Greece

International Estate Planning Guide

IBA Private Client Tax Committee

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I. Wills and disability planning documents

Note on the 2026 reform. Law 5303/2026 (Government *Gazette* Α΄ 81/22.5.2026) replaced the entire Fifth Book (Succession Law) of the Hellenic Civil Code, Articles 1710–2000. Under Article 41 of that law, the new provisions apply to the succession of persons who die on or after 16 September 2026; the succession of persons who died before that date remains governed by the previous law. By way of transition (Article 33), a will made or revoked before the entry into force of the new law is judged, as regards its form and the capacity of the testator, under the previous law, even if the testator dies after that date; inheritance contracts and advance renunciation agreements may be concluded from 16 September 2026. Unless otherwise stated, the article references below are to the Hellenic Civil Code as replaced by Law 5303/2026.

A. Will formalities and enforceability of foreign wills

The Hellenic Civil Code recognises both ordinary types of wills and an extraordinary type of will for special cases. The most common types of wills are holographic wills (Article 1721 of the Hellenic Civil Code), public wills (Article 1725 of the Hellenic Civil Code) and mystic wills (Article 1739 of the Hellenic Civil Code). The former special forms of extraordinary will (military wills, wills in time of siege and wills on board ship) have been merged into a single 'will in extraordinary circumstances', made orally before three witnesses by a person in imminent danger of death, which lapses three months after it is made if the testator is still alive (Articles 1750–1752). Capacity to make a will is acquired at the age of 16 (Article 1719).

A holographic will (Article 1721 of the Hellenic Civil Code) is the simplest way of expressing the last statement of the testator's intentions since it is prepared by the testator him or herself without the presence of witnesses. In order to be valid, it must: (1) be written (and therefore be recorded in writing) in full and exclusively by the testator him or herself; (2) be dated, the date showing the day, month and year, although a false, incorrect or incomplete date does not by itself render the will void; and (3) bear the handwritten signature of the testator (and therefore it must not be affixed using mechanical means, such as a seal). Although a holographic will is the easiest and most accessible form of will, its authenticity can be challenged and its validity contested. Minors and anyone who is not able to read handwritten documents cannot prepare a holographic will (Article 1723). The testator may deposit the holographic will in person with a notary public for safekeeping (Article 1722). Under the new law, this matters for the effectiveness of the will: a holographic will that was deposited with a notary produces its legal effects as soon as it is published; a holographic will that was not deposited produces its effects before being declared genuine only if descendants or the spouse of the testator are among the beneficiaries; in any other case, and in every case where the will is published more than two years after the death, it must first be declared genuine (κήρυξη ως κυρίας) by a certified notary following a handwriting expert's report (Article 1763 of the Hellenic Civil Code and Article 808A of the Hellenic Code of Civil Procedure). Finally, a holographic will made by a person while receiving care in a health or social care institution, or within three months after leaving it, is void insofar as it appoints as heirs persons connected with the institution or their relatives, unless those persons would in any event have been intestate heirs (Article 1724).

A public will (Article 1725 of the Hellenic Civil Code) is the most formal transaction available in contemporary law and is the will with the most formalities, and the fact that it is prepared before a notary public gives it added evidentiary value as a public document. More specifically, the testator states orally his or her last will before the notary public, and two witnesses or a second notary public and one witness must necessarily be present. They must be present during the entire proceedings and take an oath in advance that they will observe the secrecy of the contents of the will. Witnesses must have completed their 16th year and know Greek; where the testator does not know Greek, an interpreter is engaged (Articles 1729 and 1738), and a testator with a serious speech impairment may use mechanical or electronic means that reproduce his or her will by voice (Article 1731). The notary public then prepares a deed, the so-called testamentary report, which contains: (1) the date, month, year and place of its drafting; (2) the precise details of the testator so that there is no doubt about his or her identity; (3) the name and surname of the notary public and witnesses; (4) a statement of the testator's last will; and (5) an indication that the testator's intention was stated orally and that the persons assisting in the drafting of the will were present (Article 1733). Lastly, the deed is read to the testator and signed by him or her and the witnesses (Article 1734).

A mystic will (Article 1739 of the Hellenic Civil Code) is an intermediate form of will that lies between public and holographic wills. In the first stage, the testator prepares his or her final will either him or herself, via a third party or by mechanical means (Article 1741). In the second stage, the testator signs and hands the document to a notary public in the presence of two witnesses (or a second notary public and one witness), which is then sealed so that, at the time of opening, there is no damage to it. Additionally, on the document itself or enclosure thereof, the notary public notes the testator's name and surname, and the date of delivery. That note is then signed by the testator and the persons who are assisting him or her in the preparation of the will. The notary public then prepares a deed relating to this specific process (Article 1744). A mystic will that is void as such is valid as a holographic will if it meets the requirements of the latter (Article 1748).

