Reports of Cases

OPINION OF ADVOCATE GENERAL
SZPUNAR
delivered on 10 November 2022 [1]

Case C-651/21

M. Ya. M.

(Request for a preliminary ruling from the Sofiyski rayonen sad (District Court, Sofia, Bulgaria))

(Reference for a preliminary ruling – Judicial cooperation in civil matters – Law of succession – Regulation (EU) No 650/2012 – Article 13 – Declaration of waiver of succession made by an heir in the Member State of his habitual residence – Subsequent registration of that declaration, at the request of another heir, with the court of another Member State)

1. This request for a preliminary ruling concerns the interpretation of Article 13 of Regulation (EU) No 650/2012. [2] The referring court has been seised of a request by one heir for registration of the declaration concerning the waiver of the succession made by another heir before the court of another Member State in which the latter has his habitual residence.

2. In this Opinion, I shall propose that the Court rule that Article 13 of Regulation No 650/2012 does not preclude the abovementioned request for registration.

Legal context

European Union law

3. Articles 4 and 13 of Regulation No 650/2012 are contained in Chapter II of that regulation, which is entitled 'Jurisdiction'.

4. Under Article 4 of that regulation, which is entitled 'General jurisdiction':

'The courts of the Member State in which the deceased had his habitual residence at the time of death shall have jurisdiction to rule on the succession as a whole.'

[1] Original language: French.

[2] Regulation 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 (OJ 2012 L 201, p. 107).

5. Article 13 of that regulation, which is entitled 'Acceptance or waiver of the succession, of a legacy or of a reserved share', reads as follows:

'In addition to the court having jurisdiction to rule on the succession pursuant to this Regulation, the courts of the Member State of the habitual residence of any person who, under the law applicable to the succession, may make, before a court, a declaration concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or a declaration designed to limit the liability of the person concerned in respect of the liabilities under the succession, shall have jurisdiction to receive such declarations where, under the law of that Member State, such declarations may be made before a court.'

6. Articles 21 and 22 of the same regulation appear in Chapter III of that regulation, which is entitled 'Applicable law'.

7. Article 21 of Regulation No 650/2012, which is entitled 'General rule', provides, in paragraph 1 thereof:

'Unless otherwise provided for in this Regulation, the law applicable to the succession as a whole shall be the law of the State in which the deceased had his habitual residence at the time of death.'

8. Article 22 of that regulation, which is entitled 'Choice of law', provides, in paragraph 1 thereof:

'A person may choose as the law to govern his succession as a whole the law of the State whose nationality he possesses at the time of making the choice or at the time of death.'

Bulgarian law

Law on succession

9. The zakon za nasledstvo (Law on succession) (DV No 22 of 29 January 1949), in the version thereof applicable to the dispute in the main proceedings, provides, in Article 48, that succession is to take place upon acceptance and that acceptance is to take effect upon the opening of the succession.

10. Under Article 49(1) of that law, acceptance may be effected by written declaration made to the Rayonen sad (district court) in whose district the succession is opened; in that case, the acceptance is to be entered in a register intended for that purpose.

11. Article 51(1) of that law provides that, at the request of any interested party, the Rayonen sad (district court), after summoning the person entitled to inherit, is to set a time limit for that person to make a declaration of acceptance or waiver of the succession. If proceedings have been brought against the heir, that time limit is to be set by the court before which the proceedings have been brought. Article 51(2) of the same law provides that if the heir fails to respond within the prescribed time limit, he or she is to lose the right to accept the succession. Under Article 51(3) of the Law on succession, the heir's declaration is to be entered in the register provided for in Article 49(1) of that law.

12. Pursuant to Article 52 of that law, waiver of the succession is to be effected in accordance with the procedure provided for in Article 49(1); it is to be registered in accordance with the same procedure.

Code of Civil Procedure

13. Article 26(1) of the Grazhdanski protsesualen kodeks (Code of Civil Procedure) (DV No 59 of 20 July 2007), in the version thereof applicable to the dispute in the main proceedings, provides that the parties to civil proceedings are to be the persons on whose behalf and against whom the proceedings are brought. Article 26(2) of that code states that, except in the cases provided for by law, no person may assert third-party rights before a court in his or her own name.

