

Theo Turns in his Urn

If he knew about the travesty occurring around his inheritance wishes, Street photographer Theo Niekus would probably turn in his Urn.

Theo Niekus (1956-2019 active 1975-2019) was a well-respected, internationally published and culturally important icon of Dutch Street Photography, exhibited and championed by the Stedelijk Museum, among others.

Theo died unexpectedly of a heart attack on the 5th of October 2019 at the age of 63. At that time, Theo had bequeathed his work and estate to his life partner and photographer Jocelyne Moreau, with whom he had lived for ten years and trusted to carry out his wishes.

Theo had well considered and very specific wishes about the destination of his work and of his estate after his death. He wanted to keep his work, and also their house on the Schellingwouderdijk in Amsterdam, accessible to the public, thereby inspiring new generations of young street photographers. Theo consulted with a civil-law notary for quite some time to properly record his wishes in a will. Theo designated his partner as the sole heir and also included a so-called 'two-stages will' with his partner as the 'encumbered' and a culture fund as the 'expectant'.

Unfortunately, Theo died suddenly and unexpectedly of a fatal heart attack just 2 weeks before a planned appointment in which he could finalise and officially sign his will.

As long as there is no notarial will, Dutch law assumes inheritance upon death. There is now only an 'informal will', which is not equivalent to a will. As a result, Dutch law formally designates other heirs, as stipulated by decree, as surviving family. Dutch law does not recognise unmarried partners and it is important to note that in this case the inheritors are not the sole heir wanted and designated by Theo.

Theo's wishes are currently not being met. In fact, completely against Theo's wishes, Theo's partner has been evicted from their joint home as of January 2021 and nothing is being done with Theo's artistic work and legacy.

Current Dutch law, in regard to inheritance, is very intransigent and does not include probate- as it does in many other countries worldwide. This petition is to advocate that a sufficiently proven firm and repeatedly expressed last will could be followed, even without a testament.

We state that the legally closed Dutch system of ultimate will does not value the informal will of the deceased and is discriminatory. At the same time, research shows that only a small percentage of the Dutch population has thought about their last will and recorded it in a will with a civil-law notary.

We argue that a steadfast informal will can be, under special circumstances, just as valuable as a notarial document. In cases where it is sufficiently established what the ultimate will of the testator was, this will should be the starting point instead of intestate succession.

In certain cases, the legal system leads to a counterproductive effect of the will of the Testator, namely to an inheritance in a way that the Testator explicitly wanted to regulate differently and against.

We argue, based on this test case, that in the case of a death shortly before the final passing of the will, this draft testament should be considered, especially when, as in this case of Theo Niekus 'informal will', it was extensive, was drafted by a notary and it includes Trusts and Charitable Organisations.

There-fore we request that a change or addendum in the law be considered, especially for the preservation, conservation and promotion of culturally significant artistic archives, where Trusts and Charitable Organisations have been extensively consulted, otherwise major cultural contributions to Dutch society could be mis-appropriated.

For more information <https://www.stichtingtheoniekus.nl>