II. Inheritance contracts and advance renunciation agreements (new)

The 2026 reform lifted the long-standing prohibition on contracts over future succession. A person may now, by an inheritance contract *mortis causa* (κληρονομική σύμβαση αιτία θανάτου) concluded before a notary public with the parties present in person, appoint an heir, create a *fideicommissum*, a legacy or a modus, and choose the law applicable to his or her succession; the beneficiary may be the other party to the contract or a third party, and several persons may dispose of their estates in the same contract (Article 1798 of the Hellenic Civil Code). Those dispositions are binding and cannot be revoked unilaterally; a later will, or a later inheritance contract with another party, is ineffective to the extent that it conflicts with them (Articles 1799 and 1800). The deceased may revoke a disposition only if the beneficiary commits a wrong against him or her which, in the case of a forced heir, would justify deprivation of the lawful portion (Article 1804). The contract does not restrict the deceased's freedom to dispose of his or her assets during his or her lifetime unless otherwise agreed, but gratuitous dispositions made to the detriment of the beneficiary may be set aside by court action after the death (Article 1801). The contract may also be made in return for consideration provided during the lifetime

of the deceased, in which case either party may withdraw in the circumstances set out in Article 1805. Inheritance contracts are published after the death in the same way as wills (Article 1806; Article 808B of the Hellenic Code of Civil Procedure).

Separately, a prospective heir may now renounce in advance, by agreement with the future deceased concluded before a notary public with the parties present in person and without condition or time limit, all or part of his or her future rights in that person's estate, whether arising by law or under an existing disposition *mortis causa*; the renunciation may be confined to the lawful portion and may be made with or without consideration (Articles 1838 and 1839). The person who has renounced is treated as if he or she had predeceased, and in case of doubt the renunciation extends to his or her descendants, although the future deceased remains free to benefit the renouncing party by a later disposition (Article 1840). Where consideration was agreed, the renunciation takes effect only if the consideration is paid within six months of the agreement (Article 1841). Both instruments are available from 16 September 2026 (Article 33(3) of Law 5303/2026).

III. Rules governing the publication of wills

From the moment the testator passes away, any will he or she may have left behind must be published (δημοσίευση). This is a public policy requirement, and the reasons that require publication of the testator's last will relate to the security of transactions and the fate of individual assets. Publication of the will is in the public interest, and for that reason, any provision of the will that precludes its publication is null and void. Since 1 November 2025 (Law 5221/2025), publication is no longer carried out by the courts but by notaries public through the electronic Register of Wills (Μητρώο Διαθηκών) operated by the notarial associations of Greece (Article 1759 of the Hellenic Civil Code and Article 808 of the Hellenic Code of Civil Procedure). Articles 1759–1761 of the Hellenic Civil Code establish a public law obligation to present the will for publication once the death of the testator becomes known.

The obligation lies, in particular, with the notary public who holds a will – whether a public will prepared by that notary, a mystic will delivered to the notary by the testator or a holographic will deposited with the notary for safekeeping – who must publish it without culpable delay as soon as he or she learns of the death of the testator (Article 1759(1) of the Hellenic Civil Code); with any person who holds a holographic will, who must present it without culpable delay to a notary public for publication (Article 1759(2) of the Hellenic Civil Code); and with any Greek consular authority holding a will (Article 1760 of the Hellenic Civil Code).

Publication is effected by the notary public drawing up a deed (πρακτικό) in which the entire text of the will is recorded, together with a description of any external defects; the deed is registered in the Register of Wills and the original of the will is kept in the notary's archive (Article 1759 of the Hellenic Civil Code, and Article 808(1) and (3) of the Hellenic Code of Civil Procedure). The validity of the will remains a matter for the courts. Where the holder of a holographic will resides abroad, he or she may present it for publication to the head of the competent Greek consular authority, who publishes it by a deed signed by the consul and by the person who delivered the will; a copy of the deed is registered in the Register of Wills (Articles 1759–1761 of the Hellenic Civil Code and Article 808(2) of the Hellenic Code of Civil Procedure).

No application from a party is required for publication by the notary who holds the will; the notary acts as soon as he or she learns of the death. The deed of publication, or a refusal to publish, may be challenged by any person with a legitimate interest by way of objection (ανακοπή) before the court of the succession (Article 808(6) of the Hellenic Code of Civil Procedure).

