Succession

Finland

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

Inheritance matters are regulated by the Code of Inheritance (40/1965). The only way to provide for what happens to the estate after death is to make a will. A will must be made in writing and in the simultaneous presence of two witnesses. The testator must sign the will when it is made, or acknowledge his/her previous signature thereto. The witnesses must attest the will by signing it once the testator has signed it or acknowledged his/her signature on it. A verbal will may also be binding in certain exceptional cases.

It is also possible to make a reciprocal will, which in most cases is a will drawn up by spouses to transfer a right of ownership between themselves. Reciprocal wills are subject to the same formal requirements as other wills. The rules that apply to reciprocal wills between spouses also apply to reciprocal wills made between the partners in a registered partnership.

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

The authorities in Finland do not maintain a register of wills.

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

The freedom to make bequests is limited, for the benefit of the deceased person's direct descendants and spouse. Direct descendants and adopted children, as well as their own descendants, are entitled to a legal share of the deceased person's estate. The legal share amounts to half the value of the share of the estate devolving to that heir in accordance with the statutory order of succession.

A spouse also enjoys protection from a will made by the first deceased spouse. The surviving spouse may keep the deceased spouse's undivided estate, subject either to an application by a direct descendant for distribution of the estate or to a will made by the testator. The surviving spouse may always, however, retain undivided possession of the spouses' common home, as well as the usual household effects, unless the surviving spouse owns residential property that is suitable as a home.

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

The primary legal heirs are the direct descendants, each of whom will receive an equal portion of the estate. If a child has died, any descendants of that child will inherit in his/her place, and each branch of the family will receive an equal portion.

If the deceased person was married and is not survived by any direct descendants, the surviving spouse will primarily inherit the deceased spouse's estate. Registered partners are entitled to inherit under the same conditions as spouses.

If the deceased person is not survived by any direct descendants and was not married at the time of death, the deceased person's father and mother will each receive half of the estate. If the deceased person's father or mother has died, that share will be divided among the deceased person's brothers and sisters. If a brother or sister has died, that brother's or sister's descendants will take his or her place, and each branch of the family will receive an equal share. If there are no brothers or sisters, or descendants thereof, but either of the deceased person's parents is alive, that parent will receive the entire estate. If none of the above-mentioned heirs have survived the deceased person, the parents of the deceased person's father and mother will receive the whole estate. If the deceased person's paternal grandfather, paternal grandmother, maternal grandfather or maternal grandmother has died, the share of the estate that would have gone to that grandparent will go to his/her children. Cousins do not have the right of inheritance.

5 What type of authority is competent:

5.1 in matters of succession?

Various authorities have jurisdiction over matters relating to the administration of succession. The estate inventory (*perukirja*), a list of the deceased person's assets and liabilities, must be sent to the tax office of the deceased person's domicile within one month of being drawn up. Confirmation of the list of beneficiaries may also be sought from the Digital and Population Services Data Agency or, in the Province of Åland, from the State Department of Åland. The State Treasury is the central authority for matters relating to the acquisition of property by the State. The district court (*käräjäoikeus*) of the deceased person's domicile has jurisdiction to hear any cases relating to the estate.

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

Succession may be accepted by actually taking charge of the inherited property. Heirs may also make a separate acceptance declaration. If the estate has been divided up, the acceptance declaration should be made to the other heirs who have accepted succession. If the estate has not been distributed, the declaration should be made to the estate administrator. The declaration may also be presented to a court.

There is no prescribed format for waiver declarations, but any such declaration must be made in writing. A waiver declaration may be made for any person or persons having a share in the deceased person's estate, the estate administrator, the estate distributor, the executor of the will, or any descendants taking the place of deceased heirs. In order for the waiver to have legal effect against seizure by creditors, the heir should either notify the deceased person's estate of his or her waiver, or deposit the waiver declaration with the Digital and Population Services Data Agency or, in the Province of Åland, with the State Department of Åland, so that it can be duly entered in the records (Section 81 of Chapter 4 of the Enforcement Code).

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

There is no prescribed format for reporting one's intentions with regard to the beneficiaries of a will. A declaration of acceptance, made by the beneficiary to the estate administrator or distributor, will be regarded as acceptance of a bequest, as will any concrete action by the beneficiary relating to the property in question. Notifying the heirs of the bequest is sufficient indication that the beneficiary wishes to assert his/her rights on the basis of the will.