14. Under Article 531(1) of that code, proceedings in matters of non-contentious jurisdiction are to be instituted by an application of the person concerned.

15. Article 532 of the same code provides that the application is to be heard in closed session unless the court considers that the correct resolution of the case requires that it be heard in open court.

16. In accordance with Article 533 of the Code of Civil Procedure, the court is obliged to examine, of its own motion, whether the requirements for the decision sought are met. It may, of its own motion, take evidence and take into account facts which the applicant has not presented.

Regulations on Court Administration

17. The Pravilnik za administratsiata v sadilishtata (Regulations on Court Administration) (DV No 68 of 22 August 2017), in the version thereof applicable to the dispute in the main proceedings, contains, in Article 39(1), the list of registers kept at the registry in electronic and/or paper form, which includes the 'register of acceptances or waivers of succession'.

The dispute in the main proceedings, the questions referred for a preliminary ruling and the procedure before the Court

18. M. Ya. M. ('the applicant'), a Bulgarian national, states that he is the heir of his grandmother, M. T. G., a Bulgarian national who died in Greece on 29 March 2019.

19. The applicant applied to the referring court, the Sofiyski rayonen sad (District Court, Sofia, Bulgaria), for the declaration of waiver made by the deceased's husband, a Greek national, to be entered in the register. The applicant produced a certificate of succession drawn up by the Bulgarian authorities, according to which the deceased designated as heirs her husband, her daughter and the applicant (her grandson).

20. In the context of those proceedings, the applicant submitted a written record produced by the Eirinodikeio Athinon (Magistrate's Court, Athens, Greece) stating that the deceased's husband appeared before that court on 28 June 2019 and declared the waiver of his inheritance. Furthermore, according to statements made in the application, the deceased's husband had stated that the deceased had last resided in Greece.

21. The applicant is not acting as an authorised representative of the deceased's husband but submits that, as another heir of equal status, he has an interest in the registration of the waiver, the effect of which would be to increase his share of the estate.

22. In the present case, the referring court states that it is unable to gather information concerning the deceased's last habitual residence before it has established its jurisdiction to register a declaration of waiver made before the court of the place of habitual residence of the party waiving succession.

23. The referring court asks whether a declaration of waiver made before a court having general jurisdiction to rule on matters of succession should be registered if that declaration has been registered by the competent court pursuant to Article 13 of Regulation No 650/2012. In addition, it has doubts as to whether it is possible to register one heir's waiver of succession at the request of another.

24. The referring court takes the view that Article 13 of Regulation No 650/2012 may trigger a conflict of jurisdiction since, under the general provisions of that regulation, jurisdiction is determined not by the place of habitual residence of the heir but by that of the deceased. Although the court with jurisdiction to rule on the succession is in principle the court of the place where the deceased was last habitually resident, that court may not be aware of the registration of declarations of waiver or of acceptance made before a court of the place of habitual residence of the heirs.

25. Thus, in its view, Regulation No 650/2012 creates a legal vacuum by providing for concurrent (or cumulative) jurisdiction of courts of different States, namely that of the court of the place in which the deceased was last habitually resident and that of the court of the place in which the heirs are habitually resident. However, that regulation does not require the latter court to notify the court having jurisdiction in principle of any declarations of waiver or acceptance that may have been made.

26. The referring court argues that the absence of such a notification obligation is at odds with the Bulgarian legislature's approach and with the national case-law, according to which all declarations of acceptance or waiver of a succession must be recorded in the same place and in a single court register, which may be used to carry out related searches. That approach serves to guarantee the legal certainty which stems from the possibility of storing all information on acceptances and waivers of the succession in one place, an objective which is also set out in recital 23 of Regulation No 650/2012.

27. Since such a notification obligation is not expressly provided for in Regulation No 650/2012, the referring court asks about the nature of the proceedings brought before it. The applicant is requesting not that his own waiver of the deceased's succession be registered, but rather the declaration concerning the waiver of one of the other heirs. Bulgarian law does not provide for such a procedure. The principle that every person is to defend his or her own rights before the courts prevents the declarations of others from being entered in the register of acceptances and waivers of succession.