Non-compliance with the rules on publication does not affect the validity of the will (Article 1765 of the Hellenic Civil Code). A published holographic will may, at the request of any person with a legitimate interest, be declared genuine (κήρυξη ως κυρίας) by a certified notary public drawn from an annual list kept by the competent notarial association, on the basis of the sworn evidence of two witnesses or, in the cases referred to in Article 1763, of a handwriting expert's report (Article 1762 of the Hellenic Civil Code and Article 808A of the Hellenic Code of Civil Procedure). A holographic will that has been published and declared genuine is presumed authentic if its authenticity is not challenged in court proceedings within five years of its publication (Article 1764).

IV. Conditions for the validity of a will that has been made abroad

In the case of a will that was prepared in a country other than Greece, what needs to be clarified is the applicable law under which the validity of the will is ascertained.

According to Article 11 of the Hellenic Civil Code, a legal transaction is formally valid in procedural terms if it is in accordance with the law governing its content, the law of the place where it is entered into or the national law of all the parties. An example of such a transaction is a will. Under the provisions of Article 28 of the Hellenic Civil Code, relations arising from inheritance are governed by the law of the nationality that the deceased had when he or she died, and therefore testate inheritance. Consequently, in the Greek legal order, the law of nationality that the deceased had at the time of his or her death applies to the validity of a will.

This issue is also addressed in European Union law via Regulation (EU) No 650/2012 of the European Parliament and of the Council (the 'EU Regulation'), which regulates matters of succession and takes precedence over national law. More specifically, under Articles 21 and 24 of the EU Regulation, the law of the deceased's habitual residence or, by way of exception, the law of the state with which the deceased had manifestly closer ties, is applicable to the issue of the admissibility and substantive validity of the will, while the testator has the ability to choose as the law governing his or her entire succession the law of the state of which he or she is a national at the time of the choice or at the time of his or her death (Article 22). More specifically, Article 27 of the EU Regulation attempts to save the validity of the will because it characteristically states that a 'disposition of property upon death made in writing' (including a will) must be considered formally valid if it is in line with either the law of the state in which the will was prepared or the law of the testator's nationality; the law of the state in which he or she was domiciled; the state of his or her habitual residence at the time of its drafting or at the time of his or her death; or lastly, the law of the state in which the property is located. Since the 2026 reform, Greek domestic law also permits a choice of the law applicable to the succession to be made in an inheritance contract (Article 1798 of the Hellenic Civil Code), and the admissibility and validity of such agreements as to succession are governed by Article 25 of the EU Regulation.

There are several ways of recognising wills drafted outside Greece. First, if a public will has been prepared before a Greek consular authority, or if a mystic or holographic will has been lodged with it, the consular authority itself publishes the will: the consul prepares a deed signed by him or her (in the case of a holographic will, the person who delivered it to the consular authority also affixes his or her signature) and a copy of the deed is registered in the Register of Wills (Articles 1759, 1760 and 1761 of the Hellenic Civil Code; and Article 808(2) of the Hellenic Code of Civil Procedure). Moreover, Article 808(4) of the Hellenic Code of Civil Procedure states that certified copies of wills, and of revocations of wills, that have been published abroad may be deposited with a Greek consular authority, which forwards them without delay to the Register of Wills; the copies must be certified by the foreign public authority that published the will and, if the will is drawn up wholly or partly in a foreign language, accompanied by a translation into Greek made by a certified translator of the Register of Certified Translators (gov.gr), Greek consular authority or lawyer. The consular authority or the Register of Wills records a deed of deposit on the copies, stating what was deposited, by whom and on what date.

V. When is an executor of a will appointed, who can this person be and what are his or her powers?

Article 1984 of the Hellenic Civil Code provides that an executor of a will is appointed by the testator in the will or, since the 2026 reform, in an inheritance contract *mortis causa*. One or more natural or legal persons may be appointed, and the testator may authorise the executor to designate co-executors or successors. The appointment cannot be made by means of an *inter vivos* deed entered into by the testator nor can it be made dependent on the opinion of a third party (Article 1774), and, consequently, it follows the terms and conditions under which the will (or inheritance contract) is valid.

Article 1985 of the Hellenic Civil Code sets out the only condition that a person must meet in order to be appointed executor: the appointment is void if, at the time of accepting the office, the person is incapable of entering into legal transactions or has limited legal capacity. Moreover, the person designated as executor and persons who are in one of the relationships to him or her specified in Article 1726 of the Hellenic Civil Code, may not take part in the drawing up of the will as a notary or witness; if they do, the appointment of the executor is void (Article 1727 of the Hellenic Civil Code). The office begins upon acceptance, which – like renunciation – is declared to the secretary of the court of the succession (Article 1986 of the Hellenic Civil Code).

