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Succession

 Greece

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(in civil and commercial
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1 How is the disposition of property upon death (will, joint will, agreement on succession) drawn up?

A. Voluntary succession is only possible through a will (Articles 1710 and 1712 of the Civil Code).

The following types of will are provided for:

(a) Common wills:

- Holographic will: written, dated and signed entirely by the testator in his/her own hand (not using mechanical devices) (Articles 1721-1723 of the Civil Code). It is not necessary to submit such a will to any authority. Following the testator's death, *anyone holding a holographic will must, upon being informed of the testator's death and without intentional delay, submit the will for publication to the Judge of the district civil court sitting either at the testator's last domicile or residence or at his/her own domicile, or to any Greek consular authority if the holder of the will resides abroad* (Articles 1774-1775 of the Civil Code).
- Sealed will: executed by the testator and submitted in a sealed envelope to a notary in the presence of three witnesses or in the presence of two notaries and one witness. Following the testator's death, the notary must, *without intentional delay, personally deliver the original will to the Judge of the district civil court sitting in the region in which the notary has its registered office* (Articles 1738-1748 and 1769 of the Civil Code).
- Public will: announced verbally by the testator to the notary in the presence of three witnesses or to two notaries in the presence of one witness. A notarial deed is executed. This contains the will and is retained by the notary, who must, *upon being informed of the testator's death and without intentional delay, send a copy thereof to the Judge of the district civil court sitting in the region in which the notary has its registered office* (Articles 1724-1737 and 1769 of the Civil Code).

(b) Extraordinary wills:

Under extraordinary circumstances a will may be executed on board a ship (Articles 1749-1752 of the Civil Code), by soldiers in military campaign (Articles 1753-1756 of the Civil Code) and persons in isolation (Article 1757 of the Civil Code). An extraordinary will shall be delivered without delay to the nearest Greek consular authority or to a notary in Greece and shall be notified to the competent supervisory authority (Articles 1761-1762 of the Civil Code). An extraordinary will shall become null and void immediately upon lapse of three months of the date on which the extraordinary circumstances ceased to affect the testator provided that the latter is still alive (Articles 1758-1760 of the Civil Code).

Every will shall be equally valid, and a subsequent will shall repeal any previous one, provided that the testator has explicitly repealed the previous will or when the subsequent will contains provisions that are contradictory to or different from those of the previous one. In the latter case, a subsequent will shall only repeal the parts of the previous will which contradict it (Articles 1763-1768 of the Civil Code).

In all cases the testator must be competent to act, must be acting of his/her own free and unobstructed will, and

must meet the requirements set by law for the lawful execution of each type of will.

B. Alternatively, a donation due to death contract may be concluded (Articles 2032-2035 of the Civil Code). In this case, however, the donee shall not be considered as the donor's heir or universal successor.

C. A joint will (i.e. a will executed by two or more persons in one act) is prohibited by law (Article 1717 of the Civil Code).

D. Agreements as to future successions are also prohibited (Article 368 of the Civil Code).

2 Should the disposition be registered and if yes, how?

A. A holographic will need not be submitted to a specific authority. For reasons of safety, however, the testator may leave it with a notary for safekeeping (Article 1722 of the Civil Code).

B. Sealed wills and public wills must be submitted to a notary, and a relevant notarial deed must be executed (Articles 1743 and 1732 of the Civil Code).

C. An extraordinary will must be notified to a supervisory authority and must be submitted without delay to the nearest Greek consular authority or to a notary in Greece (Articles 1761-1762 of the Civil Code).

D. Upon the testator's death, *a notary holding a will must, in the case of a public will, send a copy to the Judge of the district civil court, and, in the case of a sealed or extraordinary will, the notary must personally deliver the original will for publication to the Judge of the district civil court sitting in the region in which the notary has its registered office (Articles 1769-1780 of the Civil Code and Articles 807-811 of the Code of Civil Procedure). Any person holding a holographic will must, upon being informed of the testator's death and without intentional delay, submit it for publication to the Judge of the district civil court sitting either at the testator's last domicile or residence or at his/her own domicile (Articles 1774 - 1775 of the Civil Code and Articles 807 - 811 of the Code of Civil Procedure).* If the holder of a will resides abroad, he/she may submit it to any Greek consular authority.

