

Table of Contents

The Author	3
Contribution and Assistance	5
List of Abbreviations	23
Preface	25
General Introduction	27
Chapter 1. General Background of the Country (Demographic Data)	27
Chapter 2. Historical Background	28
§1. SOURCES OF THE GREEK LEGAL SYSTEM	28
§2. THE GREEK CIVIL CODE	28
§3. HISTORICAL BACKGROUND OF FAMILY AND SUCCESSION LAW	29
I. Family Law	29
II. Succession Law	30
Chapter 3. Sources of Family and Succession Law	31
§1. CONSTITUTION	31
§2. LEGISLATION	31
§3. TREATIES	32
§4. CASE LAW	32
Chapter 4. Competent Courts and Procedural Matters on Family and Succession law	33
Selected Bibliography	35

Table of Contents

Part I. Persons 41

Chapter 1. Status of a Person 41

§1. DEFINITION OF A PERSON 41

 I. Natural Persons 41

 II. Legal Persons 42

§2. CAPACITY 43

 I. General 43

 II. Capacity 44

 A. Full Capacity 44

 B. Incapacity 45

 C. Limited Capacity 45

 III. Consent to Undergo Medical Treatment 46

 IV. Responsibility for Delict under Civil Law 46

 V. Criminal Responsibility 47

§3. ABSENTEES 47

 I. Institution of *Absentia* 47

 II. Consequences of *Absentia* 48

 III. Reappearance 48

Chapter 2. Registration of Civil Status 49

§1. THE REGISTRAR 49

§2. REGISTERS AND CERTIFICATES 49

Chapter 3. Personality Rights 50

§1. PERSONALITY 50

 I. The Term Personality 50

 II. Content of Personality 50

§2. OFFENCES OF PERSONALITY 51

§3. CLAIMS 52

§4. PROTECTION OF THE NAME 53

§5. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS 53

§6. PROTECTION OF A DECEASED PERSON’S PERSONALITY 54

Table of Contents

Chapter 4. Names 55

§1. COMPOSITION OF A NAME 55

§2. SURNAME 55

 I. Acquisition of Surname 55

 II. Change of Surname 55

§3. FIRST NAME 56

Chapter 5. Nationality 57

§1. GENERAL 57

§2. ACQUISITION OF GREEK NATIONALITY 58

§3. LOSS OF NATIONALITY 59

Chapter 6. Domicile and Residence 60

Chapter 7. Mentally Handicapped Persons 62

Part II. Family Law 63

Chapter 1. Marriage 63

§1. THE NATURE OF MARRIAGE 63

§2. THE CAPACITY TO MARRY 63

 I. Engagement (Betrothal) 63

 II. Different Sex 64

 III. Marriageable Age 64

 IV. Capacity to Contract and Convey 64

 V. Failure to Consent 64

 VI. Prior Marriage 64

 VII. Consanguinity 65

 VIII. In Law Relationship (Affinity by Marriage) 65

 IX. Adoption 65

§3. THE FORMALITIES OF MARRIAGE 65

 I. Celebration of Marriage 65

 II. Permission to Marry 66

 III. Announcement of Future Marriage 66

Table of Contents

§4. EFFECTS OF MARRIAGE 66

 I. Taking of Name in Marriage 66

 A. Surname of the Spouses 66

 B. Obligation to Cohabit 67

 II. Marital Life 67

 A. Organizing of Conjugal Life 67

 B. Lapse of Rights 67

 C. Liability between Spouses 67

 III. Enforcing Marital Duties 68

 IV. Common Contribution to the Needs of the Family 68

 A. Duty to Maintain 68

 B. Mutual Contribution 68

 V. Transactions for the Provision of Necessities 68

 VI. Suspension of Cohabitation 69

 A. Interruption of Life in Common 69

 B. Financial Provision after Suspension 69

 VII. Family Residence 70

 A. Regulation of the Use of the Family Home 70

 B. Nature of the Provision 70

§5. VOID, VOIDABLE AND NON-EXISTENT MARRIAGE 71

 I. Void and Non-existent Marriage 71

