

GREEK ESTATE LAW
TESTAMENTARY SUCCESSION

TYPES OF WILLS

1. **Holographic Will:** A holographic Will may be drafted in any language. However, as its name indicates, it must be written entirely by the testator, dated and signed in his hand. Any marks or symbols that are evidenced not to be in the testator's hand will not be taken into account.
2. **Public Will:** A certified public Will is executed with a Notary presiding and is signed in the presence of three witnesses or of another notary and one witness.
3. **Secret Will:** A secret Will need not be written entirely by the testator. However, it must be signed in his hand. The Will is sealed in an envelope and delivered to a registered notary in the presence of three witnesses or in the presence of another notary and one witness.

INTESTATE SUCCESSION – Succession without a Will

Intestate succession is regulated by Articles 1813-1824 (Chapter IV) of the Greek Civil Code. Namely:

1. Chapter IV, Section 1813 of the Greek Civil Code:

“As heirs in an intestate succession shall be called in the first rank the descendants of the principal. The nearer descendant shall exclude the more remote of the same line.

In the place and stead of a descendant who is not living at the time of devolution shall be called the descendants thereof who are connected by relationship through him to the principal (succession per lines)

The children shall inherit by equal portions.”

2. Chapter IV, Section 1814 of the Greek Civil Code:

“In the second rank shall be called together the parents of the principal his brothers and sisters as well as children and grandchildren of his predeceased brothers and sisters. Parents and brothers and sisters shall inherit by equal portions while the children or grandchildren of predeceased brothers and sisters per stirpes. Children of a predeceased brother or sister shall exclude grandchildren of the same stirpes.”

3. Chapter IV, Section 1815 of the Greek Civil Code:

“Half brothers and half-sisters when concurring with parents or full brothers and sisters or children or grandchildren of the latter (of full brothers and sisters) shall receive one half of the portion attributable to full brothers and sisters. Children or grandchildren of predeceased half-brothers and half sisters shall also receive one half portion.

4. Chapter IV, Section 1816 of the Greek Civil Code:

“In the third rank shall be called the grandfathers and grandmothers of the principal and among the descendants of such grandparents their children and grandchildren.

Where at the time of devolution the grandfathers and grandmothers in both lines are living they alone shall inherit in equal shares. Where at the time of devolution the grandfather or grandmother in the line of the father or of the mother is not living shall be called in his or her place and stead his or her children and grandchildren. Where upon the devolution both the grandfather and the grandmother in the line of the father or in the line of the mother are not living and the said deceased have not left children and grandchildren shall alone inherit the grandfather or the grandmother in the other line or children and grandchildren thereof.

Children inherit by equal portions and exclude grandchildren of the other lines. Grandchildren inherit per stirpes.”

5. Chapter IV, Section 1817 of the Greek Civil Code:

“In the fourth rank shall be called the great grandfathers and the great grandmothers of the principal.

Great grandfathers and great grandmothers living at the time of devolution shall inherit by equal portions irrespective of whether or not they belong to the same or to different lines.”

6. Chapter IV, Section 1818 of the Greek Civil Code:

“In the case of succession per lines a person who belongs to several stirpes shall receive the portion attributed to each stirpes. Each portion shall be considered as a distinct hereditary portion.”

7. Chapter IV, Section 1819 of the Greek Civil Code:

“A relative shall not be called to inherit so long as there exists another relative of a preceding rank called as heir.”

8. Chapter IV, Section 1820 of the Greek Civil Code:

“A surviving spouse shall be called as heir in an intestacy together with the other relatives of first rank for one fourth and with the relatives of other ranks for one half of the estate. He shall in addition receive as an accretion (preciput) independently of the rank of his calling the furniture utensils clothes and the other similar domestic objects that were being used either by the surviving spouse alone or by both spouses. However where there are children of the spouse who died shall also be taken into consideration the needs of such children in so far as this is prescribed by special circumstances or on grounds of indulgence.

9. Chapter IV, Section 1821 of the Greek Civil Code:

“Where there are no relatives of the first, second, third and fourth rank a surviving spouse shall be called as heir in intestacy for the whole of the estate.”

10. Chapter IV, Section 1822 of the Greek Civil Code:

“Shall be excluded the right of inheritance and the additional accretion (preciput) of a surviving spouse where the principal (deceased) relying on a justified ground of divorce had commenced a legal action for divorce against his spouse.”

11. Chapter IV, Section 1823 of the Greek Civil Code:

“Where an intestate heir has forfeited his rights either before or after devolution and as a result the portion of another intestate heir has been increased the part whereby the said portion is increased shall be considered as a distinct hereditary portion concerning legacies or charges burdening the person who acquired or who forfeited such portion as well as the obligation of restoration (to the estate).”

