritime vessel is encumbered, as well as rights arising from said rights).
The procedure to follow for the registration of rights *in rem* held in aircraft is given in the Civil Aircraft Register (Content and Method of Keeping) Rules (*Pravilnik o sadržaju i načinu vođenja hrvatskog registra civilnih zrakoplova*) (NN No 137/12). The Croatian Civil Aircraft Register is kept by the Croatian Civil Aviation Agency in hard copy and electronic form. The actual register book comprises volumes specified by ordinal numbers, each volume consisting of registration deeds. Each aircraft is entered in a separate deed, which comprises the registration sheet (containing various particulars of the aircraft), the owner's sheet (particulars of the owner and those of any co-owners or joint owners) and the encumbrance sheet (detailing the lien attached to the aircraft or the ideal share held by a co-owner, the right of first refusal and buy-back, any limitations relating to use, and containing an indication of the party to which the entry relates, the date of registration, the sum of money paid – where relevant for registration – with any notes made in connection with registration). The electronic register is kept by entering data into electronic registration deeds. In terms of content, electronic registration deeds are equivalent to those held in hard copy. An application for registration is made by the owner of the aircraft or operator and is accompanied by a certified authorisation letter from the owner. Entries in the register are made subject to a decision by the Croatian Civil Aviation Agency.

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

The law prescribes that a public document is a document issued by a competent court or public authority, in the prescribed form, within the limits of their competence. Furthermore, a public document constitutes evidence of the matter which it confirms or regulates. This means that anyone acting in good faith, i. e. with confidence in the accuracy of public documents, who is unaware of the incompleteness of particular information given therein, or of the fact that such information differs from the actual situation, will have his/her rights protected under law in terms of the acquisition of certain rights. In addition, no one may invoke ignorance of an entry having been made in a land register, in the records of registered vehicles kept by the Ministry of Internal Affairs, in registers kept by port authorities managed by the ministry in charge of maritime affairs, or in the Croatian Register of Civil Aircraft.

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?

The law prescribes that rules governing *ex parte* actions should apply to all matters relating to the adaptation of a right *in rem* held by a certain person under the law applicable to inheritance, where such a right *in rem* does not exist in Croatian law.

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Adapting rights in rem - Luxembourg

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

Under Luxembourg law, there are no specific rights *in rem* that, within the meaning of the question, can '*arise*' from a succession. However, there are rights *in rem* that can be involved in a succession or, in other words, that can be *transferred* as a result of death.
These are as follows: ownership within the meaning of Article 544 *et seq.* of the Civil Code (*Code civil*) and easements or servitudes within the meaning of Article 637 *et seq.* of the same Code.
Ownership, as defined by Article 544 of the Civil Code, is the right to enjoy and dispose of property, provided that this is not used in a manner prohibited by law or regulation or that causes a disturbance exceeding normal neighbourhood annoyances disrupting the balance between equivalent rights. According to Article 546 of the Civil Code, ownership of property, whether movable or immovable, entitles the owner to everything produced by that property and to everything that is naturally or artificially associated with that property (right of accession). Under Article 711 of the Civil Code, ownership of property can be acquired and transferred by succession.
As regards **easements**, Article 637 of the Civil Code defines these as a burden imposed on one property for the use and benefit of a property belonging to another owner. Under Article 639 of the Civil Code, an easement can derive from the natural situation of the property (see Article 640 *et seq.* of the Civil Code), from obligations imposed by law (see Article 649 of the Civil Code), or from agreements between owners (see Article 686 *et seq.* of the Civil Code). As regards the last category of easements, owners can in principle establish the easements that they deem appropriate over their properties or in favour of their properties, provided, however, that the services established are not imposed on a person or in favour of a person, but only on land and for land, and provided that those services are not in any way contrary to public policy (Article 686, first paragraph, of the Civil Code). Under these rules, easements can be established for the use of buildings or land (Article 687, first paragraph). In addition, they can be continuous (continual use without need of human intervention, e.g. water pipes, sewers, views, etc.) or discontinuous (needing human intervention in order to be exercised, e.g. rights of way, drawing rights, etc.; see Article 688, first paragraph, of the Civil Code).
It should also be noted that easements can be apparent – those announced by external structures – or non-apparent – those for which there is no external sign of their existence (Article 691, first paragraph, of the Civil Code). Continuous and apparent easements can be acquired by deed or by possession over 30 years (Article 690 of the Civil Code), whereas continuous and non-apparent easements and discontinuous easements, whether apparent or non-apparent, can be established only by deed (Article 691, first paragraph, of the Civil Code). The easement lapses when the land to which it is due and the land by which it is due are held by the same person (Article 705 of the Civil Code).
For the sake of completeness, the following rights *in rem* should also be mentioned, with regard to which specific rules apply when the person who benefited from them in his/her lifetime dies.
Under Article 617 of the Civil Code, a **usufruct** lapses on the death by natural causes of the usufructuary and when the two capacities of usufructuary and owner are held by the same person. The second case occurs, *inter alia*, where the usufructuary obtains, as a result of death, ownership of the property over which he/she held a right of usufruct. The content of the usufruct is defined in Article 578 *et seq.* of the Civil Code as being the right to enjoy property that is owned by someone else, in the same way as the owner himself/herself, but with the usufructuary being responsible for preserving the substance of the property. A usufruct can be established by law or by the will of man, it can be straightforward, time-limited or subject to conditions, and it can cover any type of movable or immovable property.
Lastly, **rights *in rem*** involving **rights of use and habitation**, as defined in Article 625 *et seq.* of the Civil Code, lapse in the same way as the usufruct.

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?

In the Grand Duchy, there is an 'immovable property register', i.e. mortgage offices (*bureaux de la conservation des hypothèques*) where, in accordance with Article 1 of the amended Law of 25 September 1905 on the registration of rights in immovable property (*loi modifiée sur la transcription des droits réels immobiliers du 25 septembre 1905*), all deeds for lifetime transactions which transfer immovable property rights other than preferential payment rights and mortgages, whether gratuitous or for consideration, are registered. This registration of such deeds is mandatory in the sense that it makes the rights in question binding on third parties (see Article 11 of the aforementioned Law). According to Luxembourg case-law, the term 'rights in immovable property' used in Article 1 of said Law also includes property easements (Diekirch District Court (*Tribunal d'arrondissement*), 17 February 1937).

It should also be noted that only court decisions, authentic instruments and administrative acts are accepted for the purpose of registration.

In the case of *succession*, rights *in rem* referred to in point 1 that may form part of an estate are transferred in accordance with the Civil Code.

More specifically, according to Article 724, first and second paragraphs, of the Civil Code, all the deceased's property is transferred to his/her legal heirs simply as a result of the succession being opened. Those heirs can exercise the rights and actions of the deceased upon the latter's death.

