

The law governing wills and intestate succession in Germany is found primarily in the German Civil Code (Bürgerliches Gesetzbuch, BGB). Inheritance law is federal law in Germany. If German law is applicable, it is irrelevant in which state (Bundesland) of Germany decedent was domiciled and where in Germany decedent's assets are located.

Intestacy occurs if a decedent left no will, or if the will was invalid. Under German estate and inheritance laws heirs become owners of all assets and debtors of all obligations in the moment of death. Unless specifically ordered by the decedent, which is unusual in Germany, no personal representative will be appointed, and the estate is not subject to administration.

German intestacy laws follow a distribution scheme with several classes of heirs at law who will take the entire estate if there is no surviving spouse, or the remaining part of the estate which does not go to the surviving spouse if descendant was married at the time of death.

Issue of the decedent are in a class one (children, grandchildren etc.). If decedent is survived by children they take equally. Children of a predeceased child equally take their parent's share.

Decedent's parents and their issue are in class two. If decedent had no children, the surviving parents take all in equal shares. If the decedent is survived by only one parent but not by siblings (children of his parents), the surviving parent takes all. If decedent is survived by one parent and by siblings, the surviving parent receives one half and decedent's siblings receive one half in equal shares.

Decedent's grandparents and their issue (decedent's aunts, uncles, cousins etc.) are in class three, decedent's great grandparents and their issue are in class four.

Immediate relatives exclude more remote members of the same class or relatives of a more remote class from succession. Decedent's parents do not inherit if decedent has surviving children, decedent's siblings do not inherit if both parents are still alive, decedent's grandparents, uncles, aunts, cousins etc. do not inherit if decedent is survived by his parents or siblings.

The intestate share of the surviving spouse depends on whether the decedent is survived by children, parents, siblings or grandparents. If decedent is survived by children (or issue of predeceased children) the surviving spouse takes one half of the estate and the children take the other half in equal shares.

If the decedent is not survived by children but parents, siblings or grandparents, the surviving spouse takes 3/4 of the estate and the surviving parents, siblings or grandparents take 1/4 according to the rules of priority outlined above.

This will be the result in the vast majority of cases. The distribution scheme will be different and more complicated if the surviving spouse does not become an heir, or if decedent and the surviving spouse had premarital or postmarital agreement affecting the characterization of property acquired after marriage.

The above rules of intestate succession only apply if, or to the extent that, decedent has not disposed of his estate in a valid will.

However, under German law of the testator cannot entirely disinherit his spouse or children unless specific circumstances are present and strict requirements are met. In most cases, a disinherited child, spouse or parent will still be able to claim a compulsory share of the estate.