The task of the executor is to carry out the dispositions of the will, and, to that end, he or she may perform any act expressly authorised by the testator or necessary for the execution of those dispositions (Article 1987 of the Hellenic Civil Code). Under the new law, the executor is entitled to manage the whole or part of the estate not only where this is necessary in order to carry out the dispositions of the will but also, independently of that, where the testator so provided; an executor appointed by inheritance contract has only the powers conferred in the contract (Article 1987). For acts of major significance – the sale of immovable property or of movables of significant value in relation to the estate, of public securities, shares or bonds, the taking out of a loan, the conclusion of a settlement or expenditure exceeding the small claims threshold of the Code of Civil Procedure – the executor must first inform the heir and give him or her two months to declare whether he or she consents; failing consent, the executor may perform the act with the permission of the court of the succession. In either

case, the heir then becomes liable for the obligations of the estate with his or her personal assets as well, whereas an executor who performs such an act without prior notice, consent or court permission is liable for the obligations of the estate jointly and severally with the heir and has no right of recourse against the heir (Article 1988). The executor is liable to the heir, under the rules of mandate, for any loss to the estate caused by his or her fault and, where he or she manages the estate, must render accounts (Article 1990); unless the testator provided otherwise, the executor may ask the court of the succession to fix a reasonable fee (Article 1994). The office ends upon execution of the dispositions of the will, upon expiry of the time fixed in the will and, in any event, 30 years after the testator's death (Article 1997).

VI. Legal guardianship: when is it proclaimed and what is the procedure?

Legal guardianship is regulated by Articles 1666–1694 of the Hellenic Civil Code and defined as the responsible handling of issues of legal importance for an adult who has such a manner of disease (mental or intellectual disorder, or physical disability) that makes him or her de facto unable to handle his or her own affairs. It must be ordered by a court (and therefore no person can be placed in legal guardianship on the basis of the private will/intention of another), which alone can determine its form and extent. The Single Member Court of First Instance at the assisted person's normal place of residence is competent to appoint a legal guardian (combined reading of Article 121 of the Law Introducing the Hellenic Civil Code, and Articles 739, 740 and 801(1) of the Hellenic Code of Civil Procedure) who shall try the matter in non-contentious proceedings. The court may declare the person to be under privative legal guardianship, in which case, it considers that he or she is unable to act for him or herself in relation to (full) or certain (partial) legal transactions, and therefore he or she must enter into legal transactions concerning those matters via his or her legal representative/legal guardian. The court may declare the person to be under assistive legal guardianship, in which case, in order for the assisted person to enter into all (full) or certain (partial) legal transactions, the consent of the legal guardian is required. Lastly, a combination of privative and assistive legal guardianship can be ordered.

VII. Rules of intestate succession under Greek law

When there is inheritance under Greek law without a will (intestate succession), six ranks are used to determine who is called upon to inherit the estate, that is, first, second, third, fourth, fifth and sixth, so that they can either accept or relinquish the inheritance (Articles 1808–1818 of the Hellenic Civil Code). The composition of the ranks was substantially reorganised by Law 5303/2026, in particular by strengthening the position of the surviving spouse and by introducing, for the first time, a limited right of the surviving partner of a stable cohabitation outside marriage.

Rules for intestate succession:

- if the first rank is called, the ranks below will be disqualified; in other words, if the heirs of the first class are called upon to inherit, the heirs in second, third, fourth and other ranks

are excluded; and

- if the heirs of one rank decline or forfeit their inheritance in any manner, the heirs of the next rank shall follow.

A. First rank

The descendants of the testator are called upon to join the first rank; in other words, the first rank consists of the children of the deceased who are called upon to either accept or renounce the inheritance. Children inherit in equal portions; in other words, they each receive the same percentage.

If at the time of death of the deceased one of his or her children is no longer alive, but that person has children who are alive (who are the grandchildren of the deceased), the grandchildren shall assume the position of the child no longer alive (succession *per stirpes*).

The surviving spouse of the deceased is called together with the heirs of the first rank and inherits one-third of the estate if there is one child, and one-quarter of the estate if there are two or more children (Article 1810(1) of the Hellenic Civil Code); in other words, where there are two or more children, three-quarters go to the children and one-quarter to the surviving spouse.

B. Second rank

If there are no heirs at the first rank (children and grandchildren of the deceased), then heirs in the second rank are called upon to inherit.

