

## The Right of Legal Heirs Deriving from the Life Insurance Contract

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**Abstract:** The financial future of our loved ones needs to be ensured, but to be able to achieve this aspect when death occurs, it is necessary to know the procedure and the legal ways whereby we can leave our assets as an inheritance to the family or the loved ones. In the case of the life insurance contract, the insured person is the person able to decide who can be the beneficiary, in the circumstances whereby the death of the insured person occurs. Also, during the performance of the life insurance contract, the insured can change the beneficiary at any time, only by filling in a change form or designation of beneficiary, the insurance company not being able to intervene in this process. The beneficiary of an insurance contract may be designated from the time of his/her life by testamentary provision or legal provision, subject to the succession procedure. In practice, when the death of a person occurs, the legal procedure for distributing the inheritance to the beneficiaries intervenes, but when we talk about life insurance, the beneficiary of the policy receives the amount established in the insurance contract regardless of whether he/she is a legal heir or testamentary.

**Keywords:** contract; insured; beneficiary; death; heir

### 1. Introduction

Succession, according to the provisions of article 953, Civil Code, is defined as "the transmission of the patrimony of a natural person who died to one or more living persons" and the right to inheritance is conferred by the Constitution, according to the provisions of art. 46.

Legal inheritance is a "way of acquiring property rights" by law, in persons with a succession vocation. The right to legal inheritance through the life insurance contract occurs when "the transfer of the estate takes place under the law" if no beneficiaries have been appointed in the insurance contract.

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For the legal inheritance to be fulfilled, it is necessary for the legal heirs to fulfill the condition of having the succession capacity, of having a succession vocation, not to be unworthy and last but not least, not to have been removed from inheritance by exheredation.

## 2. Conditions of Inheritance Rights

Given that, when issuing the life insurance contract, the insured will not appoint a beneficiary of the contract and during the period of the contract, the death of the insured occurs, legal succession vocation will have "people who are related to the deceased, i.e., relatives from marriage, out of marriage and adoption and, with them, the surviving spouse of the deceased".

The inheritance transmission is conditioned by the principle of *mortis causa* which "produces effects in the event of the person's death", the universal principle establishing "the entire patrimony of the deceased natural person", by unity "determined by the unitary character of a person's patrimony" and by indivisibility, given that "acceptance or renunciation of inheritance cannot concern only a part of the inheritance, but the whole legacy to which the successor has a vocation".

In order to determine a concrete order of calling for inheritance, the law determines the application of the principles in the following order:

1. "the priority principle of the heir class - class I removes class II from inheritance etc.
2. the principle of kinship degree proximity - after choosing the heir class, the relatives closer in the kinship degree to the deceased remove the others.
3. the principle of equality between relatives of the same class and of the same degree - the inheritance is divided equally".

The succession vocation will be established when the death of the person who has the capacity as insured occurs and, according to "art. 964, para. (1), art.975-983" succession vocations are subject to the succession procedure and will be applied to the succession classes, according to the classification of the "heir classes":

- "Class I, class of descendants in a straight line, consisting of children, grandchildren, great-grandchildren, etc. of the deceased, without limit in grade (endlessly)
- Class II, class (mixed) of privileged ascendants (parents of the deceased) and privileged collaterals (brothers and sisters of the deceased and descendants up to Class IV including )

- Class III, class of ordinary ascendants (grandparents, ancestors, etc. of the deceased, without limit in class)
- Class IV, ordinary collateral class (uncles and aunts, primary cousins and great uncles and aunts (grandparents' brothers / sisters) of the deceased".

Compared to the contractual conditions of a life insurance contract, the designated beneficiaries, relatives or third parties without a degree of kinship with the insured, they have the right to collect the insurance indemnity at the time of the death risk of the insured and under these conditions, the legal heirs no longer have a succession vocation.

