

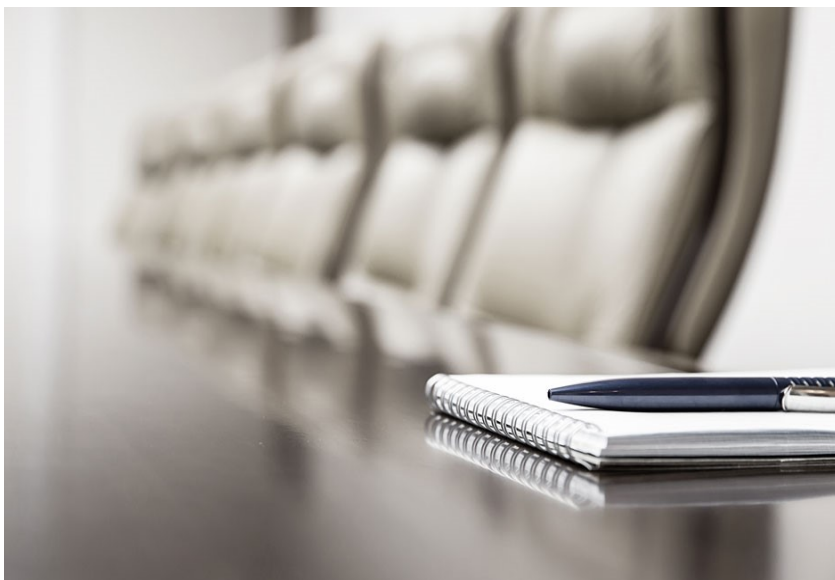
## Welcome to our Newsletter

Our Law Offices specialize in providing legal services to Greek expatriates abroad as well as foreigners living in Greece.

Our team consists of highly skilled lawyers with postgraduate studies and professional experience in the United States, Greece, France and Great Britain. Attorney **Effie Spilioti** is among the lawyers that are referred to by the U.S. Embassy in Athens to U.S. citizens that seek advice with their legal matters in Greece. Attorneys **Evi Nastou** and **Kalliopi Petzetaki** are both Fulbright scholars and members of the Athens and New York Bar Associations.

*Greek law can often be complicated, especially to those who have lived abroad. The purpose of our newsletter is to provide information to our readers. In each issue, we will review legal issues that are of a general interest.*

*For any further information that you might need, do contact us at [info@spnlaw.gr](mailto:info@spnlaw.gr).*



### In This Issue:

- **Family Law**: Parents with custody of children relocating abroad
- **Property Law** : Who is responsible for the defects and restoration expenses of leased property?
- **Inheritance Law**:
- An overview of Greek Inheritance law
- Inheriting real estate in Greece from a non– Greek
- European Union Regulation 650/2012 in cross-border inheritance issues

## **Family Law: In the case that I have been granted custody, is it possible to relocate abroad with my child?**

According to the Greek Civil Code, child custody is one of the three functions that compose parental authority. More specifically, the functions of parental authority are the following : (a) the right over the physical custody of the child, (b) the right to represent the child in regards to the management of its property and ( c) the right of representation of the child in any matter, legal transaction or court action related to the child's person and/or to the child's property. When custody has been granted with a court decision to one parent, then this is the parent who has the power to decide on where the child will reside as well as other day-to-day issues. Other issues that concern the other two functions of parental authority, still require a joint decision of both parents.



As we have mentioned before, in order for the court to issue a judgment regarding the parent who will be granted custody, it shall not discriminate on the basis of gender and will take into consideration the relation of the child with the parents, friends, neighborhood, schools etc. The most important factor based on which the court rules is the child's best interest. It also should be noted that the parent with whom the child does not reside as well as the grandparents and great-grandparents of the child, also have a right to communication with the child. These issues are decided upon by a virtue of a written agreement of the parents or, in the case of their disagreement, by a court decision.

