Succession

Bulgarien

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

Any person who is 18 years of age or above and is of sound mind may dispose of his or her property upon death through a will.

The testator may dispose of his or her entire property by a will. A distinctive feature of Bulgarian law is the fact that the reserved share of the property of a testator or intestate deceased is in all cases immune to testamentary dispositions, which can thus be presumed to apply only to the disposable share of that property.

Testamentary dispositions may apply to the whole of the testator's property, to a fraction of that property or to a particular item of property.

Testamentary dispositions can also be conditional.

The Succession Act (Zakon za nasledstvoto) requires testamentary dispositions to be drawn up in a set form, so any instrument that deviates from that form is invalid.

Note that Bulgarian law does not allow two or more individuals to make testamentary dispositions in the same will, be they to their mutual benefit or to the benefit of third parties.

The law provides for two forms of a will: handwritten or notarised.

A handwritten will has to be written entirely in the testator's own hand. It must be dated and signed by the testator. The signature must be placed below the testamentary dispositions. The will may be delivered to a notary in a sealed envelope for safekeeping. In that case, the notary draws up a custodian statement on the envelope. The statement is signed by the testator and the notary and entered in a special register.

A handwritten will may be deposited either with a notary or with another person, who must seek its publication by a notary as soon as he or she learns of the testator's death.

If that person fails to do so, any interested party may apply to the district judge for the place where the succession is opened to set a time limit for presenting the will for publication by the notary.

The notary publishes the will by drawing up a statement that contains a description of the state of the will and makes note of its unsealing. The statement is signed by the person who has presented the will and by the notary. The paper on which the will was written is attached to the statement and each page is initialled by the above-mentioned persons.

A notarised will is drawn up by the notary in the presence of two witnesses.

The testator gives an oral statement of his or her will to the notary, who writes it down as stated and then reads it back to the testator in the presence of the witnesses. The notary makes note of the performances of these formalities in the will, specifying the place and date of the will. Afterwards the will is signed by the testator, the witnesses and the notary.

If the testator cannot sign the will, he or she must state the reason why and the notary makes note of this statement before reading out the will.

To publish a notarised will, the notary with whom it has been left for safekeeping draws up a statement describing the state of the will and noting its unsealing. The statement is signed by the notary. The paper on which the will was written is attached to the statement and each page is initialled by the above-mentioned persons.

A will may be revoked explicitly by a new will or by a notarial act in which the testator explicitly declares that he or she revokes his or her previous dispositions in whole or in part.

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

Under the Rules on Registration in force, transcripts of published wills concerning immovable property or immovable property rights must be registered. Besides this, each registry service also keeps an alphabetical index reserved for notarial cases and wills. The names of testators whose notarised wills have been executed by notaries, revocations of wills, and testators whose handwritten wills have been handed over to notaries for safekeeping are also registered in that index. In such a case, the name of the notary keeping the notarial case or the handwritten will is recorded against the name of the testator.

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

As already stated, Bulgarian law restricts the freedom to dispose of property upon death. These restrictions are for the benefit of the testator's next of kin: a surviving spouse, children, and if the testator has no descendants (children or grandchildren), the deceased's parents.

These restrictions are established in Article 28 and Article 29 of the Succession Act and only concern cases in which the testator has descendants, surviving parents or a spouse. In such cases, the testator is barred from making a disposition or gift of property adversely affecting the share reserved for those persons. The share of the property other than the reserved share represents the testator's disposable share.

Where the testator is not survived by a spouse, the law defines the reserved share as:

in the case of one child (including an adoptee) or that child's descendants: one half;

in the case of two or more children or their descendants: two-thirds of the testator's property.

The reserved share of the surviving parent or parents is one-third, and the reserved share of the spouse is one-half if the spouse is the only heir or one-third if there are surviving parents of the deceased.

In cases where there are descendants and a surviving spouse, the reserved share of the spouse is equal to the reserved share of each child. In these cases the disposable share amounts to one-third of the property in the case of one child, one quarter in the case of two children and one-sixth of the property in the case of three or more children.

