

Johnny Hallyday's death exposes the stark differences between US and European inheritance principles

French pop-legend Johnny Hallyday's death shocked France at the end of last year. And the nation was shocked again, when his entire estate was left to his fourth wife - leaving his two oldest children with nothing.... should we be shocked or not? But given that the document was written under Californian law, its content shouldn't be so surprising. Johnny Hallyday (Jean-Philippe Smet) was a French citizen and is regarded as a national monument, who brought rock and roll to France. He released 79 albums and sold more than 110 million records during his 57-year career - making him one of the best-selling artists in France and in the world. Despite this, he was largely unheard of in the English-speaking world - where he was dubbed, 'The biggest rock star you've never heard of'. Johnny spent most of his life in France; but due to his dislike of the country's taxation policies, he tried living in a few other countries - including Belgium and Switzerland - before settling in California. His first child, David, was born in 1966 to his first wife - the French singer Sylvie Vartan. His second child, Laura, was born in 1983 to his partner - the actress Nathalie Baye. He and his fourth wife, Laetitia, adopted Jade and Joy - two young girls from Vietnam - in 2004 and 2008 (respectively). When his last will - made under California law - was opened a few months ago, his two eldest children were shocked to discover that he had left all of his \$50 million-ish estate to his wife - and essentially nothing to them. French citizens were shocked too - and most people in continental Europe would be. Meanwhile, the British and US media barely shrugged their shoulders - and not just because they don't know who Johnny Hallyday is.

Why do continental Europe and the UK/USA disagree on Johnny Halladay's estate plan?

So, why is the Western world so divided on this topic? Continental Europe seems to view this estate plan as totally immoral - while the UK and US think it's pretty acceptable. As an international estate planner who helps many US-UK-European families to plan for the future, I am personally half-shocked, and half not. Here's why: Common Law countries offer almost unlimited individual freedom when making a last will. Continental Europe demands that you leave a minimum percentage of your estate to 'forced heirs'.

Inheritance in 'Common Law' countries

In so-called 'Common Law' countries - which follow the English law tradition - individual freedom is almost unlimited when it comes to making a last will. Common Law countries include Australia, Canada, USA, Hong Kong, Singapore, India, New Zealand and Pakistan. In the United States, the family's assets usually go to the surviving spouse first - and the children only receive them after the death of the second spouse.

Inheritance in Continental Europe countries

In continental Europe - including France, Germany and Switzerland - you must leave a minimum percentage of your estate to certain close relatives - referred to as your 'forced heirs'. Your children are your primary forced heirs, no matter whether you are married. And in France, if you have three children or more (like Johnny), then they're entitled to at least three-quarters of your net estate - to be divided between them. Surprisingly, your spouse is not a forced heir - unless you have no children at all. In Switzerland, if you are married and have children, then your spouse is entitled to 25% at minimum and your children to at least 37.5% altogether.

Europe's 'forced heirship' dates back to Roman law

In ancient Rome, children would receive all of their father's estate, while their mother would be left with nothing. The idea was that the widow would typically be taken care of by her own parents or brothers. As children have been "forced heirs" for about 2000 years in Continental Europe, it doesn't come as a surprise that Europeans see Hallyday's last will as immoral. But from an Anglo-American perspective, there is nothing shocking in leaving all of your assets to your spouse.

Could Johnny's will be problematic to US observers?

There is one aspect in which Johnny's last will could be viewed as morally problematic, even from a US cultural standpoint. Usually, Americans who bequeath everything to their spouse and nothing to their children know that their spouse will then leave the children a large portion of the family's assets. But will this be the case in the Hallyday family? Will Johnny's eldest children be mentioned in their young step-mum's last will - especially after they've spent years fighting in court? This also assumes that they will survive her - and the chances are below 50%, as far as David is concerned. Let's leave aside moral or cultural questions for a moment. From a purely legal perspective, the key question is, 'Which law applies to the succession of an individual who had links with different countries?' Or, 'Is Johnny's succession governed by California law or by French law?' Courts will have to settle the argument. And depending on the outcome of the lawsuits, the singer's eldest children could become pretty wealthy - or end up with nothing at all.

What are the lessons for international families?

This story teaches us two lessons about inheritance - both of which relevant for international families with connections to Switzerland.

International families can face legal uncertainty

International families are exposed to a great deal of legal uncertainty, due to their connections with different legal systems. If I want my estate to be organized with sufficient clarity and predictability, then I need to have my situation analysed on a holistic basis - taking the laws of each country at stake into account. An additional difficulty is that most legal advisors are only experts in their own legal system and are totally unequipped to deal with cross-border estate plans. And I am not even talking about the tax aspects!

Expats living in Switzerland could find that 'forced heirship' is a tricky obstacle

A lot of Switzerland's expat community come from states that follow the English law tradition (including the USA). The vast majority will probably want to leave all of their assets to their spouse, for cultural reasons. And in their view, their children should only receive the family's wealth after the death of both parents. The problem is that such an estate plan would breach their children's forced heirship rights under Swiss law. The good news is that there are several strategies to get around these forced heirship rights, without breaking the law. But that is another story... Guillaume Grisel