



# LEGAL SUCCESSION IN RELATION TO COPYRIGHT

## Legal background

Copyright is valid until 70 years after the death of the creator. After the death of a GEMA member the Deed of Assignment, which serves to assign the exploitation rights of the creator to GEMA for administrative purposes, is continued with the creator's legal successor in relation to copyright. Such legal successors automatically enter into the Deed of Assignment concluded between the creator and GEMA at the time of death. The Deed of Assignment therefore continues beyond the death of an creator, which means that the exploitation rights assigned to GEMA continue to be managed by GEMA.

The steps for establishing the legal succession described below apply in the case of an creator's death as well as the death of a legal successor.

## STEPS FOR ESTABLISHING THE LEGAL SUCCESSION

### 1. Notification of the death

Each legal successor to the copyright of a deceased rights holder is required to notify GEMA of the death within 6 weeks after learning about it.

As soon as GEMA has been notified of the death of a rights holder, the member's account, which is managed by GEMA, will be blocked pending the clearance of the legal succession.

### 2. 2. Determining the legal successor, resp. legal successors

The legal successors are the creator's heirs, resp. heirs of the heirs or the legatees. Evidence of the legal succession has to be provided to GEMA.

Documents that can be used to prove the legal succession include e.g.:

- a simple copy of the inheritance certificate or
- a simple copy of the unveiled testamentary dispositions (testament, certificate of inheritance) or
- in some cases, provided that no certificate of inheritance and no opened testamentary dispositions exist, a list of the legal heirs with names, addresses and dates of birth (legal heirs can be e.g. the surviving spouse and/or the children of the deceased)
- if no inheritance certificate is available, the line of succession will also have to be confirmed by signing a heirs' declaration prepared by GEMA..

### Other required documents:

- death certificate
- informal disclosure of the relationship between the heirs and the deceased
- informal disclosure of the dates of birth of the legal successors
- addresses of the heirs

### 3. Continuation or termination of the Deed of Assignment

#### a) Continuation of the Deed of Assignment:

The Deed of Assignment between the creator and GEMA will be updated. The legal successor shall sign the newly prepared Deed of Assignment. If there are several legal successors:

In the event of multiple legal successors, an authorised representative who will be exercising the rights of the heirs in relation to GEMA must be established. To this end, GEMA shall provide a standardised power

of attorney. The creatorised representative does not necessarily have to be one of the heirs.

**If there are several legal successors:**

In the event of multiple legal successors, an authorised representative who will be exercising the rights of the heirs in relation to GEMA must be established. To this end, GEMA shall provide a standardised power of attorney. The authorised representative does not necessarily have to be one of the heirs.

**The role of the authorised representative:**

- GEMA contact
- signing of the Deed of Assignment and, if appropriate, new versions of the Deed of Assignment
- notification of the death of deceased legal successors
- entitlement to attend the general assembly resp. assembly of the members

Once the legal succession has been established, the account will be unblocked and heirs' accounts shall be set up for all legal successors for tax purposes. The revenue shall be split according to each legal successor's share of inheritance and shall be booked separately against the legal successors' accounts.

A bank details form shall be sent to the legal successors for payments to legal successors.

The annual membership fee currently amounts to €50.00. It shall be borne proportionately by the legal successors based on their share of the inheritance. Typically it is off-set against the revenue.

If one of the legal successors has a tax residence abroad, GEMA shall send them a tax exemption application form to prevent double taxation.

**b) Termination of the Deed of Assignment:**

The notice period is 6 months per the end of the year. Generally the written notice must be signed by all the heirs. In the event that the authorised person has been granted the right to terminate the Deed of Assignment, it is sufficient for the written notice to only be signed by the authorised person.

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## CONTACT

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