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

If the deceased has not made a will, the estate is inherited by their legal heirs, subject to the following established rules:

If the deceased was single and had no children, the surviving parents or the surviving parent receive equal shares of the property (Article 6 of the Succession Act, ZN).

If the deceased has left only ascendants twice or more removed, those closest to the deceased inherit equal shares (Article 7 ZN).
If there are only surviving siblings, they inherit equal shares (Article 8(1) ZN).
If there are surviving siblings and ascendants twice or more removed, the former receive two-thirds of the property and the latter one-third (Article 8(2) ZN).
If the deceased was single, but there are surviving children (including adoptees), the latter inherit equal shares (Article 5(1) ZN). The share of a predeceased child is passed down to its descendants by order of succession (representation).
If the deceased leaves a spouse but no children, ascendants, siblings or their descendants, the spouse inherits the whole property (Article 9 ZN).
Where the spouse inherits the property of the deceased, together with ascendants or siblings or their descendants, the spouse inherits half of the property if the succession takes place less than 10 years after the marriage. Otherwise, the spouse receives two-thirds of the property. Where the spouse inherits the property of the deceased, together with ascendants and siblings or their descendants, the spouse inherits one-third of the property in the former case and half in the latter case.
If the deceased leaves a spouse and children, the spouse and the children inherit equal shares (Article 9(1) ZN).
Where there are no individuals competent to inherit in the situations discussed above, or where all heirs waive the succession or forfeit the right to accept it, the estate passes to the State, save for movable property, homes, workshops and parking garages, as well as land parcels and immovable properties primarily intended for residential construction, which become property of the municipality in which they are situated.

5 What type of authority is competent:

5.1 in matters of succession?

Acceptance may be effected by applying in writing to the district judge in the district where the succession is opened, in which case acceptance is entered in a special register.
Acceptance of succession is also effected where, without applying in writing, the heir takes an action clearly indicating his or her intention to accept the succession or where the heir conceals inherited property. In the latter case, the heir forfeits the right to his or her share of the property concealed.
The succession may alternatively be accepted on the basis of an itemised description, in which case the heir is liable only up to the extent of the estate received.
In such cases, acceptance of the succession on the basis of an itemised description must be declared in writing before the district judge within three months of the date on which the heir learned of the opening of the succession. The district judge may extend this time limit by up to three months.
Acting at the request of any interested party, the district judge, after summoning the person entitled to inherit, sets a time limit for that person to declare or waive acceptance of the succession. If a court case has been brought against the heir, the time limit is set by the court hearing the case. If the heir fails to reply within the time limit set, he or she forfeits the right to accept the succession.
In this case, the heir’s declaration is entered in a special register for acceptances and waivers of succession.
Acceptance of succession on the basis of an itemised description is mandatory for persons under 18 years of age, persons declared incompetent to manage their own affairs, the State and public organisations, and such acceptance must be declared in writing within three months of learning of the opening of the succession. Acceptance is entered in a special register kept at the district court in the district where the succession is opened.
For wills, the person in possession of a handwritten will has to seek its publication by a notary as soon as he or she learns of the testator’s death.
Any interested party may apply to the district judge for the place where the succession is opened to set a time limit for presenting the will for publication by the notary.
The notary publishes the will by drawing up a statement that contains a description of the state of the will and makes note of its unsealing. The statement is signed by the person who has presented the will and by the notary. The paper on which the will was written is attached to the statement and each page is initialled by the above-mentioned persons.
If the will was handed over to the notary for safekeeping (Article 25(2) ZN), the above steps are taken by the notary concerned.