Any declaration waiving a bequest must be made in writing. In order for such waiver to have legal effect against seizure by creditors, the beneficiary must either notify the waiver in writing to the estate or deposit the waiver declaration with the Digital and Population Services Data Agency or, in the Province of Åland, with the State Department of Åland, so that it can be duly entered in the records (Section 81 of Chapter 4 of the Enforcement Code).

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

The heir must declare his/her demand for his/her legal share to the beneficiary of the will by means of a process server, or in another verifiable manner, within six months of having been notified of the bequest. A demand for the legal share may also be made by announcing it in an official journal published within the period set out above, if such demand was not notified to the beneficiary on the grounds that he/she could be assumed to have been avoiding service of process concerning the demand or if his/her address is unknown.

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)

In Finland, the authorities do not institute proceedings relating to succession cases on their own initiative. Following the death of an individual, the estate inventory is drawn up first. The estate inventory is a document that clarifies the status of the deceased person's estate; in other words it lists the deceased person's assets and liabilities. The people who have a share in the deceased person's estate are noted in the estate inventory, together with the surviving spouse's assets and liabilities and the joint assets and liabilities of the two spouses. The estate inventory must be drawn up within three months of death, but the tax office may extend the deadline if there are special reasons for doing so.

The obligation to draw up the estate inventory lies with the heir who has taken charge of the estate and who is responsible for managing its property, or with the estate administrator or executor of the will, if any. That person must select two trustees to draw up the estate inventory. A report on the deceased person's family tree records must be attached to the estate inventory. In Finland, population records are kept in both church and public population registers, and official extracts from the register may be ordered either from the Digital and Population Services Data Agency or, in the Province of Åland, from the State Department of Åland, or from the parishes where the deceased person was registered. The estate inventory must be sent to the Finnish Tax Administration (*Verohallinto*) within one month of having been drawn up.

When a person who has made a will dies, beneficiaries must notify the will to the heirs, by means of a process server or in another verifiable manner, and must supply them with a true copy of the will. If an heir wishes to contest the will, he/she must lodge a complaint within six months of having been notified of the will.

Distribution of the estate may only begin once it has been wound up. Winding up an estate involves determining the extent of property in the estate, fulfilling the obligations of the deceased person and his/her estate with regard to any debts, and asserting the rights of any particular legatees. For the purposes of winding up the estate, the beneficiaries will manage the estate jointly unless special provision has been made for management. Instead of this joint management, the beneficiaries may apply to the court for the appointment of an estate administrator. Once management of the estate has been handed over to the administrator, the beneficiaries will no longer be entitled to make decisions concerning the estate. The duty of the estate administrator is to carry out all measures necessary for winding up the estate. Once the estate has been wound up, the administrator should notify the beneficiaries and prepare a report.

Once the estate has been wound up, any beneficiary may request distribution. If the deceased person was married or in a registered partnership, the property must be partitioned before it can be distributed to the heirs. The beneficiaries may agree among themselves on how to distribute the estate. A distribution report must be drawn up, and it must be signed by the beneficiaries and certified true and correct by two impartial witnesses.

The beneficiaries may also apply for a court order appointing an estate distributor. This usually happens when the beneficiaries cannot agree on the distribution. The estate administrator or executor will serve as the distributor, provided that he/she is not a beneficiary and if the beneficiaries ask him/her to distribute the estate and no other estate distributor has been appointed.

The estate distributor must stipulate the time and place where the estate will be distributed, and must verifiably invite the beneficiaries to attend. The estate distributor must endeavour to ensure that the beneficiaries agree on the distribution. If agreement is reached, the estate must be distributed accordingly. If there is no agreement, the estate distributor must distribute the estate so that each beneficiary receives a share of the various types of assets that make up the estate. If the estate cannot be distributed in any other way, the court may order, on the basis of the estate distributor's proposal, that the distributor sell certain items or, where necessary, all of the property constituting the estate. The estate distributor will prepare and sign a distribution report (*perinnönjakokirja*). Any beneficiary may contest the distribution by bringing proceedings against the other beneficiaries within six months of distribution.

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

An heir (*perillinen*) is a person who had a family, marital or adoptive relationship with the deceased, as defined by law. A legatee (*testamentinsaaja*) may be either a natural person or a legal person.