 II. Voidable Marriage 72

 A. Subject to Annulment on the Grounds of Error 72

 B. Subject to Annulment by Reason of Threat 72

 C. How the Annulment Takes Place 72

 D. Who Can Bring an Action for Annulment 72

 E. Prescription of the Action 73

 F. Abusing the Right of Annulment 73

 G. Effects of the Annulment 73

 H. Putative Marriage 73

 I. Rights of Third Parties 74

Chapter 2. Divorce 75

§1. DIVORCE 75

 I. Introduction 75

 II. Grounds 75

 III. Procedure 76

§2. CONSENSUAL DIVORCE 77

 I. Grounds 77

 II. Procedure 77

 III. Preconditions for Consensual Divorce 77

Table of Contents

§3. EFFECTS OF DIVORCE	78
I. Duty to Maintain	78
II. Abolishing the Right of Maintenance	78
III. Duty to Inform about Property and Income	79
IV. Social Security Benefits	79
 Chapter 3. Cohabitation Outside Marriage	 80
§1. INTRODUCTION	80
§2. DEFINITION	81
§3. COHABITATION OUTSIDE MARRIAGE AND CONSTITUTIONAL ORDER	82
§4. COHABITATION OUTSIDE MARRIAGE AND FAMILY LAW	84
§5. PERSONAL RELATIONSHIPS CREATED BY THE LIAISON OF TRUST	85
I. The Promise to Live Together	85
II. No Duty of Consortium	85
III. No Common Domicile	85
IV. No Common Name	86
V. Duty of Faith	86
VI. No Duty of Financial Provision or Mutual Contribution	86
VII. Duty to Provide Help to the Partner Expecting a Child	86
VIII. Liability between the Persons Who Live Together	86
§6. PROPERTY REGIME DURING COHABITATION	87
§7. PROFESSIONAL RELATIONSHIPS	87
§8. BREAKING OFF OF COHABITATION	87
I. Free Breaking off of Cohabitation outside Marriage	87
II. Movable Objects	87
III. No Claim to Participate in the Increments	88
IV. Lapse of Rights	88
V. Donations and Disposals because of Death	88
VI. Claim against Third Persons because of Death	89
A. No Claim for Expenses or Alimony	89
B. Claim for Reparation for Moral Prejudice	89
VII. Cohabitation and Financial Provision from Spouses	89
A. If the Marriage Still Exists	89
B. After the Divorce	89
 Chapter 4. Filiation	 90
§1. MEANING AND CONTENT	90
I. Introduction	90
II. Linear Relationship	90

Table of Contents

III. Collateral Relationship	90
IV. Relationship by Marriage	90
V. Relationship by Cohabitation	90
§2. MOTHER	91
§3. FATHER	91
I. Introduction	91
II. Marriage or Cohabitation with to a Child's Mother	91
III. Later Marriage of the Parents	92
IV. Acknowledgement	92
A. Voluntary	92
B. Judicial	93
§4. CONTESTATION	94
I. Contestation of Fatherhood	94
II. Contestation of Motherhood	95
§5. ARTIFICIAL REPRODUCTION	95
I. Introduction	95
II. The Legal Situation	96
A. Preconditions and Form	96
B. Post-Mortem Insemination	96
C. Surrogacy	96
D. Surplus Genetic Material	97
E. The Right to Know One's Genetic Origin	97
F. Cloning	97
Chapter 5. Adoption	98
§1. INTRODUCTION	98
§2. THE LEGAL NATURE OF ADOPTION	98
§3. CONDITIONS OF ADOPTION OF MINORS	99
I. Legal Capacity of the Adoptee	99
II. Difference of Age	99
III. Consent of the Parties	100
A. Consent of the Adopter	100
B. Consent of the Adopter's Spouse	100
C. Consent of the Child's Natural Parents	100
D. Consent Replaced by a Judicial Decision	101
E. General Authorization	102
F. Consent of the Child	102
G. Non-existence of Another Adoptive Parent	103
H. Hearing of the Relatives and of the Adopter's Children	103