**According to Greek law, the parent who has been granted the custody of a child has the right to determine its place of residence, even if the residence is located in another country. As a general note, the other parent should be notified in advance of this relocation. In such a case, the parent that has the right to communicate with the child, retains the right to claim that parental custody was not exercised to the benefit of the child and request that custody be taken away from the other parent. The parent who has custody, must be able to prove that this change of residence serves the best interests of the child and that the right to custody should remain unchanged.**

*\*The above right to relocate with a child should not be associated with checks that are often conducted at airports which request that the parent traveling alone prove that the other parent is aware of such travels. These checks vary from airport to airport and take place in order to prevent cases of international child abduction.*

### ***Is it necessary for a lease agreement to be drawn up in writing?***

According to Greek Law, it is not mandatory for lease agreements to be drawn up in writing. Verbal agreements are valid and binding for both parties. Nevertheless, a written agreement is considered to be to the benefit to both the landlord and the tenant, since all issues that have been agreed upon between the parties will be clearly stated in this document. In practice, this written form is very common practice in commercial leases in order to ensure that the obligations of the parties have been accurately defined. (liabilities, duration of lease, additional expenses etc)

Furthermore, it should be noted that, a written agreement is to the landlord's benefit in the case that the rent is not paid and the tenant must be evicted. More specifically, some courts require a written agreement in order to issue a quick court order for the eviction of the tenant (and not only the receipt that the lease of the property has been registered in the Greek Tax Registry). Otherwise, if there is no written agreement, the lengthy process of a court hearing is required and the eviction process will be significantly delayed.

### **Property Law: Who is responsible for the defects and expenses of leased property?**

#### **What are the rights of the tenant in the case of defects of the leased property?**

Quite often, the issue of who is responsible for defects of leased property arises. According to Greek law, the landlord is responsible to provide the leased property in a proper and agreed upon state of use for the tenant as well as to maintain it as such throughout the period of the lease. In the case that a defect prohibits the use of the property and depending on the extent of this prohibition, the tenant has the following options: (a) to proceed with the restoration of the defect and request the expenses from the landlord or (b) to request a reduction or even the non-payment of the rent or (c) if the situation is not rectified by the landlord, the tenant has the right to terminate the lease.

#### **What are the rights of the tenant in the case of restoration or when additions are made to the property?**

As mentioned above, it is the responsibility of the landlord to keep the leased property in a proper and agreed upon state of use. In the case that the tenant restores a defect that is considered to be necessary for the proper use of the property ( «αναγκαίες δαπάνες» i.e. restoration of plumbing system), then he is entitled to request these expenses from the landlord.

It should be noted that the tenant is not liable for damage that takes place to the property and is attributed to daily and agreed upon use of the property.

Upon the termination of the lease and in the case that the tenant has made expenses that add value to the property, ( «επιωφελείς δαπάνες» i.e. placement of an air-condition etc.), then he is entitled to remove such additions (and restore possible damage) or to request the relative expenses from the landlord.

*\*It should be clarified that the tenant does not have any of the above rights in case that the defect was caused by a misuse of the property. It is also stressed that the above are the general principles of law and a lease agreement could provide otherwise. Therefore, when faced with such situations, either as a tenant or as a landlord, one must first examine what has been particularly agreed upon between the parties in the lease agreement.*



## Inheritance Law in Greece:

### An overview of the most common legal issues

For most Greek expatriates abroad as well for those of us living in Greece, there will be a time where we will be involved in the procedure of inheriting a Greek relative. The following is a guide to the basic principles of Greek inheritance law. In future issues we will examine in detail the various topics that are mentioned below.

#### **What is included in the estate according to Greek law?**

**It is very important to note that an estate includes assets as well as liabilities of the deceased.**

The estate may include real estate or other assets such as vehicles, bank accounts etc. The liabilities of the estate may include amounts owed to the Greek tax office, or to other third parties.