To qualify as an heir or legatee, the person in question must have been alive at the time of death of the deceased person. This may include a child conceived prior to the death of the deceased person and subsequently born alive.

An heir or beneficiary who wishes to assert his/her rights should accept succession or notify any claims to the person or persons who have accepted succession. If the estate has not been distributed, the claim must be submitted to the estate administrator or to a court. An heir or legatee is considered to have accepted succession or, if he/she has taken charge of the estate, either alone or with another person, participated in preparing the estate inventory or distribution, or taken any other action in relation to the property in question.

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

Beneficiaries are not individually liable for the deceased person's debts. A beneficiary responsible for drawing up the estate inventory will only be individually liable for the deceased person's debts if he/she fails to submit the inventory by the deadline.

The debts of the deceased person and the estate will be settled from the estate's assets. The beneficiaries will, however, be individually liable for any debts contracted by them on behalf of the estate.

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

The documents required for registering immovable property will vary, depending on whether the property in question was obtained by succession or by bequest. Applications for the registration of ownership on the basis of succession must include the estate inventory, distribution report, the deceased person's genealogical records, any partition report and any documents relating to the transfer of inherited property. The applicant must also prove that the distribution has taken legal effect by enclosing with the application either an acceptance document signed by all beneficiaries or a legally valid certificate issued by the court with jurisdiction for the deceased person's domicile.

Applications for the registration of ownership on the basis of a bequest must include the estate inventory, the deceased person's genealogical records, the original will, a certificate to the effect that the will is legally valid, and evidence that the will has been notified to all heirs. If the list of beneficiaries needs to be certified as true and correct by the Digital and Population Services Data Agency or the State Department of Åland, no genealogical records need to be enclosed with the application.

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?

It is not mandatory to apply for an administrator. If a court receives an application for the appointment of an administrator, the court must appoint an administrator to manage the estate. The application may be submitted by any heir or legatee or by the executor. The estate's assets may also be transferred to the estate administrator upon application by a creditor of the estate or of the deceased person, or by a person liable for the deceased person's debts.

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

The beneficiaries manage the estate's assets jointly, unless special provision has been made for administration of the estate. The beneficiaries may also agree to manage the estate jointly and to leave it undivided until further notice or for a specified period of time.
A deceased person's estate may be transferred to the estate administrator by court decision. Should this happen, joint management by the beneficiaries will end and they will cease to have the right to make decisions concerning the estate even unanimously.
A particular individual may be nominated to manage the estate as executor in the deceased person's will. It is the executor's task to ensure that the estate is wound up and to execute the will. The executor will handle business that would otherwise have been the responsibility of the beneficiaries or the estate administrator. The nomination of an executor does not preclude the appointment of an estate administrator. If an executor is named in the will, he/she will also be appointed administrator unless there are valid grounds for not doing so.

9.3 What powers does an administrator have?

Joint administration of the estate requires unanimity except in certain special cases. In joint administration, the beneficiaries represent the estate in dealings with third parties and in court cases relating to the estate. Actions which cannot be delayed may, however, be undertaken even if the consent of all the beneficiaries cannot be obtained. The beneficiaries may also appoint an estate manager.
When appointing an estate administrator, the court will issue him or her with an instrument of appointment, specifying the estate to which the appointment relates. The administrator's powers only cover the specified estate. After the estate has been transferred to the administrator, he or she represents the estate in dealings with third parties and in court cases relating to the estate. The administrator must take any action necessary to wind up the estate. The administrator must consult the beneficiaries on certain matters of importance to them. Even in such cases, however, the administrator may act without having obtained the consent of the beneficiaries.
The scope of the executor's powers during the winding-up process depends on the will. Unless otherwise specified in the will, the executor will have the same powers as an estate administrator.

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?

The documents issued at the end of succession proceedings and proving the status and rights of the beneficiaries are the estate inventory and the distribution report.
The estate inventory must specify the beneficiaries, the deceased person's assets and liabilities, the beneficiaries and the surviving spouse (even if he or she is not a beneficiary).
The distribution report forms the basis for distributing the estate. It is not, however, an enforceable title in the sense that it could be used as a basis for initiating enforcement proceedings or as for transferring possession of an asset. Any enforcement measures will require a separate final court judgment.
The concept of a document's formal probative force is not recognised in Finland.