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DIGITAL INHERITANCE OF SOCIAL MEDIA ACCOUNTS: BALANCING PRIVACY RIGHTS AND SUCCESSION UNDER UAE AND EUROPEAN LAW

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ABSTRACT

Background: *Social media accounts increasingly combine economic value, personal communications, intellectual property, and data concerning both account holders and third parties. After death, heirs may seek access to administer the estate while platforms invoke privacy, confidentiality, or contractual restrictions. The legal problem is especially difficult because Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, known as the General Data Protection Regulation (GDPR), does not itself govern the personal data of deceased persons; European national approaches remain fragmented, and UAE law contains modern succession and data protection rules but no express regime for social media inheritance. This study examines whether, and under what conditions, social media accounts should pass to heirs, and how legal systems can reconcile succession with post-mortem privacy.*

Method: *The article uses doctrinal, analytical, and functional comparative methods. It examines the GDPR, Article 8 of the European Convention on Human Rights, French post-mortem data legislation, German Federal Court of Justice case law on a deceased person's Facebook account, the UAE Personal Data Protection Law, and the current UAE Personal Status Law. Secondary sources were restricted to scholarship directly addressing digital succession, post-mortem privacy, digital assets, platform contracts, and online-account inheritance. Germany and France serve as contrasting European models, while the UAE offers a case study of legislative silence at the intersection of succession and data protection.*

Results and Conclusions: *The comparison shows that neither automatic inheritance nor absolute privacy provides an adequate solution. The article proposes a functional classification distinguishing personal, commercial, and mixed accounts, together with a structured judicial balancing test. It further identifies six comparative principles: separating account transmissibility from content disclosure; respecting lifetime digital directives; protecting third-party communications; ensuring proportionate judicial access; preventing platform terms from defeating mandatory rights; and addressing cross-border enforceability. These principles are relevant not only to UAE reform but also to European and international legal development. Digital inheritance should therefore be treated as an access-to-justice problem requiring transparent platform procedures, legally supervised remedies, and regulatory coordination across succession, privacy, contract, and data protection law.*

1 INTRODUCTION

The rapid expansion of digital technologies has fundamentally transformed property, privacy, and legal identity. Social media accounts, cloud storage, email services, and other digital platforms no longer function merely as communication tools; rather, they constitute valuable digital assets containing personal information, financial interests, intellectual property, and records of an individual's social and professional life. Consequently, an account holder's death no longer ends legal questions about digital data. Instead, it generates a new category of disputes relating to the ownership, management, and succession of digital assets, particularly social media accounts, whose legal nature remains uncertain in many jurisdictions.[1]

Digital inheritance has emerged as one of the most challenging contemporary issues at the intersection of succession law, privacy law, data protection, and digital rights. The central legal dilemma is whether social media accounts should be treated as inheritable

1 Natalie M Banta, 'Inherit the Cloud: The Role of Private Contracts in Distributing or Deleting Digital Assets at Death' (2014) 83(2) Fordham Law Review 799 <https://ir.lawnet.fordham.edu/flr/vol83/iss2/16> accessed 30 June 2026; Paweł Szwajdler, 'Digital Assets and Inheritance Law: How to Create Fundamental Principles of Digital Succession System?' (2023) 31(2) International Journal of Law and Information Technology 144 <https://doi.org/10.1093/ijlit/eaad014> accessed 30 June 2026.