12. Chapter IV, Section 1824 of the Greek Civil Code:

“ Where upon devolution of the estate there exists neither a relative among those called by the law nor a spouse of the principal (deceased) the public treasury shall be called as an intestate heir.”

Sections 1813, 1814, 1815, 1816, 1817, 1821 and 1824 as translated from the original text of the Greek Civil Code define the relatives of the decedent that will be called as the heirs, in case that that the decedent has not left a will (***intestacy rules***).

Specifically, succession in intestacy is based on the kinship with the decedent. The criteria of *parentage*, *marriage* and *nationality* are essential to the designation of an intestate heir. In other words, the heirs designated by the law are persons related to the decedent *by parental or marital ties*.

Thus, the law has classified the relatives and therefore the legal heirs of the decedent into categories (“classes”).

Namely, there are *six classes* of intestate heirs:

- 1) The *first class* includes the direct descendants of the deceased (i.e. children, grandchildren, great-grandchildren). The descendants, who may be born in different marriages, inherit in equal portions by line of succession and *per capita* when they are of the same degree of affinity. The descendant of the nearest degree excludes all other descendants of a more remote degree belonging to the same root. The surviving spouse is grouped with descendants of the first class and his/her portion is one fourth of the estate. He/she also receives an extra portion, consisting of the furniture, house wares, clothing etc., used by either spouse or by both spouses. This extra portion is also given to the spouse when he/she inherits with the other three classes of heirs.
- 2) The *second class* of heirs includes the decedent's parents, brothers and sisters, as well as the children and grandchildren of the brothers and sisters who have passed away before the decedent. Half brothers and sisters concurring with full brothers and sisters receive half the portion of the latter.
- 3) The *third class* includes the grandparents of the decedent. For those who do not survive, their children and grandchildren take their portion.
- 4) The *fourth class* consists of the great-grandparents of the decedent, who inherit *per capita* irrespective of line. The surviving spouse, concurring with relatives of the second, third or fourth

class receives one-half of the estate plus the extra portion already mentioned.

- 5) Fifth class: If no relatives of the four classes exist, the spouse inherits all the estate in the fifth class.
- 6) In the sixth class, in the absence of relatives, the heir is the State of the decedent's nationality.

FORCED INHERITANCE (nomimi mira)

a. *Forced heirs.*

Articles 1825 and 1826 of the Greek Civil Code defined the rules of forced inheritance (*regime of forced inheritance*). This regime is designed as a legal institution to reinforce and protect the family unit as it is considered in Greek society of paramount import. However, this regime is not unlimited in its application. The design is to protect the family but at the same time to maintain a balance with the principle of the testator's freedom and undeniable right to decide independently on the disposition of his property upon his death. Thus, only the closest relatives of the decedent are protected and only partially so, as the testator is limited from excluding them entirely from succession. Forced heirs are always entitled to a certain percentage of the estate and they have all the rights and duties of other heirs. Forced heirs are the descendants (including those born through surrogate motherhood and those adopted), the parents, and the surviving spouse of the decedent. If there are descendants, the parents are excluded, while the surviving spouse's portion may vary between one-eighth and one-half of the estate, depending on the concurring forced heirs.

b. *The legitimate portion and its protection*

Forced heirs are entitled to one-half of their intestate share. To determine it, one must include in the estate the shares of disinherited heirs, of those who renounced the succession and those of unworthy heirs. Therefore, the legitimate portion does not increase if a co-heir has lost his succession right. The forced heir's right may be inherited. If for any reason the forced heir's right is not exercised, it devolves upon his heirs under the rules of intestate succession. Any testamentary dispositions to the prejudice of the forced heir or any restrictions imposed on his share by the will are null. If other heirs refuse to give the forced heir assets of the estate corresponding to his share, he has the right to institute an action, demanding restitution. Donations by the testator during his lifetime to the detriment of the estate and, consequently, to the legitimate portions of forced heirs, are cancelled if the estate at death does not suffice to cover such shares.

Acceptance and renunciation of succession

A succession may be renounced by a declaration made before the Court clerk in the jurisdiction of the court of succession. There is a statute of limitations for this renunciation. The right to renounce expires four months after the heir learns of the devolution and its reason. This period is extended to one year if the deceased lived abroad or if the heir learned of the devolution while living abroad.

Acceptance of succession on condition of formal financial resolution of the estate and inventory

The benefit of this type of succession is that it protects the heir against creditors of the decedent and the debts of the estate. Thus, the heir

inherits on the net value of the estate or, in other words, he is liable only up to the net value of the estate. The inventory must be made within four months after the declaration.