Succession

Lithuania

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?

The disposition of property upon death is drawn up in the form of a will in accordance with the Civil Code of the Republic of Lithuania (*Lietuvos Respublikos civilinis kodeksas*). A will may be official (drawn up in writing in duplicate certified by either a notary or a consular official of the Republic of Lithuania in another country) or private (a holographic will specifying the first name and surname of the testator, the date (day, month and year) and place of the issue of the will, indicating the testator's wishes and signed by the testator; this type of will may be drawn up in any language). Spouses may draw up a joint will of spouses in which both spouses mutually assign each other as heirs, and upon the death of one of the spouses the surviving spouse inherits the property of the deceased spouse in full (including the community of marital property), except for the reserved share.

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

An official will is certified and registered in the notarial register in the presence of the testator. One copy of the will is held by the testator and the other copy remains with the certifying body. The testator may entrust a private will for safekeeping to a notary or a consular official of the Republic of Lithuania in a foreign country. The register of wills drawn up in the Republic of Lithuania is managed by the Central Mortgage Office (*Centrinė hipotekos įstaiga*). Notaries and consular officials must notify the Central Mortgage Office within three working days of any wills certified, accepted for safekeeping or annulled. The notification must indicate the first name and surname, personal identification number and place of residence of the testator, and the date and place of the issue of the will, its type and the location at which it is being kept. The content of the will does not need to be specified.

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

Yes, the Civil Code provides for the right to the reserved share: the deceased's children (adopted children), spouse and parents (adoptive parents) who were financially dependent on the deceased on the day of his or her death inherit, irrespective of the content of the will, half of the share that each of them would have been entitled to by intestate succession (the reserved share) unless more is bequeathed in the will. The reserved share is determined on the basis of the value of the estate, including ordinary household furnishings and equipment.

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

In the absence of a will, the estate is inherited by intestate succession. Where inheritance takes place through intestate succession, the following persons are beneficiaries of the estate in equal portions: first degree heirs – the deceased's children, including adopted children and children born after the deceased's death; second degree heirs – the deceased's parents (adoptive parents), grandchildren; third degree heirs – the deceased's paternal and maternal grandparents, the deceased's great grandchildren; fourth degree heirs – the deceased's siblings, and paternal and maternal great grandparents; fifth degree heirs – children of the deceased's siblings (nephews and nieces), and siblings of the deceased's parents (uncles and aunts); sixth degree heirs – children of the deceased's parents' siblings (cousins). Second degree heirs inherit by intestate succession only in the absence of first degree heirs, in the event of the latter's non-acceptance or waiver of succession, or in cases where all first-degree heirs have been deprived of the right to inherit. The third, fourth, fifth and sixth degree heirs inherit in the absence of heirs of a higher degree or in the event of the latter's waiver of succession or where they have been deprived of the right to inherit. Adopted children and their descendants receiving an inheritance following the death of their adoptive parent or his or her relatives are treated as the equivalent of the children of the adoptive parent and their descendants. They do not inherit by intestate succession after the death of their natural parents and other blood relatives of a higher degree in the line of descent, likewise after the death of their blood siblings. Adoptive parents and their relatives receiving an inheritance after the death of their adoptive child or his or her descendants are treated as the equivalent of natural parents and other blood relatives. The natural parents of an adopted child and other blood relatives of a higher degree in the line of descent do not inherit by intestate succession after the death of the adopted child or his or her descendants. Children born to married parents or to parents whose marriage has been annulled are entitled to inherit by intestate succession, as are children born out of wedlock whose paternity has been established in accordance with the law. In cases where a parent of grandchildren or great grandchildren of the deceased would have been entitled to inherit but has died at the time of the opening of the succession, the grandchildren or great grandchildren inherit by intestate succession together with the corresponding first and second degree heirs entitled to inherit. They inherit equal shares of that part of the estate which would have been inherited by their deceased father or mother through intestate succession. The surviving spouse of the deceased inherits through intestate succession or together with any first or second degree heirs. The spouse inherits one fourth of the inheritance together with the first degree heirs and where there are no more than three heirs apart from the spouse. Where there are more than three heirs, the spouse inherits in equal shares with the other heirs. If the spouse inherits together with second degree heirs, he or she is entitled to half of the inheritance. Where there are no first or second degree heirs, the spouse inherits the entire estate. Ordinary furnishings and household equipment pass to heirs by intestate succession irrespective of their degree of descent and their inherited share provided that they lived with the deceased for no less than a year up to his or her death.

5 What type of authority is competent:

5.1 in matters of succession?