The second rank relates to the parents and siblings of the deceased, who inherit in equal portions. However, if the siblings have died before the deceased, the children of the siblings (nephews and nieces) and their grandchildren are called upon to inherit *per stirpes*, but grandchildren of a sibling are precluded from inheriting where there are children of that sibling (nephews and nieces). Where a parent has predeceased or otherwise fails to inherit, his or her portion accrues in equal shares to the siblings or to the children or grandchildren of siblings; if no siblings or descendants of siblings are called, the portion of that parent accrues to the surviving spouse (Article 1809).

Half-siblings in the estate, alongside parents, full siblings, or the children or grandchildren of the latter, shall receive half the portion corresponding to full siblings. The children or grandchildren of half-siblings who died before the testator also receive a half portion.

The surviving spouse of the deceased in the second rank inherits half the estate of the deceased (Article 1810(1)).

C. Third rank

If there are no relatives of the first and second ranks, the surviving spouse is called as the sole intestate heir to the entire estate (Article 1811 of the Hellenic Civil Code). The grandparents of the deceased and their descendants, who under the previous law were called in the third rank together with the surviving spouse, are now called only in the fourth rank, that is, only where there is no surviving spouse.

D. Fourth rank

The fourth rank consists of the grandfathers and grandmothers of the deceased, and their descendants,

children and grandchildren, namely uncles and aunts (children of grandparents) and first cousins (grandchildren of grandparents) of the deceased (Article 1813 of the Hellenic Civil Code). If the grandfathers and grandmothers from both lines are alive, they alone inherit in equal portions. This excludes the uncles and cousins of the deceased, and the grandfathers and grandmothers from both lines (paternal and maternal) inherit in equal portions.

If the grandfather or grandmother from the paternal or maternal line is not alive, said person's children and grandchildren take up the position of the deceased grandfather or grandmother. Only if the grandfather or grandmother has died will the uncles and cousins appear (in the line of succession).

If there are no children or grandchildren (uncles and cousins of the deceased testator), the portion of the person who has died shall devolve to the grandfather or grandmother in the same line, and if there is no such person, to his or her children and grandchildren.

If the grandfather and grandmother from either the paternal or maternal line is not alive, and there are no children or grandchildren of those persons who have died, only the grandfather or grandmother or their children and grandchildren from the other line inherit.

HOW DO THEY INHERIT AND TO WHAT EXTENT?

The children inherit in equal portions and exclude the grandchildren of the same branch. Grandchildren inherit *per stirpes*.

No surviving spouse can be called together with the fourth rank, since a surviving spouse takes the whole estate in the third rank.

E. Fifth rank

The fifth rank, introduced by Law 5303/2026, consists of the person with whom the deceased was permanently cohabiting outside marriage or a registered partnership (ελεύθερη ένωση). If no spouse and no relative of the deceased is called to the estate, the estate devolves to the surviving partner, provided that the cohabitation lasted for at least the last three years before the death or, without any time requirement, that the partners had children together who have failed to inherit. The partner acquires the estate, with effect from the death, only if the court of the succession, on the partner's application filed within the time limit for renouncing the estate (four months, or one year where the deceased had his or her last domicile abroad or the heir resided abroad), confirms that these conditions are met; the Greek State is summoned to the proceedings (Article 1817(3) of the Hellenic Civil Code and Article 812A of the Hellenic Code of Civil Procedure). The former fourth rank of great-grandparents has been abolished.

RIGHTS OF THE SURVIVING SPOUSE AND OF THE COHABITING PARTNER IRRESPECTIVE OF RANK

Moreover, irrespective of the rank in which he or she is called, the surviving spouse of the deceased takes the furniture, utensils, clothing and other household effects that were being used by the surviving spouse alone or by both spouses; this is a *préciput* (εξαίρετο) (Article 1810(2)).

However, if there are children of the deceased spouse, regard shall be had to their needs where special circumstances so require on grounds of clemency.

The new law adds further protection for the surviving spouse. If the estate includes the property that

served as the main residence of the deceased and the spouse, the surviving spouse is entitled to its exclusive use, free of charge, for one year from the death (Article 1810(3)). Instead of his or her intestate share, the surviving spouse may apply to the court of the succession, within four months from the expiry of the time limit for renunciation, to be awarded a usufruct over assets of the estate; the usufruct is extinguished on the spouse's death and is not transferable (Article 1810(4)). Conversely, the inheritance rights of the surviving spouse, including the *préciput*, are excluded if proceedings for the dissolution of the marriage or of the registered partnership were pending at the time of death; in the case of divorce by consent, the agreement for the dissolution of the marriage must have been concluded or the joint digital declaration filed. Where it was the deceased who had filed the divorce petition, the surviving spouse also loses the lawful portion, but only if the petition was based on a valid ground (Article 1812).