28. Accordingly, the referring court asks, first, whether Article 13 of Regulation No 650/2012 implicitly prohibits a waiver of a succession made in the State of habitual residence of an heir from being registered a second time by a court of another Member State in which the deceased allegedly had her habitual residence. It would appear that the registration of two declarations of

different content, namely one of waiver and one of acceptance, must be prohibited in order to ensure that contradictory declarations cannot be registered. However, contravention of the Bulgarian legal regime, under which all declarations concerning acceptances and waivers of the succession are to be registered in the same place, does not appear to be consistent with the spirit of the principle of legal certainty, a fundamental principle of EU law.

29. In that regard, the referring court indicates that it leans towards a solution that would allow a number of waivers of the succession to be registered in several countries. It argues that such a solution would not significantly affect legal certainty since the legal systems of the Member States lay down rules governing the procedure to be followed where there are several successive declarations of acceptance or of waiver and, moreover, in the event of a dispute concerning the succession, the court seised of a request can assess the legal effect of those declarations, according to the dates on which they were made.

30. Should the first question be answered in the negative, the referring court asks, secondly, who is entitled to request such registration. This is an important point because Bulgarian procedural law does not provide for the possibility of an acceptance or waiver of the succession that has already been registered in another Member State being registered before a Bulgarian court. That declaration can be made only by the heir himself or herself. The question which arises is therefore whether an heir can apply, in the State in which the deceased was purportedly habitually resident, for registration of the waiver declared by another heir and registered in the State in which the latter is habitually resident, where there is no express provision to that effect in the first State.

31. According to the referring court, an effective application of Article 13 of Regulation No 650/2012 that is consistent with the objective of that provision, as set out in recital 32 of that regulation – namely that the acceptance or waiver should not require the heir to travel to the State in which the deceased was habitually resident or to appoint an authorised representative in that State – requires that any heir may request the registration of a waiver of the succession previously made in another Member State. In the present case, this would mean that Bulgarian procedural law could be disapplied, given the need to derogate from the principle of procedural autonomy of the Member States within the European Union in order to ensure the effective application of the provision at issue.

32. By contrast, if the waiver declared by an heir could be registered both in the State in which he or she is habitually resident and in the place of habitual residence of the deceased at the time of death, albeit only on condition that the party waiving the succession requests this personally, that situation would have the effect of rendering Article 13 of Regulation No 650/2012 meaningless.

33. The referring court adds, in that regard, that there is a gap in Regulation No 650/2012, since it does not require the court having jurisdiction, solely as regards registration of any waiver of the succession by the heirs, to communicate its judicial decision to the court which has general jurisdiction to rule on the succession. For that reason, and in order to prevent disputes between heirs, as well as to ensure that the registered intention of the party waiving succession is respected, each of the heirs should be permitted to have that intention recorded in the registers of the place of the deceased's last habitual residence.

34. It is in those circumstances that the Sofiyski rayonen sad (District Court, Sofia), by decision of 25 October 2021, received at the Court on the same day, decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is Article 13 of [Regulation No 650/2012], read in conjunction with the principle of the protection of legal certainty, to be interpreted as precluding, after an heir has already had registered with a court of the [Member] State in which he or she is habitually resident his or her acceptance or waiver of the succession of a deceased person who was habitually resident in another [Member] State of the European Union at the time of his or her death, a request to have that waiver or acceptance subsequently registered in the latter State?

(2) If the answer to the first question is that such registration is permissible, is Article 13 of [Regulation No 650/2012], read in conjunction with the principles of the protection of legal certainty and the effective implementation of EU law, and the obligation of cooperation between [Member] States under Article 4(3) TEU, to be interpreted as permitting a request for the registration of a waiver of the succession of a deceased person effected by an heir in the [Member] State in which he or she is habitually resident by another heir residing in the State in which the deceased was habitually resident at the time of his or her death, irrespective of the fact that the procedural law of the latter State does not provide for the possibility of having a waiver of a succession registered on behalf of another person?'

35. Written observations were submitted by the European Commission.

Analysis

Preliminary remarks

36. In the first place, it should be observed, as the Commission points out in its observations, that it is not possible in this instance to determine with certainty which Member State's courts have jurisdiction to rule on matters related to the deceased's succession. That question must, however, first be settled by the referring court.