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

Succession takes place upon acceptance. Acceptance takes effect on the opening of the succession.
Apart from the cases of explicit acceptance through an express application in writing, acceptance may also be effected where, without applying in writing, the heir takes an action clearly indicating his or her intention to accept the succession or where the heir conceals inherited property. In the latter case, the heir forfeits the right to his or her share of the property concealed.
Acting at the request of any interested party, the district judge, after summoning the person entitled to inherit, sets a time limit for that person to declare or waive acceptance of the succession. If a court case has been brought against the heir, the time limit is set by the court hearing the case.
If the heir fails to reply within the time limit set, he or she forfeits the right to accept the succession.
In this case, the heir’s declaration is entered in a special register of acceptances and waivers of succession.
Waiver of succession follows the same procedure and is registered in the same way.
Regard should also be had to the obligation, under Article 43 of the Local Taxes and Fees Act (Zakon za mestnite danatsi i taksi) for banks, insurance companies and other corporations, as well as any other entities which are deposit keepers or obligors for securities, money or other property incorporated into a succession of whose opening they are aware, to send an itemised description of that property to the municipality where the succession is opened before any such property has been paid, delivered or transferred.

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

The procedure of acceptance or waiver of succession applies.

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

There is no special procedure for waiver or acceptance of a reserved share. An heir who is entitled to a reserved share but is not in a position to receive it in full due to bequests or gifts may apply to the court to reduce such bequests and gifts to the extent necessary to complete the reserved share after recovering the legacies and gifts made to the heir concerned, except for ordinary gifts.
If an heir whose reserved share is adversely affected exercises rights of succession against persons who are not legal heirs, the heir must have accepted the succession on the basis of an itemised description of the property.
For the purposes of establishing the disposable share and the amount of the heir’s reserved share, all assets belonging to the testator at the time of his or her death are collected in the estate after deduction of debts and any increase in the inheritance under Article 12(2) of the Succession Act. Gifts are then added, except for ordinary gifts, depending on their status at the time they were given and their value at the time of opening the succession in the case of real estate or at the time they were given in the case of movable property.
The testamentary dispositions are reduced on a pro rata basis without differentiating between heirs and legatees, unless the testator has stated otherwise.

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)

An estate is wound up by judicial or voluntary division.

Each co-owner has a right of division, regardless of the size of their share. Each heir may claim his or her share in kind, where practicable, and the inequality of shares is resolved by money.
Voluntary division is carried out with the consent of all co-owners. The voluntary division takes the form of a contract. In accordance with Article 35(1) of the Ownership Act, the voluntary division of movable property worth more than BGN 50 or of immovable property has to be carried out in writing and the signatures have to be notarised. In the case of voluntary division, each co-owner's notional share in the common estate becomes a separate and independent right of ownership over a real share of the co-owned assets.
Judicial division takes place under special proceedings governed by Article 341 et seq of the Civil Procedure Code. There is no limitation period for applying for assets to be divided. These contentious proceedings involve two stages.
Stage one concerns the admissibility of division.
The co-heir applying for division files a written application with the district court, enclosing:
the death certificate of the testator and a succession certificate;
a certificate or other evidence in writing concerning the estate;
copies of the application and its enclosures for the other co-heirs.
During the first court session any other co-heir may apply in writing for other assets to be included in the estate. It is also during the first court session that any co-heir may challenge another co-heir's right to take part in the division, the size of his or her share or the inclusion of certain assets in the estate.
In division proceedings the court hears disputes relating to origin, adoptions, wills, the authenticity of written evidence or applications to reduce the amount of testamentary dispositions or gifts.
The first stage ends with a ruling on the admissibility of the division. The court determines which assets will be divided among which persons and the share of each co-heir. When ruling a division of movable property to be admissible, the court also rules on which co-divider is to hold it.
In the same ruling or a subsequent one, if one or more heirs fail to use the estate in accordance with their succession rights, the court may, at the application of an heir, rule which heirs are to use which assets pending the completion of the division or what sums the users are to pay the other heirs for the use.
Stage two – the division itself. Shares are defined and specific assets are allocated to the exclusive ownership of the individual co-dividers. This is done by drafting a statement of division and drawing lots. The court draws up the statement of division on the basis of an expert opinion in accordance with the Succession Act. After drawing up the draft statement of division, the court summons the parties to present the statement to them and to hear their objections. Afterwards, the court draws up and promulgates the final statement of division in a court judgment. After the judgment on the statement of division enters into force, the court summons the parties to draw lots. The court may divide the inherited assets among the co-dividers without the drawing of lots if defining shares and drawing lots proves impossible or too inconvenient.
If an asset is indivisible and cannot be allocated to any share, the court orders its sale at a public auction. The parties to the division may bid at the public auction.
Where the indivisible asset is a home that used to be the property of marital community wound up by the death of a spouse or a divorce and the surviving spouse or ex-spouse vested with parental rights to the children born of the marriage has no home of his or her own, the court may, at the request of that spouse, use the home as a share, settling the shares of the other co-dividers with other properties or in cash.
Where the indivisible asset is a home, any co-divider who was living there when the succession was opened and who does not have any other home may apply to have it allocated to his or her share, settling the shares of the other co-dividers with other properties or in cash. If several co-dividers meet these conditions and lay claim to the property, preference is given to the person who offers the highest price.
The application for assignment may be filed no later than the first court session after the court ruling on the admissibility of distribution becomes enforceable. The asset is valued at its actual value.
In the case of settlement in cash, the payment, together with statutory interest, has to be made within six months of the date on which the assignment ruling enters into force.
The co-divider who has received the asset in his or her share becomes owner upon payment of the settlement in cash, together with statutory interest, within the prescribed time limit. Failure to pay within the time limit results in the assignment ruling becoming null and void by law and the asset being offered for sale at a public auction. The asset may be allocated to another co-divider who meets the requirements and has applied for allocation within the prescribed time limit, without offering it for sale at a public auction, provided the other co-divider immediately pays the valuation price minus the value of his or her share in it. The proceeds are divided among the other co-dividers on a pro rata basis.
Judicial division proceedings may be terminated and the estate wound up by an arrangement reached by the parties and approved by the court.