#### **I just have been notified that my Greek relative has passed away and that I am an heir. What are the next steps?**

Inheritance law is often complicated and each situation is different. In the recent years of the Greek crisis, many have renounced their inheritance in cases where the liabilities of the estate exceeded its worth. For example, if you inherit property there might be liens of third parties on the property, illegal structures that require a costly legalization process etc. Other property such as saving accounts, might also be burdened with rights of third parties due to i.e. amounts owed to pension funds or the Greek State. When informed that you are an heir to an estate, it is especially important to seek immediate legal assistance from an experienced attorney that practices Greek law, who will inform you of your rights and obligations and will guide you according to your particular situation.

#### **What types of succession are there in inheritance?**

There are two types of succession:

a) Succession by will and b) In cases where there is no will, the will has been deemed invalid by a court or the heir has renounced the inheritance from the will, intestate succession will take place by virtue of law.

#### **What types of wills are there?**

Wills may be entirely handwritten by the testator (a "holographic" will) or executed before a public notary in the presence of witnesses. The public notary or any person who has access to a deceased person's handwritten will, has a legal obligation to notify the Probate Court about the existence of the will and submit to it the original document. The Court will then declare it public and accessible to all.

#### **What if the deceased has not left a will?**

In the cases that there is no will or if it has been nullified or settles only a part of the estate, a person is considered to have passed away intestate and succession will be regulated by the provisions of the law. Greek law provides for six categories of legal heirs. If there are no relatives, then the Greek State will receive the estate.

## **What are the deadlines to renounce or accept the inheritance?**

An heir must bear in mind that strict deadlines are applicable in order to renounce the estate: there is a time period of four months for the heirs that are residents of Greece and twelve months for those that live abroad. The time period is considered to begin with the death of the person that is to be inherited unless the heir can prove that he found out about the death at a later time. In such a case, the aforementioned time period begins from the time he found out about the inheritance. If succession takes place by virtue of a will, then the above mentioned time periods will begin after a court decision is issued that probates the will.

Upon the lapse of the above time periods and in the case that the inheritance is not explicitly renounced, then it is considered that the heir has accepted the inheritance. The same applies in the case that, prior to the expiration of the above time periods, the heir proceeds with actions that are considered as a declaration of his or her acceptance of the inheritance.

Six months following the death or the publication of the will, the heirs must file a tax declaration at the Tax Office and pay inheritance tax. Those who live abroad can extend this deadline under certain circumstances to twelve months and heirs can independently file the acceptance of their portion.

### **A. What happens when the deceased is a foreigner and real estate property that is located in Greece is inherited?**

According to article 28 of the Greek Civil Code, the applicable law of inheritance is the law of the nationality of the deceased at the time of death. Therefore, if the deceased was of a foreign nationality, the laws of this country will apply in determining the legal matters of the inheritance. (designation of heirs, validity of the will etc.) There is one exception to this rule: In case that real estate property is inherited in Greece, Greek law will be applied to all issues pertaining to the property. For example, the deceased was of a foreign nationality and designated that his heir will inherit a house in Greece. Foreign law will be applied in order to determine if this heir is entitled to inherit, to determine the validity of the will etc. but Greek law will set forth the rules that regard the registration of the property at the Land Registry office, the rights of the heir regarding the legal protection of the inherited property, property tax issues etc.

### **B. The application of European Union Regulation 650/2012 to cross- border successions within the European Union**

European Union Regulation 650/2012 aims at unifying and facilitating the succession process on a cross- border basis within the European Union. These rules apply to the succession of those who die on or after 17 August 2015. According to the Regulation, the courts of the EU country where the person usually lived at the time of death are the competent courts to deal with the inheritance and they will apply the law of that EU country. However, the testator can choose the law of his/her country of nationality as the applicable law even if it was not their place of usual residence.

There are certain exceptions to the above and in the case that real estate property is inherited in Greece, Greek law will be applied to all issues pertaining to the property. (as mentioned in "A" above)



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