During the life insurance contract, the insured has the right to change the beneficiaries of the insurance contract in written form whenever he/she wishes, without being able to indicate the insurer or the consulting distributor, the beneficiary of the contract. If several beneficiaries are appointed in the insurance contract without indicating the insurance allowance quotas for the risk of death, the beneficiaries have equal rights.

### **3. Successive Representation in the Case of Legal Heirs**

#### **I. When the Deceased was Married**

- and at the date of death the surviving spouse is alive, the share of inheritance is  $\frac{1}{4}$  from the estate.
- and at the time of death, he/she had children alive, the share of inheritance is  $\frac{3}{4}$  from the estate.
- and had no living descendants or parents at the time of death or had no descendants or brothers or grandchildren of a living brother at the time of death, the inheritance share for the surviving spouse is  $\frac{1}{2}$  from the estate and for siblings or parents  $\frac{1}{2}$  from the estate.
- and had no descendants or parents or siblings alive at the time of death, but had grandchildren of brother (and stepchildren), the share of the inheritance for the surviving spouse is  $\frac{1}{2}$  from the estate.

Given that stepbrothers also participate in the estate, "1/2 odds are inherited on lines: 1/2 of this (1/4 of the inheritance) is divided on the paternal line, between siblings after father and good siblings and 1/2 (1/4 of the inheritance) on the maternal line, between siblings and good siblings".

- and the deceased had no descendants, but had a parent and one or more living brothers, the inheritance share for the surviving spouse is  $\frac{1}{3}$  of the

estate, for the living parent the odds are  $1/6$  and for the brothers the inheritance share is  $1/2$ .

## II. When the Deceased was not Married

- and had no descendants at the time of death, but had a parent and one or more living brother's grandchildren, the parent inherited the  $1/4$  of the estate and the grandchildren of the brother have the right to inherit a share of  $3/4$  of the fortune, divided equally among themselves;

Given that "stepbrother's grandchildren also exist, the odds of  $3/4$  of the estate will be divided into lines: half ( $3/8$ ) on the paternal line, between grandchildren deferred by father and good brother, and the other half ( $3/8$ ) on the maternal line, between the grandchildren of the maternal brother and those of the biological brother"

- and had no descendants at the time of death, but had parents and at least one living brother, the parents inherit the  $1/2$  share of the fortune, and the brothers inherit the other  $1/2$  of the inheritance, divided equally among themselves. The heirs who are entitled to a portion of an inheritance: the spouse, the privileged descendants, and ascendants (they have the right to  $1/2$  of their legal share, even if they are disinherited).

## 4. Analysis Report of the Results Obtained by Applying the Analysis Questionnaire regarding the Designation of a Beneficiary in a Life Insurance Contract

The main purpose of the questionnaire designed in this research is to determine the degree of knowledge of the essential information regarding the designation of a beneficiary in a life insurance contract. It was filled in by a number of 26 people, and the results obtained are presented below.

In the figure below (figure 1) one can see how respondents are structured according to the age category they have; we can say that the category of those aged between 31 and 40 is predominant.