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assets forming part of the deceased's estate or as highly personal rights protected by the deceased's right to privacy even after death. This tension becomes particularly complex where digital accounts simultaneously contain personal communications, commercially valuable content, intellectual property, and sensitive personal data belonging not only to the deceased but also to third parties.[2]

Within the European legal framework, this debate has acquired increasing significance following the adoption of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, known as the General Data Protection Regulation (GDPR), and the development of national approaches to digital succession. The GDPR protects living data subjects and, through recital 27, expressly leaves Member States free to provide rules concerning the personal data of deceased persons.[3] Article 8 of the European Convention on Human Rights protects private and family life and correspondence and forms part of the broader European privacy framework, although it does not itself establish a comprehensive regime for digital inheritance or a general post-mortem data right.[4] European legal systems therefore remain far from uniform: some recognise transmissibility of digital account relationships, while others place greater weight on privacy, contractual restrictions, or specific post-mortem data rules.[5]

The German Federal Court of Justice (Bundesgerichtshof) has become one of the leading judicial authorities in this field after recognising that a Facebook account may form part of the deceased's estate and pass to the heirs under the ordinary rules of succession.[6] In contrast, other legal systems have adopted a more restrictive approach, giving greater weight to privacy interests and contractual obligations governing digital services. This divergence illustrates the absence of internationally accepted legal principles governing digital

2 JC Buitelaar, 'Post-Mortem Privacy and Informational Self-Determination' (2017) 19(2) Ethics and Information Technology 129 <https://doi.org/10.1007/s10676-017-9421-9> accessed 30 June 2026; Edina Harbinja, 'Legal Aspects of Transmission of Digital Assets on Death' (PhD thesis, University of Strathclyde 2017) <https://doi.org/10.48730/hkaa-8435> accessed 30 June 2026.

3 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation - GDPR) [2016] OJ L 119/1 <http://data.europa.eu/eli/reg/2016/679/oj> accessed 30 June 2026.

4 Council of Europe, *European Convention on Human Rights*: *as amended by Protocols Nos 11, 14 and 15; supplemented by Protocols Nos 1, 4, 6, 7, 12, 13 and 16* (ECtHR 2013) <https://www.echr.coe.int/documents/d/echr/convention_eng> accessed 30 June 2026.

5 Law of the French Republic no 78-17 of 6 January 1978 'On Data Processing, Data Files and Individual Liberties' (amended 27 June 2026) arts 84, 85 <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000886460/> accessed 30 June 2026.

6 Case III ZR 183/17 (Bundesgerichtshof, 12 July 2018) ECLI:DE:BGH:2018:120718UIIIZR183.17.0; Case III ZB 30/20 (Bundesgerichtshof, 27 August 2020) ECLI:DE:BGH:2020:270820BIIIZB30.20.0.

inheritance and highlights the continuing uncertainty surrounding the legal status of social media accounts after death.[7]

The legal position in the United Arab Emirates presents a different challenge. While the UAE has adopted an advanced legislative framework for the protection of personal data through Federal Decree-Law 45 of 2021 on the Protection of Personal Data, and has continuously modernised its digital legislation, no explicit statutory provisions regulate the inheritance of social media accounts or determine the legal relationship between the heirs, digital platforms, and the deceased's digital assets. Consequently, disputes concerning digital inheritance remain subject to the interaction between succession law, data protection legislation, contractual platform policies, and the general principles governing privacy and personal rights.[8]

Although digital inheritance has attracted increasing scholarly attention, existing literature remains fragmented. Most studies examine digital privacy or succession law independently. At the same time, few provide an integrated legal analysis that balances the deceased's right to privacy, heirs' proprietary interests, digital platforms' contractual autonomy, and the broader requirements of legal certainty. Furthermore, relatively limited attention has been devoted to comparative analysis between UAE legislation and the evolving European legal framework governing digital inheritance.[9]

Against this background, this study examines the legal status of social media accounts after their owners' death through a comparative analysis of UAE and European law. It evaluates whether such accounts should be treated as inheritable digital assets or protected personal rights. It assesses how existing legislative frameworks balance digital privacy, succession rights, and the legitimate interests of digital platform providers. By integrating comparative legal analysis with contemporary developments in data protection and digital rights, the study aims to contribute to emerging scholarship on digital inheritance while developing comparative principles to guide UAE reform and inform European and international debates on lawful access to a deceased user's digital environment.