In the case referred to in Article 1004 of the Civil Code concerning the sole legatee – i.e. the person to whom the testator gives, through a testamentary disposition, all the property that he/she leaves on death (see Article 1003 of the Civil Code) – the latter must ask the heirs to whom a proportion of the estate is reserved under the forced heirship law to deliver the property included in the will. Under Article 1005 of the Civil Code, the sole legatee will have enjoyment of the property included in the will as from the date of death if the delivery request is made within a year of that date. Otherwise, such enjoyment will commence only on the date of the court application or on the date when delivery is voluntarily granted. Where, on the death of the testator, there are no heirs to whom a proportion of the property is reserved by law, the sole legatee will automatically obtain the property on the testator's death, without having to request delivery (Article 1006 of the Civil Code). Lastly, in the case referred to in Article 1006 of the Civil Code, if the will is holographic or sealed, the sole legatee must have possession granted to him/her by an order of the presiding judge of the court of first instance (*tribunal de première instance*) for the district in which the succession is opened.

If one or more immovable properties are included in the succession, a transfer following death is required, which will be carried out based on the declaration of succession to be submitted by the heirs to the Land Registration and Estates Department (*administration de l'enregistrement et des domaines*). The latter then submits a copy of the declaration to the Land Registry and Topography Office (*administration du cadastre et de la topographie*) (see the end of Article 10 of the amended Law of 25 July 2002 reorganising the Land Registry and Topography Office (*loi modifiée du 25 juillet 2002 portant réorganisation de l'administration du cadastre et de la topographie*)).

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

Please see the answer to the previous question.

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?

Yes. There are provisions in the Law of 14 June 2015 implementing Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession and amending (a) the amended Law of 25 September 1905 on the registration of rights in immovable property and (b) the New Code of Civil Procedure (*loi du 14 juin 2015 relative à la mise en application du règlement (UE) n° 650/2012 du Parlement européen et du Conseil du 4 juillet 2012 relatif à la compétence, la loi applicable, la reconnaissance et l'exécution des décisions, et l'acceptation et l'exécution des actes authentiques en matière de successions et à la création d'un certificat successoral européen et modifiant a) la loi modifiée du 25 septembre 1905 sur la transcription des droits réels immobiliers et b) le Nouveau Code de procédure civile*).

Article 1 of this Law provides as follows: 'Pursuant to Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, notaries appointed by Grand Ducal order shall be competent to carry out the adaptation of rights in immovable property referred to in Article 31 of said Regulation. The adaptation referred to in the first paragraph shall be carried out no later than the date when the property covered by the right *in rem* referred to in Article 31 of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession is transferred *inter vivos* gratuitously or for consideration'.

Furthermore, said Law amends Article 1, second paragraph, of the amended Law of 25 September 1905 on the registration of rights in immovable property by adding notarial acts that adapt rights in foreign immovable property to the acts transferring rights in immovable property specified therein, which must be registered with the mortgage office for the district in which the property is situated.

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Adapting rights in rem - Hungary

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

1) Ownership

The heir acquires ownership over the estate automatically upon the death of the testator. The estate is the sum of the rights, tangible property, claims and obligations of the deceased at the time of his or her death which do not cease with the death. This is all self-explanatory in Hungarian law; in fact, the provisions of the Civil Code on inheritance law use the concepts of the 'estate of the deceased person' and 'assets' synonymously. An asset is nothing other than a tangible property, a right or a claim (Section 8:1 of the Civil Code). The assets are the sum of all such assets. In the case of specific legacy (*legatum vindicationis*) the legatee acquires ownership (directly from the deceased) over the asset legated.

2) Usufruct

Under Hungarian law, if the deceased has left behind descendants and a surviving spouse (in the case of intestate succession), the surviving spouse is entitled to lifelong usufruct over certain assets belonging to the estate, namely

- the dwelling he or she jointly inhabited with the deceased and
- the furnishings and fittings pertaining to the dwelling (Section 7:58(1)(*a*) of the Civil Code).

The general rules on usufruct under civil law apply analogously to the substance of the surviving spouse's right to usufruct (the 'widow's right') (Chapter XXX of the Civil Code). Usufruct is one of the so-called limited rights in rem. The usufructuary may possess, use, exploit and collect the proceeds of tangible property owned by another person. The rights of the usufructuary remain intact regardless of any changes in the identity of the owner (Section 5:147(1) and (2) of the Civil Code).
The testator may also establish usufruct over an asset in his or her will.

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?

The rights referred to are listed in the register of immovable property (or other public registers). Entering these rights in a register is compulsory.
If succession results in ownership or usufruct, the notary public conducting the probate proceeding in Hungary contacts the domestic authority that keeps the register of immovable property or the registries of any other assets in order to have these rights registered. In such cases the notary public sends the grant of probate (after it has become final) to this authority (Section 91(2) of Act XXXVIII of 2010 on probate proceedings (*hagyatéki eljárásról szóló 2010. évi XXXVIII. tv.*). The notary public's grant of probate serves as the basis of registration.
By contrast, the beneficiary (heir, legatee) must take action him- or herself in order to register the right if the probate proceedings were conducted in another Member State. In such cases, he or she should file the application for registration directly with the Hungarian authority that keeps the register in question (for instance the land registry).
The *principal* public registers listing the ownership of specific assets are:
- *the register of immovable property*
kept by: the land registry
object of the register: immovable property
rules: Act CXLI of 1997 on real estate registration (*az ingatlan-nyilvántartásról szóló 1997. évi CXLI törvény*) (see Section 16 of the Act)
- *National Aircraft Register (Magyarország Légijármű Lajstroma)*
kept by: National Transport Authority Aviation Office (*Nemzeti Közlekedési Hatóság Légügyi Hivatal*)
object of the register: civil aircraft
rules:
Section 12 of Act XCVII of 1995 on air transport (*a légiközlekedésről szóló 1995. évi XCVII. törvény*)
Section 5 of Government Decree No 141/1995 of 30 November 1995 implementing Act XCVII of 1995 (*Korm. rendelet a légi közlekedésről szóló 1995. évi XCVII. törvény végrehajtásáról*) on air transport (*a légiközlekedésről szóló 1995. évi XCVII. törvény*)
- *register of floating vessels*
kept by: Ministry of National Development and Metropolitan Government Office of Budapest as shipping authorities
object of the register: floating vessels (floating devices, structures and equipment suited for water transport, work on water and the pursuit of related activities)
rules:
Sections 7 to 15 and in particular Section 11(3) of Act XLII of 2000 on water transport (*a víziközlekedésről szóló 2000. évi XLII. törvény*)
Government Decree No 198/2000 of 29 November 2000 on the registration of floating vessels (*az úszólétesítmények lajstromozásáról szóló 198/2000. Korm. rendelet*)
- *vehicle register*
kept by: Ministry of the Interior (Deputy Ministry of State responsible for registers) as the road traffic registration body
object of the register: road transport vehicles
rules:
Act LXXXIV of 1999 on road transport records (*közúti közlekedési nyilvántartásról szóló 1999. évi LXXXIV. törvény*), in particular Section 9
- *business register:*
kept by: regional courts as courts of registration
object of the register: businesses (a business is a legal entity which is created for the purpose of carrying out business activities on a commercial basis through registration in the business register (these include in particular companies, cooperative societies, Hungarian branches of foreign enterprises, European Economic Interest Groupings, European Cooperative Societies, sole traders, etc.).
rules: Act V of 2006 on public company information, company registration and winding-up proceedings (*a cégnyilvánosságról, a bírósági cégeljárásról és a végelszámolásról szóló 2006. évi V. törvény*), in particular Sections 24 to 25.