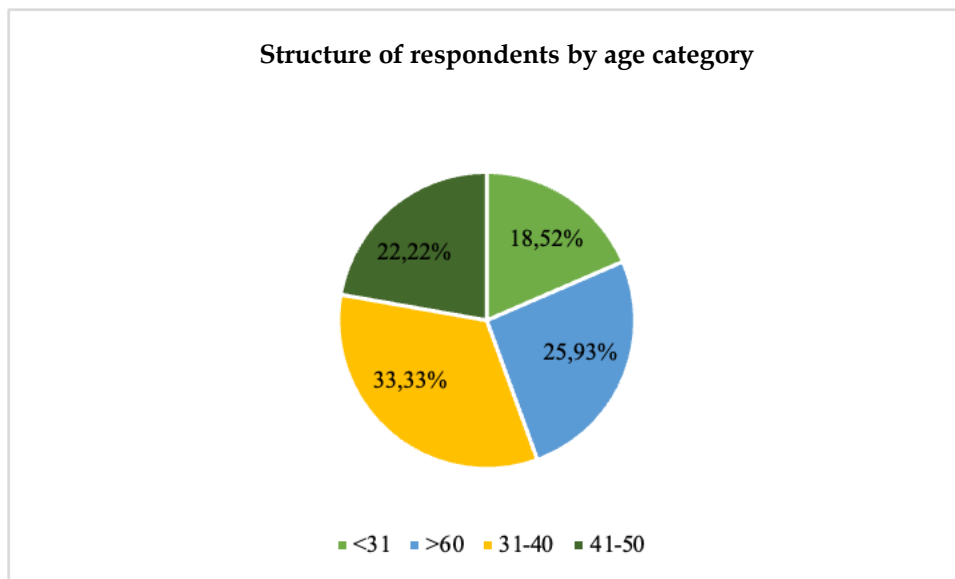


Figure 1. Structure of respondents by age category

The largest majority of respondents are women, as shown in Figure 2.

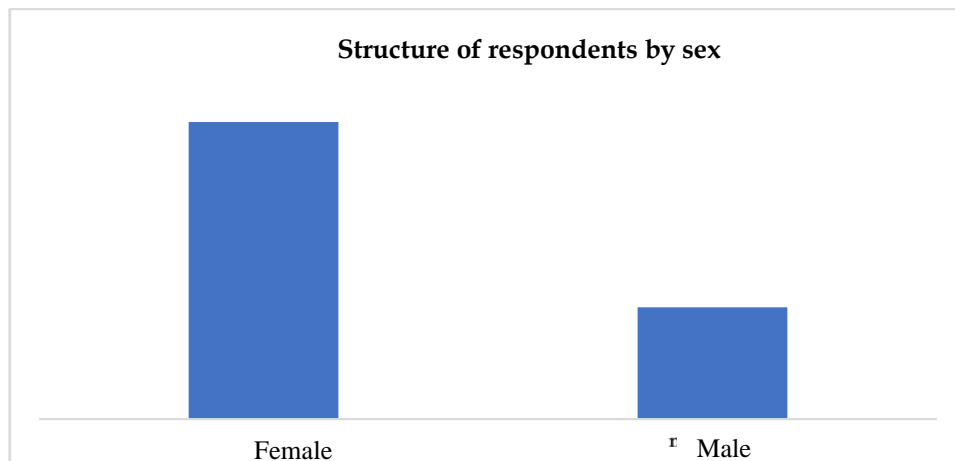


Figure 2. Structure of respondents by sex

Depending on the level of education they have, the respondents are distributed as follows: 40.74% people have university studies, the same percentage being held by secondary school studies, 14.81% have middle school studies, and the rest only primary studies (figure 3).