Table of Contents

I. The Interest of the Adoptee	103
J. Social Inquiry	104
IV. Adoption by a Married Couple	104
V. Adoption of a Child Born out of Wedlock	104
§4. THE PROCEDURE OF ADOPTION	105
I. Judicial Decision	105
II. Secrecy of Adoption	105
§5. THE EFFECTS OF ADOPTION	105
§6. CONTESTED ADOPTION	107
§7. DISSOLUTION OF THE ADOPTION ORDER	107
I. Dissolution <i>ipso jure</i>	107
II. Dissolution by Court Decision	108
III. Dissolution by Consent	108
IV. Consequences of Dissolution	109
V. Re-establishment of Adoption in Case of Dissolution by Court Decision	109
§8. ADOPTION OF A PERSON HAVING ATTAINED MAJORITY	109
I. Introduction	109
II. Adoption of a Married Person	110
III. Consequences of the Adoption of an Adult	110
IV. Dissolution of Adoption of an Adult	110
Chapter 6. Relation between Parent and Child	111
§1. INTRODUCTION	111
§2. THE CHILD’S NAME	111
I. Surname of the Child	111
II. Surname of Children Born out of Wedlock	111
§3. OBLIGATIONS BETWEEN PARENT AND CHILD	112
I. Assistance	112
II. Obligation to Provide Services	112
III. Provisions towards the Children	112
§4. PARENTAL CARE	113
I. Meaning and Content	113
II. Special Cases	113
A. Joint Parental Care	113
B. Divorce, Annulment and Separation	113
C. Children Born out of Wedlock	114

Table of Contents

III. Acts by One Parent	114
IV. Child's Best Interest	114
§5. CARE OF THE CHILD'S PERSON	115
I. Meaning and Content	115
II. Communication between the Child and the Parents	115
§6. PROPERTY OF THE CHILD	115
I. Property of the Child Arising from a Will or a Donation	115
II. Management of the Child's Property	116
A. General	116
B. Donations	116
C. Administration of Cash	116
D. Management Subject to Formalities	116
E. Annulments	116
III. Use of the Child's Income	116
IV. Disbursement of Parents	117
§7. PARENTS' RESPONSIBILITY	117
I. Obligation of Care	117
II. Defective Exercise of Care	117
§8. TERMINATION OF PARENTAL CARE	118
§9. REFUSAL OF MEDICAL INTERVENTION	118
Chapter 7. Guardianship, Curatorship, Judicial Assistance, Judicial Assistance of Absent Persons	119
§1. INTRODUCTION	119
§2. GUARDIANSHIP OF MINORS (TUTELAGE)	119
I. Establishment	119
II. Instruments of Guardianship	119
III. Appointment of the Guardian	119
IV. Provisory Guardian	120
V. Competence of the Guardian	120
A. Personal Care	120
B. Legal Representation	121
C. Financial Care	121
VI. Termination of Guardianship	122
VII. Lapse of Claims	122
§3. CURATORSHIP	122
I. Introduction	122
II. Establishment	123
III. Obligations of the Curators	123

Table of Contents

IV. Obligations and Rights of the Curators	123
V. Termination of the Curatorship	123
VI. The Interest of the Minor	124
§4. JUDICIAL ASSISTANCE	124
I. Introduction	124
II. Persons Placed under Judicial Assistance	124
III. Request	125
IV. The Judicial Assistant	125
V. Excluded Persons	126
VI. Legal Units as Judicial Assistant	126
VII. Consequences of the Placing under Judicial Assistance	126
VIII. Consent by Concurrent Judicial Assistance	127
IX. Lifting of Judicial Assistance	128
§5. COMPULSORY TREATMENT	128
§6. ADMINISTRATION OF OTHER PERSON'S AFFAIRS	129
I. Case of Absence of Person of Full Age	129
II. Competence of the Representative	129
III. Tutelage in Favour of an Unknown or Uncertain Person Interested	129
IV. Tutelage in Favour of Inheritance Interests	129
V. Raising	129
§7. PRIVATE INTERNATIONAL LAW	130
Chapter 8. Financial Support among Relatives	131
§1. THE RIGHT TO FINANCIAL PROVISION	131
I. Meaning	131
II. Types of Financial Provision	131
A. Full or Proportional Financial Provision	131
B. Reduced or Basic Financial Provision	132
C. Reasonable Financial Provision	132
§2. FINANCIAL PROVISION BY LAW	132
I. Financial Provision between Ascendants and Descendants	132
II. Financial Provision between Siblings	133
§3. PREREQUISITES OF FINANCIAL PROVISION BY LAW	133
I. General Prerequisites	133
II. Parents' Duty to Maintain their Children	133
A. Right to Financial Provision of the Underage Child	133
B. Right to Financial Provision of the Adult Child	134
III. Inability to Provide Financial Provision	134
IV. Rank of Obligors	134
V. Rank of Beneficiaries	135