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

1) Registration of ownership

In general, the ownership of immovable property can only be acquired under Hungarian law through registration in the register of immovable property; in other words, registration of ownership in the register of immovable property has a constitutive effect (a right is created) (principle of registration).
However, the law makes an exception in a few cases; one exception is succession. Hungarian law follows the principle of *ipso jure* succession. This means that the heir acquires the estate solely by operation of law upon the opening of the succession, without acceptance or any other legal act (Section 7:87 of the Civil Code). In the case of succession ownership is thus acquired by the heir at the time of the opening of succession, or the death of the deceased.
Therefore, the registration of ownership in a register of immovable property acquired by succession only has a *declaratory effect*. The same also applies to the acquisition of property on the basis of specific legacy (*legatum per vindicationem*).
As a result of *ipso jure* succession, the registration of ownership in public registers for other assets has a declaratory effect as well, if the change in the owner occurs by succession.

2) Registration of usufruct

The right of usufruct of the surviving spouse (widow's right) arises by operation of law. In view of this, the registration of usufruct in the register of immovable property (similarly to the registration of ownership acquired by succession) has a declaratory effect; thus the right itself is not created by the registration.
According to Section 5:146(2) of the Civil Code, if a usufruct arising on the basis of legislation is not registered in the register of immovable property, this right can only be enforced against a bad faith acquirer of the property or an acquirer who has not paid any consideration for the property. Therefore, for a usufructuary's right over immovable property to enjoy full protection under civil law, its registration in the register of immovable property is necessary even if this right is created by operation of law (and not by registration).

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?

Yes.

If a beneficiary concerned by a matter of succession (for instance, an heir or a legatee) wishes to enforce in Hungary a right in rem created by succession which is not allowed by Hungarian legislation on the register of immovable property (or other register in the given case), the operation under Article 31 of the Regulation (adaptation of rights in rem) is carried out in a separate proceeding. This is known as the 'adaptation proceeding', which is regulated by Act LXXI of 2015.

An adaptation proceeding is a non-contentious proceeding falling under the competence of the courts. Since the application of Article 31 of the Regulation requires special expertise, only one court (the Buda Central District Court (*Budai Központi Kerületi Bíróság*) operating in Budapest) acts as a court of first instance for the entire territory of Hungary. This court decides on issues concerning which other right may be registered in place of the foreign right in question (or the closest equivalent to a right known in Hungarian law in terms of its substance and purpose). The decision of the court is binding on the applicant.

The person concerned by the succession (for instance the heir or legatee) does not him- or herself initiate this adaptation proceeding as applicant. The authority that keeps the public register (such as the land registry) before which the registration proceeding is pending (main proceeding) stands before the court as applicant.

In the course of its proceedings, the court examines the foreign legislation with regard to the foreign right in question. The court independently ensures that the nature of the foreign right is ascertained, but may also call upon the person concerned by the succession to attach information and any documents available to him or her on the meaning of the foreign right.

Otherwise, the court takes its decision on the basis of documents only and does not take any other evidence (for instance from witnesses).

Both the applicant (the authority that keeps the register in question) and the person concerned by the matter of succession may appeal the decision of the Buda Central District Court. The appeal must be addressed to the regional court and submitted to the court which took the decision. The Budapest-Capital Regional Court acts in the matter of the appeal.

The costs of these proceedings are borne by the person concerned by the matter of succession, who must pay them in the main proceeding itself (i.e. in the proceeding before the authority that keeps the register).

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Adapting rights in rem - Netherlands

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

The principle of seisin applies in the Netherlands. This means that the heirs take over *ipso jure* the position of the deceased. Ownership of the assets and debts of the estate is transferred under universal title to the heirs who have accepted the succession.

Seisin is regulated in Article 4:182 of the Civil Code (*Burgerlijk Wetboek*) (BW).

Article 4:182 of the BW provides:

1 When a person dies, the heirs shall succeed *ipso jure* to that person's transferable rights, possessions and holdings. The first sentence shall not apply when the estate of the deceased is divided in accordance with Article 13. In that case, the spouse shall succeed *ipso jure* to the possessions and holdings of the deceased.

2 The heirs shall become *ipso jure* debtors of the deceased's debts which have not been extinguished at the time of death. Where performance is divisible, each of them shall be responsible for a part, in proportion to their share in the inheritance, unless they are jointly and severally liable.

If the deceased leaves a spouse and one or more children and there is a legal division of the estate (*wettelijke verdeling*), the surviving spouse / registered partner takes over all the assets and debts and the children receive only a pecuniary claim. The descendants are not liable for the debts of the estate. Only the surviving spouse / registered partner is liable for the debts.

The principle of seisin means that no rights *in rem* or property rights arise from the succession as such. The estate does not constitute a separate asset in the Netherlands. There is no prohibition on the disposal of the estate assets, and the estate cannot be attached. Attachment of the goods from the estate among the heirs is, however, possible.

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?

Since the estate itself is not a separate asset, it is not entered in any registers.

The Certificate of Succession or the European Certificate of Succession may, however, be entered in the land register, see Articles 27 and 27a of the Land Register Act (*Kadasterwet*). This enables the heirs to make it known that the owner has died and that ownership has been transferred to them under universal title. However, registration is not a constitutive requirement. Even without registration, ownership is transferred *ipso jure*. Should the heirs then divide the assets of the estate, formal delivery (*levering*) is required. This is a transfer under particular title. The division is regulated in Article 3:186 of the BW.

Article 3:186 of the BW provides:

1 For the transfer of the portion allocated to each of the parties, formal delivery shall be required in the same manner as prescribed for the transfer.

2 The portion acquired by a party shall be held under the same title as that under which the parties held it jointly before the division.

For the formal delivery of immovable property or limited rights in the same, Article 3:89 of the BW requires a notarial instrument, which must be entered in the public registers.

Article 3:89 of the BW provides:

1 The formal delivery required for the transfer of the immovable property shall be effected by means of a notarial instrument drawn up for that purpose between the parties, followed by registration thereof in the relevant public registers. Both the transferee and the transferor may have the instrument registered.

2 The instrument of formal delivery must accurately state the title of transfer; secondary conditions which do not concern the transfer may be omitted from the instrument.

3 Where a person acts as the authorised representative of one of the parties in respect of a formal delivery instrument, the power of attorney must be specified in the instrument.

4 The provisions of this article shall apply *mutatis mutandis* to the formal delivery required for the transfer of other registered property.

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

See above.

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?

No, there are no specific requirements in the BW or the Land Registry Act.

