Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

2 June 2022 *

(Reference for a preliminary ruling – Judicial cooperation in civil matters – Measures relating to the law on succession – Regulation (EU) No 650/2012 – Articles 13 and 28 – Validity of the declaration concerning the waiver of succession – Heir resident in a Member State other than that of the court having jurisdiction to rule on the succession – Declaration made before the court of the Member State in which that heir has his or her habitual residence)

In Case C-617/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Hanseatisches Oberlandesgericht in Bremen (Higher Regional Court, Bremen, Germany), made by decision of 11 November 2020, received at the Court on 20 November 2020, in the proceedings brought by

**T.N.,**

**N.N.**

other party:

**E.G.,**

THE COURT (Fifth Chamber),

composed of E. Regan, President of the Chamber, I. Jarukaitis, M. Ilešič (Rapporteur), D. Gratsias and Z. Csehi, Judges,

Advocate General: M. Szpunar,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the Spanish Government, by L. Aguilera Ruiz, acting as Agent,

– the Italian Government, by G. Palmieri, acting as Agent, and G. Greco, avvocato dello Stato,

* Language of the case: German.

– the European Commission, initially by S. Grünheid, W. Wils and M. Wilderspin, and subsequently by S. Grünheid and W. Wils, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 20 January 2022,

gives the following

## Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 13 and 28 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 (OJ 2012 L 201, p. 107).

2 The request has been made in proceedings brought by T.N and N.N. concerning the request for the issuance of a joint certificate of inheritance relating to the estate of W.N., husband of E.G. and uncle of T.N. and N.N. ('the nephews of the deceased').

### Legal context

#### *European Union law*

3 Recitals 7, 32 and 67 of Regulation No 650/2012 state:

'(7) The proper functioning of the internal market should be facilitated by removing the obstacles to the free movement of persons who currently face difficulties in asserting their rights in the context of a succession having cross-border implications. In the European area of justice, citizens must be able to organise their succession in advance. The rights of heirs and legatees, of other persons close to the deceased and of creditors of the succession must be effectively guaranteed.

…

(32) In order to simplify the lives of heirs and legatees habitually resident in a Member State other than that in which the succession is being or will be dealt with, this Regulation should allow any person entitled under the law applicable to the succession to make declarations concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or concerning the limitation of his liability for the debts under the succession, to make such declarations in the form provided for by the law of the Member State of his habitual residence before the courts of that Member State. This should not preclude such declarations being made before other authorities in that Member State which are competent to receive declarations under national law. 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.

…

(67) In order for a succession with cross-border implications within the Union to be settled speedily, smoothly and efficiently, the heirs, legatees, executors of the will or administrators of the estate should be able to demonstrate easily their status and/or rights and powers in another Member State, for instance in a Member State in which succession property is located. …'

4 Chapter II of that regulation, entitled 'Jurisdiction', contains, inter alia, Articles 4 and 13 thereof.

5 Article 4 of that regulation, entitled 'General jurisdiction', provides:

'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.'

6 Article 13 of that regulation, entitled 'Acceptance or waiver of the succession, of a legacy or of a reserved share', states:

'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.'

7 Chapter III of Regulation No 650/2012, entitled 'Applicable law', includes, inter alia, Articles 21, 23 and 28 thereof.

8 Article 21 of that regulation, entitled 'General rule', states 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.'

9 Article 23 of that regulation, entitled 'The scope of the applicable law', provides in paragraphs 1 and 2 thereof:

'1. The law determined pursuant to Article 21 or Article 22 shall govern the succession as a whole.

2. That law shall govern in particular:

…

(e) the transfer to the heirs and, as the case may be, to the legatees of the assets, rights and obligations forming part of the estate, including the conditions and effects of the acceptance or waiver of the succession or of a legacy;

…'

10 Article 28 of that regulation, entitled 'Validity as to form of a declaration concerning acceptance or waiver', states:

'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 making the declaration, shall be valid as to form where it meets the requirements of:

(a) the law applicable to the succession pursuant to Article 21 or Article 22; or

(b) the law of the State in which the person making the declaration has his habitual residence.'

### *German law*

11 Paragraph 1942 of the Bürgerliches Gesetzbuch (Civil Code), in the version applicable to the dispute in the main proceedings ('the BGB'), entitled 'Devolution and waiver of succession', states:

'1. The estate passes to the entitled heir without prejudice to the right to waive it (devolution of succession).

…'

12 Under Paragraph 1943 of the BGB, entitled 'Acceptance and waiver of succession':

'The heir may no longer waive succession if he or she has accepted it or if the period laid down for waiving succession has passed; on the expiry of the period, the succession is deemed to have been accepted.'

