

SWISS INHERITANCE LAW– BEWARE CHANGE IS COMING !

The current Swiss inheritance Law has lived ! With no major reform for more than hundred years, the current rules do not reflect our society anymore. The classic family pattern which the Swiss inheritance Law was based on, is no longer suited to the new family models that have arisen during the past hundred years. Marriage is thus no longer a rule of life as many couples decide not to marry and divorces have increased considerably in parallel with women's access to work and financial independence. Patchwork families due to remarriages have also risen significantly over the past 100 years.

The revision of the Swiss inheritance Law aims primarily to increase self-determination for testators.

The Swiss Federal Parliament adopted amendments to the inheritance dispositions included in the Swiss Civil Code last December. The publication took place on 31st December 2020 with a referendum deadline to 10th April 2021. The new changes are not expected to come into force before January 2022.

The changes aim to give the testators more freedom by lowering the protected share that is provided by law for some heirs. Thus, under current legal provisions the surviving spouse, the surviving registered partner, the *de cuius's* issue and under certain conditions the parents are entitled to a portion of the estate (if the testator does not have an issue).

Thus, the current inheritance Law requires that the children receive $\frac{3}{4}$ of the statutory share of inheritance, $\frac{1}{2}$ of the statutory share of inheritance for the spouse or registered partner and $\frac{1}{2}$ of the statutory share of inheritance for the parents. With the revision, the portion to which the children will be entitled goes down to $\frac{1}{2}$ of the statutory share of inheritance and the parents lose their protected share. The protected portion allocated to the spouse or registered partner will however remain.

The amended legislation hasn't gone as far as enabling partners neither married nor registered to inherit from their partner. Life partners will therefore have to anticipate the devolution of their estate to have each other inherit by using the disposable portion of the estate which is larger than in the current Law, going from $\frac{1}{4}$ to $\frac{1}{2}$.

With regards to divorce, the new provisions bring a significant change, since at certain conditions, the surviving spouse no longer benefits from the protected share during the divorce proceedings should the other spouse die during these proceedings, which is the case with the current provisions, the surviving spouse being entitled to their portion until the divorce is pronounced.

Other changes are to come regarding technical aspects in relation to a simplification of corporate succession issues linked to family-run businesses.

Given the revised inheritance Law provisions to come, and since the new Law does not provide for transitional rules, it is crucial to anticipate and review your client's estate planning to check if the current testamentary dispositions made by the testators are in accordance with the new rules and ultimately match their wishes.

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