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Adapting rights in rem - Austria

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

Under Austrian law, after death the estate as a legal person continues the legal status of the deceased (Section 546 of the Austrian Civil Code – *Allgemeines Bürgerliches Gesetzbuch* - ABGB). When the estate is devolved (*Einantwortung*), the heir takes over the legal status of the estate. The same applies to decisions ordering the estate to be appropriated by the Federal Government (Section 547 of the Austrian Civil Code). Nobody may take over ownership of an estate without proper authority. An estate is generally acquired following probate proceedings through devolution, i.e. the transfer of legal ownership to the heirs (Section 797 of the Austrian Civil Code).

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?

Under Austrian law, the acquisition, transfer, limitation and revocation of rights in rem (ownership, easement, land charge, lien, construction rights) of properties, repurchasing rights, pre-emptive and lease rights must be recorded in the land register managed by the district courts (*Bezirksgerichte*) to take effect.

Nevertheless, an heir already acquires rights in rem to a property when devolution comes into effect and not only when his/her ownership rights are recorded in the land register. Registration in the land register is thus more declaratory in nature. However, the provisions in Section 21 and 94 of the Land Register Act (*Grundbuchsgesetz*) prevent actual ownership rights from being taken into account in dealings relating to the land register if they are not reflected in the land register. An entry against the (not yet registered) heirs is therefore, with few exceptions, inadmissible, even if they are already property owners under substantive law. With regard to entries in the land register, the fact that devolution has taken place should consequently not be taken into consideration until the heirs' ownership rights are recorded in the land register.

In Austria, heirs' rights are registered under the land register amendment process governed by Section 136 of the Land Register Act. This involves the land register being corrected so that it reflects the actual legal situation. This occurs when legal changes have subsequently been made but not yet implemented in the land register. Registration is therefore merely declaratory in nature. Under the process covered by Section 136 of the Land Register Act, 'proof of inaccuracy' is enough to warrant registration; this replaces the documents that would otherwise be required. This proof is provided if the inaccuracy is manifest or demonstrated by means of authentic instruments (such as a certificate of devolution issued by the court or a European Certificate of Succession). An inaccuracy is considered manifest, for example, if the repeated transfer of rights not recorded in the land register referred to by the applicant and the ensuing universal succession to the property by the legal predecessor result directly from the law.

Entries are made in the land register on request of the parties. Entries can only be made by the authorities in exceptional cases which are not applicable here.

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

Under Austrian law universal succession by the heir takes place without registration in the land register when devolution comes into effect. Registration in the land register in such cases is therefore merely declaratory.

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?

Under Austrian residential property law, the minimum share inextricably linked to the residential property may not be shared as long as the residential property exists unless there is an 'owner partnership' (*Eigentümerpartnerschaft*). This is a legal community of two natural persons who are co-owners of the residential property.

If a number of people have acquired ownership of the minimum share through succession without forming an owner partnership, for example if the estate has been settled abroad and legal succession involves several persons, their property cannot be recorded in the land register. If an application for registration of property rights is made, the Land Register Court must reject the application, inform the applicants that the desired rights cannot be recorded in the land register and give them a reasonable period to arrange acquisition of the minimum share by a single person or an owner partnership instead. If this period expires and no such arrangements have been made, the Land Register Court must arrange for a public sale (Section 12(3) of the 2002 Residential Property Act - *Wohnungeigentumsgesetz*).

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Adapting rights in rem - Poland

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

Rights in rem from inheritance include rights of ownership in movable and immovable property, perpetual usufruct, limited rights in rem, such as real servitudes (including the right of ownership in the dominant estate), mortgages and liens (including the liabilities secured by them), cooperative members' rights of ownership in a housing cooperative, rights and obligations of neighbours, actions for recovery and actions to deny (servitudes), claims for purchase under Article 231 of the Civil Code (i.e. claims for the purchase of land against a person who has erected a building or other facility on another's land). Rights of use and personal servitudes are not inherited.

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?

As a rule, rights in rem are recorded in the land registers kept by competent district courts (land register courts) (*sądy wieczystoksięgowe*). Such entry, however, is not always compulsory and not always constitutive in effect, for example, a cooperative member's right of ownership may be inherited in respect of a housing cooperative for which no land register has been established.

Rights of ownership acquired through succession in immovable property for which a land register has been established is subject to entry in the land register on the basis of an appropriate document showing the legal succession in respect of the owner (testator) entered in the land register. The entry of the ownership by succession is not constitutive in effect.

An entry in a land register is required in order to create a mortgage. Such entry is constitutive in effect, which means that the right arises upon its entry in the land register.
An entry in the land register in which a limited right in rem has already been entered is constitutive in effect and is a condition for the validity of the transfer of a right.
Such rights are entered in a land register either at the request of the owner of immovable property (rights of way, acquisitive prescription) or *ex officio*, for example, in the case of an administrative decision.
An application for entry is submitted in writing to the land register court on an official form KW-WPIS. The forms are available on the website of the Ministry of Justice and from the District Courts' Land Register Departments.
In order to enter a limited right in rem to immovable property, it is sufficient for the owner to declare that such right has been created.
Unless otherwise stipulated by a specific regulation, a fixed fee of PLN 200 is charged for an application for entry of the ownership, perpetual usufruct or limited right in rem in the land register. As far as shared ownership is concerned, a part of the fixed fee is charged in proportion to the share held, but no less than PLN 100.
With regard to the ownership, perpetual usufruct or a cooperative member's right of ownership arising from a succession, bequest, or division of inheritance or dissolution of joint ownership, a single fixed fee of PLN 150 is charged for an application for entry in the land register, regardless of the number of shares held in such rights. The fee must be paid together with the application. An application subject to a fixed fee which is not duly paid will be returned with no request for such payment to be made.

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

Limited rights in rem entered in the land register are protected by the principle of the public credibility of land registers. If not entered, they expire in the event of an acquisition taking place under conditions of public credibility. Furthermore, a limited right in rem to immovable property which has been entered in the land register will prevail over such right not entered in the register.

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 procedures.

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Adapting rights in rem - Portugal

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

First of all it should be noted that **rights in rem** can be **rights of use** (*direitos reais de gozo*) or **rights of security** (*direitos reais de garantia*).
Secondly, besides rights in rem over material objects, part of the doctrine defends the existence of **rights in rem over immaterial objects**.
Finally, in Portugal the law enshrines the principle of *numerus clausus*, or the exhaustive nature of rights in rem (Article 1306 of the Civil Code (*Código Civil*)).

RIGHTS THAT MAY BE SUBJECT TO SUCCESSION

The body of rights that do not expire on the death of their holder but continue beyond it may be subject to succession.
Article 2025 of the Portuguese Civil Code refers to what can be subject to succession. Legal relationships that are extinguished by the death of their respective owner, by reason of their nature or by force of law, are not subject to succession; waivable rights may also be extinguished upon the death of the holder if the holder so provided.
By way of example, usufruct and the right in rem of use and habitation are rights in rem that are extinguished by the death of their holder, by force of law (Articles 1476(1)(a) and 1485 of the Civil Code).
The current version of the Civil Code can be found in Portuguese at the following link.
With the exception of usufruct (Article 1443 of the Civil Code), of the right in rem of use and habitation (Article 1485 of the Civil Code), of rights in rem that fall under any of the situations provided for in Article 2025 of the Civil Code, or other cases specifically provided for in other legal provisions, as a rule the remaining rights in rem may be subject to succession.
There are limitations on certain rights, such as rights in rem concerning declared weapons, which can only be subject to succession under certain conditions referred to in Article 37 of the Legal Framework on Weapons and Ammunition (*Regime Jurídico das Armas e Munições*), namely an authorisation from the national director of the Public Security Police (*Polícia de Segurança Pública* - PSP).
The Legal Framework on Weapons and Ammunition approved by Law No 5/2006 of 23 February 2006 can be found in Portuguese at the following link.

