

"INTERNATIONAL INHERITANCE"**RIGHTS OF CLOSE HEIRS
in the absence of a will****Introduction**

The following comparative table concerns the member countries of the LEXUNION network. It presents the inheritance rights assigned **to the spouse or surviving partner and to the heirs in direct line**, namely descendants and ascendants, when the deceased left no will. The rights of collateral heirs (brothers/sisters, nephews/nieces, etc..) are not considered here so as not to complicate the document.

What is the purpose of this Fact Sheet?

This Fact Sheet aims to present an *overall view of the rights of the heirs in question in all member states of the Lexunion network when the deceased left no will.*

The forthcoming number will examine the indefeasible interests of these same heirs, meaning the minimum share that must go to them, for the case where the deceased has left a will.

The combination of these two documents will enable:

- A comparative analysis of the extent of testamentary freedom,
- An analysis of the appropriateness of writing a will depending on the country of residence,
- An analysis of the appropriateness of having recourse, in an international context, to the choice of law (professio juris) offered by Regulation (EU) 650/2012 on inheritance.

We invite you to consult the professionals of the LEXUNION network to study your actual situation and obtain advice on the issues and appropriateness of a choice of inheritance law.

Abbreviation

n: Number of children of the deceased U: Usufruct BO: Bare ownership FO: Full ownership
N/A: Non Applicable

Legal warning: This Fact Sheet gives general legal information intended to provide an overall view of the legislation applicable to the subjects dealt with in the various member countries of LEXUNION. We monitor the accuracy of the information that it contains and will correct any errors which may be reported to us. However, the information contained in this document in no way constitutes personalised advice which may implicate the liability of the author in any way whatsoever.

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RIGHTS OF CLOSE HEIRS – In the absence of a will
Each person's claims in respect of the estate

| | | | | | | | | |
|----------------|---------------|----------------|--------------|--------------------|-----------------|------------------|--------------------|----------------------|
| | | | | | | | | |
| BELGIUM | FRANCE | GERMANY | ITALY | NETHERLANDS | PORTUGAL | SPAIN (*) | SWITZERLAND | ENGLAND WALES |

SPOUSE

| | | | | | | | | | |
|---|------------|---|---|------------------------------------|---|---|-------|------|--|
| A) When descendants are present | 100% U | 1/4 FO (or 100% U if there are children in common (**)) | If community of property: 1/2 If separation of property: 1/2 if 1 child 1/3 if 2 children *1/4 if 3 or + children | 1/2 if 1 child 1/3 if > 1 child | 100% (subject to claim of descendants (**)) | 1/2 if 1 child 1/3 if 2 children 1/4 if ≥3 children | 1/3 U | 1/2 | Personal effects + £322,000 + 1/2 of the remaining amount to be shared (*) |
| B) With ascendants and without descendants | 100% U (*) | 1/2 if 2 parents 3/4 if 1 parent | If community of property 3/4 If separation of property 1/2 | 2/3 | 100% | 100% | 1/2 U | 3/4 | 100% |
| C) Without descendants or ascendants | 100% | 100% | 100% (*) | 100% | 100% | 100% | 100% | 100% | 100% |

DESCENDANTS

A) With spouse

| | | | | | | | | | |
|--------------------|---------|---|---|------|-----------------------------|----------------------------------|-----------------------|------|---|
| 1 child | 100% BO | 3/4 FO (or 100% BO depending on the couple's choice and if there are children in common (**)) | 1/2 | 1/2 | Personal right of 1/2 (*) | 1/2 | 2/3 FO + 1/3 BO | 1/2 | 100% of the remaining amount to be shared (*) |
| 2 children | 1/2 BO | 3/8 FO (or 50% BO depending on the couple's choice and if there are children in common (**)) | If community of property 1/4 If separation of property 1/3 | 1/3 | Personal right of 1/3 (*) | 1/3 | (2/3 FO + 1/3 BO) / 2 | 1/4 | 1/2 of the remaining amount to be shared (*) |
| 3+ children | 1/n BO | 3/4 FO/n (or 100% BO/n depending on the couple's choice and if there are children in common (**)) | If community of property 1/2n If separation of property 3/4n | 2/3n | Personal right of 1/n+1 (*) | 1/4 if 3 children 3/4n if n>3 | (2/3 FO + 1/3 BO) / n | 1/2n | 1/n of the remaining amount to be shared (*) |

B) Without spouse

| | | | | | | | | | |
|--------------------|------|------|------|------|------|------|------|------|------|
| 1 child | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| 2 children | 1/2 | 1/2 | 1/2 | 1/2 | 1/2 | 1/2 | 1/2 | 1/2 | 1/2 |
| 3+ children | 1/n | 1/n | 1/n | 1/n | 1/n | 1/n | 1/n | 1/n | 1/n |

ASCENDANTS (*)

| | | | | | | | | | |
|---------------------------------------|---------|----------------|---|------|-----------|------|-----------------|------|------|
| A) In the presence of a spouse | 100% BO | 1/4 per parent | If community of property 1/4 If separation of property 1/2 | 1/3 | N/A | N/A | 1/2 FO + 1/2 BO | 1/4 | N/A |
| B) Without spouse | 100% | 100% (**) | 100% | 100% | 100% (**) | 100% | 100% | 100% | 100% |

| | | | | | | | | | |
|---------------------------------------|---|---|--|--|--|--|--|--|--|
| (*) And in the absence of descendants | (*) + FO of the deceased's share in the joint or undivided property | (*) The surviving spouse has no choice if there are non-common children (**) To be shared between (i) the ascendants and (ii) the brothers and sisters and their descendants | (*) Provided that the deceased has no brothers or sisters, nor any nephews or nieces | | (*) Claim of the descendants payable only in case of bankruptcy or death of the surviving spouse Exception to this rule in the event of remarriage (**) To be shared between the ascendants (min. 1/4 per parent) and the deceased's brothers and sisters, if any | | (*) Under general law, it should be noted that there are significant differences between the various local laws governing succession | | (*) The spouse receives the deceased's personal effects directly plus £322k. Each person's share is then calculated on the basis of the remaining amount, i.e. after deducting the spouse's reserved share |
|---------------------------------------|---|---|--|--|--|--|--|--|--|