Table of Contents

VI. Extent and Consistence of Maintenance	135
VII. Change of Terms of the Financial Provision	135
VIII. Reduced Financial Provision	135
IX. Time and Way of Payment	136
X. Special Cases of Financial Provision to the Underage Child	136
XI. Disbursements for Childbirth and Maintenance for an Unmarried Mother	136
XII. Extinction of Maintenance Claims	136
XIII. Statutory Limitation of Maintenance Claims	137
XIV. Suspension of the Prescription	137
§4. PROCEDURE: LEGAL PROTECTION REMEDIES	137
§5. PENAL AND CIVIL SANCTIONS FOR MAINTENANCE OMISSION	137
§6. PRIVATE AND PUBLIC INTERNATIONAL LAW	138
Part III. Matrimonial Property Law	139
Chapter 1. The Statutory Matrimonial Property Regime	139
§1. INTRODUCTION	139
§2. MATRIMONIAL SELF-DETERMINATION OF SPOUSES	139
§3. PRESUMPTIONS CONCERNING MOVABLE GOODS	140
§4. MANAGEMENT OF ONE SPOUSE'S PROPERTY BY THE OTHER	140
§5. THE STATUTORY MATRIMONIAL PROPERTY REGIME	141
§6. PRESUPPOSITIONS OF CLAIM GENERATION	142
§7. THE MEANING OF THE CONTRIBUTION	142
§8. THE 'ONE THIRD' PRESUMPTION	143
§9. CLAIM FOR SECURITY	144
§10. CHARACTER OF THE CLAIM	144
§11. SAFETY	145
§12. PROTECTION OF THE CLAIM	146
§13. LAPSE OF RIGHT	146
§14. CLAIM UPON DEATH	146

Chapter 2. The Contractual Matrimonial Property Regime	147
§1. COMMUNITY OF PROPERTY	147
I. Formation	147
II. Extent of the Community	148
A. Catholic Community	148
B. Partial Community	148
C. Community by Law	148
III. The Function of the Community	149
A. Transfer of the Patrimonial Elements	149
B. Administration of the Common Property	149
IV. Responsibility towards Creditors	149
A. Responsibility of the Common Property	149
1. Main Responsibility	149
2. Auxiliary Responsibility	150
B. Responsibility of the Spouse's Personal Property	150
1. Main Responsibility	150
2. Auxiliary Responsibility	150
§2. TERMINATION	150
I. Termination of the Community of Property	150
A. Automatically by Law	150
B. The Spouses' Consent	151
C. Court Decision	151
II. Termination of the Community and Third Persons	151
Part IV. Succession Law	153
Chapter 1. Devolution of Succession in General	153
§1. THE BASIC CONCEPTS OF THE GREEK LAW OF INHERITANCE	153
I. Legal Sources	153
II. Probate Court Rules	153
III. Fundamental Principles of the Greek Law of Succession	153
A. Universal Succession	153
B. Succession to Liabilities	154
C. Intestate Succession	154
D. The Testament	154
E. The Legal Portion	154
F. The Legacy	154
G. The Charge	154
§2. THE OPENING OF THE SUCCESSION	154
I. Death	154
II. Missing Persons and Absentees	155

Table of Contents

§3. THE HEIR	155
I. The Possible Heir	155
II. The Capacity to Succeed	155
III. The Reversionary Heir	155
IV. Burial	155
 Chapter 2. Intestate Succession	 156
§1. OPENING OF INTESTATE SUCCESSION	156
§2. CLASSES OF INTESTATE HEIRS	156
I. The First Class	156
A. The Descendants	156
B. Children Born Out of Wedlock	157
C. Adopted Children	157
II. The Second Class	157
III. The Third Class	157
IV. The Fourth Class	158
V. Rights Deriving from Several Lineages	158
VI. The Surviving Spouse	158
A. The Portion of the Surviving Spouse	159
B. The Surviving Spouse's Accretion	159
C. Provisions Regarding the Family Home	160
D. The Claim for Accrued Gains	160
E. The Exclusion of the Surviving Spouse	161
F. The Surviving Cohabitant	161
VII. The Sixth Class	161
 §3. ACCRETION	 162
 §4. ADJUSTMENT	 162
 Chapter 3. Testamentary Succession	 163
§1. INTRODUCTION	163
§2. CAPACITY TO MAKE A WILL	163
I. General Incapability	163
II. Special Incapability	164
§3. FORM OF WILLS	164
I. General Rules	164
II. Ordinary Wills	165
A. Holographic Wills	165
B. Public Wills	165
C. Mystic Wills	166
III. Extraordinary Wills	167

