Succession

Latvia

This factsheet was prepared in cooperation with the Council of the Notariats of the EU (CNUE).

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

Pursuant to Article 418 of the Civil Law (*Civillikums*) a will is any unilateral instruction drawn up by a person in case of their death regarding all of their property, a part of their property, or individual items or rights. Pursuant to Article 420 of the Civil Law any person may draw up a will, with the exception of minors. Minors who have reached the age of 16 may draw up a will with respect to their independent property (Article 195 of the Civil Law). Those under trusteeship may also draw up a will. However, pursuant to Article 421 of the Civil Law, persons unable to express their intention are incapable of drawing up a will.

The Civil Law stipulates that wills, by virtue of their form, are either public or private.

Public wills are drawn up before either a notary or a family tribunal. A public will must be drawn up in the presence of the testator. The original of a public will is deemed to be that entered in the register of documents of a notary or a consul or in the register of wills before a family tribunal. The testator is given a copy of the will after the original has been signed.

With respect to private wills, pursuant to Articles 445 and 446 of the Civil Law, for such a will to be valid assurance is required that it has been prepared by the testator and that it correctly reflects his or her last intention. Private wills are drawn up in writing. The entire will must be written and signed by the testator by his or her own hand.

Under Article 604 of the Civil Law two or more persons may make a joint reciprocal will (*savstarpējs testaments*) by which they reciprocally appoint each other as heir in a single document.. However, if under such a will the appointment of one person as heir is subject to the condition that the appointment of the other person must exist and must be valid, so that the two appointments stand or fall together, then the will is a joint mutual will (*korrespektīvs testaments*).

Pursuant to Article 639 of the Civil Law, contractual inheritance is established by an agreement in accordance with which one party grants the rights to his or her future inheritance or a part thereof to another party, or several parties grant such rights to each other. This type of contract is termed an agreement on succession. In an agreement on succession, one party may also grant a legacy to another party or to a third person. Exclusion from an inheritance is not permitted in an agreement on succession.

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

If a disposition of property upon death is drawn up as a public document (notarial act, a will certified by a family tribunal) it is registered in the public register of wills. Dispositions of property upon death which are drawn up in private are not registered unless they have been handed over for safe-keeping to a certified notary or a family tribunal.

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

A testator may freely determine the disposition of their whole estate in the event of their death, with the restriction that those persons entitled to a reserved share are bequeathed the said reserved share. Persons entitled to a reserved share have only the right of claim to the transfer of the reserved share in monetary form.

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

Pursuant to the Civil Law spouses, next-of-kin and adoptees are entitled to inherit.

An adoptee and his or her descendants inherit from the adopter or his or her relatives. The descendants of an adoptee inherit from the adoptee, as do the adopter or his or her relatives. An heir ranked lower in the order of succession does not inherit if an heir ranked higher in the order of succession has expressed his or her intention to inherit.

A spouse inherits together with an heir ranked first, second or third in the order of succession. When inheriting together with an heir ranked first, the spouse receives a share equivalent to that of the offspring if the number of offspring who have expressed the intention to inherit is less than four, but if there are four or more offspring who have expressed the intention to inherit, the spouse inherits one quarter. When inheriting together with heirs ranked second or third, the spouse receives half of the estate. A spouse receives the entire estate if there are no heirs ranked first, second or third or if they fail to express their intention to inherit.

The next-of-kin of the deceased inherit in a specific order, which is based partly on the type of kinship and partly on the degree of kinship. For the purposes of the order of succession legal heirs fall under four distinct ranks:

under the first rank, without distinction as to the degree of kinship, all those descendants of the deceased inherit between whom, on the one part, and the deceased, on the other part, there are no other descendants who would be entitled to inherit;

under the second rank, the ascendants of the nearest degree of kinship to the deceased inherit, as do the deceased's full siblings and the children of full siblings who have predeceased the person who has recently died;

under the third rank, the deceased's half siblings inherit, as do the children of those half siblings who have predeceased the dead person;

under the fourth rank, the remaining collateral kin of the nearest degree of kinship inherit, without distinction between full and partial consanguinity.

5 What type of authority is competent:

5.1 in matters of succession?