RIGHTS IN REM OF USE

The law provides for the following **rights in rem of use** (Articles 1302 to 1575 of the Civil Code and the Legal Framework on Timesharing (*Regime Jurídico da Habitação Periódica*) referred to below):
• Right of ownership (*direito de propriedade*) (Article 1302 of the Civil Code)
• Joint ownership (*compropriedade*) (Article 1403 of the Civil Code)
• Apartment ownership (*propriedade horizontal*) (Article 1414 of the Civil Code)
• Usufruct (*usufruto*) (Article 1439 of the Civil Code)
• Right in rem of use and habitation (*direito real de uso e habitação*) (Article 1484 of the Civil Code)
• Timesharing rights in rem (*direito real de habitação periódica*)
• Right of superficies (*direito de superfície*) (Article 1524 of the Civil Code)
• Easements (*servidões prediais*) (Article 1543 of the Civil Code)
The Legal Framework on Timesharing was approved by Decree-Law No 275/93 of 5 August 1993, which can be found in Portuguese at the following link.

RIGHTS IN REM RELATING TO GUARANTEES

The Civil Code provides for the following **rights in rem relating to guarantees**:
Rent assignation (*consignação de rendimentos*) (Article 656)
Pledge (*penhor*) (Article 666)
Mortgage (*hipoteca*) (Article 686)
Real estate privilege (*privilégios imobiliários*) (Articles 743 and 744)
Lien (*direito de retenção*) (Articles 754 and 755)

RIGHTS IN REM OVER MATERIAL OBJECTS

Article 1302 of the Civil Code provides that only movable or immovable material objects (including water) can be subject to the right of ownership governed by that code.

RIGHTS IN REM OVER IMMATERIAL OBJECTS

Article 1303 of the Civil Code refers to intellectual property, which is in turn governed by the Industrial Property Code (*Código da Propriedade Industrial*). Part of the doctrine establishes that intellectual property is a concept that incorporates copyright and related rights, and industrial property. Portuguese law maintains the two denominations: intellectual property (in the Civil Code) and industrial property (in the Industrial Property Code, published in the Annex to Decree-Law No 110/2018 of 10 December 2018).

According to Article 2 of the Industrial Property Code, the fisheries, agriculture, forestry, livestock and the extractive industries, industry and trade in the strict sense, as well as all natural or manufactured products and services, fall within the scope of industrial property.

The doctrine is not unanimous as to whether national law accepts the right of ownership and other rights in rem over immaterial objects, e.g. ownership of a commercial establishment or intellectual property. This matter is subject to interpretation by the courts.

The Industrial Property Code governs rights to patents, utility models, semiconductor products, designs, trade marks, rewards, logos, designations of origin and geographical indications, as well as their modification and transfer.

Rights arising from patents and utility models, as well as records of topographies of semiconductor products, designs and trade marks, and other distinctive trade signs may be given as pledges – Article 6 of the Industrial Property Code.

The current version of the Industrial Property Code can be found in Portuguese at the following link.

With respect to commercial companies, succession to rights over participating interests or shareholdings due to the death of one of the partners and the requirements thereof are regulated in the Companies Code (*Código das Sociedades Comerciais*), namely:

Article 184, with respect to succession due to the death of a member of an ordinary partnership,

Articles 198, 225 and 252, with respect to succession due to the death of a member of a private limited company,

Articles 469 and 475, with respect to succession due to the death of a partner of a limited partnership.

The current version of the Companies Code can be found in Portuguese at the following link.

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?

Yes, as a rule these rights are recorded in a register, as explained below.

LAND REGISTRY OFFICES

At Land Registry Offices (*Conservatórias do Registo Predial*), acts relating to the legal status of buildings are recorded, including the following rights in rem (Articles 1 and 2 of the Land Registry Code (*Código de Registo Predial*)):

Legal acts determining the establishment, recognition, acquisition or modification of rights of ownership, usufruct, use and habitation, superficies or easement;

Legal acts determining the establishment or modification of apartment ownership and timesharing rights;

Land ownership changes resulting from the dividing up of land, the conversion of the joint ownership structure and division, as well as the respective amendments;

Offer of conveyance or encumbrance, preferential covenants and preferential provision of a will, if they have been given real effect, as well as the assignment of the contractual position arising from these acts;

Assignment of assets to creditors;

Mortgage, its assignment or modification, assignment of the degree of priority of the respective registration and the rent assignation;

Transfer of receivables secured by mortgage or rent assignation, when transfer of guarantee is involved;

Lease for more than 6 years and its transfers or subleases, except for tenant farming;

Pledge of credit secured by mortgage or rent assignation, and any other acts or arrangements affecting the same receivables;

Any other restrictions on the right of ownership, subject to registration under law;

Legal acts that bring about the extinction of rights, encumbrances or registered charges.

It is mandatory to record the acts cited above, with the exception of those listed under Article 8-A of the Land Registry Code.

Pursuant to Article 687 of the Civil Code, the mortgage must be registered, or will not otherwise be recognised in relation to the parties.

The conditions for the registration of land are specified in the following legal provisions of the Land Registry Code:

Those subject to the obligation to register, the deadlines and eligibility of rights over real estate are set out in Articles 8-B, 8-C, 8-D and 9;

Pre-registration, continuation of registration – in particular the principle of succession in title and exemption from pre-registration in the purchase ledger based on partition/succession – are set out in Articles 34 to 35;

Eligibility to apply for registration and the possibility of representation are provided for in Articles 36 to 39;

The form and means of submitting an application for registration – in particular the right to register electronically – are laid down in Articles 41 to 42-A;

The documents to be submitted are those provided for in Articles 43 to 46.

The Land Registry Code can be found in Portuguese at the following link.

More detailed information on land, commercial and motor vehicle registration applications, such as how to send the application, the requirements and services, is available online at https://justica.gov.pt/

COMMERCIAL REGISTRY OFFICES

Acts intended to publicise the legal status of individual traders, commercial companies, civil law associations in commercial form and individual establishments with limited liability are recorded at Commercial Registry Offices (*Conservatórias do Registo Comercial*). The registration of certain acts concerning the legal status of cooperatives, public undertakings, complementary groups of undertakings and European economic interest groupings is also recorded at Commercial Registry Offices (Article 1 of the Commercial Registry Code - *Código do Registo Comercial*).

The acts set out in Article 15 of the Commercial Registry Code must be recorded in the register at Commercial Registry Offices.

The conditions for registration in the commercial register are specified in Articles 28 to 53 of the Commercial Registry Code.

