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Slovak

Succession

Slovakia

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

Slovak law does not allow agreements on succession or joint wills.

There are several methods for drawing up wills:

(1) A will written by the testator's own hand must contain his or her handwritten signature and the date. A will so written does not have to be signed by witnesses.

(2) A will drawn up using a different method of writing (such as a computer, a typewriter, or by a person other than the testator) must be signed before two witnesses, who must sign the will to testify that the document is really an expression of the testator's last will. A will so drawn up must also contain the person's handwritten signature and the date.

(3) A will in notarised form. The notary is responsible for the content-related and formal requirements of this type of will. Every notarised will must be registered in the Central Notary Register of Wills.

(4) A special form of wills is used when the author of the will is in poor medical condition, cannot see or hear, or is unable to read or write. In such cases three witnesses must be present. They testify to the will by their signature after hearing it. The document must specify the person who has written it, the person who has read it aloud, and how it was confirmed that the document contains the testator's true will.

Only persons with legal capacity can be witnesses. Blind, deaf or dumb persons, those who have no command of the language in which the is expressed and the beneficiaries of the will may not be witnesses.

For a will to be valid it must indicate the day, month and year when it was drawn up. Naturally, an important part of the content is the designation of the beneficiaries who will inherit the estate as a whole, or proportional shares thereof, or specific items (who will receive what).

Where the will has been written in the testator's own hand, it is advisable for the testator to tell those close to him or her, so that they know where the will is deposited.

Any conditions attached to the will have no legal force.

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

Notaries must register notarised wills *ex officio* in the Central Notary Register of Wills, which is maintained by the Chamber of Notaries. Wills drawn up as described in points (1), (2) and (4) above do not have to be registered, but at the testator's or another person's request they can be accepted by a notary for safekeeping. The notary must also register such safekeeping in the Central Notary Register of Wills.

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

Yes, Section 479 of the Civil Code (Act No 40/1964) specifies the reserved portions of the estate and the heirs entitled to them: "Minor descendants must receive at least as much as constitutes their share of the estate under the law and descendants of age must receive at least as much as one half of their share under the law. Where a will contradicts the above, the relevant part of the will shall be void, unless the specified descendants have been disinherited".

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

Succession passes by operation of the law, by a will, or by both of these mechanisms. If the deceased has not drawn up a will or if assets exist that have not been included in the will, succession passes by operation of the law on the basis of classes of beneficiaries.

1st class

In the first class, the deceased's children and spouse are the beneficiaries in equal proportions. If a child does not inherit, that child's portion is distributed to this child's children in equal proportions. If even those children, or any of them, do not inherit, then their descendants inherit in equal proportions.

If the deceased has not left any descendants or his descendants do not inherit (i.e. all of them have refused succession, or none of them is capable of inheriting, or all of them have been validly disinherited or are not taken into consideration), the 2nd class of beneficiaries comes into play.

2nd class

If the deceased's descendants do not inherit, the beneficiaries in the second class include the spouse, the deceased's parents, and also anyone who lived with the deceased in a common household for at least one year before his or her death and who for that reason took care of the common household, or was dependent on the deceased for maintenance. Beneficiaries in the second class inherit in equal proportions; however, the spouse must always receive at least one half of the estate.

3rd class

If neither the spouse nor any of the parents inherit, the beneficiaries in the third class, inheriting in equal proportions, include the deceased's siblings and anyone who lived with the deceased in a common household for at least one year before his or her death and who for that reason took care of the common household, or was dependent on the deceased for maintenance. If any of the deceased's siblings does not inherit, the sibling's children receive the sibling's portion in equal proportions.

4th class

If no beneficiary inherits in the third class, the fourth class comprises the deceased's grandparents, who inherit in equal proportions, and if none of the grandparents inherits, the grandparents' children in equal proportions.

Where there is no beneficiary, the estate passes to the State by default.

5 What type of authority is competent:

5.1 in matters of succession?

The district court within whose jurisdiction the deceased had his or her last residence, or, if they had no residence or their residence cannot be established, then the district court within whose jurisdiction they last stayed, and if there is no such court, then the court for the place where the deceased had assets. The

district court appoints a notary as court commissioner to conduct the entire succession proceedings. The notary's acts are deemed to be court acts. Applications for the provision of legal assistance abroad are excluded from notaries' acts.

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

Beneficiaries make an oral declaration of acceptance or waiver of succession before the notary, or a written declaration that they send to the probate court within one month of the day when they were notified by the court of their right to waive/accept the succession and of the implications of the declaration.

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

Slovak law does not provide for legacies.

