

The forced share in Catalonia: who can claim it and how it is calculated

In Catalonia, the forced share is a right to payment recognised by law for certain relatives, allowing them to obtain economic or patrimonial value from a deceased person's estate, regardless of what that person decided in their will.

In the words of Book Four of the Civil Code of Catalonia: *"The forced share confers on certain persons the right to obtain, in the succession of the deceased, a patrimonial value that the deceased may confer on them by appointing them as heirs, through a legacy, a specific allocation or a gift, or in any other way."*

Therefore, leaving all assets to one of the children or appointing a partner as heir does not mean that the other relatives entitled to the forced share will necessarily receive nothing.

Knowing who can claim it, how it is calculated and who must pay it is essential both when preparing a will and when managing an estate. These rules apply to successions governed by Catalan civil law.

BEING ENTITLED TO THE FORCED SHARE IS NOT THE SAME AS BEING AN HEIR

The forced share does not automatically make the person entitled to it an heir or a co-owner of each property in the estate. It allows them to demand the patrimonial value to which they are legally entitled.

For example, a person may appoint one of their children as heir and leave the others only their forced share. Those children will retain the right to receive it, but this does not necessarily give them a share in each home or bank account belonging to the deceased.

This right arises at the time of death. Therefore, **children cannot demand payment of their forced share while their parents are alive.**

WHO IS ENTITLED TO THE FORCED SHARE IN CATALUNYA

The first persons entitled to the forced share are **the children, in equal shares**. In certain circumstances, their descendants take their place by right of representation. This happens, for example, when a child dies before the parent: that child's children may divide the forced share that would have belonged *to their father*.

If the deceased leaves no descendants who have survived them, **their parents are entitled to the forced share**. If both are alive, each is entitled to half; if only one is alive, that parent receives the entire forced share. The law excludes the parents' right to *the forced share* where there are descendants who have been justly disinherited or declared unworthy to inherit.

The spouse and stable partner are not entitled to the forced share in Catalonia, although they may have other succession rights. Neither are siblings nor nephews and nieces.

HOW IS THE FORCED SHARE CALCULATED?

The total forced share amounts to **one quarter of the calculation base established by law**. This 25 % belongs to all those entitled to the forced share collectively, not to each of them individually.

To determine it, Article 451-5 of *Book Four of the Civil Code of Catalonia* establishes the following steps:

1. **Value all the assets in the estate at the time of death.**
2. **Deduct debts and the expenses of the final illness, burial or cremation.**
3. **Add gifts and other gratuitous transfers that must be included in the calculation**, made during the ten years preceding death, excluding customary gifts or customary acts of generosity. Gifts chargeable against the forced share are included regardless of their date.
4. **Apply 25 % to the resulting amount** and then determine each person's individual forced share.

Therefore, the calculation cannot always be made by looking only at the assets remaining at the time of death. It may also be necessary to review earlier gifts, to which the valuation rules established by law apply.

Practical example: an estate with three children

A person dies leaving assets valued at **420,000 euros** and deductible debts and expenses of **20,000 euros**. They have three living children, and there are no gifts to include in the calculation or other circumstances affecting the distribution.

ITEM	AMOUNT
VALUE OF THE ASSETS	€420,000
DEDUCTIBLE DEBTS AND EXPENSES	-€20,000
CALCULATION BASE	€400,000
TOTAL FORCED SHARE: 25 %	€100,000
INDIVIDUAL FORCED SHARE OF EACH CHILD	Approximately €33,333.33

If one of the children has been appointed as heir, they are also counted when calculating the individual forced shares. As a general rule, what they have received as an inheritance is credited towards their forced share: **no additional amount is automatically added on this basis**.

HOW GIFTS MADE DURING A PERSON'S LIFETIME AFFECT THE FORCED SHARE

Two issues must be distinguished: whether a gift is taken into account when calculating the total forced share and whether it is considered an advance on the forced share of the person who received it.

Not all gifts to a child are automatically deducted from their forced share. Gifts chargeable against it include, among others, those expressly made as an advance on it. In addition, unless the donor provides otherwise, the law treats gifts to children to purchase their first home or start a

professional or business activity that provides them with personal or financial independence as chargeable against their forced share.

Therefore, before calculating the amount still payable to each person entitled to the forced share, it is advisable to review the deeds and the purpose of the transfers made during the deceased's lifetime.

WHO MUST PAY IT AND HOW THEY CAN DO SO

The heir is personally liable for paying the forced share. As a general rule, they may choose to pay it in money, even if there is none in the estate, or with assets from the estate, respecting the deceased's instructions and the legal requirements.

This allows, for example, the heir to retain a home and pay those entitled to the forced share in money, without having to divide ownership of the property.

If a person entitled to the forced share has received less than they are entitled to, they may have the right to claim the difference through a **supplement to the forced share**, subject to the exceptions provided by law.

THE TIME LIMIT FOR CLAIMING THE FORCED SHARE

As a general rule, a claim for payment of the forced share and any supplement **becomes time-barred ten years after death**. However, there are circumstances in which this period is suspended that must be examined, particularly when the claim is brought against a parent of the person entitled to the forced share.

This period should not be confused with the time limits for other succession claims. For example, a challenge to disinheritance is subject to a four-year expiry period from the testator's death.

Before accepting a settlement or signing a waiver, it is advisable to check the will, the value of the assets, the debts and any previous gifts. The statutory percentage is only the starting point: correctly determining the calculation base and what each person has already received may change the outcome.