E. Any person who finds or holds a holographic will and fails to submit it to a competent authority immediately is subject to civil and criminal penalties and, if he/she is an heir, he/she is declared debarred from succession (Articles 914, 902, 903 and 1860 of the Civil Code, Article 811 of the Code of Civil Procedure and Articles 222 and 242 of the Criminal Code).

3 Are there restrictions on the freedom to dispose of property upon death (e.g. reserved share)?

A. The descendants and parents of the deceased, as well as the surviving spouse or a survivor with whom the deceased had concluded a registered partnership, who would have been called as intestate successors, are entitled to a reserved portion of the estate (Article 1825 of the Civil Code and Article 11 of Law 3719/2008).

B. The reserved portion of the estate corresponds to half of the intestate portion. The legal beneficiary of that portion is included as an heir apparent in relation to that portion (Article 1825 of the Civil Code).

C. The method used to calculate that ratio is complex. Account is taken of the chargeable benefits already received by the beneficiary from the deceased and of the total (notional) value of the estate (Articles 1830-1834 of the Civil Code).

D. Any restriction imposed by the will on the beneficiary of the portion, is considered not to have been written to the extent that it applies to the reserved portion of the estate (Article 1829 of the Civil Code). By lodging an action to overturn a loveless donation, the beneficiary of the portion may seek to overturn a donation made by the deceased during his/her lifetime, if the estate still in existence at the time of the deceased's death is insufficient to cover the reserved portion. The right to lodge the action is subject to a statute of limitation of two years after the death of the deceased (Articles 1835-1838 of the Civil Code).

E. The legal beneficiary of the reserved portion shall not receive the reserved portion of the estate if he/she is disinherited by the deceased (Articles 1839-1845) or if he/she is debarred (Articles 1860-1864). The legal

beneficiary of the reserved portion may waive the succession (Articles 1847-1859 of the Civil Code) or may waive the right to the reserved portion (Article 1826 of the Civil Code).

4 In the absence of a disposition of property upon death, who inherits and how much?

There are six classes of intestate succession. A person included in one class is not called to the succession if another person from a previous class is called to the succession (Article 1819 of the Civil Code):

A. The descendants of the deceased are called under the first class of intestate succession. Succession is determined per stirpes. The closest descendant excludes more distant descendants in the same root. Children inherit equal shares of the estate (Article 1813 of the Civil Code).

The surviving spouse is also included in the first class and receives one fourth of the estate (Article 1820 of the Civil Code).

A surviving person with whom the deceased had concluded a registered partnership is also included in the first class and receives one sixth of the estate (Article 11 of Law 3719/2008).

B. The parents and siblings of the deceased, as well as the children and grandchildren of any of the deceased's siblings who died before the deceased or who have waived their rights of succession or have been debarred, are also included in the second class. The parents and siblings, as well as the children and grandchildren of any siblings who died before the deceased or who have waived their rights of succession or have been debarred, inherit the estate per stirpes (Article 1814 of the Civil Code).

If half-siblings are ranked with parents or full siblings or with children or grandchildren of full siblings, they receive half of the share that belongs to full siblings. Half of the share is also received by the children or grandchildren of any siblings who died before the deceased or who waived their right to succession or have been debarred (Article 1815 of the Civil Code).

The surviving spouse is also included in the second class and receives half the estate (Article 1820 of the Civil Code).

A surviving person with whom the deceased had concluded a registered partnership is also included in the second class and receives one third of the estate (Article 11 of Law 3719/2008).

C. The grandparents as well as the children and grandchildren from among the descendants of the deceased are called under the third class of intestate succession.

If at the time of the deceased's death, the grandparents in both lines are alive and have not waived their right to succession and have not been debarred, they will be the sole beneficiaries of the estate and will inherit it in equal shares.