13 Article 1944 of the BGB, entitled 'Time limit for waiving succession', provides:

'1. Succession may be waived only within six weeks.

2. The period begins to run on the date on which the heir obtains knowledge of the devolution and of the reason for his or her entitlement. …

3. The period is six months if the deceased had his or her last residence exclusively abroad or if the heir was resident abroad when the period began to run.'

14 Article 1945 of the BGB, entitled 'Form of the waiver of succession', states:

'The waiver of succession is made by a declaration to the probate court; the declaration must be made in the presence of and recorded by the probate court or in notarially certified form.

…'

## The dispute in the main proceedings and the questions referred for a preliminary ruling

15 W.N., a Netherlands national whose last habitual residence was in Germany, died on 21 May 2018 in Bremen (Germany).

16 On 21 January 2019, E.G., who was W.N.'s spouse and who resides in Germany, applied to the Amtsgericht Bremen (Local Court, Bremen, Germany), the court with jurisdiction to rule on W. N.'s succession, for the issuance of a certificate of inheritance, according to which, by way of intestate succession, she was to inherit three quarters of W.N.'s estate, and the nephews of the deceased, both of whom reside in the Netherlands, were each to inherit one eighth of that estate.

17 By letter of 19 June 2019, that court informed the nephews of the deceased that intestate succession proceedings were under way and asked them to submit to it certain documents for the purpose of settling the succession.

18 On 13 September 2019, the nephews of the deceased made a declaration of waiver in respect of the deceased's estate before the rechtbank Den Haag (District Court, The Hague, Netherlands), which was entered in that court's succession register on 30 September 2019.

19 By letter of 22 November 2019, the Amtsgericht Bremen (Local Court, Bremen) forwarded the application for the certificate of inheritance to the nephews of the deceased and requested them to submit their observations.

20 By letter of 13 December 2019, written in Dutch, the nephews of the deceased submitted to the Amtsgericht Bremen (Local Court, Bremen) copies of the documents drawn up by the rechtbank Den Haag (District Court, The Hague) in connection with their declarations concerning the waiver of the succession in respect of the deceased's estate. By letter of 3 January 2020, the Amtsgericht Bremen (Local Court, Bremen) informed the nephews of the deceased that it had not been possible to take account of their letters and documents as they were not accompanied by a translation into German.

21 By letter of 15 January 2020, written in German, N.N. informed the Amtsgericht Bremen (Local Court, Bremen) that he and his brother had waived the succession in respect of the deceased's estate, that, in accordance with EU law, the declaration relating to that waiver had been registered by the competent judicial authorities in Dutch and that, therefore, no translation into German of the documents in question was required. In response, that court reiterated the need to translate the relevant documents in question and to comply with the time limits applicable to the waiver of succession.

22 By order of 27 February 2020, the Amtsgericht Bremen (Local Court, Bremen) established the facts necessary for the issuance of the certificate of inheritance, in accordance with E.G.'s application, and ruled that the nephews of the deceased were deemed to have accepted the succession.

23 The nephews of the deceased contested that order and requested an extension of the time limit for the submission of further evidence. On 30 July 2020, they submitted to the Amtsgericht Bremen (Local Court, Bremen) colour copies of the documents drawn up by the rechtbank Den Haag (District Court, The Hague), together with their translations into German. Since the Amtsgericht Bremen (Local Court, Bremen) challenged their failure to provide it with the originals of those documents, those originals were sent to it on 17 August 2020.

24 By order of 2 September 2020, the Amtsgericht Bremen (Local Court, Bremen) rejected the complaint and remitted the case to the referring court, the Hanseatisches Oberlandesgericht in Bremen (Higher Regional Court, Bremen, Germany), finding that, since the nephews of the deceased had not waived the succession in respect of the deceased's estate within the applicable

time limit, they were deemed to have accepted that succession. It was held that, in order for the declaration concerning the waiver of succession to be valid, it was not sufficient for the German court that has jurisdiction merely to be informed that that declaration had been made before the Netherlands court in question, nor was it sufficient for it to receive copies of the relevant documents, but it was also necessary for the German court to be provided with the relevant original documents. Those documents, however, had not been received by the German court until after the expiry of the sixth-month period laid down in Paragraph 1944(3) of the BGB.

25 The referring court is unsure, in the event that an heir makes a declaration concerning the waiver of succession before the court having jurisdiction for the place of his or her habitual residence, in accordance with Articles 13 and 28 of Regulation No 650/2012, as to what conditions are required for that declaration, which, under the law applicable to the succession, must be made within a certain time limit before the court having jurisdiction to rule on the succession, in order to be deemed to have been drawn up in good time.