37. According to the deceased's husband, the deceased was last habitually resident in Greece. That would mean that the Greek courts would have jurisdiction to rule on the succession as a whole,[3] with the applicable law being, in principle, Greek law,[4] unless the deceased chose the law of the State of which she was a national as the law applicable to the succession, that is to say, Bulgarian law.[5]

38. The referring court states that it is unable to gather information in that regard until it has established its jurisdiction for the purpose of registering a declaration of waiver made before the court of the place of habitual residence of the party waiving succession.

39. The starting point for consideration of that question is unclear: if it were established that the deceased's last habitual residence was indeed in Greece, that would mean that the referring court does not have jurisdiction, under Article 4 of Regulation No 650/2012, to rule on all matters

[3] See Article 4 of Regulation No 650/2012.

[4] See Article 21(1) of Regulation No 650/2012.

[5] See Article 22(1) of Regulation No 650/2012.

related to the succession. Such jurisdiction would rest with the Greek courts and the referring court would have jurisdiction only to receive a declaration, in accordance with Article 13 of that regulation. The questions submitted by the referring court would consequently be inadmissible.

40. It therefore falls to the referring court to ascertain first of all where the deceased was habitually resident, before raising the questions put to the Court. Only then, once the referring court has concluded that it has jurisdiction to rule on the succession, can it go on to raise the questions put to the Court.

41. In the second place, the referring court's attention should be drawn to its obligation to accept an authentic instrument pursuant to Article 59 of Regulation No 650/2012, in so far as the declaration of waiver by the deceased's husband that was made before the (Greek) court of his habitual residence could constitute an authentic instrument within the meaning of that provision. If the court were to come to the conclusion that it is able to accept that declaration in accordance with Article 59 of Regulation No 650/2012, the questions submitted could prove to be baseless.

42. Subject to those preliminary remarks, I propose that the Court answer the questions put by the referring court. In any case, the referring court should be reminded that the questions are admissible only in so far as it has jurisdiction to rule on the succession. Any provisions of national law preventing the examination by the referring court of its jurisdiction to rule on the succession would be contrary to Regulation No 650/2012 and should be disapplied by the referring court.

The first question referred for a preliminary ruling

43. By its first question, the referring court seeks to ascertain, in essence, whether Article 13 of Regulation No 650/2012 precludes, after an heir has had registered with a court of the Member State in which he or she is habitually resident his or her acceptance or waiver of the succession of a deceased person who was habitually resident in another Member State at the time of death, another heir from requesting the subsequent registration of that waiver or acceptance in the latter State.

44. Under Article 13 of Regulation No 650/2012, in addition to the court having jurisdiction to rule on the succession (for the purposes of this Opinion: the Bulgarian court), the courts of the Member State of the habitual residence of any person who, under the law applicable to the succession (for the purposes of this Opinion: Bulgarian law), may make, before a court, a declaration concerning in particular the waiver of the succession, are to have jurisdiction to receive such declarations where, under the law of that Member State, such a declaration may be made before a court.

45. As a reminder, the deceased designated as heirs her husband, who is a Greek national, her daughter and the applicant (her grandson). The husband made a declaration of waiver of the succession pursuant to Article 13 of Regulation No 650/2012 before a court of the Member State in which he is habitually resident, that is to say, a Greek court. That declaration is presumed to be valid. The question put by the referring court is therefore concerned not with the validity of that

declaration,[6] but with the possibility of the applicant having that waiver registered with the referring court.

46. According to settled case-law of the Court, it follows from the need for uniform application of EU law and from the principle of equality that the terms of a provision of EU law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an autonomous and uniform interpretation throughout the European Union; that interpretation must take into account not only its wording but also its context and the objective pursued by the legislation in question.[7]

47. Article 13 of Regulation No 650/2012 confers jurisdiction to receive a declaration of waiver both on the court having jurisdiction to rule on the succession and on the court of the Member State in which an heir is habitually resident. This is a case of complementary international jurisdiction which derogates from the system established by Articles 4 to 11 of that regulation.[8] It is, in the words of the Court of Justice, jurisdiction '[with] limited scope'.[9] Article 13 of Regulation No 650/2012 aims to simplify procedures for heirs and legatees by providing a derogation from the rules of jurisdiction set out in Articles 4 to 11 thereof.[10]

48. The purpose of the referring court's first question is therefore to establish the effects of the declaration of waiver made in Greece by the deceased's husband. In that regard, the referring court points out that Regulation No 650/2012 does not require the court before which a declaration of waiver is made to notify the court having jurisdiction in principle of the existence of that declaration. It finds there to be a 'legal vacuum' in that regard.

