

Pradžia>Šeimos teisė ir paveldėjimas>Paveldėjimas>Paveldėjimo apribojimai. Specialios taisyklės.

Restrictions on successions – special rules

Graikija

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?

Greek law contains certain special rules imposing restrictions on the inheritance of assets located in Greece for economic, family or social considerations.

Such special rules have been laid down in relation to:

A) monks' estates (see Articles 4, 18 and 19 of Law 3414/1909 on the General Ecclesiastical Fund and the Management of Monasteries, retained in effect by Article 99 of the Law introducing the Hellenic Civil Code, Article 7(2) and Article 25 of Law 4684/1930, Article 1 of Law 1918/1942 and Article I of Law 2067/1952). In particular, those provisions state that, by operation of law, a monk's estate passes to the monastery where he is interred and in whose registers he is entered, after the reserved share of the estate for his heirs has been deducted. Bequests, donations and inheritances which devolve to the monk after he enters the monastery belong to the monastery and the monk retains only a 50 % right of usufruct over the assets which devolved to the monastery, whereas assets acquired by the monk after taking his vows on other non-gratuitous grounds devolve to him in person and he can dispose of them, but may not do so via gratuitous transactions. If he does not dispose of them, after his death, 50 % of those assets devolve to the Ecclesiastical Central Financial Service and 50 % to the monastery. Note that there are even more specific rules for monks on Mt. Athos (see Article 101 of the Mt. Athos Charter, which was retained in effect by Article 99 of the Law introducing the Hellenic Civil Code). If the said monks acquire assets after vows are taken, those assets devolve to the monastery no matter when the monks die, and any disposition of the assets in a will is invalid, as is the will itself.

B) Assets disposed of by inheritance, bequest or donation to the Greek State or a body governed by public law or for public benefit purposes (see Law 4182/2013 on public benefit estates, vacant succession and other provisions). The Minister of Finance can either affirm or disaffirm inheritance of the assets, unless it is an inheritance which passed to the State from an intestate person in which case the inheritance cannot be disaffirmed. Moreover, the State is deemed to accept such estates, at all times, subject to the benefit of inventory, which is to say, it is liable for the debts of the inherited estate only up to the level of the estate's assets.

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?

Those special rules apply to the succession, irrespective of the law governing it.

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

As far as the special rules in point (B) are concerned, Law 4182/2013 states, inter alia, that when the will is granted probate or a will granted probate abroad, which contains a disposition in favour of a public benefit purpose or in favour of the State or a body governed by public law, is filed, the court clerk and/or the consular authority at the place where the will is granted probate or filed, and the Athens Court of First Instance clerk to whom the will is sent, are obliged to send a copy of the probate proceedings to the relevant Directorate of the Ministry of Finance within the first 10 days of the following month. That law also states that assets which are left for public benefit purposes are to be used in the manner specified by the testator or donor, and it is prohibited to change the public benefit objectives and the manner and terms relating to management of the estate, and the provisions on how it is to be administered. If there are any doubts about what the testator or donor intended, or any challenges on those matters, the matter is to be resolved by the competent court. That same Law also established a Public Benefit Estates Registry (National Endowments Registry) in which all such estates must be recorded.

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