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

Succession takes place upon acceptance. Prior to the acceptance of succession, the person entitled to inherit assets may administer the estate and bring possessory actions for its preservation.

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

By acquiring the relevant share (undivided share) of the estate of the deceased, each heir or legatee acquires a notional share of the testator's assets and debts included in the estate.
According to the size of their shares, heirs who have accepted succession are liable for the debts encumbering the estate.
An heir who has accepted succession on the basis of an itemised description is liable only up to the amount of the estate received.
Acceptance of succession on the basis of an itemised description has to be declared in writing before the district judge within three months of the date on which the heir learned of the opening of succession. The district judge may extend the deadline by up to three months. Acceptance is entered in the special court registry.
Legally incapable persons, the government and non-government organisations accept succession only on the basis of an itemised description.
If one heir accepts succession on the basis of an itemised description, the other heirs may benefit from it, without prejudice to their right to accept or waive succession.
The itemised description is drawn up in accordance with the Code of Civil Procedure.
The creditors of the estate and the legatees may, within three months of the acceptance of the accession, seek a separation of the deceased’s property from the heir’s property. Such separation is effected in respect of immovable properties by an entry in the records of the deceased’s immovable properties under the procedure of the Cadastre and Property Register Act (Zakon za kadastara i imotniya registar) and, in respect of movables, by an application to the district judge, which is entered in the special register for acceptances and waivers of succession.
The creditors of the estate and the legatees who have sought the separation take precedence over those who have not. Where both creditors and legatees have sought a separation, the former take precedence over the latter.
A writ of execution issued against the deceased may be enforced even against the property of his or her heirs unless they establish that they have waived the succession or have accepted it on the basis of an itemised description. Where the heir has not accepted the succession, the enforcement agent sets the

time limit under Article 51 of the Succession Act, communicating the heir's declaration to the relevant district judge so that the declaration can be duly registered.
One specific case in which the heir is liable for the deceased's debts is dealt with in Article 150 of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture (Zakon za protivodeystvie na koruptsiyata i za otnemane na nezakonno pridobitoto imushtestvo), which states that any unlawfully acquired assets are also forfeited by heirs or legatees up to the extent received by them.
In such situations the rights of the State under the Act are extinguished upon the lapse of a ten-year prescription period, which starts running from the date of acquisition of the assets. The prescription period is, however, suspended for the duration of proceedings under Section IV of the Act.

