

## Home>Family matters & inheritance>Inheritance>Restrictions on successions – special rules

### Restrictions on successions – special rules

Spain

#### 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 immoveable property, certain enterprises or other special categories of assets located in this Member State?

- a) In order to keep property in the same branch of the family when it is inherited by an ascendant, the law stipulates that this property must be reserved for relatives of the same line (Article 811 of the Spanish Civil Code [*Código Civil*]) and the widowed spouse must reserve any property inherited from his/her deceased spouse if he/she remarries or has another child (Article 968 of the Civil Code). Ascendants inherit before any other party any property gifted to their children or descendants who died without issue (Article 812 of the Civil Code).
- b) Property located within the province of Vizcaya can only be passed on to certain relatives (Article 17 of Law 3/1992), a right that is conferred on all of Vizcaya's inhabitants (Article 23 of Law 3/1992).
- c) In order to prevent businesses being broken up, either for economic reasons or in the interests of the family, the testator may provide for payment the other heirs for his/her share, including deferred payment, even if there is not enough cash in the inheritance (paragraph two of Article 1056 of the Civil Code).
- d) A corporation (*sociedad de capital*) may, in its articles of association, restrict the transferability of shares, including upon death of the holder. If such a restriction exists, the corporation must put forward a person to buy the shares awarded to the heir or buy the shares itself (Article 124 of the Spanish Royal Legislative Decree 1/2010 on corporations, [*Ley de sociedades de capital*]).
- e) For economic reasons, a minimum surface area has been laid down for rural properties to stop them being divided up between the heirs (Articles 23 et seq. of Law 15/1995 on the modernisation of agricultural holdings).
- f) For social reasons, State and Autonomous Community legislation has laid down limits on the transfer of social housing.
- g) The legislation on rural and urban leases permits specified successors of the tenant to acquire the lease rights by subrogation (Article 24 of Law 49/2003 on rural leases, Articles 16 and 33 of Law 29/1994 on urban leases).
- h) The acquisition of rights on property located in zones which have declared that they restrict foreign national ownership is subject to military authorisation on the grounds of national security or state sovereignty (Articles 4, 16 and 18 of Law 8/1975 of 12 March 1975 on zones and installations of interest to national security and Article 46 of Royal Decree 689/1978 of 10 February 1978).

#### 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?

Paragraphs b), e), f), g) and h) apply to property located in Spain irrespective of the law governing succession; paragraph d) applies if the company is governed by Spanish law.

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

The notary documenting the transfer and the property registrar in charge of registering it check whether a transfer is lawful. A court order may of course also be requested.

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