7 Angelika Fuchs, 'What Happens to Your Social Media Account when You Die? The First German Judgments on Digital Legacy' (2021) 22(1) ERA Forum 1 <https://doi.org/10.1007/s12027-021-00652-y> accessed 30 June 2026.

8 UAE Federal Decree-Law 45 of 2021 'Concerning the Protection of Personal Data' (adopted 20 September 2021) [2021] Official Gazette 712; UAE Federal Decree-Law 41 of 2024 'On the Issuance of the Personal Status Law' (adopted 1 October 2024) [2024] Official Gazette 785(2).

9 Ahmad Abdullah Ahmad Al Ali and Nashwa Ahmad Mohammed, 'Legal Characterization of Electronic Inheritance Matters and Its Impact on Determination of Applicable Law in United Arab Emirates' (2025) 20(1) International Journal of Criminal Justice Sciences 68 <https://doi.org/10.5281/zenodo.20105> accessed 30 June 2026; Edina Harbinja, Marisa McVey and Lilian Edwards, 'Post-Mortem Privacy and Digital Legacy: A Qualitative Enquiry' (2024) 21 SCRIPTed 4 <https://doi.org/10.2218/scrip.210024.4> accessed 30 June 2026; Suzan R Hofstede, 'Digital Inheritance in Comparative Law' (2026) 2(1) Eurasian Journal of Comparative Law 1 <https://izlik.org/JA25UR87KN> accessed 30 June 2026.

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2 RESEARCH METHODOLOGY

This research adopts a doctrinal and comparative legal methodology. Its central question is how legal systems should determine access to, and succession of, social media accounts after the account holder's death when proprietary, contractual, privacy, data protection, and third-party interests overlap. The study asks three related questions: (1) which components of a social media account can properly be treated as part of an estate; (2) how post-mortem privacy and third-party confidentiality should limit succession-based access; and (3) which comparative principles can reduce uncertainty for heirs, platforms, and courts across different legal systems.

Source selection was deliberately limited to materials that could answer those questions. Primary sources include the GDPR and its express treatment of deceased persons, Article 8 of the European Convention on Human Rights, French legislation governing post-mortem data directives, the German Federal Court of Justice decisions on access to a deceased Facebook account, the UAE Personal Data Protection Law, and the current UAE Personal Status Law. These sources were selected because they represent distinct regulatory techniques: data protection exclusion coupled with national discretion, human rights protection, lifetime directives, universal succession through case law, and a legal system in which succession and data protection rules exist but do not expressly regulate social media inheritance.

Secondary sources were selected for direct substantive relevance to digital succession, post-mortem privacy, digital assets, online-account contracts, and comparative inheritance law. The revised source base therefore prioritises scholarship by Harbinja, Buitelaar, Banta, Mikk and Sein, Fuchs, Maspes, Castillo Parrilla, Szwajdler, and recent comparative work on digital inheritance. The analysis excluded sources in which the expression "digital inheritance" referred to cultural-heritage preservation, technological replication, or other non-succession contexts.

The comparative method is functional rather than merely jurisdictional. It compares how each system addresses the same practical problems: the transferability of contractual rights, the treatment of communication content, the protection of third-party data, the effect of the deceased's prior instructions, and the availability of judicial remedies when platforms deny or restrict access. This approach avoids assuming that any single national solution can be transplanted into another legal order. Instead, it identifies regulatory functions that can be implemented through different doctrinal mechanisms.

The study does not claim to provide an exhaustive survey of all European jurisdictions, nor does it empirically measure the frequency of digital inheritance disputes. Germany and France serve as contrasting European examples because Germany has developed a strong universal succession approach through case law. In contrast, France has enacted express rules enabling individuals to give binding directions about their personal data after death.

The resulting framework is therefore normative and comparative: it aims to derive legally defensible principles for access to justice in digital-estate disputes, rather than propose a single uniform substantive rule for all jurisdictions.