If at the time of death of the deceased the grandfather or grandmother in the father's or mother's line is not alive or has waived the right to succession or has been debarred, he/she is replaced by his/her children and grandchildren. In the absence of any children and grandchildren or if these have waived their rights to succession or have been debarred, the share of the person who has died or has waived the right to succession or has been debarred devolves to the grandfather or grandmother in the same line, and in the absence of such a grandparent or if that grandparent has waived the right to succession or has been debarred, it devolves to his/her children and grandchildren.

If at the time of death of the deceased the grandfather and grandmother in the father's or mother's line are not alive or have waived their right to succession or have been debarred and they have no children and grandchildren or their children and grandchildren have waived their right to succession or have been debarred, the sole beneficiaries are the grandfather or grandmother and their children and grandchildren in the other line.

Children inherit equal shares of the estate and exclude grandchildren in the same root. Grandchildren inherit the estate by root (Article 1816 of the Civil Code).

A surviving spouse is also included in the third class and receives half of the estate (Article 1820 of the Civil Code).

A surviving person with whom the deceased had concluded a registered partnership is also included in the third class and receives one third of the estate (Article 11 of Law 3719/2008).

D. The great-grandparents of the deceased are called under the fourth class of intestate succession and inherit equal shares of the estate irrespective of line (Article 1817 of the Civil Code).

A surviving spouse is also included in the fourth class and receives half of the estate (Article 1820 of the Civil Code).

A surviving person with whom the deceased had concluded a registered partnership is also included in the fourth class and receives one third of the estate (Article 11 of Law 3719/2008).

E. A surviving spouse or a surviving person with whom the deceased had concluded a registered partnership is also included in the fifth class and receives the entire estate (Article 1821 of the Civil Code and Article 11 of Law 3719/2008).

A divorced spouse and a surviving person with whom the deceased had concluded a registered partnership, if the partnership was terminated while the deceased was alive, are not included in the intestate succession.

A surviving spouse against whom the deceased had lodged a divorce action, with valid grounds for the divorce, is excluded from the intestate succession (Article 1822 of the Civil Code).

F. The Greek State is called under the sixth class of intestate succession and receives the entire estate under benefit of inventory (Article 1824 of the Civil Code and Article 118 of the Law establishing the Civil Code).

5 What type of authority is competent:

5.1 in matters of succession?

The succession court, i.e. the *district civil court* of the region in which the deceased had his/her domicile at the time of death or his/her residence in the absence of domicile, or the *district civil court of the capital city of the State* in the absence of residence, has jurisdiction on succession-related matters (Articles 30 and 810 of the Code of Civil Procedure).

Notaries and the Greek consular authorities are also competent to draw up and safeguard wills.

Finally, the Greek tax authorities are also competent to receive succession tax declarations and to apply succession taxes.

5.2 to receive a declaration of waiver or acceptance of the succession?

5.3 to receive a declaration of waiver or acceptance of the legacy?

5.4 to receive a declaration of waiver and acceptance of a reserved share?

On 5(b) to (d): The following declarations are submitted to the secretariat of the succession court:

- Declarations concerning the waiver of a succession or legacy by any heir (testate heir, intestate heir, heir apparent). The waiver must be exercised within a deadline of four months from the date on which the party making the waiver was informed of the opening of the succession and of the reason for the opening. If the deceased or the heir lived abroad, the waiver deadline is extended to one year (Article 812 of the Code of Civil Procedure and Articles 1847-1859 of the Civil Code).
- Declarations concerning the acceptance of a succession under benefit of inventory (Article 812 of the Code of Civil Procedure and Articles 1902-1912 of the Civil Code).
- Declarations concerning the acceptance or waiver of the function of executor of a will or concerning relinquishment of that function (Article 812 of the Code of Civil Procedure and Articles 2017-2031 of the Civil Code).

- Declarations accepting or relinquishing an appointment as guardian of a vacant succession (Article 812 of the Code of Civil Procedure and Articles 1865-1870 of the Civil Code).

