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# Restrictions on successions – special rules



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European Judicial Network  
(in civil and commercial matters)

1 Under the law of this Member State, do special rules impose, for economic, family or social considerations, restrictions concerning or affecting the succession in respect of immovable property, certain enterprises or other special categories of assets located in this Member State?

The real estate transaction laws (*Grundverkehrsgesetze*) of the provinces can provide for restrictions in application of the agreement between the Federal Government and the provinces under Article 15a of the Federal Constitutional Law (*Bundesverfassungsgesetz*) on civil law provisions relating to building plot transactions (Federal Gazette No 260/1993 as amended by Federal Gazette I No 1/2017, available [here](#)).

In accordance with Section 14 of the 2002 Residential Property Act (*Wohnungseigentumsgesetz*), if one of the partners in an 'owner partnership' (*Eigentümerpartnerschaft*) dies, a special rule applies: ownership of the deceased's part of the minimum share and joint residential property is transferred by law directly to the surviving partner. However, the latter can waive his/her right to this transfer of ownership (Federal Gazette I No 70/2002 as amended by Federal Gazette I No 87/2015, available [here](#)).

2 Under the law of this Member State, do these special rules apply to the succession in respect of the above-mentioned assets irrespective of the law applicable to the succession?

The aforementioned provision in Section 14 of the 2002 Residential Property Act on joint ownership with a right of survivorship is covered by the exceptions set out in Article 1(2)(g) of the EU Succession Regulation.

3 Under the law of this Member State, do special procedures exist to ensure compliance with the above-mentioned special rules?

In order to ensure compliance with the provisions set out in Section 14 of the 2002 Residential Property Act, paragraph (7) thereof states that if an estate is settled abroad, the duties and powers generally assigned to the (Austrian) Probate Court (*Verlassenschaftsgericht*) will be assigned to the competent Austrian Land Register Court (*Grundbuchsgericht*).

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