26 The referring court notes, in this regard, the existence of differences in the legal literature and case-law in Germany as to the validity of the declaration concerning the waiver of succession made before a court of a Member State other than that which, in principle, has jurisdiction to rule on the succession. According to a first line of reasoning in the legal literature and case-law, which appears to be prevalent, the validity of such a declaration before the court having jurisdiction to rule on the succession is established merely as a result of it having been made before the court of the Member State of the habitual residence of the heir.

27 According to a second line of reasoning in the legal literature and case-law, the declaration concerning the waiver of succession is valid only if it is communicated in due and proper form to the court having jurisdiction to rule on the succession or, in any event, notified to that court. In that regard, it is apparent from recital 32 of Regulation No 650/2012 that, for the EU legislature, such a declaration can produce its effects only after it has been notified to that court. However, the referring court points out that Article 13 of Regulation No 650/2012, unlike German law, does not provide for any obligation on the court of the Member State of the habitual residence of the heir to notify the court that has jurisdiction to rule on the succession that a declaration concerning the waiver of succession has been made.

28 The referring court states that, in the case in the main proceedings, if the line of reasoning referred to in paragraph 26 of the present judgment were to be followed, the declaration concerning the waiver of the succession in question would be regarded as valid as from the day on which it was submitted by the nephews of the deceased to the rechtbank Den Haag (District Court, The Hague), that is to say, on 13 September 2019. Accordingly, in that case, the six-month period laid down in Paragraph 1944(3) of the BGB for waiving succession, which begins to run from the date on which the heir becomes aware of the devolution of the estate, would have been complied with by the nephews of the deceased.

29 According to the other line of reasoning set out in paragraph 27 of the present judgment, the validity of the declaration concerning the waiver of the succession in question could depend on the date on which the court having jurisdiction to rule on the succession became aware that such a declaration had been made. However, the question then arises as to what formal requirements must be satisfied in order for such a declaration to be valid, and in particular whether it is sufficient to notify the court having jurisdiction to rule on the succession of the existence of such a declaration or to file with it copies of the relevant documents or to submit to it information in the language of that declaration, or whether, on the contrary, it is necessary to provide that court

with the originals of the documents relating to the waiver drawn up by the court of another Member State and a certified translation into the language of the court having jurisdiction to rule on the succession.

30 In those circumstances, the Hanseatisches Oberlandesgericht in Bremen (Higher Regional Court, Bremen) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Does a declaration concerning the waiver of succession by an heir before the court of a Member State that has jurisdiction for the place of his or her habitual residence, which complies with the formal requirements applicable there, replace the declaration concerning the waiver of succession to be made before the court of another Member State that has jurisdiction to rule on the succession, in such a way that when that declaration is made, it is deemed to have been validly made (substitution)?

(2) If Question 1 is to be answered in the negative:

In addition to making a declaration before the court that has jurisdiction for the place of habitual residence of the party waiving succession which complies with all formal requirements, is it necessary, in order for the declaration concerning the waiver of succession to be valid, that the latter inform the court that has jurisdiction to rule on the succession that the declaration concerning the waiver of succession has been made?

(3) If Question 1 is to be answered in the negative and Question 2 in the affirmative:
(a) Is it necessary that the court that has jurisdiction to rule on the succession be addressed in the official language of the location of that court in order for the declaration concerning the waiver of succession to be valid and, in particular, in order to comply with the time limits applicable for making such declarations before that court?
(b) Is it necessary that the court that has jurisdiction to rule on the succession receive the original documents drawn up in relation to the waiver by the court that has jurisdiction for the place of habitual residence of the party waiving succession and a translation thereof in order for the declaration concerning the waiver of succession to be valid and, in particular, in order to comply with the time limits applicable for making such declarations before the court that has jurisdiction to rule on the succession?'

## Consideration of the questions referred

### *Preliminary observations*

31 According to settled case-law of the Court, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to decide the case before it. To that end, the Court should, where necessary, reformulate the questions referred to it (judgment of 26 October 2021, *PL Holdings*, C-109/20, EU:C:2021:875, paragraph 34 and the case-law cited).

32 The present reference for a preliminary ruling concerns the conditions which must be satisfied in order for a declaration concerning the waiver of succession, within the meaning of Articles 13 and 28 of Regulation No 650/2012, made before the court of the State of the habitual residence of

the party waiving succession, to be regarded as valid. In that regard, the referring court asks, in particular, whether and, if so, when and how such a declaration must be notified to the court having jurisdiction to rule on the succession.