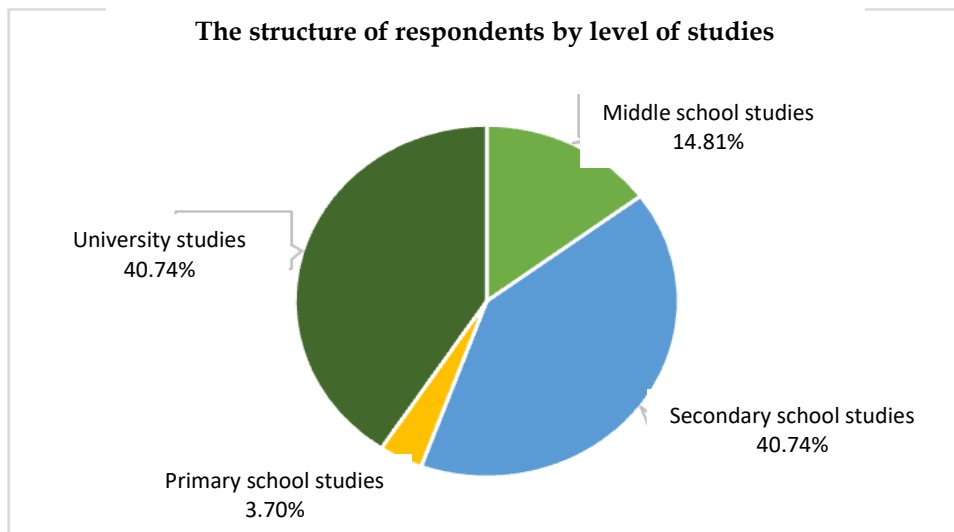


Figure 3. The structure of respondents by level of studies

Depending on the occupation of the respondents, they are distributed as it can be seen in Figure 4: 9 people are employed full time, 7 are retired, 5 are freelancers, 3 are part-time employees and 3 are unemployed.

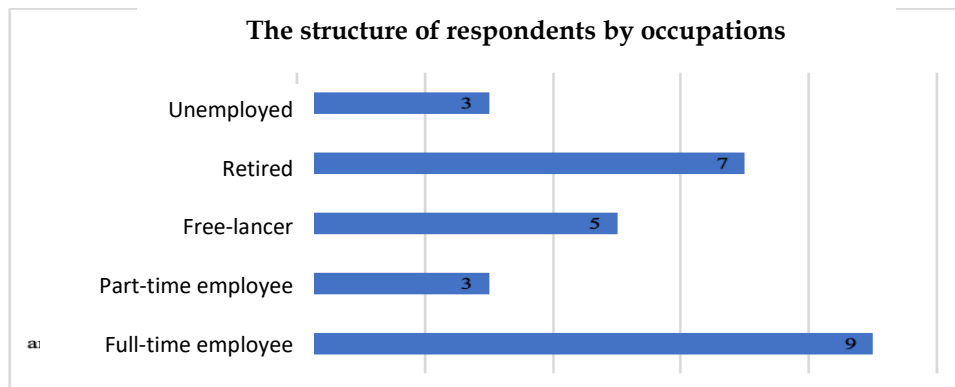


Figure 4. Structure of respondents by occupations

The notion of legal heir is quite well known among the people who answered the questionnaire; thus, there are only 2 people who have minimum knowledge (figure 5).

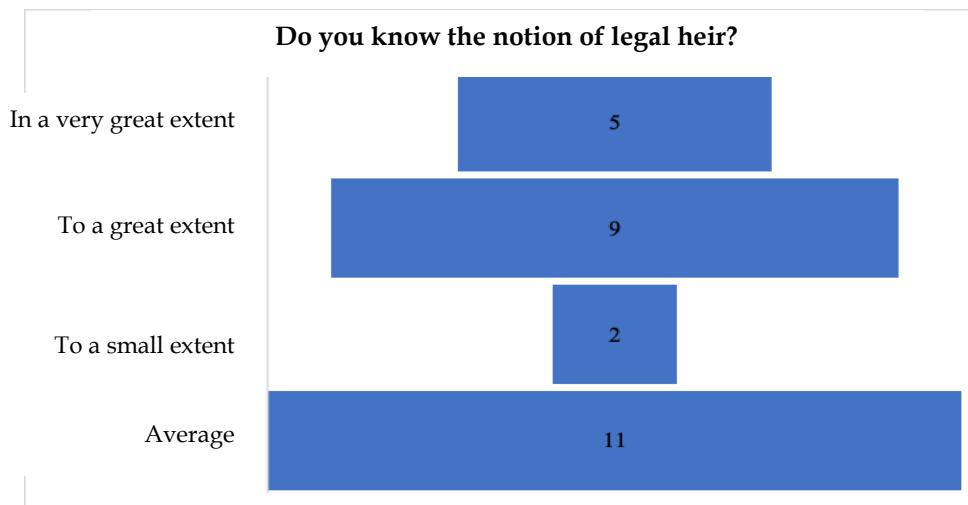


Figure 5. Distribution of answers to the question "Do you know the notion of legal heir?"

