

07/06/2017

Market: Belgium

## Reform of the Belgian law of succession

A reform of the law of succession was published in a bill submitted to the Parliament in January 2017. It is expected to be voted on at the end of this year with entry into force scheduled for one year later.

The current law of succession is contained in the Civil Code of 1804. However, social reality has changed as the understanding of a conventional family of married parents with children has evolved.

### Concrete proposals

#### 1. Forced heirship rules:

The **children**, the **surviving spouse**, and, in the absence of children, the **(grand)parents**, are entitled to a fixed portion of the estate of the deceased. They are protected against gifts in excess of the freely disposable portion of the estate made by the deceased.

<b>Currently</b>	The reserved portion of the estate for the children varies depending on the number of children.
<b>In future</b>	The reserved portion of the estate will be half of the estate. The freely disposable portion will be the other half of the estate, whatever the number of children. → The deceased will have more freedom to make a gift to a third party or to one, specific child.

#### 2. Consequence of the amendment of the reserved portion of the estate:

<b>Currently</b>	In principle, the reserved portion for heirs consists solely of bare ownership because the surviving spouse has a usufruct right over their portion.
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<b>In future</b>	Children will inherit from their reserved portion of the estate with unrestricted ownership. → The surviving spouse will exercise his or her usufruct right over the freely disposable portion.
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<b>Currently</b>	In principle, the reserved portion of the estate is a portion of the estate composed of goods.
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<b>In future</b>	The reserved portion of the estate will be expressed in value. → More security for beneficiaries in the case of gifts in excess of the freely disposable portion of the estate: Retains the property but pays an amount in value.
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#### 3. Portion for (grand)parents:

<b>Currently</b>	Exists
<b>In future</b>	Will be repealed and replaced in case of financial insufficiency of the (grand)parents by a maintenance obligation in the estate.

#### 4. Valuation of gifts:

<b>Currently</b>	The valuation of gifts made to heirs is done in different ways, depending on whether a gift of movable or immovable property is made.
<b>In future</b>	The same rules of valuation will apply to the calculation of the reduction of gifts to obtain the reserved portion of the estate. → Simplified and standardised. The differentiation will be made only at the time of the gift.



5. Succession agreements:

Currently	Prohibited
In future	<p>It will be possible to draw up a “global succession agreement” binding between parents and children. (family inheritance agreement)</p> <p>Further, a number of “specific agreements” will be authorised: Arrangements on the value of goods gifted, renunciation by a presumed heir of his or her future inheritance rights, granting additional capital to a child with needs, concluding agreements on resumption of a family business, etc.</p>

It is likely that certain provisions will be modified because this is a legislative draft.

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