Pursuant to Article 32(1) and (2) of the Commercial Registry Code:

Only acts established in documents that legally substantiate them can be registered;

Documents written in a foreign language can only be accepted when translated, unless they refer to acts that are subject to registration by transcription, are written in English, French or Spanish, and the competent official is fluent in that language.

As regards fiscal obligations, under Article 51(1) of the Commercial Registry Code, no act subject to charges of a fiscal nature may be definitively registered without the tax duties being paid or secured.

The Commercial Registry Code can be found in Portuguese at the following link.

REGISTRATION OF SECURITIES

The following, among others qualified as such by law, are eligible as securities:
stocks and shares;
bonds;
equity;
units in collective investment undertakings;
the liable rights of the securities referred to in the previous paragraphs, provided the liability covers the entire issue or series, or is provided for at the time of issue;
autonomous warrants;
other documents representing homogeneous legal situations, provided they are able to be transferred on the market.
(Article 1 of the Portuguese Securities Code - *Código dos Valores Mobiliários*)
Securities are in registered form (Article 52 of the Portuguese Securities Code).
The acquisition of securities, as well as the establishment, modification or extinction of usufruct, pledge or other legal situations that encumber securities are registered (as a rule with the issuing entity or with a management entity) and may be subject to succession.
The registration of securities, the registration entities, registration requirements, the effects of registration on the establishment, transfer and exercise of rights and succession to such rights, vary according to the categories of securities referred to above.
This matter is governed by the Portuguese Securities Code, approved by Decree-Law No 486/99 of 13 November 1999, the current version of which is available in Portuguese at the following link.
REGISTRIES OF MOTOR VEHICLES
Acts relating to the legal status of motor vehicles and their trailers are recorded at Registries of Motor Vehicles (*Conservatórias do Registo Automóvel*).
For the purpose of registration, vehicles are considered to be motor vehicles and their trailers which, under the Highway Code (*Código da Estrada*), are subject to registration.
Article 117 of the Highway Code states which vehicles and trailers are subject to compulsory registration. The Highway Code approved by Decree-Law No 114/94 of 3 May 1994, in its current version, can be found in Portuguese at the following link.
Article 5 of the Motor Vehicle Registration Code (*Código de Registo Automóvel*) lists the situations in which registration is mandatory.
Motor vehicles cannot be pledged – Article 8 of the Motor Vehicle Registration Code.
Motor vehicle registration requirements can be consulted at the following link.
Motor vehicle registration is governed by Decree-Law No 54/75 of 12 February 1975, which can be found at the following link link.
Also of note is the Motor Vehicle Registration Regulation (*Regulamento do Registo de Automóveis*), governed by Decree-Law No 55/75 of 12 February 1975, which can be found at the following link.
NATIONAL REGISTER OF AIRCRAFT
Aircraft or autonomous equipment (engine, rotor, propeller, etc.) must be registered in the National Register of Aircraft (*Registo Aeronáutico Nacional*).
The application for registration is made using the form accompanied by the following documentation:
Contract of Purchase and Sale or other bill of sale;
Certificate of scrappage on the aircraft register of the country of previous registration, or certificate of non-registration;
Certificate of customs clearance in the case of an aircraft imported from a non-EU country;
Two photographs of the aircraft, one front and one profile, with the nationality and registration marks painted, in 9x12 format, borderless and printed in neutral colours.
Documents issued in foreign countries must contain the signatures of persons duly notarised and legalised, with the Apostille affixed, in accordance with the provisions of Articles 3 and 4 of the Hague Convention of 5 October 1961 abolishing the requirement of legalisation for foreign public documents, ratified by Decree-Law No 48450 of 24 June 1968, or duly notarised and legalised by a Portuguese diplomatic or consular agent in that country.
Documents issued in Portugal by a legal entity must bear the signatures of the legal representatives recognised by law with the words ‘duly authorised in due exercise of their powers.’
Further information can be found on the website of the National Civil Aviation Authority (*Autoridade Nacional de Aviação Civil*).
REGISTER OF VESSELS
The registration of vessels is governed by Decree-Law No 265/72 of 31 July 1972 (General Regulation on Port Authorities - *Regulamento Geral das Capitanias*), which can be found at the following link.
Decree-Law No 96/89 of 28 March 1989 establishing the International Vessel Registry of Madeira (*Registo Internacional de Navios da Madeira*) and Ministerial Implementing Order No 715/89 of 23 August 1989 (*Portaria n.° 715/89, de 23 agosto*), which governs certain aspects thereof, are also applicable.
Note: Decree-Law No 96/89 of 28 March 1989 is republished as an annex to Law No 56/2020 of 27 August 2020. It can be consulted in its current wording here.
Under this legal framework:
National vessels, with the exception of those belonging to the Navy, must have registered ownership in order to carry out the activity under which they are classified (Article 72(1) of the General Regulation on Port Authorities).
Merchant vessels are also subject to commercial registration pursuant to the relevant law (Article 72(3) of the General Regulation on Port Authorities).
National vessels are registered with maritime offices, except for recreational craft, which are registered with the organisations indicated in the prevailing legislation (Article 73(1) of the General Regulation on Port Authorities).
In the case of new acquisitions or new constructions, the maritime office indicated in the respective authorisation is competent (Article 73(2) of the General Regulation on Port Authorities).
In the case of acquisitions or replacement constructions, the maritime office in which the replaced units were registered is competent for registration (Article 73(3) of the General Regulation on Port Authorities).
A vessel constructed or acquired at a port in any part of the national territory may be sold or registered in another port of the same or other part of the territory, provided it has the corresponding authorisation (Article 73(4) of the General Regulation on Port Authorities).
Light vessels on board, even if they are lifeboats, small auxiliary fishing vessels and small unmotorised beach craft without sails, such as dinghies, skiffs, inflatable boats and pedalos, for use up to 300 m at low tide, are exempt from registration but subject to the jurisdiction of the maritime authority, which is responsible for issuing licences for their operation (Article 77 of the General Regulation on Port Authorities).
The requirements for vessel registration are set out in Article 78 of the General Regulation on Port Authorities.
In particular, regarding the registration of vessels in the event of succession by death:

In the event of succession, amendments to registration are based on attestation of the deed of partition, or the partition table and the respective ratification ruling, accompanied by a document issued by the competent finance office confirming that the respective inheritance tax (Article 82(2) of the General Regulation on Port Authorities) has been paid, secured or is not due;
Foreign vessels acquired by succession or in action brought before Portuguese courts shall be registered at the maritime office determined by higher authority (Article 75(3) of the General Regulation on Port Authorities).
REGISTER OF WEAPONS
The Legal Framework on Weapons and Ammunition approved by Law No 5/2006 of 23 February 2006 can be found in Portuguese at the following link.
Weapons and ammunition are subject to mandatory declaration and registration by the PSP (Public Security Police).
Succession by death is subject to the requirements set forth in Article 37 of the Legal Framework on Weapons and Ammunition referred to above.
REGISTRATION OF INTELLECTUAL PROPERTY takes place at the National Industrial Property Institute (*Instituto Nacional da Propriedade Industrial*).
The grant of patents, utility models, semiconductor products, and design or model, trade mark, reward or logo registrations, designation of origin and geographical indication registrations is made by the National Industrial Property Institute, to which the respective applications must be submitted.
The requirements and effects of the application for granting or registration are set forth in the Industrial Property Code for each of the above categories, without prejudice to the legislation of the European Union and applicable international conventions.
For practical information on how to submit and prepare a grant or registration application, the website of the National Industrial Property Institute can be consulted at https://inpi.justica.gov.pt/