49. It should be noted that the (prescriptive) provisions of Regulation No 650/2012 are silent as to how a declaration made pursuant to Article 13 thereof is to be communicated to the court having jurisdiction to rule on the succession. The only indication is found in recital 32 of that regulation, which states that 'persons choosing to avail themselves of the possibility to make declarations in the Member State of their habitual residence should themselves inform the court or authority which is or will be dealing with the succession of the existence of such declarations within any time limit set by the law applicable to the succession'.

50. According to that recital, which, as the Commission observes, quite clearly has no independent legal value,[11] it therefore falls not to a court but to the person concerned to inform the court having jurisdiction to rule on the succession of the existence of such a declaration. Regulation No 650/2012 thus appears to 'privatise' the communication of such information.[12]

6 On the concept of validity, see my Opinion in *T.N. and N.N. (Declaration concerning the waiver of succession)* (C-617/20, EU:C:2022:49, points 40 to 44).

7 See judgments of 1 March 2018, *Mahnkopf* (C-558/16, EU:C:2018:138, paragraph 32); of 9 September 2021, *UM (Contract transferring ownership mortis causa)* (C-277/20, EU:C:2021:708, paragraph 29); and of 2 June 2022, *T.N. and N.N. (Declaration concerning the waiver of succession)* (C-617/20, EU:C:2022:426).

8 See Wautelet, P., in Bonomi, A., Wautelet, P., *Le droit européen des successions. Commentaire du Règlement (UE) nº 650/2012 du 4 juillet 2012*, 2nd edition, Bruylant, Brussels, 2016, Article 13, paragraph 5.

9 See judgment of 2 June 2022, *T.N. and N.N. (Declaration concerning the waiver of succession)* (C-617/20, EU:C:2022:426, paragraph 44).

10 See judgment of 21 June 2018, *Oberle* (C-20/17, EU:C:2018:485, paragraph 42). See also judgment of 2 June 2022, *T.N. and N.N. (Declaration concerning the waiver of succession)* (C-617/20, EU:C:2022:426, paragraph 41).

11 In the EU legal order, recitals are descriptive and not prescriptive in nature. Indeed, the question of their legal value does not normally arise for the simple reason that, typically, they are reflected in the legal provisions of a legislative text. Good legislative practice by the institutions of the European Union tends to aim at a situation in which the recitals provide a factual background to the provisions of a legal text. See also my Opinion in *X and Visser* (C-360/15 and C-31/16, EU:C:2017:397, point 132 et seq.).

12 That said, this is not a legal obligation on the person concerned, and the failure to communicate (information) has no legal consequence. See, to that effect, Dutta, A., in Säcker, F.K., Rixecker, R., Oetker, H., Bimberg, B. (eds), *Münchener Kommentar zum BGB*, Vol. 12, 8th ed., C.H. Beck, Munich 2020, Art. 13 EuErbVO, paragraph 13.

51. The Court itself has already observed that neither Article 13 nor Article 28 of Regulation No 650/2012 provides for a mechanism for the communication of such declarations by the court of the Member State of the habitual residence of the party waiving succession to the court having jurisdiction to rule on the succession. [13]

52. In the present case, assuming that the referring court is the court having jurisdiction to rule on the succession and that the declaration of waiver of 28 June 2019 was duly made in accordance with the requirements of Greek law, the *manner* in which the court having jurisdiction to rule on the succession learns of the existence of such a declaration is not a decisive factor. What matters is that that court does in fact learn of such a declaration.

53. That finding cannot be altered by virtue of the specific features of Bulgarian law mentioned by the referring court.

54. In that regard, in so far as the referring court states that the absence of such a notification obligation on the part of the court which received the declaration of waiver runs counter to the approach adopted by the Bulgarian legislature and to national case-law, according to which all declarations of acceptance or waiver of a succession are to be held in the same place and recorded in a single court register, which may be used to carry out related searches, it must be observed that that is an issue arising within the Bulgarian legal order. It should be recalled that it is for the Bulgarian courts, including the referring court, to ensure that full effect is given to the provisions of Regulation No 650/2012. In other words, although, as I have just established, that regulation does not provide for an obligation to inform on the part of the court which received the declaration of waiver, Bulgarian legislation cannot contain provisions which run counter to that choice by the legislature.