The notary and the court at the place of the opening of the succession.

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

The notary at the place of the opening of the succession.

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

The notary at the place of the opening of the succession.

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

The notary at the place of the opening of the succession.

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 accordance with the Civil Code, a successor must accept a succession in order to acquire it. Acceptance may not be partial or subject to conditions or exceptions. A successor is deemed to have accepted a succession when he or she actually starts taking charge of the estate or has lodged an application on the acceptance of the succession with a notary at the place of the opening of the succession. A successor is deemed to have accepted a succession where he or she has started to take charge of the estate, treating it as his or her own property (where he or she takes charge of, uses, disposes of and oversees the estate, pays taxes and has applied to the court expressing the intention to accept the succession and appoint an administrator of the estate, etc.). A successor who has started to take charge of any part of the estate or even any individual items is deemed to have fully accepted the succession. A successor who has started to take charge of an estate has the right within the period laid down for the acceptance of the succession to waive his or her succession by lodging an application with a notary at the place of the opening of the succession. In such a case the successor is deemed to have taken charge of the estate in the interests of other beneficiaries. These steps must be taken within three months of the opening of the succession. Persons whose right to succession arises only subject to a waiver by other successors can express their agreement to accept the succession within three months of the day on which the right to acceptance arose. The time limit for acceptance of the succession may be extended by a court provided that it is recognised that the time limit was exceeded for serious reasons. The succession may also be accepted after the expiry of the time limit without applying to the court where this is agreed upon by all other successors who have accepted the succession. The notary is obliged to inform the Central Mortgage Office of the acceptance of the succession within three working days. The heir or legatee has the right to waive the succession within three months of the opening of the succession. The waiver may not be partial or subject to conditions or exceptions. A waiver of the succession has the same effect as non-acceptance of the succession. The successor waives the succession by lodging an application with a notary at the place of the opening of the succession. A waiver is not permitted where the successor has lodged an application with a notary at the place of the opening of the succession for the acceptance of the succession or for the issue of the certificate of succession. In the event that there are several beneficiaries, the estate inherited falls under the shared ownership of all the beneficiaries unless otherwise provided for in the will. No one can be forced to waive his or her right to separate the share they are entitled to from the inheritable estate. The estate is divided by the mutual agreement of the heirs. The estate may not be divided until the birth of the heir or legatee or if the testator has established in his or her will a certain period of joint possession by the successors of the inherited estate. This period may not exceed five years from the opening of the succession, except in cases where there are minors among the successors. In this event the testator may prohibit division of the estate until the successors concerned reach the age of eighteen. Successors may divide the inherited estate by mutual agreement before the successors' rights to property are registered in the public register. The division of immovable property is formalised by a notarial act, which must be registered in the public register. Should the successors fail to agree on the division of the property, the estate is divided by the court on the basis of actions brought by each successor. Divisible property is divided in kind and indivisible property devolves to one of the successors taking into account the nature of the property and the needs of the successor, while the other successors are compensated for the value of the property by means of other property or in cash. By mutual agreement of the beneficiaries the whole estate or separate items of property may be sold at auction and the proceeds divided among the beneficiaries, or the successors may bid amongst themselves for individual items of property, with each item devolving to the successor who makes the highest bid. The transfer of individual items of property to specific successors may be determined by mutual agreement by drawing lots.

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

The time of the opening of the succession is deemed to be the moment of death, or the day when a court judgment declaring the person deceased comes into effect, or the day of death indicated in the court judgment. To become an heir a person must accept the succession (either by actually taking charge of the inherited estate or applying to a notary at the place of the opening of the succession for acceptance of the succession). A legatee notifies his or her acceptance to the executor of the will (administrator of the estate), to a successor who has accepted the succession and is authorised to execute the legacy or to a notary at the place of the opening of the succession. Where the legacy involves the right to immovable property, an application must in all cases be lodged with a notary.

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

An heir who has accepted the succession by taking charge of the estate or by lodging an application with a notary is liable for the debts of the testator with the entirety of his or her property. Where the estate has been accepted by several heirs in the above manner, they are all jointly liable for the debts of the testator with the entirety of their property. The successor has the right to indicate in his or her application to a notary for the acceptance of the succession that he or she wishes to accept the estate on the basis of the inventory of the property. In such a case the successor is liable for the debts of the testator only with the inherited estate. If at least one successor has accepted the succession on the basis of the inventory, all other heirs are deemed to have accepted the succession in accordance with the inventory. The inventory may be also requested by the testator's creditors. If at the time of drawing up the inventory the successor through his or her own fault failed to indicate the entirety of the estate making up the succession or concealed the testator's debtors, or where non-existing debts were included in the inventory on the successor's initiative, or the successor failed to meet his or her obligation to provide complete data for drawing up the inventory, this successor is liable for the debts of the testator with the entirety of his or her property.