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

As a rule, the registration of rights in rem over immovable property is not constitutive of an entitlement in law. However, for other categories of property this rule may include exceptions provided for in special legal provisions.
EFFECTS OF LAND REGISTRATION
The effects associated with the registration of rights in rem over real estate are those provided for in Articles 4 to 7 of the Land Registry Code, namely:
effect between the parties;
enforceability against third parties;
priority of registration;
presumptions arising from registration.
The Land Registry Code can be found at the following link.
EFFECTS OF COMMERCIAL REGISTRATION
The effects of commercial registration derive essentially from the provisions of Articles 11 to 14 of the Commercial Registry Code, namely:
presumptions arising from registration;
priority of registration;
effect between the parties;
enforceability against third parties.
The Commercial Registry Code can be found here.
EFFECTS OF THE REGISTRATION OF SECURITIES
The effects of the registration of securities can be consulted in the Securities Code (*Código dos Valores Imobiliários*), available here, and vary according to the category of securities concerned. The registration may be constitutive of a right with respect to certain categories of securities (Article 73 of the Securities Code).
EFFECTS OF REGISTRATION OF THE REMAINING CATEGORIES OF GOODS REFERRED TO ABOVE
The effects of the registration of weapons, aircraft, vessels, motor vehicles, intellectual or industrial property can be consulted in the special legislation already mentioned, for each of those categories of goods.

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?

The legal provisions that can be applied to the adaptation of rights in rem in cases of succession are, in principle, Articles 15 of the Civil Code (e.g. when the adaptation is made by the court in a judicial process) and 43-A of the Land Registry Code (e.g. when the adaptation is made by the registrar in the deed of registration).
Adaptation in the strict sense, which can occur when there is a technical problem resulting from the application of two different laws on succession. For example, in the case of an adopted child whose adoptive and biological parents die, if the law of country X is applied to successions arising from the death of the adoptive parents, and the law of country Y is applied to successions arising from the death of the biological parents, this may lead to a result that is not intended by either of the legal systems concerned (e.g. the adopted child is, ultimately, heir of neither the adoptive parents nor the biological parents). The court must resolve this problem through adaptation.
Another situation, not adaptation in the strict sense of the word but rather substitution/transposition, occurs when a doctrine enshrined in another law is replaced by a doctrine known in the domestic legislation.
The concept of substitution/transposition provides a more fitting framework for cases of adaptation of rights in rem as referred to in Article 31 of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession. For example, a case in point would be substituting the doctrine of ‘leasehold’ (enshrined in the law of another State but non-existent in Portuguese legislation) with the right in rem of superficies (enshrined in Portuguese legislation).
Both the Court, in judicial action, and the registrar, at the time of registration, may carry out such substitution/transposition. The decision of the registrar may be appealed before the court (Articles 140 to 146 of the Land Registry Code).

NOTE

The information contained in this factsheet is not exhaustive or binding on the Contact Point, the Courts or other entities and authorities. Although they undergo regular updates, the factsheets may not contain all revisions made to the law, and are therefore no substitute for consulting the legal texts in force at any time.
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Adapting rights in rem - Romania

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

Aside from the right of ownership, or from a share in the right of ownership, the following rights in rem may be acquired by succession:

1. Right of usufruct
2. Right of use
3. Right of residence
4. Right of superficies
5. Right of servitude

Romanian law does not allow legal heirs to choose in the context of a legal succession between a share in the estate to which they would be entitled and the right of usufruct over the estate. Bearing in mind that the rights of usufruct, use and residence benefiting a physical person are at most life-long, and are extinguished on the death of the entitled person, they cannot be acquired by legal inheritance, but on the basis of a *mortis causa* provision. With regard to both the exercise of these rights and other rights in rem, the author may impose certain limits.

Also, where the deceased person was the holder of a guarantee in rem (mortgage on movable or immovable property, pledge, etc.), this right will be transmitted by succession, with the guaranteed claim.

A special situation arises where the surviving spouse does not hold a right in rem to use a dwelling. After the opening of the succession, such a person benefits from a legal right of residence in the dwelling in which he or she lived with the person now deceased, if the dwelling in question is part of the succession assets, although it is possible that the other successors will request, under certain circumstances, that the right of residence be restricted or that there be a change of residence. The right of residence acquired in such conditions may not be used for pecuniary gain by the surviving spouse, since he/she does not have the right, for example, to rent out the dwelling. The right of residence is extinguished by sharing, but no earlier than one year after the date of the opening of the inheritance. This right ceases, even before the end of the one-year period, in the event of the remarriage of the surviving spouse.

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?

In general, successoral transmission shall take full effect from the date of opening of the inheritance, through the death of the rightholder alone, and does not need to be entered in a register.

In accordance with the Civil Code, publication shall be in the land registry (*cartea funciară*), the Electronic Archive for Security Interests in Movable Property (*Arhiva Electronică de Garanții Reale Mobiliare*), the register of companies and other forms of publication provided for by law. At present, entry in a register does not generally create a right, but rather ensures the publication and enforceability of the registered rights.

Entry in the land register of rights in rem to immovable property does create a right, but only upon completion of the cadastral work concerned at each administrative-territorial unit and the opening, on request or *ex officio*, of land records for the respective immovable properties. Nevertheless, even in such a case, rights in rem will be acquired without entry in the land register when they derive from an inheritance, in accordance with the Civil Code. However, entry in the land register will be necessary before the successor has the right of disposal *inter vivos* in respect of: sale, donation, mortgage, etc.

Rights in rem will be entered in other registers (for example, entry in the Electronic Archive for Security Interests in Movable Property, as a result of the transmission of a secured claim through succession) for the purpose of publication, if the transmitted right had also been registered.

Entry in registers is carried out on the basis of the document establishing the status of heir (certificate of inheritance, judicial decision), and, where applicable, the rights and assets that comprise the estate are also entered.

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

Entry in registers shall be for the purpose of publication and with a view to ensuring enforceability vis-a-vis third parties. With regard to the effect of entering in the land register rights in rem over immovable property acquired by succession, see the answer above.

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?

In accordance with the provisions of Law No 206/2016, applications for the adaptation of rights in rem pursuant to Article 31 of the same Regulation are a matter for the courts (*tribunali*).