33 It is apparent from the order for reference that the nephews of the deceased declared, on 13 September 2019, that they were waiving the succession in respect of the deceased's estate before a court of the Member State in which they were habitually resident, namely the rechtbank Den Haag (District Court, The Hague). On 13 December 2019, they informed the German court that had jurisdiction to rule on the succession, by means of a letter written in Dutch, of the existence of that declaration, enclosing copies of the documents drawn up by the Netherlands court. On 15 January 2020, they again informed the German court, but by means of a letter written in German, of the existence of that declaration. However, the originals of the documents drawn up by the Netherlands court and their translation into German were not received by the German court until 17 August 2020, that is to say, after the passing of the time limit laid down by the law applicable to the succession.

34 In those circumstances, it must be held that, by its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Articles 13 and 28 of Regulation No 650/2012 must be interpreted as meaning that a declaration concerning the waiver of succession made by an heir before a court of the Member State of his or her habitual residence is regarded as valid as to form in the case where the formal requirements applicable before that court have been complied with, without it being necessary, for the purposes of that validity, for that declaration to meet the formal requirements of the law applicable to the succession.

### *Substance*

35 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 (judgments of 1 March 2018, *Mahnkopf*, C-558/16, EU:C:2018:138, paragraph 32, and of 9 September 2021, *UM (Contract transferring ownership* mortis causa), C-277/20, EU:C:2021:708, paragraph 29).

36 With regard, in the first place, to the wording of the provisions in question and their context, it must be borne in mind that Article 13 of Regulation No 650/2012 forms part of Chapter II of that regulation, which governs all the grounds of jurisdiction in matters of succession. According to that provision, in addition to the court having jurisdiction to rule on the succession pursuant to that regulation, the courts of the Member State of the habitual residence of any person who, under the law applicable to the succession, may make 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, are to have jurisdiction to receive those declarations.

37 Article 13 of Regulation No 650/2012 thus provides for an alternative forum of jurisdiction which aims to enable heirs who do not have their habitual residence in the Member State the courts of which have jurisdiction to rule on the succession, in accordance with the general rules laid down

in Articles 4 to 11 of Regulation No 650/2012, to make their declarations concerning the acceptance or waiver of succession before a court of the Member State in which they have their habitual residence.

38 That rule of jurisdiction is complemented by a conflict-of-laws rule contained in Article 28 of Regulation No 650/2012, which forms part of Chapter III thereof governing the applicable law, and which specifically governs the validity as to form of such declarations. In accordance with that article, those declarations are valid as to form if, according to point (a) thereof, they meet the requirements of the law applicable to the succession (*lex successionis*) or, according to point (b) thereof, they meet the requirements of the law of the State in which the person making that declaration has his or her habitual residence.

39 It may be inferred from the wording of Article 28 of Regulation No 650/2012 that that provision is conceived in such a way as to recognise the validity of a declaration concerning the waiver of succession either where the conditions laid down by the law on succession are satisfied, when that law is applicable, or where the conditions laid down by the law of the State of the habitual residence of the heir are satisfied, when the law of that State is applicable.

40 In that regard, it is apparent from a combined reading of Articles 13 and 28 of Regulation No 650/2012 – as noted, in essence, by the Advocate General in point 58 of his Opinion – that there is a close correlation between those two provisions, with the result that the jurisdiction of the courts of the Member State of the habitual residence of the heir to receive declarations concerning the waiver of succession is subject to the condition that the law on succession in force in that State provides for the possibility of making such a declaration before a court. If that condition is satisfied, all the steps to be carried out before a court of the Member State of the habitual residence of the heir wishing to make such a declaration are determined by the law of that Member State.

41 As regards, in the second place, the objectives pursued by Regulation No 650/2012, such a reading of Articles 13 and 28 of that regulation is supported by recital 32 thereof, according to which the purpose of those provisions is to 'simplify the lives of heirs and legatees habitually resident in a Member State other than that in which the succession is being or will be dealt with'. To that end, according to that recital, that regulation should enable any person entitled under the law applicable to the succession to make certain declarations relating to the succession, including the waiver thereof, in the form provided for by the law of the Member State of his or her habitual residence before the courts of that Member State. The Court has already clarified, in that regard, that Article 13 of Regulation No 650/2012, read in the light of recital 32 thereof, 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 (judgment of 21 June 2018, *Oberle*, C-20/17, EU:C:2018:485, paragraph 42).

