Succession

Bulgaria

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?

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 in the will. Wills may be handwritten (written entirely in the testator's own hand and signed by the testator) or notarised, i.e. drawn up by a notary in the presence of two witnesses.

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 disposition instructions. 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 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 accomplishment 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. When preparing the notarised will, the notary acts in accordance with Article 578(1) and (2) of the Code of Civil Procedure.

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.

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

Since the amendment of the Rules on Registration on 1 January 2001, transcripts of published wills concerning immovable property or immovable property rights must be registered.

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

The surviving spouse and children of the deceased or, in the absence of descendants, the parents of the deceased are entitled to a reserved share. If the testator has descendants, surviving parents or a spouse, the testator may not make a disposition or gift of property adversely affecting their reserved share. The sum total of the reserved shares of all beneficiaries may account for up to five-sixths of the property if the deceased leaves behind a spouse and two or more children.

The property other than the reserved share represents the testator's disposable share. If there is no surviving spouse, the descendants (including adoptees) have the following reserved shares: in the case of one child 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.

If there are descendants and a surviving spouse, the reserved share of the spouse is equal to the reserved share of each child. In this case 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.

If the testator leaves no descendants, 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.

The reserved share of the surviving parent or parents is one-third.

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

The following principles apply to intestacy, depending on the specific case:

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, they 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 provided that 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).

5 What type of authority is competent:

5.1 in matters of succession?

There is no specific procedure for the acceptance of the succession by the heir.

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 condition 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.
Acceptance may be effected by filing an application in writing to the district judge in the district where the succession is opened. In this case, acceptance is entered in a special register.
There is also deemed to be acceptance where an heir takes an action clearly indicating his or her intention to accept the succession or where an 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, having summoned 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.
The declaration of acceptance is entered in the special court register.
Waiver of succession follows the same procedure and is registered in the same way.

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)

The principal ways of winding up an estate are judicial or voluntary division. Each co-owner has a right of division, regardless of the size of their share.
Voluntary division is carried out with the consent of all co-owners and 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 Code of Civil Procedure. 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:
1. the death certificate of the testator and a succession certificate;
2. a certificate or other evidence in writing concerning the estate;
3. 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 is 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.

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 copes of the wills concerning immovable property and rights to immovable property are attached to the application for registration.

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.

If the deceased died intestate or did not appoint an administrator for his or her will, any person entitled to inherit may administer the properties and bring possessory claims for their preservation pending the acceptance of succession.

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.

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 condition of the will and making a note on its unsealing.

Heirs by law are legitimised with a succession certificate issued by the mayor of the municipality of the last permanent address of the deceased.

Succession certificates are issued only in relation to 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.

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.

Issue of a European Certificate of Succession

In accordance with Article 627e of the Code of Civil Procedure, where the Bulgarian court has international jurisdiction under Articles 4, 7, 10 and 11 of Regulation (EU) No 650/2012 of the European Parliament and of the Council, an application for the issue of a **European Certificate of Succession** is filed with the district court for the deceased’s last permanent address or, failing that, the deceased’s last address in Bulgaria or, if the deceased did not have an address in Bulgaria, with the Sofia District Court.

If the application is granted, the district court issues a **European Certificate of Succession**, using the form from Commission Implementing Regulation (EU) No 1329/2014 of 9 December 2014 establishing the Forms referred to in Regulation (EU) No 650/2012.

An appeal against a **European Certificate of Succession** or the refusal to issue one may be filed with the relevant provincial court within one month of service on the applicant. Appeals against decisions rectifying, modifying or withdrawing a European Certificate of Succession may be filed with the relevant provincial court within two weeks of their being served.

Where a **European Certificate of Succession** issued is inaccurate or its issue has been refused, or the refusal to rectify, modify or withdraw it is unjustified, the provincial court fully or partially revokes it and returns the case to the court of first instance with mandatory instructions.

Last update: 26/09/2019