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

The following immovable objects are recorded in the Register of Immovable Property if they have been categorised as individual objects of immovable property and assigned a unique number in accordance with the procedure set out in the Lithuanian Law on the land register (*Lietuvos Respublikos nekilnojamojo turto kadastro įstatymas*): plots of land, buildings, apartments in apartment blocks and premises. Applications to register immovable property in the Register of Immovable Property (*Nekilnojamojo turto registras*) must be accompanied by the following documents:

an application to register property (ownership or management) rights to the immovable property or to modify the data in the Register of Immovable Property relating to property rights;

documents recording in the immovable property cadastre cadastral data on an immovable object which has been categorised as an individual immovable cadastral object, and any documents amending this data (a decision by a public authority or a managing body, a court judgment, order, decision or decree, written transactions, documents from other state cadastres and registers or other documents stipulated in legislation or by the Government);

documents certifying acquisition of ownership of the property, the creation of property rights, restrictions on these rights and legal facts, and the donation, sale and purchase or lease of companies; notarised documents certifying the creation of property rights, restrictions on these rights and legal facts, submitted to a local registrar through the notary in electronic form;

documents identifying the person making the application, except in cases where the application is submitted by post or by electronic means or through a notary.

In the case of the succession of immovable property, where property rights are already registered in the Register of Immovable Property, the only document that the successor must submit to the Register is the certificate of succession received from the notary (or the certificate of ownership in the event of the death of one spouse where the entire property devolves to the surviving spouse). Entries recording the issue of a certificate of succession where immovable property is being inherited and/or a certificate of ownership where one spouse has died may also be made in the Register of Immovable Property further to receipt of a notification to this effect from a notary.

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?

Where the inherited estate is a sole proprietorship or a farmstead, or where the deceased's debts might exceed the value of the estate, upon acceptance of the succession the successor can apply to a court at the place of the opening of the succession to appoint an administrator of the estate, or to appoint an administrator and to decide on conducting an auction or bankruptcy proceedings. In such a case the deceased's debts are covered only by the estate. If the estate includes property requiring management (a sole proprietorship, a farmstead, securities, etc.) and this cannot be undertaken by the executor of the will or the successor, or if the deceased's creditors bring an action before the acceptance of the succession, the district court appoints an administrator of the inheritable estate. Administration of the estate is established by means of a decision by the district court at the place of the opening of the succession. In its decision the court appoints an administrator of the estate and determines his or her remuneration.

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

A will is executed by the executor of the will or a successor appointed by the testator or by an administrator of the estate appointed by the court. Where the testator failed to appoint an executor, or the appointed executor or successor are unable to fulfil their duties, the district court at the place of the opening of the succession appoints an administrator of the estate to perform all the necessary tasks for the execution of the will. The executor of the will performs all the necessary tasks for the execution of the will. Pending the appointment of an administrator of the estate or the establishment of successors, the executor of the will undertakes the functions of a successor – taking charge of the estate, compiling the inventory, paying debts associated with the estate, recovering debts from the testator's debtors, providing due maintenance payments to dependents, performing searches for successors, establishing whether the successors accept the succession, etc.

9.3 What powers does an administrator have?

The administrator of the estate has the same rights and duties as the executor of the will and *mutatis mutandis* is subject to the provisions of property law laid down in the Civil Code governing the administration of property owned by or the activities of another person.

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?

After a period of three months following the opening of the succession, heirs or legatees may request that a notary at the place of the opening of the succession issue a certificate of succession. A certificate of succession is a document laid out in the form stipulated by the state certifying that the successor has accepted the succession and has acquired the right to ownership of the estate. It is important to note that pursuant to the Civil Code the right to ownership of an estate arises with the acceptance of the succession rather than the issue of the certificate of succession. Furthermore, obtaining the certificate of succession is the beneficiary's right, but not his or her obligation. The certificate of succession certifies the acceptance of the succession and provides legal grounds for the registration of property rights to the inherited immovable property. In accordance with the Lithuanian Code of Civil Procedure (*Lietuvos Respublikos civilinio proceso kodeksas*) a certificate of succession issued by a notary is considered official written evidence with a greater evidential value. The circumstances referred to in official written evidence are considered fully proven unless subsequently refuted by other case evidence, except for the testimonies of witnesses.

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