The notion of designated beneficiary within a life insurance contract, not so well known (figure 6).

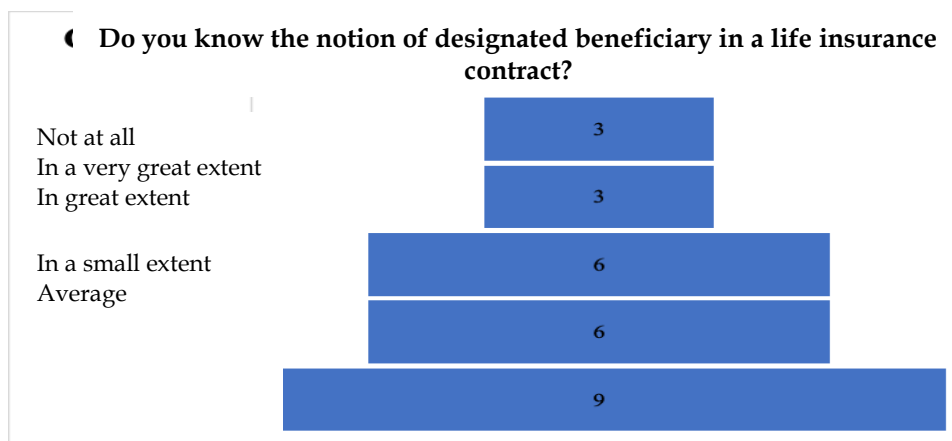
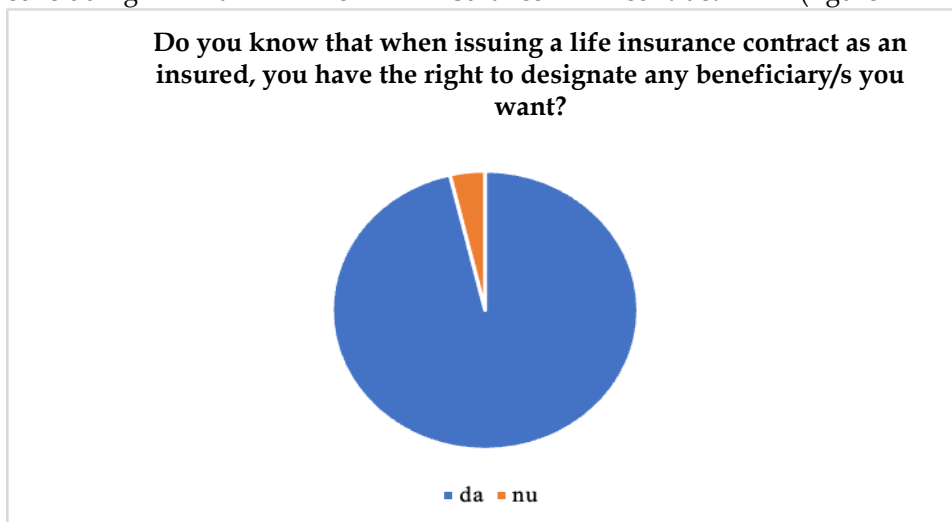


