

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

### Restrictions on successions – special rules

Slovakija

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

Yes, there are special categories of assets to which a special regime applies, in accordance with Article 30 of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession. Slovakia has notified the Commission of these categories of assets and of the legislation in force at the time of notification. This document sets out the regulations currently in force.

The provisions on special regimes are structured according to the category of assets that are subject to succession:

#### **A – agricultural and forest land:**

##### **Section 23 of Act No 180/1995 on certain measures for the settlement of ownership rights to land, as amended**

(1) Unless this Act provides otherwise, a legal act or court ruling on the settlement of coownership or a court **ruling on succession cannot, by dividing up the existing land listed in Section 21(1), result in a plot of agricultural land smaller than 2 000 m<sup>2</sup> or a plot of forest land smaller than 5 000 m<sup>2</sup>.**

(2) If the beneficiaries do not settle the succession of the land listed in Section 21(1) in accordance with the conditions set out in subsection (1), or if in consequence of these conditions the court cannot confirm the share of the estate for each beneficiary, the court shall rule that the land will go to the beneficiaries best placed to manage it. The court shall also rule on this beneficiary's duty to settle with the other beneficiaries.

(4) The beneficiaries must make the statement referred to in subsection (3) in writing, and cannot retract it.

(6) The limitation period for beneficiaries' claims arising from the settlement of succession in accordance with subsections (2) and (3) is ten years. To secure such claims, on the registration of the debtor's title a lien is established on this land for the creditor; any statutory priority of a more senior lien does not apply. The creditor has the right of first refusal to the land covered by the lien.

(7) If the court decided on settlement for co-owners, the conditions set out in subsections (2) to (5) also apply to their settlement.

#### **B – land associations:**

##### **Section 8 of Act No 97/2013 on land associations, as amended**

(1) For the purposes of this Act, common immovable property refers to a single immovable item comprising several separate plots. **Common immovable property is indivisible** other than in the cases set out in subsection (2) (note: the subsection does not include succession, so no exemption applies). The joint tenancy of common immovable property cannot be dissolved and settled under the general provisions on dissolving and settling co-ownership (under the Civil Code).

#### **C – tenancy of a flat and passage of a member's share in a housing cooperative:**

##### **Sections 706-707 of Act No 40/1964 of the Civil Code (*Občiansky zákonník*)**

The passage of tenancy is not subject to succession, so on request the notary only issues a confirmation of the beneficiaries concerned for the purposes of Section 706 of the Civil Code. However, a member's share is an asset and is therefore subject to succession in accordance with the beneficiaries' titles.

##### **Section 706 of the Civil Code:**

(1) If the tenant dies and the flat is not a co-tenancy with the spouse, the deceased's children, grandchildren, parents, siblings, son-in-law and daughter-in-law who were sharing the household with the deceased on the day he or she died, and do not have their own flats, become the tenants (co-tenants). Persons who took care of the deceased tenant's shared household or were dependent on the deceased tenant also become tenants (co-tenants) provided they shared the household with the deceased for at least three years before he or she died and do not have their own flats.

(2) ...

(3) If the tenant of a housing cooperative flat dies and the flat is not a co-tenancy with the spouse, **on the death of the tenant his or her membership of the cooperative and lease of the flat pass to the beneficiary who inherited the membership share.**

##### **Section 707 of the Civil Code:**

(1) If one of the spouses who were co-tenants in a flat dies, the surviving spouse becomes the sole tenant.

(2) If this is a cooperative flat, the spouses' co-tenancy of the flat lapses on the death of one of the spouses. If the title to the cooperative flat was acquired during the marriage, **the surviving spouse remains a member of the cooperative and owns the membership share; the court takes this into account in succession proceedings.** If a spouse who had acquired the title to the cooperative flat before marriage dies, **on the death of the spouse his or her membership of the cooperative and tenancy of the cooperative flat pass to the beneficiary who inherited the membership share.** If there are multiple tenancies, the deceased's membership can pass to multiple beneficiaries.

(3) If one of the co-tenants dies, his or her title passes to the other co-tenants.

#### **D – ownership interest in a private limited company:**

##### **Sections 116–117 of Act No 513/1991, as amended – if the deceased died after 1 January 1992**

Section 116 of the Commercial Code (*Obchodný zákonník*):

(1) ...

(2) An ownership interest is inheritable. **If this is not a company with a sole member, the memorandum of association can exclude the succession of an ownership interest.** A beneficiary who is not the sole member can seek the revocation of his or her participation if the beneficiary cannot be required in fairness to be a member ...

Section 117 of the Commercial Code:

(1) The division of an ownership interest is only possible in its assignment or transfer to the member's beneficiary or legal successor. The general meeting's approval is required for the division of an ownership interest.