6 Short description of the procedure to settle a succession under national law, including the winding-up of the estate and sharing out of the assets (this includes information whether the succession procedure is initiated by a court or other competent authority on its own motion)

A. The heir may, within the deadline for waiver of succession (i.e. four months, or one year if the deceased or the heir resided abroad at the time of the opening of the succession - Article 1847 of the Civil Code), declare to the secretariat of the succession court (*Article 810 of the Code of Civil Procedure stipulates which succession court is appropriate*) that he/she has accepted the succession under benefit of inventory. In that case, the heir under benefit of inventory is responsible for assuming the obligations of the estate up to its assets (Articles 1902 and 1904 of the Civil Code).

The heir under benefit of inventory must proceed to take an inventory of the assets of the estate within four months. The estate is a group of property which is distinct from the heir's personal property. An heir under benefit of inventory must satisfy the creditors to the estate and then the legatees. In the case of acts of waiver of the assets of the estate, an heir under benefit of inventory must request permission from the succession court (Articles 1902-1912 of the Civil Code and Articles 812, 838-841 of the Code of Civil Procedure).

B. The creditors to the estate or the heirs may request judicial liquidation of the estate from the succession court (Article 1913 of the Civil Code). The court must order the liquidation of the estate upon request of the heir under benefit of inventory, and the latter shall, in that case, pass on the succession property to the creditors and shall be relieved of all obligations (Article 1909 of the Civil Code).

The succession court appoints a liquidator for the purposes of the liquidation, who invites the creditors to make their claims known. Satisfaction of the creditors' claims takes precedence over those of the legatees (Articles 1913-1922 of the Civil Code).

C. If the heir is unknown (vacant succession), the succession court shall appoint a guardian of the vacant succession, who shall be responsible for the administration of the estate and satisfaction of the creditors until the heir is found (Articles 1865-1870 of the Civil Code).

D. If the deceased had already gone bankrupt, the bankruptcy proceedings are continued against the estate.

7 How and when does one become an heir or legatee?

A. The estate devolves automatically to the heir at the time of death of the deceased. In principle, therefore, no specific explicit act of acceptance of the succession is required (Article 1846 of the Civil Code).

B. Where an heir indicates by his/her conduct that he/she wishes to become an heir (by getting involved in the succession), he/she is deemed to have tacitly accepted the succession (Article 1849 of the Civil Code).

C. Where an heir has not exercised the right to waive the succession within the deadline set (i.e. four months, or one year if the deceased or the heir resided abroad at the time of the opening of the succession - Article 1847 of the Civil Code), there is deemed to be notional acceptance of the succession (Article 1850 of the Civil Code).

D. There is an exception to the principle of automatic acquisition of the estate where the object to be inherited is the ownership of, or any other right in rem over, an immovable asset. In that case, the act of acceptance of the succession or the certificate of succession must be registered at the deed registry or the land registry, and the heir acquires the right in rem with retrospective effect from the time of death of the deceased (Articles 1846, 1193, 1195 and 1198 of the Civil Code).

8 Are the heirs liable for the deceased's debts and, if yes, under which conditions?

A. An heir, as the universal successor of the deceased, is liable, including with his/her personal property, for the obligations of the estate, unlike the legatees, who are specific successors of the deceased (Article 1901 of the Civil Code).

B. The heir may, within the deadline for waiver of succession (i.e. four months, or one year if the deceased or the heir resided abroad at the time of the opening of the succession - Article 1847 of the Civil Code), declare to the secretariat of the succession court that he/she has accepted the succession under benefit of inventory. In that case, the heir under benefit of inventory is responsible for assuming the obligations of the estate up to its assets (Articles 1902 and 1904 of the Civil Code).

C. The heir under benefit of inventory must proceed to take an inventory of the assets of the estate within four months. The estate is a group of property which is distinct from the heir's personal property. An heir under benefit of inventory must satisfy the creditors to the estate and then the legatees. In the case of acts of waiver of the assets of the estate, an heir under benefit of inventory must request permission from the succession court (Articles 1902-1912 of the Civil Code and Articles 812, 838-841 of the Code of Civil Procedure).