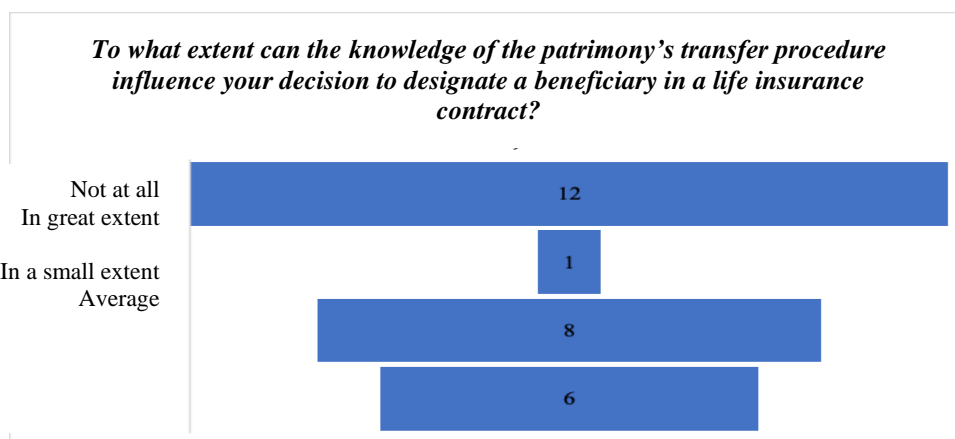
Figure 6. Distribution of answers to the question "Do you know the notion of designated beneficiary in a life insurance contract?"

Many respondents know that they can appoint one or more beneficiaries when concluding a life insurance contract (figure 7).



**Figure 7. Distribution of answers to the question “Do you know that when issuing a life insurance contract as an insured, you have the right to designate any beneficiary/s you want?”**

Figure 8 reveals that most respondents are not influenced by the procedure of transmitting the patrimony.

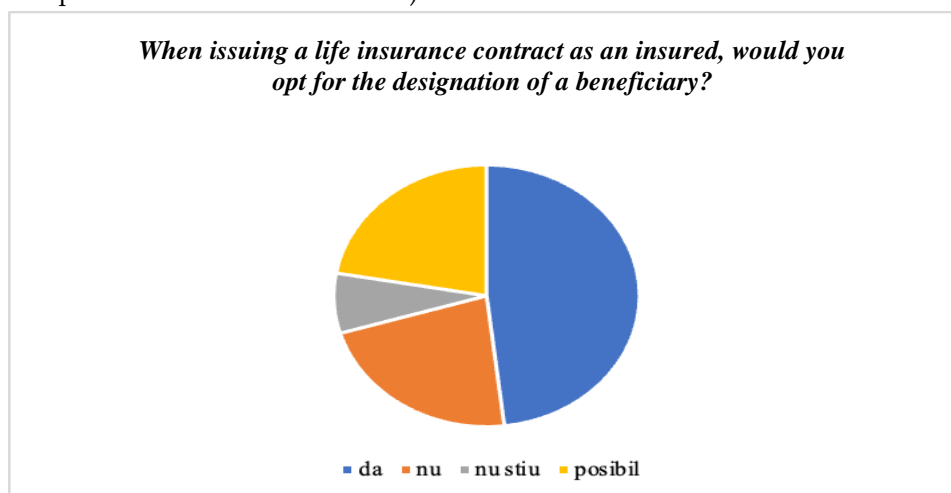


**Figure 8. Distribution of answers to the question “To what extent can the knowledge of the patrimony’s transfer procedure influence your decision to designate a beneficiary in a life insurance contract?”**

Almost half of the respondents would opt for the designation of a beneficiary when issuing an insurance contract (Figure 9), but nevertheless, there are also people who do not want this or who are not yet determined (have not been put



in a position to make this decision).



**Figure 9. Distribution of answers to the question "When issuing a life insurance contract as an insured, would you opt for the designation of a beneficiary?"**

By correlating the answers received, the following conclusions can be drawn:

- people with higher education have the notion of heir much better substantiated;
- older people tend to be much more interested in this issue;
- knowledge of the procedure for transmitting the patrimony does not influence any way the designation of a beneficiary;
- most people are thinking of opting for a beneficiary in a life insurance contract.

## Conclusions

Successive transmission is the way of acquiring a property right and it is an extensive process of debate in legal doctrine.

The principles related to the person of the author of the inheritance establish the rules of the estate and its division and are limited to ethics and equity.

The law protects the intersections of the reservations when the inheritance right is born and intervenes through the formal conditions of the legal act so that any disputes arising out of ignorance are avoided.

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