(2) The memorandum of association can exclude the division of an ownership interest.

(3) In the division of an ownership interest, the amount of the investment set out in Section 109(1) must be maintained (the value of a member's investment must be at least EUR 750).

#### **E – the deceased's wage:**

##### **Section 35 of Act No 311/2001, the Labour Code (*Zákonník práce*), as amended**

Unless separate legislation provides otherwise, an employee's financial entitlements do not lapse on his or her death. The employee's wage entitlements from employment, up to four times the employee's average monthly earnings, pass directly to the employee's spouse, children and parents if they lived in the employee's household at the time of death. **If there are no such persons, the wage entitlements become subject to succession.**

#### **F – pensions:**

##### **(1) Section 21 of Act No 650/2004 on supplementary pension schemes, as amended**

The current value of the personal account of a participant who is a recipient of a temporary supplementary old-age pension or a temporary supplementary service pension, **is subject to succession if in the pension contract the deceased participant who is a recipient of a temporary supplementary old-age pension or a temporary supplementary service pension did not name another natural or legal person as the beneficiary to whom the current value of the personal account should be paid.**

##### **(2) Sections 40–40a of Act No 43/2004 on old-age pension schemes, as amended**

###### **Section 40**

(1) On the death of a contributor to an old-age pension scheme, the beneficiary who the contributor named in the pension contract is entitled to the payment of an amount corresponding to the current value of the deceased's personal pension account on the day the pensions company learnt of the contributor's death, less the mandatory contributions that were requested by the Social Insurance Agency (*Sociálna poisťovňa*) and unduly transferred on behalf of the deceased, and less the costs the pensions company has reasonably incurred for paying out this amount in cash or transferring it to a country other than a member of the eurozone, and plus the mandatory contributions that the Social Insurance Agency has yet to transfer. **If the contributor did not name any beneficiary in the pension contract, or if there is no beneficiary, these assets become subject to succession.**

(2) The beneficiary is not entitled to the payment of the amount under subsection (1) if a court has found in a final ruling that such person intentionally caused the contributor's death.

###### **Section 40a**

(1) On the death of a recipient of a lifetime pension, the beneficiary who the recipient named in the pension insurance contract is entitled to the payment of an amount under Section 32(2) or a lump-sum benefit under Section 46g(5) as at the day the insurer learnt of the recipient's death. **If the recipient did not name any beneficiary in the pension insurance contract, or if there is no beneficiary, the amount defined in the first sentence becomes subject to succession.**

(2) The beneficiary referred to in subsection (1) is not entitled to the payment of the amount under Section 32(2) or a lump-sum benefit payment under Section 46g(5) if a court has found in a final ruling that such person intentionally caused the recipient's death.

##### **Section 118 of Act No 461/2003 on social security, as amended**

(1) If a natural person who satisfied the conditions for entitlement to a benefit died after claiming the entitlement to the benefit and the entitlement to its payment, this person's entitlements to the amounts due on the day he or she died pass, successively, to the spouse, children and parents.

(2) If a natural person who satisfied the conditions for entitlement to sickness benefits, an injury allowance, a rehabilitation allowance, a retraining allowance, a guarantee insurance benefit or unemployment benefit, but died before claiming the entitlement to these benefits, this person's entitlements to the amounts due on the day he or she died pass, successively, to the spouse, children and parents.

(3) If a benefit was awarded before the death of a natural person who satisfied the conditions for entitlement to the benefit and entitlement to its payment, the amounts due that had not been paid as at the day this person died are paid to the natural persons listed in subsection (1) (first sentence).

(4) The entitlements passing to the natural persons listed in subsections (1) to (3) are not subject to succession; **they become subject to succession if there are no such natural persons.**

(5) If there are no natural persons who would become entitled to benefits under subsections (1) to (4), these benefits are other income for the source fund from which they were to have been paid.

##### **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?**

Yes. Either it is the deceased's right to specify the persons who will acquire the assets after his or death instead of the legal beneficiaries (e.g. a supplementary pension contract), or this concerns a certain category of assets where the law specifies how it should be disposed of after the deceased had died (e.g. measures for the settlement of ownership rights to land, social security benefits).

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

For immovable property, if succession proceedings ignore the regulations set out in the first question, the authority responsible for maintaining the land registry does not record a newly-acquired property title in the land registry.

In succession proceedings held in Slovakia, the regulations set out in the first question are applied, on the instructions of the court, by the notary conducting the succession proceedings. The outcome of these proceedings is an order on succession, and any party who believes it is not in compliance with the special regimes in force may file a remedy to challenge the outcome.

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