Where no spouse is called, the *préciput* and the one-year right to use the family home pass to the person with whom the deceased was permanently cohabiting outside marriage, provided that the cohabitation lasted for the last three years before the death or that the partners had children together (Article 1817(1) and (2)). Finally, the new law creates a statutory legacy, payable before any other legacy, in favour of a person who, without remuneration and without being legally obliged to do so, cared for the deceased and contributed substantially to meeting his or her needs for at least six months during the last three years before the death; the legacy is a sum of money fixed according to the nature, duration and extent of the care, may be excluded by the testator by will, and may be claimed even by a person who is also an heir or forced heir (Article 1819).

F. Sixth rank

If at the time of devolution of the estate, there is no relative among the persons who can be called upon in law to inherit, nor any spouse or cohabiting partner of the testator, the Greek State shall be called as the intestate heir (Article 1818 of the Hellenic Civil Code).

VIII. Are prenuptial agreements provided for in the Greek jurisdiction?

Prenuptial agreements have no legal effect and are not provided for in Greece as regards the property relations of the spouses during marriage. Where one is entered into, it is null and void as contrary to public policy and morality. The position is now different as regards succession: since 16 September 2026, spouses (like any other persons) may regulate the succession between them by an inheritance contract *mortis causa* or by an advance renunciation of inheritance rights, including the lawful portion, in notarial form (Articles 1798 *et seq* and 1838 *et seq* of the Hellenic Civil Code; see above).

IX. Legal treatment of joint bank accounts for inheritance law purposes under Greek law

The joint bank account is an account with several joint beneficiaries who retain some degree of autonomy so that each of them can withdraw and deposit monies themselves without the consent of the other joint beneficiary.

Under Articles 2 and 3 of Law 5638/1932, Law 2961/2001 and Article 117 of the Law introducing the Hellenic Civil Code, and Article 488 of the Hellenic Civil Code, when one of the joint beneficiaries of the joint bank account passes away, the amount remaining is not inherited by the heirs of the deceased

but goes to the joint beneficiary of the joint account, without any inheritance tax being imposed. However, if the internal relationship between the joint beneficiaries of the joint account – or to put it differently, if the reason the testator placed his or her money in the joint bank account – is an *inter vivos* donation or a donation *mortis causa* (Articles 1998–2000 of the Hellenic Civil Code), the provisions on the lawful portion will apply where such a portion has been affected: the value of the donation is added to the estate for the calculation of the lawful portion and, if the estate is insufficient, the forced heir has a monetary claim against the recipient for the shortfall (Articles 1827 and 1830 of the Hellenic Civil Code).

A. An example

Assume that K has a car, property and joint bank account No 2 with a balance of €50,000 together with his partner, and at the time of his death, his sole heir was his son, C. Article 1844 of the Hellenic Civil Code on *ipso jure* acquisition applies to the car. Articles 1193, 1198 and 1199 of the Hellenic Civil Code on the transcription of acceptance of inheritance and so on, apply to the property. However, the deposits in joint bank account No 2 automatically pass to the surviving joint beneficiary (K's partner) as a non-taxable non-inheritance relationship, unless K had deposited the monies in the bank account by way of donation, which affects the lawful portion to which C is entitled. These comments only apply to joint accounts marked 2, which insinuates that the term in Article 2 had been added to the joint account (ie, 'These deposits may be supplemented by the term that upon the death of any of the beneficiaries the deposit shall automatically devolve to the others right down to the last of them. In this case, the deposit passes to them free of any inheritance tax or other duties. On the contrary, this exemption does not extend to the heirs of the last remaining beneficiary') (see Law 5638/1932 read in conjunction with Article 117 of the Law introducing the Hellenic Civil Code, but not Article 488 of the Hellenic Civil Code).

By contrast, where the joint bank account was not opened under the term in Article 2, if the heirs can prove the level of amounts deposited by the testator (and not his joint beneficiary) in the joint account, they will have a right of recourse against the joint beneficiary based on the internal relationship that tied the testator to the joint beneficiary (and not due to an inheritance right over the joint account that does not exist). For example, if they can prove that, of the €50,000, €30,000 was placed in the joint account by K (and not by his partner) as a contribution to the company, then they can claim the relevant amount on the basis of the internal legal relationship within the company.

