

## **Significant Changes of Right of Survivorship in the New Civil Code**

**The rules of right of survivorship will change to a significant extent with the new Civil Code taking effect, calls the expert of Kovács Réti Szegheő Attorneys at Law the attention of origo. The reason underlying the change of rules was the realisation that the descendants currently due to the widow(er)'s right of survivorship could only acquire their inheritance only on the elapse of a long time after the death of their ascendant, pointed dr. Arvid Hauck out.**

It is probably widely known that in the case of the decedent's decease according to the order of legal succession order laid down in the Civil Code, in the absence of a will, primarily the children of the decedent shall inherit noting that the surviving spouse (or surviving civil partner) in respect of all assets not inherited by him/her shall be subject to usufruct called right of survivorship.

This right of survivorship, under the currently effective rules shall not last for an infinite period of time, but until the widow(er) remarries or forms another civil partnership. The question is, how this new rule changes with the introduction of the new Civil Code on 15 March, 2014, underlined the expert of Kovács Réti Szegheő Attorneys at Law.

### **What Will the Widow(er) Be Entitled To?**

The rules of right of survivorship will change significantly with the new Civil Code taking effect. The order of legal succession will not change in such respect that primarily the decedent's children will inherit however, the decedent's spouse will also be entitled to, on the one hand, usufruct on the dwelling jointly occupied by the decedent and the widow(er), along with its furnishings and household accessories and on the other hand, one child's share from the remaining part of the inheritance.

According to Dr. Arvid Hauck, the reason for the change of rules is such realisation that the previous regulation on several occasions lead to such inequitable consequences that the descendants were only able to acquire their inheritance only a long time after the death of ascendants and could not benefit from the cash, bank deposit etc. for a long time.

The claim of the widow(er) to stay in the residence he or she get used to live is a significant claim which is intended to be ensured by the legislator.

### **Interpretation of Shared Dwelling and Furnishings**

Apparently, adapting the new rules to the individual actual cases is awaiting the operation of law, so we may not know how the judicial practice will interpret the shared dwelling or the pertaining furnishings or household accessories.

According to the expert of Kovács Réti Szegheő, taking account of the justification attached to the legal rule, dwelling may not be the 'flat' according to the categorisation of the real estate registration, but the facility used for the purpose of dwelling irrespective of its categorisation.



In the case of furnishings and household accessories the objects used for the purpose of dwelling shall be meant, so for instance, excluded from this scope are the set of winter tyres kept in a downtown condominium flat cellar.

It is important to emphasise that the right of survivorship is “for life”, i.e. it shall not be terminated in the event of entry into marriage later. The widow(er) inherits, in addition to the usufruct of shared dwelling and the pertaining furnishings and household accessories, in respect of which he/she does not inherit usufruct shall inherit one child’s portion, i.e. he/she will inherit so much as would be inherited by a child (in case of one decedent, half, in case of two decedents, one-third etc.)

### **Registered Partners**

According to Dr. Arvid Hauck, it is worthy of noting that the new law explicitly refers to spouses but not registered partners which may create the impression as if registered partners were not ensured right of survival.

However, albeit the above, spouses shall be understood to mean registered partners too, having regard to the fact that the Act 2009 of XXIX on Registered Partners and the other rules amending the related laws and those seeking to make the certification of registered partnership simpler explicitly prescribe several very important things.

So it explicitly stipulates that unless otherwise provided by the law or unless the application of such rule is expressly excluded by this act, the rules of marriage shall be adequately applicable for the civil union of partners while those of surviving spouse are adequately applicable for the deceased person’s surviving registered partner.

### **The Order of Legal Succession Changes**

It is worthy of emphasising that the order of legal succession will change. According to the currently effective provisions, in the absence of descendants, the surviving spouse will inherit.

Pursuant to the new rules, if there is no descendant or such may not inherit, the decedent’s spouse will inherit the dwelling shared with the decedent and the pertaining furnishings and household accessories in addition to half of the inheritance however, the remaining half shall be inherited by the decedent’s parents in equal proportions.

According to the new rules of the new Civil Code, in the absence of descendants and parents or if such may not inherit, the spouse of the decedent shall be the sole heir, revealed finally the expert of Kovács Réti Szegheő Attorneys at Law.