55. I therefore propose that the answer to the first question referred for a preliminary ruling should be that Article 13 of Regulation No 650/2012 does not preclude, after an heir has had registered with a court of the Member State in which he or she is habitually resident his or her acceptance or waiver of the succession of a deceased person who was habitually resident in another Member State at the time of death, another heir from subsequently requesting registration of that declaration in the latter Member State.

The second question referred for a preliminary ruling

56. By its second question, the referring court seeks to ascertain, in essence, whether Article 13 of Regulation No 650/2012 precludes one of the co-heirs, other than the person who made the declaration of waiver in the Member State of his or her habitual residence, from informing the court dealing with the succession of the existence of that declaration.

57. I would point out from the outset that recital 32 of Regulation No 650/2012 states that 'persons choosing to avail themselves of the possibility to make declarations in the Member State of their habitual residence should *themselves* inform the court or authority which is or will be dealing with the succession of the existence of such declarations …'. [14]

[13] See judgment of 2 June 2022, *T.N. and N.N. (Declaration concerning the waiver of succession)* (C-617/20, EU:C:2022:426, paragraph 47). It should also be noted that the present case is concerned not with the formal validity of a declaration pursuant to Article 13 of Regulation No 650/2012, but only with the manner in which the court having jurisdiction to rule on the succession is informed of a declaration.

[14] Emphasis added.

58. That recital could be understood to mean that it falls to the person concerned to notify the court or authority in question personally. However, I propose a different interpretation of the recital. It appears to me that the EU legislature used the word 'themselves' to distinguish between the person who made the declaration pursuant to Article 13 of Regulation No 650/2012 and the court before which that person made that declaration – and not between the person who made the declaration and any other person. The purpose of recital 32 of Regulation No 650/2012 is therefore above all to clarify that it does not fall to the court of the Member State of the habitual residence of the abovementioned persons to inform the court or authority which is or will be dealing with the succession of the existence of such declarations.

59. The objective of Article 13 of Regulation No 650/2012 also militates in favour of that interpretation. As I have set out, that regulation seeks to remove the obstacles to the free movement of persons and to allow heirs to avoid difficulties in asserting their rights in the context of a succession having cross-border implications.[15] In the present case, succession is facilitated if an heir who is likely to benefit from a waiver of a succession is permitted to inform the court having jurisdiction to rule on that succession where the party waiving succession has not done so himself.

60. It is my view, as I concluded in my examination of the first question, that that finding cannot be altered by virtue of the specific features of Bulgarian law mentioned by the referring court.

61. In that regard, in so far as the referring court states that Bulgarian legislation does not provide for the possibility of an heir requesting registration of the declaration of waiver made by a co-heir, it should be recalled that it falls to the national court to ensure that full effect is given to Article 13 of Regulation No 650/2012 by accepting the communication of that declaration by another heir. Otherwise, national procedural law would circumvent what I consider to be the correct interpretation of that provision.

62. I therefore propose that the answer to the second question referred for a preliminary ruling should be that Article 13 of Regulation No 650/2012 does not preclude a co-heir other than the person who made the declaration of waiver in the Member State of his or her habitual residence from informing the court dealing with the succession of the existence of that declaration.

Conclusion

63. In the light of all the foregoing considerations, I propose that the Court answer the questions referred by the Sofiyski rayonen sad (District Court, Sofia, Bulgaria) for a preliminary ruling as follows:

(1) Article 13 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 does not preclude, after an heir has had registered with a court of the Member State in which he or she is habitually resident his or her acceptance or waiver of the succession of a deceased person who was habitually resident in another Member State at the time of death, another heir from subsequently requesting registration of that declaration in the latter Member State.

[15] See also recital 7 of Regulation No 650/2012.

(2) Article 13 of Regulation No 650/2012 must be interpreted as not precluding a co-heir other than the person who made the declaration of waiver in the Member State of his or her habitual residence from informing the court dealing with the succession of the existence of that declaration.