X. Operation of a trust under Greek law

Article 1904 of the Hellenic Civil Code states that the testator may oblige the heir to surrender the inheritance acquired or a percentage thereof to another (the beneficiary under trust) after a specific event or specific point in time. As is clear from this provision, in addition to making a person his or her direct heir who immediately acquires the inheritance after the testator's death, the testator can also designate an indirect general successor, the beneficiary under trust, who is heir subject to a deadline/condition precedent, which is met after the death of the testator, which corresponds to a deadline/condition subsequent for installing the initial direct heir. Since the 2026 reform, such a

fideicommissum may be created not only by will but also by inheritance contract *mortis causa* (Article 1798). In order to establish the trust, as is clear from the said provision, it is not necessary to use standard phrases nor even the word 'trust'; that can be done by the testator making an indirect declaration, provided that the will shows the intention of the testator for someone to become his or her heir, only for a specific time period and then for another person to become his or her heir. That intention of the testator may also be expressed in the form of an obligation that requires the encumbered heir to bestow the inheritance or a percentage thereof on another (the beneficiary under trust) provided it is clear that the testator wanted the latter as his general successor, on whom the inheritance will be automatically bestowed at a specific point in time or following an event specified by the testator. Moreover, the content of the will must show the person who is the beneficiary under trust, who may be any person capable of becoming a beneficiary under trust, who at the discretion of the testator is designated as the beneficiary under trust. Moreover, the provisions of Articles 1905–1911 of the Hellenic Civil Code establish interpretative rules under which, in the case of doubt, the persons specified therein are deemed to be beneficiaries under trust.

However, the cases cited in these provisions are indicative only. That is why it is a matter of interpreting the will in each case to determine from the way in which the last will was worded whether there is a general trust contained within it and who the beneficiary under trust is. Besides, as is clear from the provisions of Article 173 of the Hellenic Civil Code, in order to interpret the will, the true intention of the testator must be sought without sticking to the literal meaning of the words, where such an intention is viewed in the subjective sense, not in the objective sense in which the third parties would perceive it, in accordance with transactional good faith. These interpretative rules apply when, in the view of the court, the content of the will does not show the intention of the testator because it was not clearly expressed, created a corresponding doubt or was expressed incompletely, thereby presenting a corresponding void. Thus, in order to find the testator's true intention, the court can even use evidence from texts other than the will itself.

The ruling of the court trying the merits that the provision of the will is either clear or vague and needs to be interpreted, which requires an assessment of the content of the will, is an assessment of the facts and consequently is not subject to review by the Hellenic Supreme Court (Article 561(1) of the Hellenic Code of Civil Procedure). Article 1916 of the Hellenic Civil Code states that devolution of the inheritance to the beneficiary under trust occurs once the heir dies, if the testator did not specify any other event or point in time; under the new law, devolution to the beneficiary under trust is, in any event, frustrated if 30 years elapse from the death of the testator (Article 1916). It is clear from these provisions that, from the moment the inheritance is made to the heir, in other words, from the death of the testator, the beneficiary under trust acquires a right of expectation, under a condition precedent, that the inheritance will devolve to him or her, which could be the subject of a declaratory action under Article 70 of the Hellenic Code of Civil Procedure, if the existence of that inheritance is contested by the trustee (Hellenic Supreme Court Judgment No 617/86 Nomiko Vima Law Review 35.540).

Lastly, it is clear from the provisions of Article 1918(2) of the Hellenic Civil Code that, in the case of inheritance that is subject to a trust, the trustee is not entitled to dispose of the estate for such time

as the trust is 'in existence', and, in particular, until the inheritance devolves to the beneficiary under trust under the relevant provisions of the will, unless that is required by the rules of ordinary management of the estate or the beneficiary under trust has consented (see Hellenic Supreme Court Judgment No 931/2005 EEN Law Review 2006.2641, in the sense that under the provisions of Article 818 of the Hellenic Code of Civil Procedure and Article 1918(2) of the Hellenic Civil Code, the relevant decision lies with the court to which the trustee is obliged to seek recourse). In light of the purpose of the provisions of Article 1904 of the Hellenic Civil Code, the power to dispose of the inheritable estate is limited by law, but such disposal is permitted in the case of the provisions of Article 1920 of the Hellenic Civil Code on restitution of the residuary legacy. Consequently, in the case of a beneficiary under trust who takes up the residuary estate (*a fideicommissum de eo quod supererit*) at the time of the devolution to him or her (namely from the time the heir died) or in the case in which the testator allowed the heir to freely manage the estate, the trustee is entitled to freely dispose of the inheritable assets, in which case, the beneficiary under trust will receive from the estate anything left of the estate following management thereof by the heir.[1]

A. Tax burden

The tax burden in the case of a trust can be summarised as follows (Article 17 of Legislative Decree 118/1973):

- the heir who is trustee has a tax liability from inheriting the inheritance as a usufructuary of the estates covered by the trust; and
- the beneficiary under trust has a tax liability from devolution of the trust as owner of the assets devolving to him or her.