D. During the inventory, the creditors to the estate may request judicial liquidation of the estate from the succession court (Article 1913 of the Civil Code). The court must order the liquidation of the estate upon request of the heir under benefit of inventory, and the latter shall, in that case, pass on the succession property to the creditors and shall be relieved of all obligations (Article 1909 of the Civil Code).

9 What are the documents and/or information usually required for the purposes of registration of immovable property?

To register immovable property that has been inherited, a public document (typically a notarial deed of acceptance of succession or a certificate of succession) is required. This must be submitted to the competent authority (deed registry or land registry) operating at the place where the property is situated.

For more information: <http://www.ktimatologio.gr/>

9.1 Is the appointment of an administrator mandatory or mandatory upon request? If it is mandatory or mandatory upon request, what are the steps to be taken?

Under the Greek law of succession, the estate is acquired by the heir directly upon the death of the deceased, without intervention by a representative or administrator (Articles 983 and 1846 of the Civil Code).

9.2 Who is entitled to execute the disposition upon death of the deceased and/or to administrate the estate?

The heir himself/herself, who shall therefore administer the succession property. If there are several heirs, they shall administer the estate jointly until it is distributed (Articles 1884-1894 of the Civil Code).

The deceased in his/her will, or the heirs by agreement or by request filed with the succession court, may appoint an executor of the will, who shall be responsible for the administration and distribution of the estate (Articles 2017-2031 of the Civil Code).

If the heir is unknown (vacant succession), the succession court shall appoint a guardian of the vacant succession, who shall be responsible for the administration of the estate until the heir is found (Articles 1865-1870 of the Civil Code).

9.3 What powers does an administrator have?

An heir under benefit of inventory administers the estate until the creditors to the estate are satisfied (Articles 1902-1912 of the Civil Code).

At the request of any creditor or heir filed with the succession court, an order may be issued for the judicial liquidation of the estate, which shall be administered by a liquidator appointed by the succession court (Articles 1913-1922 of the Civil Code).

10 Which documents are typically issued under national law in the course of or at the end of succession proceedings proving the status and rights of the beneficiaries? Do they have specific evidentiary effects?

A. Any party concerned (heir, legatee, trustee, executor of a will, creditors to the estate, buyer of the estate) may request the *Judge of the district civil court* responsible for the succession to issue a certificate of succession as part of the non-contentious proceedings (Article 819 of the Code of Civil Procedure).

B. The certificate of succession is a document issued by the *Judge of the district civil court* responsible for the succession which sets out the information relating to the succession (capacities and rights, share in the succession) (Article 1961 of the Civil Code and Article 820 of the Code of Civil Procedure). The certificate of succession may be a personal document (where it certifies the capacity and share of just one person) or a joint document (where issued to joint heirs or more than one person) (Article 1960 of the Civil Code).

C. The person referred to as the heir, legatee, trustee or executor of the will in the certificate of succession is presumed to have the capacity and relevant rights indicated in the certificate. Such presumption can be contested (Article 821 of the Code of Civil Procedure and Article 1962 of the Civil Code).

D. The certificate of succession confers authenticity. Any third parties carrying out transactions in good faith with the party indicated as the heir in the certificate of succession are protected (Article 822 of the Code of Civil Procedure and Article 1963 of the Civil Code).

E. Where an incorrect certificate of succession is issued, it shall be withdrawn, modified, repealed and removed, along with all the ordinary and extraordinary appeals against the judgment on the issuance of the certificate of succession (Articles 1964-1966 of the Civil Code and Articles 823-824 of the Code of Civil Procedure).

F. Where the object of the succession is a right in rem over an immovable asset, the heir may register the certificate of succession (Articles 1846, 1193, 1195 and 1198 of the Civil Code).

G. In addition to the certificate of succession, there are also other documents to prove the heir's capacity and rights (e.g. copy of the will, civil status certificates, action for declaratory judgment, etc.).

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