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Adapting rights in rem - Slovenia

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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Adapting rights in rem - Slovakia

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

A – Property rights *(Sections 123 to 151 of the Civil Code):*

1/ sole ownership

2/ co-ownership (divisible and indivisible matrimonial property)

B- Rights over property of other persons *(Sections 151a to 151v of the Civil Code)*

1/ liens (establishment of claims, sub-lien)

2/ easements

3/ rights of retention

The right of ownership is transferred by inheritance from the testator to the inheritor(s) at the date of the death of the testator. The ***transfer of ownership*** *of immovable property* must ***always*** *be registered in the property register.*

Liens *are used to secure claims and associated charges by entitling the pledgee to obtain or seek satisfaction of debt from the lien ('pledge') if the debt is not fully settled in due time.*

A lien is established by a written contract, by an agreement to settle the succession concluded by the inheritors, by a ruling of a court or an administrative authority or by an act of law and usually takes effect on registration in the register.

Easements *restrict the owners of immovable properties in favour of other persons by obliging them to tolerate, refrain from or perform certain actions. Rights corresponding to easements are associated either with ownership of a particular immovable property (such as the right to cross a piece of land) or with a particular person (life tenancy).*

Easements associated with ownership of an immovable property (easements in rem) are passed onto the acquiring party together with the ownership of the property. Easements linked to an individual (easements in personam) expire upon the death of the person on whose behalf they had been established.

The right of retention *entitles a person to retain a movable property they are obliged to surrender in order to secure their due pecuniary claim against a person to whom they are otherwise obliged to surrender the property. However, property obtained by arbitrary or fraudulent means may not be retained. On the basis of the right of retention, when a judicial decision is being enforced the creditor is entitled to preferential satisfaction from the proceeds of the retained property ahead of other creditors, including lien creditors.*

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?

A – ***Property rights*** *to immovable property, residential property and non-residential premises must always be entered in the property register, which has generally binding effect. For property transfer contracts, ownership rights do not take effect until these contracts are entered in that register. In other words, register entry has a constitutive effect.***.** *In the event of death the effects of the entry are different, since it is not until that entry is made that the transfer of ownership to the inheritor is declared retroactively on the date of death under the succession proceedings. This procedure is governed by Property Register Act 162/1995 and the registration of the transfer of ownership upon completion of succession proceedings is obligatory. The application for registration in the property register is submitted by a notary charged by the court with the succession proceedings or by another authorised person (inheritor). The application is submitted to the Cadastral Department of the territorially competent District Office.*

The right of ownership in certain movable properties must be entered in the relevant registers. These registers include: The Business Register (Act No 530 /2003 on the Business Register) -the registry courts are the district courts at the seat of the Regional Court.

The Register of Motor Vehicles, for which the district road traffic inspectorate of the Police is responsible.

The Industrial Property Office in Banská Bystrica, which is competent for the whole of Slovakia, registers patents, trade marks, designs and other proprietary data.

The Central Securities Depository - transfer of book-entry securities - the Central Securities Depository of the Slovak Republic, a.s. is competent for the whole of Slovakia.

The Maritime Register - registration of recreational craft - the Maritime Register of the Slovak Republic, maintained by the Slovak Ministry of Transport and Construction, is competent for the whole of Slovakia.

B – ***Rights to another person's property***

The registers also record rights over other persons' property that restrict how the owner can dispose of the property. In general, liens in respect of immovable property, residential property and non-residential property ***are established*** *when entered in the property register.*

1/ The right of retention in respect of a movable property is established on entry in the Central Notarial Register of Retention Rights (Sections 73d – 73i of Act No 323/1992 on notaries and notarial activities (Notary Code) and internal rules of the Chamber of Notaries), which is maintained by the Chamber of Notaries; where a separate register for the property in question exists, the entry is made in that register (as stated under point A above). Right of retention, amendments to information on a right of retention, and commencement of enforcement of the right are registered by a notary on the basis of a request from an authorised person as laid down in the relevant legislation. The same applies to deletion of a right of retention from the Register of Retention Rights. Persons applying for registration must prove their identity to the notary; or , if applying on behalf of someone else, they must produce proof that they are authorised to do so. Persons applying to register a lien must provide the notary with all the information required by law, which is then entered in the lien register. Where the lien is established by a succession agreement concluded by the inheritors or by a ruling of a court or an administrative authority, the person applying to register the lien must provide the notary with the ruling establishing the lien.

2/ Easements in rem are established on entry in the property register.

3/Rights of retention admissible only in respect of movable properties are not subject to registration.

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

In the event of the death of the testator the right of ownership is transferred to the inheritor on the date of the death of the testator. Entry in the register has a merely declaratory 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?

On 1 December 2015, Section 67a of Act No 97/1963 on International Private Law and Rules of Procedure entered into effect, making it possible to adapt a right in rem, measure or order stated in a foreign decision. When a decision is made on the declaration of enforceability of a foreign succession ruling involving a right in rem, the Act governs the adaptation of the unknown right in rem under those proceedings.

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Adapting rights in rem - Sweden

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

In principle, any person who receives property by succession takes over the property with *full ownership rights*. If the deceased was married, the estate is to go to the surviving spouse with *free right of disposal*. This means that the spouse can do whatever he or she wants with the property during his or her lifetime – even use it up completely – but may not dispose of it by will. Nor may the spouse cause a substantial reduction in his or her property by gift or any other comparable act without due consideration for the first deceased's heirs.

Furthermore, the deceased can stipulate by will that someone is to receive *usufruct* over the property. Unless otherwise stipulated by will, the usufructuary manages the property and is entitled to any income from it but must also pay any necessary costs for the property. The usufructuary must also take into account the owner's rights and best interests and may not transfer the usufruct. The owner of the property may not transfer or otherwise dispose of the property without the usufructuary's consent.

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?

Anyone who has acquired immovable property with ownership rights must apply for the acquisition to be registered (registration of title) in the land register which is kept by the National Land Survey of Sweden (*Lantmäteriet*). As a general rule, the application should be made within three months of the acquisition. Any person applying for registration of title must submit the acquisition deed and the other documents that are necessary to substantiate the acquisition. In the case of a purchase, this means that the purchase document must be submitted. If the property is acquired by inheritance, it is in some cases (if there is only one party to the estate) sufficient in principle to submit the registered estate inventory in the original, together with a certified copy. In other cases, the estate distribution document must also be submitted in the original and with a certified copy. Other documents may also be required to be submitted, such as the consent of the chief guardian if a party to the estate is under age or legally incompetent. In some cases, registration of title may be sought through the submission of a will which has gained legal force instead of an estate distribution document.

Usufruct which has been granted through a written document is to be entered in the land registry. Applications for registration are to be made to the National Land Survey of Sweden, and the document submitted on which the entitlement is based.

Rights in rem in movable property are not registered.

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

The person who applied for registration of title most recently is regarded as the owner of the property.

As a general rule, if usufruct has been registered, it applies to a new owner of the property.

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?

No.

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Adapting rights in rem - England and Wales

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

No rights in rem can arise by virtue of succession alone under English law.

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?

Not applicable.

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

Not applicable.

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?

Not applicable.

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Adapting rights in rem - Gibraltar

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

No rights in rem can arise by virtue of succession alone under English law.

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?

Not applicable.

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

Not applicable.

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?

Not applicable.

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