Certified notary (*zvērināts notārs*).

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

Certified notary.

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

Certified notary.

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

Certified notary.

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)

Once the succession has been opened, the heir must express his or her intention to accept the estate. This is done by submitting an inheritance application to a certified notary. The certified notary initiates the succession procedure, announces the opening of the succession, identifies the persons entitled to the estate and issues an inheritance certificate.

If succession takes place under a disposition of property, this must be submitted to a certified notary who will read it and deem it to have entered into force in accordance with legislation. Here too the heir must express his or her intention to accept the estate. If a legatee has been appointed he or she will also be indicated on the inheritance certificate.

Latvian legislation does not provide for the liquidation and division of the property of the deceased. Provision of this kind may be made by a testator in a disposition of property, but such cases are not common. Once the certified notary has confirmed the heirs entitled to the estate, the heirs may remain joint owners of the inherited property or divide the estate by entering into a contract on the sharing of the estate. If only one or some of the heirs wish to divide the estate while the others disagree, the parties wishing to divide the estate may bring a case to court regarding division.

The only case where the law provides for the sale of the deceased's property is where there are no heirs and the property has been recognised as *bona vacantia*, falling under the jurisdiction of the state. If there are creditors the property is sold at auction by a certified bailiff. If there are no creditors the State Revenue Service adopts a decision on the disposal of the property.

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

With reference to legatees, under the definition provided in Article 500 of the Civil Law, where a person has been bequeathed only a individual object of an estate rather than the whole estate or a share of the whole estate, the bequest is called a legacy and the person to whom it has been bequeathed is a legatee.

This person must submit an inheritance application to a certified notary. Where a disposition of property exists this must also be submitted to and read by the certified notary. The certified notary issues an inheritance certificate to the heirs and legatees after the end of the period for acceptance of the inheritance as declared by the notary (no less than 3 months) or as stipulated in the Civil Law (one year after the opening of the succession or after apprehension of the opening of the succession).

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

The Civil Law lays down that with the acceptance and acquisition of an inheritance all the rights and obligations of the deceased, insofar as they are not extinguished upon death, devolve to the heir. Heirs are liable for the debts of the deceased, including with their own property if the inherited property is insufficient. An heir who has accepted an estate with the benefit of inventory (*ar inventāra tiesību*) is liable for the debts of the deceased and other claims against him or her only to the extent of the estate.

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

The inheritance certificate and the registration application are submitted to the land registry.

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?

The following persons may be appointed:

after the opening of the succession – a trustee for the estate. Upon the request of the heirs or in certain cases stipulated by law (for example where an estate is heavily encumbered with debts, where there are no heirs or they cannot be contacted, etc.), trusteeship for the estate will be established by a certified notary by means of a separate deed which is sent to a family tribunal for the appointment of a trustee;

executor of the will – this takes place during the testator's lifetime when he or she draws up the will.

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

A will which has entered into legal effect is executed by the executor of the will, appointed for this purpose either in the will itself or through another special testamentary instrument. Where an executor has not been appointed the will is executed by an heir appointed in the will. If, however, there is no direct testamentary heir, the will is executed by a trustee of the estate appointed by a family tribunal on the basis of a certified notary's decision.

9.3 What powers does an administrator have?

The legal status of the executor of a will and the limits of his or her rights and duties are defined by the intention of the testator as expressed in the will. In the absence of any further instructions on the part of the testator, the executor of the will must only ensure that the last will of the testator is observed and executed and provide for the settlement of the estate and its distribution among the heirs and legatees, to the extent necessary for this purpose.

Trustees for an estate act independently in the administration and representation of the estate and on behalf of the estate. Trustees administer an estate with the same care and diligence with which they as solicitous proprietors would administer their own affairs. During their period of administration trustees provide annual statements to a family tribunal, and once the estate has been distributed to the heirs or the trusteeship is terminated for other reasons a final statement must be provided. The trusteeship and the trustee's right to act on behalf of the estate come to an end when a notary issues an inheritance certificate.

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 certified notary issues an inheritance certificate in the form of a notarial act. The legitimacy of a notarial act cannot be called into question. It may be contested by way of a separate action.

Last update: 27/02/2023