3 LEGAL FRAMEWORK GOVERNING DIGITAL PRIVACY AND DIGITAL INHERITANCE

Understanding the legal regulation of digital inheritance requires examining the legal concepts on which it is founded, particularly digital privacy and the legal nature of digital assets. The increasing integration of digital technologies into everyday life has fundamentally altered the traditional understanding of succession by introducing assets that combine proprietary, contractual, and personality-related characteristics. Consequently, determining whether social media accounts should pass to heirs requires a careful examination of the legal status of digital privacy, the classification of digital assets, and the interaction between succession law, data protection legislation, and contractual obligations imposed by digital service providers. This section therefore establishes the legal framework necessary for analysing digital inheritance under both UAE and European law before examining the comparative approaches adopted by different legal systems.[10]

3.1. The Legal Nature of Digital Privacy

The right to privacy constitutes one of the fundamental human rights recognised in both international human rights law and domestic legal systems. Traditionally, privacy has been understood as protecting an individual's personal sphere against arbitrary interference by public authorities or private actors. However, the rapid expansion of digital technologies has significantly transformed the scope of this right. Personal communications, photographs, videos, cloud storage, biometric information, and social media activities have become integral components of an individual's digital identity, thereby extending the concept of privacy beyond physical spaces into the digital environment.

Digital privacy has consequently evolved into an autonomous legal interest requiring protection independent of traditional property rights. Recent empirical research further confirms that post-mortem privacy remains an underdeveloped area of law despite growing public awareness of digital legacy planning. It shows that individuals increasingly expect legal protection for their digital identity after death, while current legal frameworks still provide fragmented and inconsistent solutions. Unlike tangible property, digital information frequently contains highly personal, confidential, and relational data that

10 José Antonio Castillo Parrilla, 'The Legal Regulation of Digital Wealth: Commerce, Ownership and Inheritance of Data' (2021) 29(5) European Review of Private Law 807 <https://doi.org/10.54648/erpl2021042> accessed 30 June 2026; Szwajdler (n 1).

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concern not only the account holder but also third parties. Accordingly, access to digital accounts after death raises complex legal questions concerning personal rights, informational self-determination, and post-mortem privacy.[11]

Within the European legal framework, Article 8 of the European Convention on Human Rights protects privacy by guaranteeing respect for private and family life and correspondence. The Convention does not expressly regulate digital inheritance, but its privacy protections shape the legal environment in which disputes over digital communications arise. The GDPR provides the principal EU framework for personal data processing; importantly, recital 27 states that the Regulation does not apply to the personal data of deceased persons and allows Member States to provide rules for such processing. National law therefore remains central to post-mortem data governance and digital succession.[12]

The UAE has likewise strengthened legal protection for digital privacy through Federal Decree-Law 45 of 2021 concerning the Protection of Personal Data, reflecting the country's commitment to a modern legal framework for protecting personal data in an increasingly digital economy. Although the legislation establishes extensive safeguards governing the collection, processing, and disclosure of personal data, it does not expressly regulate the legal status of digital accounts after their owners' deaths. Consequently, important legal questions remain concerning the relationship between privacy rights, succession law, and digital inheritance.[13]

Accordingly, digital privacy should no longer be viewed solely as an individual personal right but rather as a multidimensional legal concept intersecting with data protection, succession law, contractual obligations, and fundamental human rights. This interaction forms the foundation upon which contemporary legal debates concerning digital inheritance continue to evolve.

3.2. Digital Assets and Digital Inheritance

The emergence of digital technologies has fundamentally altered the traditional concept of property and succession. Unlike conventional assets, digital assets frequently combine economic value with personal information, contractual rights, and intellectual property, making their legal classification considerably more complex. Social media accounts constitute one of the most prominent examples of this new category of digital assets because they simultaneously function as repositories of personal communications, commercially valuable content, and legally protected personal data.[14]

11 Buitelaar (n 2); Harbinja, McVey and Edwards (n 9).
12 Council of Europe, *European Convention on Human Rights* (n 4) art 8; Buitelaar (n 2).
13 UAE Federal Decree-Law 45 of 2021 (n 8).
14 Castillo Parrilla (n 10); Banta (n 1); Szwajdler (n 1).

