

Restrictions on successions – special rules - Luxembourg

TABLE OF CONTENTS

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



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?

Yes, such restrictions exist under Luxembourg law. This is forced heirship, as defined in the Civil Code (*Code civil*). However, it is worth noting that these provisions do not impose restrictions on certain types of property or specific enterprises within the meaning of the question, or on the special categories of assets referred to in the question. Forced heirship imposes restrictions on a legal part of the estate, irrespective of the nature of the property included within that portion.

Article 913 of the Civil Code defines the principles according to which bequests in wills cannot exceed half of the testator's assets if the latter is survived by one child, one-third if he/she is survived by two children, and one-quarter if he/she is survived by three or more children. Under Article 916 of the Civil Code, where there are no descendants, bequests in wills or lifetime gifts through deeds can concern all the assets.

For the sake of completeness, although these restrictions do not stem from the law on successions, the amended Law of 18 July 1983 on the conservation and protection of national sites and monuments (*loi modifiée du 18 juillet 1983 concernant la conservation et la protection des sites et monuments nationaux*) should be mentioned. Immovable property that has been listed in accordance with the provisions of said Law is subject to certain restrictions, irrespective of whether it is covered by a future or open succession. Thus, for example, Article 10, first paragraph, first sentence, of said Law provides that a listed immovable property cannot be destroyed or moved, its use cannot be changed, and it cannot undergo any restoration, repair or alteration work without the competent minister having given authorisation. Furthermore, Article 15, first paragraph, of the same Law states that no new structure can be joined to a listed immovable property without special authorisation from the minister.

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?

Expert opinion is divided as to whether forced heirship of an estate falls within international public policy and must therefore be upheld irrespective of the law applicable to the succession.

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

Yes, with regard to the forced heirship. If the attributions, whether lifetime gifts or bequests upon death, exceed the available portion, they may be reduced to that portion when the succession is opened. Article 920 *et seq.* of the Civil Code lays down the procedure for reducing donations and bequests that is applicable in this type of situation.

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