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

There is no special declaration of waiver or acceptance of a reserved portion. The procedure is analogous to the declaration of acceptance/waiver of succession, but the one-month time limit is not applicable.

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 Registry Office notifies the competent district court of a death in its registry district. The court will start proceedings, even without a motion, once it learns that somebody has died or has been declared dead. In the first place, the court checks in the Central Notary Register of Wills whether or not the deceased has left a will, a deed of disinheritance, or a revocation of either of these two acts, and identifies the notary with whom the document is deposited. The court carries out a preliminary investigation to identify the beneficiaries and the deceased's estate and debts, and takes any urgent measures needed to secure the succession. There is no need to order a hearing to consider the succession.

As the authorised court commissioner, the notary issues a certificate of succession, subject to the beneficiaries' consent, if

a single beneficiary receives the estate,

the estate passes to the State by default,

the beneficiaries have agreed with each other on distribution, or

the beneficiaries and the deceased's creditors have made an agreement to pass on excessively indebted estate for payment of the debts.

A final certificate of succession is a document that effects the transfer of title to the beneficiaries.

Where succession proceedings do not end with a certificate of succession being issued (for example, in the case of a dispute), the notary prepares all the required documents for the court to deliver an order, including a draft of the court order, and bills for his expenses and fees.

Where the estate is excessively indebted and the beneficiaries and the deceased's creditors fail to reach an agreement to pass on the estate for payment of the debts, the court can order the winding-up of the estate. In the winding-up order, the court requests the creditors to notify it of their claims within a specified period; otherwise, the claims are forfeited.

The court (the notary as the court commissioner) winds up excessively indebted estates by selling all of the deceased's assets at the price customary for comparable property. In selling the assets, the court commissioner acts for the parties in his own name but takes into account any more advantageous suggestions by the parties for asset liquidation. If some assets are left over, they pass to the State with effect from the day of the deceased's death.

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

Succession passes on the death of the deceased. The certificate of succession or the court's order has only a declaratory effect regarding a fact that occurred in the past. However, it is only possible to dispose of the estate to the full extent with a final certificate of succession or a court order.

The day of the deceased's death must be evidenced by a death certificate, a notification of death issued by a special registry of the Slovak Ministry of the Interior when a Slovak citizen dies abroad, or a court decision delivered in proceedings to declare a person dead in the case of missing persons, where the date of death is declared by the court. Only Slovak courts can declare Slovak citizens to be dead. Slovak courts can declare foreign nationals to be dead, but the legal implications only apply to persons permanently living in Slovakia and only to property situated in Slovakia.

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

Yes, beneficiaries are liable for the deceased's debts, but only up to the value of the estate passing to them. Beneficiaries are not obliged to pay the deceased's debts using their own assets.

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

Entry in the land register is made at the District Authority for the place where the immovable property is located. The Authority makes the registration of its own motion or on application by the owner or another authorised person. Applications must be made in writing and must include (a) the applicant's name (business name) and permanent residence (registered office), (b) the name of the district authority to which the application is addressed, (c) a public certificate or other official document confirming the applicant's title to the property, and (d) a list of any annexes.

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. However, if required by a general interest or a major interest of the parties, the court takes urgent measures on its own motion to secure the succession and can also appoint an administrator. Most frequently, one of the beneficiaries or another person close to the deceased is the administrator, but it can also be a notary other than the court commissioner in the inheritance proceedings in question.

An administrator appointed under Slovak law differs from the administrator under common law.

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

The notary appointed as the court commissioner executes the will. Beneficiaries administer the estate acquired by succession, but they need the court's permission for disposal of items included in the succession and for other acts beyond everyday management.

9.3 What powers does an administrator have?

During the succession proceedings the administrator takes any action needed to preserve the assets making up the estate within the limits determined by the court. The court determines the scope of its authorisation with a view to enabling the administrator to preserve the value of assets making up the estate. The administrator is liable for any damage he causes by a breach of the duties specified by law or the court. At the end of the succession proceedings he submits a final report to the beneficiaries and the court decides on his fee plus reimbursement of costs, which are payable by the beneficiary receiving the estate.

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?

At the end of the succession proceedings the notary issues a certificate of succession, which is deemed to be a court order. The certificate contains the names of the beneficiaries and identifies the assets passing to each beneficiary and the portions of the estate.

At a beneficiary's request, the notary can issue a Certificate of the Group of Heirs during the succession proceedings. This is a 'confirmation of facts known from the file', an authentic instrument issued by the notary conducting the succession, mainly for purposes of evidencing the status of a beneficiary or other entitled person to whom a right of the deceased is to pass (e.g., compensation under an insurance policy, membership rights, positions in ongoing proceedings etc.).