

[Home](#) > ... > [Family Matters & Inheritance](#) > [Inheritance](#) > [Restrictions On Successions – Special Rules](#) > [Spain](#)

Restrictions on successions – special rules

Content provided by:



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?

(a) In order to keep property in the same branch of the family when it is inherited by an ascendant, the law stipulates that this property must be reserved for relatives of the same line (Article 811 of the Spanish Civil Code [*Código Civil*]). The widowed spouse must reserve any property inherited from their deceased spouse if they remarry or have another child (Article 968 of the Civil Code). Ascendants inherit before any other party any property gifted to their children or descendants who died without issue (Article 812 of the Civil Code).

(b) Property located within the province of Vizcaya can only be passed on to certain relatives (Article 17 of Law 3/1992), a right that is conferred on all of Vizcaya's inhabitants (Article 23 of Law 3/1992).

(c) In order to prevent businesses being broken up, either for economic reasons or in the interests of the family, the testator may provide for payment to the other heirs of his/her share, including deferred payment, even if there is not enough cash in the inheritance (Article 1056(2) of the Civil Code).

(d) A corporation (*sociedad de capital*) may, in its articles of association, restrict the transferability of shares, including upon death of the holder. If such a restriction exists, the corporation must put forward a person to buy the shares awarded to the heir or buy the shares itself (Article 124 of the Spanish Royal Legislative Decree 1/2010 on corporations, [*Ley de sociedades de capital*]).

(e) For economic reasons, a minimum surface area has been laid down for rural properties to stop them being divided up between the heirs (Articles 23 et seq. of Law 15/1995 on the modernisation of agricultural holdings).

(f) For social reasons, State and Autonomous Community legislation has laid down limits on the transfer of social housing.

(g) The legislation on rural and urban leases permits specified successors of the tenant to acquire the lease rights by subrogation (Article 24 of Law 49/2003 on rural leases, Articles 16 and 33 of Law 29/1994 on urban leases).

(h) The acquisition of rights on property located in zones which have declared that they restrict foreign national ownership is subject to military authorisation on the grounds of national security or state sovereignty (Articles 4, 16 and 18 of Law 8/1975 of 12 March 1975 on zones and installations of interest to national security and Article 46 of Royal Decree 689/1978 of 10 February 1978).

(b) In order to prevent businesses being broken up, either for economic reasons or in the interests of the family, the testator may provide for payment to the other heirs of his/her share, including deferred payment, even if there is not enough cash in the inheritance (Article 1056(2) of the Civil Code).

(c) The right to family property (*derecho de troncalidad*) in certain areas of the province of Vizcaya provides that the transfer by inheritance of property classified as family property to outsiders foreign nationals or relatives who do not belong to the preferred line is valid, but the testamentary clause may be annulled at the request of the family members in the preferred line within four years from the date on which the entitled relatives became aware of the disposition, and in any event from the date of its entry in the land register (Article 69 of Law 5/2015 of 25 June 2015 of the Basque Civil Law [*Derecho Civil Vasco*]).

(d) In Navarre, Law 273 of the Navarre Civil Law Code (*Compilación de Derecho Foral de Navarra*) provides that the parent who entered into a marriage or a stable partnership with another person is obliged to reserve and leave to the children of the previous partnership, or their descendants, the ownership of all property received from their former spouse or stable partner, their children or the descendants of such children by any lucrative title. That obligation will continue to exist for as long as there are reserved descendants, even if, at the time of death, the reserver has ceased to be married or to live in a stable partnership. 'If one parent releases the other from the obligation to reserve property in a scenario where the latter enters into a new marriage or a stable partnership with another person, this exemption will be null and void, as will any dispositions of the parent entering into a new marriage or a new stable partnership if they otherwise contravene the provisions of this Law. Laws 305 to 307 also provide for the succession of family property.

(e) In Aragon, while the '*consorcio foral*' (a form of joint ownership) is in force, which is established when several siblings or children of siblings inherit from a relative in the ascending line, only anticipated inheritance (*intervivos*) or ordinary inheritance (*mortis causa*) acts carried out by a spouse in respect of their share in the consortium or the assets forming part of it are valid when carried out for the benefit of their descendants, who thereby acquire the status of spouse.

(f) A corporation (*sociedad de capital*) may, in its articles of association, restrict the transferability of shares, including upon death of the holder. If such a restriction exists, the corporation must put forward a person to buy the shares awarded to the heir or buy the shares itself (Article 124 of the Spanish Royal Legislative Decree 1/2010 on corporations, [*Ley de sociedades de capital*]).

(g) For economic reasons, a minimum surface area has been laid down for rural properties to stop them being divided up between the heirs (Articles 23 et seq. of Law 15/1995 on the modernisation of agricultural holdings).

(h) For social reasons, State and Autonomous Community legislation has laid down limits on the transfer of social housing.

(i) The legislation on rural and urban leases permits specified successors of the tenant to acquire the lease rights by subrogation (Article 24 of Law 49/2003 on rural leases, Articles 16 and 33 of Law 29/1994 on urban leases).

(j) The acquisition of rights on property located in zones which have declared that they restrict foreign national ownership is subject to military authorisation on the grounds of national security or state sovereignty (Articles 4, 16 and 18 of Law 8/1975 of 12 March 1975 on zones and installations of interest to national security and Article 46 of Royal Decree 689/1978 of 10 February 1978).

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?

Paragraphs (b), (g) and (h), (i) and (j) apply to property located in Spain irrespective of the law governing succession; paragraph (d) applies if the company is governed by Spanish law.

3 Under the law of this Member State, do special procedures exist to

ensure compliance with the above-mentioned special rules?

The notary documenting the transfer and the property registrar in charge of registering it check whether a transfer is lawful. A court order may of course also be requested.

■ Last update: 04/03/2025

The national language version of this page is maintained by the respective EJM contact point. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. Neither the EJM nor the European Commission accept responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.