B. Provisions of Article 1920 of the Hellenic Civil Code provide for the case of a residuary legacy

The conditions for the existence of such a type of trust include: (1) the beneficiary under trust receives anything found in the estate at the time of devolution of the estate to him or her; and (2) the heir is granted a right to freely manage the assets. A consequence of that freedom of the trustee is the right to dispose of inherited assets without discrimination as to the grounds for doing so, even by means of *gratis* acts. However, in transactions entered into relating to the trustee's right to dispose of assets, there is no need to include the provision of the last will and testament because the law considers such disposal to be an act of management of the assets.[2]

The testator may include a provision in his or her last will binding the trustee to hand over the inheritance acquired or a percentage thereof to another (the beneficiary under trust) after a specific event or point in time, without that form of the inheritance losing, in accordance with the provisions of Article 1920 of the Hellenic Civil Code, its character, when the testator permits free management of the assets by the heir or the beneficiary of the estate receives whatever is left of the estate at the time of its devolution to him or her (residuary trust).[3]

Assume that there is a testator D, trustee A and person in whose favour a residuary trust has been established, B. Where D: (1) makes A his general trustee; and (2) established a residuary legacy in his

will (Article 1920 of the Hellenic Civil Code) in favour of B, trustee A is entitled to dispose of the assets he inherits in any manner even by means of *gratis* acts (eg, deeds of sale or donation), but the ability to dispose of the assets inherited from the testator via a final testamentary disposition is precluded (ie, he cannot dispose of the inherited assets via a will).[4]

It is worth noting that, if there is a will made by the trustee who wishes to dispose of the inherited assets to another person (of his or her own choosing), it is null and void vis-à-vis the beneficiary under trust and does not generate any legal consequences whatsoever in relation to the devolution of inheritance rights, which are left at the time of the trustee's death which pass *de jure* (mandatorily) only to the person in whose favour the residuary legacy was established.

In a series of judgments (in which the author appeared and successfully represented the defendant association in whose favour a residuary legacy had been established),[5] the courts ruled, inter alia, that: 'Where there is a trustee for which there is a residuary legacy, even when the testator expressly permits the unrestricted and unlimited management of the estate by the trustee in his will, the trustee shall not be entitled to dispose of the inheritable items by a disposition in his own last will and testament.'

Notes

[1] See Apostolos Georgiadis, Michalis P Stathopoulos, Civil Code, Article-by-Article interpretation, vol X, Inheritance Law, Art 1937, p 397, para 1.

[2] See Vathrakokilis, Interpretation of the Hellenic Civil Code, 1939, p 2417; Papachristou, Inheritance Law, 1983, p 442; and Balis, Inheritance Law, 1961, para 291, p 493. Hellenic Supreme Court Judgment No 595/1952, ThXD Law Review 61; Athens Court of Appeal Judgment No 45/57 Nomiko Vima Law Review 5.184; Athens Court of Appeal Judgment No 3096/1951 ArxN Law Review III.191; Athens Court of Appeal Judgment No 3274/1985; Hellenic Supreme Court Judgment No 1747/1990, D/NH Law Review 1992.540; and Athens Court of Appeal Judgment No 2210/2004, among others.

[3] See Hellenic Supreme Court Judgment No 681/1996 Dikeosini Law Review 1998, 1585; EEN Law Review 1998/45. Moreover, as the case law has ruled: 'The trustee is a true and perfect heir, and the beneficiary in trust is the direct general successor of the same testator but subject to a condition precedent' (Georgios Balis, Inheritance Law, paras 284, 285 and 291), see Athens Court of Appeal Judgment No 3142/2003, Dikeosini Law Review 2004, 1485.

[4] See Hellenic Supreme Court Judgment No 1451/1998, Elliniki Dikeosini Law Review 1999, p 799; Hellenic Supreme Court Judgment No 1747/1990, Elliniki Dikeosini Law Review 1992, 540; and Athens Court of Appeal Judgment No 2210/2004, Elliniki Dikeosini Law Review 2006, 265.

[5] See Piraeus Multi-Member Court of First Instance Judgment No 982/2008; and Hellenic Supreme Court Judgment Nos 1158/2013, 1159/2013 and, most recently, 2012/2017.