Table of Contents

§4. CONTENT AND VALIDITY OF THE WILL	167
I. Non-determined Heir	167
II. Threat	168
III. Error	168
IV. Disposition in Favour of the Spouse	168
V. Omission of Compulsory Heir	168
VI. Immoral Dispositions	168
VII. Prescription	169
§5. REVOCATION OF WILLS	169
§6. PUBLICATION OF WILLS	170
I. General Rules	170
II. Publication of a Holographic Will	170
III. Public and Mystic Wills	170
§7. THE EXECUTOR OF THE WILL	170
I. Appointment	170
II. Capacity of the Executor	171
III. Powers of Executor	171
IV. Acts Made with Court Permission	171
V. Responsibility of the Executor	171
VI. Several Executors	171
VII. Legal Actions Involving Succession	171
VIII. Remuneration	171
IX. Cessation of the Executor's Office	172
§8. COMPULSORY PORTION	172
I. The Legal Rule	172
II. Completion of Compulsory Portion	172
III. Determination of the Compulsory Portion	174
IV. The Right to Disinherit	174
V. Pardon	175
VI. Precautionary Disinheritance	175
Chapter 4. The Legal Position of the Heir	177
§1. DEVOLUTION OF INHERITANCE AND LEGAL POSITION OF THE HEIR	177
I. Opening of the Succession	177
II. Acceptance by the Heirs	177
III. Acceptance under the Benefit of Inventory	178
IV. Renunciation of Succession	178
V. Disqualification to Succeed	178
VI. Vacant Succession	179
§2. CERTIFICATE OF INHERITANCE	179
I. Meaning and Content	179

Table of Contents

II. Extent of the Public Faith Created by the Certificate of Inheritance	180
A. Legal Acts	180
B. Procedural Acts	181
C. Force of a Final Judgment	181
D. Certificate of Inheritance in Force	181
E. The Good Faith of the Third Party	181
III. Claims of the Person Entitled to the Inheritance	182
IV. Inaccurate Heirship Certificate	182
V. Withdrawal or Cancellation of the Heirship Certificate	182
§3. ACTION CLAIMING HEREDITARY PORTION	182
I. General Rules	182
II. Action for Inheritance	183
A. Plaintiff	183
B. Defendant	184
C. Claim	184
D. Content of the File of the Action Claiming the Hereditary Portion	184
III. International Jurisdiction	184
§4. RELATIONSHIP BETWEEN SEVERAL HEIRS	184
I. General Rules	184
II. The Community of Heirs	185
III. Attribution of Claims and Debts	185
IV. Disposal of Portion	185
§5. JUDICIAL LIQUIDATION OF SUCCESSION	186
I. Meaning	186
II. Separate Group	186
III. Task of the Liquidator	186
IV. Remuneration	186
V. Liquidation and Limitation of Responsibility	186
§6. SUBSTITUTION IN TRUST	186
I. Historical	186
II. International Private Law	187
III. Meaning	187
IV. Presuppositions	187
V. Extent of Trust	187
VI. Time of Devolution	187
VII. Existence of the Appointed Person	188
VIII. Rights of Trustee	188
IX. Substitution and Effects	188
§7. ALIENATION OF THE SUCCESSION	188
I. Sale of Succession	188
II. Obligations of the Seller	188

Table of Contents

III. Obligations of the Purchaser	189
IV. Liability towards Creditors	189
V. Benefit of Inventory	189
Chapter 5. Legacies and Donations	190
§1. LEGACIES	190
I. Meaning	190
II. International Private Law	190
III. Legatee Predeceased	190
IV. Rights Arising from the Legacy	190
V. Time of Devolution	191
VI. Renunciation of the Legacy	191
VII. Legatee Burdened	191
VIII. Substitution in Trust	191
IX. Family Legacy	191
§2. CHARGES	191
I. Meaning	191
II. Person Benefiting	192
III. Person Burdened	192
IV. Who Demands Performance	192
V. Impossibility to Perform Charge	192
§3. DONATION MORTIS CAUSA	192
I. Meaning	192
II. Revocation	192
III. Form	193
Index	195