42 Such an interpretation is, in addition, supported by the objective of Regulation No 650/2012, which, according to recital 7 thereof, aims to facilitate the proper functioning of the internal market by removing the obstacles to the free movement of persons who wish to assert their rights arising from a cross-border succession. In particular, in the European area of justice, the rights of heirs and legatees, of other persons close to the deceased and of creditors of the estate must be effectively guaranteed (see, to that effect, judgments of 1 March 2018, *Mahnkopf*, C-558/16, EU:C:2018:138, paragraph 35, and of 1 July 2021, *Vorarlberger Landes- und Hypotheken-Bank*, C-301/20, EU:C:2021:528, paragraphs 27 and 34).

43 Thus, as regards declarations concerning the waiver of succession made before the court having jurisdiction under Article 13 of Regulation No 650/2012, Article 28(b) of that regulation ensures that that option granted to an heir who is habitually resident in a Member State other than that of the court having jurisdiction to rule on a succession is effective.

44 In this connection, it must be stated that, having regard to the limited scope of the jurisdiction of the court referred to in Article 13 of Regulation No 650/2012, any other interpretation intended to restrict the validity as to form of a declaration concerning the waiver of succession, in particular by making it subject to the formal requirements of the law applicable to the succession, would have the effect of depriving the provisions of Article 13 and Article 28(b) of that regulation of all practical effect, and of undermining the objectives of that regulation and the principle of legal certainty.

45 Consequently, as the Advocate General stated in point 64 of his Opinion, compliance with the objective of Regulation No 650/2012, which is to enable heirs to make declarations concerning the waiver of succession in the Member State of their habitual residence, implies that those heirs are not required to take further formal actions before the courts of other Member States other than those provided for by the law of the Member State in which such a declaration is made, in order for such declarations to be regarded as valid.

46 As regards the question relating to the submission of those declarations to the court having jurisdiction to rule on the succession, it must be observed that it is apparent from the last sentence of recital 32 of Regulation No 650/2012 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'.

47 That last sentence of recital 32 of Regulation No 650/2012 suggests, at first sight, that, according to the EU legislature, it is necessary that the declaration concerning the waiver of succession made before a court of the Member State of the habitual residence of the party waiving succession should be notified to the court having jurisdiction to rule on the succession. However, it must be noted that neither Article 13 nor Article 28 of that regulation 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. On the other hand, recital 32 presumes that persons who have made use of the right to make such declarations in the Member State of their habitual residence will assume the burden of communicating the existence of those declarations to the authorities responsible for the succession.

48 Thus, in the absence of a uniform system in EU law providing for the communication of declarations relating to the succession to the court having jurisdiction to rule on the succession, the last sentence of recital 32 of Regulation No 650/2012 must be understood as meaning that it is for the person who has made a declaration concerning the waiver of succession to take the steps necessary to ensure that the court having jurisdiction to rule on the succession becomes aware of the existence of a valid declaration. However, if those steps are not taken within the time limit prescribed by the law applicable to the succession, the validity of such a declaration cannot be called into question.

49 Accordingly, a declaration concerning the waiver of succession made by an heir before the court of the Member State of his or her habitual residence, in compliance with the formal requirements applicable before that court, should produce legal effects before the court having jurisdiction to rule on the succession, provided that that court has become aware of the existence of that declaration, without such a declaration being subject to the additional formal requirements of the law applicable to the succession.

50 In the present case, it is apparent from the information provided by the referring court that the nephews of the deceased made a declaration concerning the waiver in respect of the deceased's estate before a Netherlands court in compliance with the formal requirements applicable before that court, and that the Amtsgericht Bremen (Local Court, Bremen) became aware of the existence of that declaration before it ruled on the succession. Accordingly, it appears that the latter court should have taken that declaration into account, irrespective of whether there was compliance with the other requirements or clarifications considered necessary by that German court in order for such a declaration to be regarded as valid. As is apparent from recital 67 of Regulation No 650/2012, the heirs should be able to demonstrate easily their status and/or rights and powers in order 'for a succession with cross-border implications within the Union to be settled speedily, smoothly and efficiently'.

51 In the light of all of the foregoing, the answer to the questions referred is that Articles 13 and 28 of Regulation No 650/2012 must be interpreted as meaning that a declaration concerning the waiver of succession made by an heir before a court of the Member State of his or her habitual residence is regarded as valid as to form in the case where the formal requirements applicable before that court have been complied with, without it being necessary, for the purposes of that validity, for that declaration to meet the formal requirements of the law applicable to the succession.

## Costs

52 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

**Articles 13 and 28 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 must be interpreted as meaning that a declaration concerning the waiver of succession made by an heir before a court of the Member State of his or her habitual residence is regarded as valid as to form in the case where the formal requirements applicable before that court have been complied with, without it being necessary, for the purposes of that validity, for that declaration to meet the formal requirements of the law applicable to the succession.**

[Signatures]