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

Transcripts of published wills concerning immovable property and rights to immovable property have to be registered. In the case of universal wills, the existence of an immovable property in the relevant court district is certified by a declaration bearing the beneficiary's notarised signature identifying the immovable properties of which the beneficiary is aware in the relevant court district. The declaration is submitted with the will to the registration judge in the district where the property is located.
The registration judge instructs the registration office at the location of the immovable property to register it by placing the deeds subject to registration in registers accessible to the public.
Two notarised copies of the wills concerning immovable property and rights to immovable property are attached to the application for registration.
Other instruments subject to registration are the contracts for division of immovable properties, the statements of judicial division of such properties, final court decisions substituting such statements and applications by the deceased's creditors or legatees for separation of the deceased's immovable properties.

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 appointment of an administrator is not mandatory. The testator may assign one or more legally capable persons to act as administrators.
At the request of any interested party the district judge for the place where succession is opened may set a time limit for the assignee to accept the appointment. If the time limit expires and the assignee has not accepted the appointment, the assignee is deemed to have waived acceptance.
The district judge may discharge the administrator if the latter is negligent or incapacitated, or acts in a manner incompatible with the trust vested in the administrator.

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

See the answer to the previous question.
In general, if the deceased died intestate or did not appoint an administrator for his or her will, any person entitled to inherit may administer the estate and bring possessory claims for its reservation pending the acceptance of succession.
The heir who has accepted the succession on the basis of an itemised description administers the estate and, in doing so, is bound to exercise the same care as for his or her own affairs. Such an heir may not alienate the immovable properties within five years of the acceptance and movable properties within three years, unless allowed to do so by the district judge; otherwise the heir's liability for the deceased's debts becomes unlimited. Such an heir must account for his or her administration to the creditors and legatees.
Where the person entitled to inherit is of unknown residence or his or her residence is known but that person has not assumed the administration of the estate, the district judge, acting on his or her own motion or at the request of the interested parties, appoints an administrator of the estate.
The administrator must make an itemised description of the estate. The administrator brings and responds to claims regarding the assets and debts of the estate. The administrator must obtain permission from the district judge for repayment of the debts of the estate, the legacies, and sale of the immovable properties.

9.3 What powers does an administrator have?

The administrator must draw up an itemised description of the assets, inviting the heirs and legatees to attend.
The administrator takes over the possession of the estate and administers it insofar as this is necessary to perform the testamentary dispositions.
The administrator does not have the power to alienate assets unless this is needed and allowed by the district judge, who rules after hearing the heirs.
For cases in which an administrator is appointed by the district judge, see the answer under 9.2.

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?

If the testator left a handwritten will, the notary publishes the will, drawing up a statement, describing the state of the will and making a note on its unsealing.
Heirs by law are legitimised by a succession certificate issued by the mayor of the municipality of the last permanent address of the deceased.
Succession certificates are issued only for persons who were subject to registration in the population registry on the date of their death and for whom a death certificate was drawn up.
Where the deceased is not a Bulgarian citizen but is entered in the population register and a death certificate for him or her is not drawn up in the territory of Bulgaria, a duplicate copy or an extract from the death record drawn up by a foreign local civil status registrar has to be presented in order for a certificate to be issued. Where the population register does not contain all the data necessary for issuing the certificate, an official document issued by the competent authorities of the State whose citizenship the person holds has to be presented to certify his or her marital status, particulars of the spouse and lineal relatives of the first degree of consanguinity and collateral relatives of the second degree.
The certificate is issued in accordance with Article 24(2) of the Civil Registration Act and Article 9 of the Regulation on the issue of certificates on the basis of the population registry. The certificate is issued for the heir by law, his or her legal representative or third parties, provided the latter need it to exercise legitimate powers or are explicitly authorised by a notarised power of attorney.
The following documents are required to issue the certificate:
an application using the civil registry (GRAO) information centre form, specifying the details of the heirs of the deceased, which must be filed by an heir or a person authorised by an heir;
a copy of the death certificate (if issued by another municipality);
the identity document of the applicant;
a notarised power of attorney if the application is filed by an authorised representative.