From a legal perspective, digital assets cannot be treated as a homogeneous category. Some possess purely economic value, such as cryptocurrency, domain names, monetised online businesses, and commercially operated social media accounts. Others primarily contain highly personal information, including private correspondence, photographs, videos, personal documents, and confidential communications. This distinction significantly affects whether the asset becomes part of the deceased's estate or remains protected by post-mortem privacy considerations.

Accordingly, the legal debate surrounding digital inheritance extends beyond the ordinary rules governing succession. It requires balancing several competing legal interests, including heirs' proprietary interests, the deceased's right to privacy, contractual obligations arising from platform terms of service, and the rights of third parties whose personal data may also be contained in the relevant digital account.

For this reason, contemporary legal scholarship increasingly distinguishes between personal digital assets and commercial digital assets. Personal digital accounts are primarily intended for private communication and the expression of individual identity, whereas commercial digital accounts function as income-generating assets that may constitute part of the deceased's patrimony. This distinction has become increasingly important in determining whether digital accounts should be inherited under ordinary succession rules or subjected to additional restrictions arising from privacy and data protection legislation.[15]

Distinguishing Personal and Commercial Social Media Accounts

The legal treatment of social media accounts for succession purposes largely depends upon their underlying legal nature. Not all digital accounts perform the same function, nor should they be governed by identical legal rules. A fundamental distinction must therefore be drawn between personal social media accounts, which primarily serve private and communicative purposes, and commercial social media accounts, which constitute economically valuable digital assets capable of generating income.[16]

Personal social media accounts generally contain private correspondence, photographs, videos, personal memories, family interactions, and other forms of intimate digital expression. These accounts are closely connected to the individual's personality and private life and frequently contain sensitive personal data relating not only to the deceased but also to relatives, friends, and other third parties. Consequently, unrestricted inheritance of such

15 Ilaria Maspes, 'Digital Inheritance, Right of the Heirs to Access to the Deceased User's Account, Non-Transferability Clauses: An Overview in the Light of Two Judgments Issued by Italian Courts' (2022) 8(1) The Italian Law Journal 407 <https://air.unimi.it/handle/2434/948114> accessed 30 June 2026; Tiina Mikk and Karin Sein, 'Digital Inheritance: Heirs' Right to Claim Access to Online Accounts Under Estonian Law' (2018) 27 Juridica International 117 <https://doi.org/10.12697/JI.2018.27.12> accessed 30 June 2026.

16 Hofstede (n 9); Szwajdler (n 1).

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accounts may significantly interfere with post-mortem privacy, informational self-determination, and the confidentiality of communications.

In contrast, commercial social media accounts perform fundamentally different functions. These accounts operate as business assets through advertising revenue, digital marketing, commercial partnerships, sponsored content, brand promotion, or electronic commerce. In many cases, the economic value of these accounts depends on audience size, market reputation, consumer trust, and accumulated digital goodwill. Consequently, commercial accounts increasingly resemble intangible business assets that can form part of the deceased's estate under the ordinary principles governing succession.

Nevertheless, the distinction between personal and commercial accounts rests solely on whether the account generates financial income. Certain professional accounts, despite producing economic value, may simultaneously contain confidential information protected by legal or professional obligations. Accounts maintained by lawyers, physicians, psychologists, financial advisers, or other professionals may include privileged communications or sensitive personal data belonging to clients or patients. In such circumstances, unrestricted inheritance could violate professional confidentiality, data protection legislation, and third-party privacy rights, even where the account itself has substantial commercial value.

Accordingly, this study argues that the legal classification of social media accounts should depend upon their predominant legal function rather than their technical characteristics. Accounts primarily serving personal communication should receive stronger privacy protection. In contrast, commercially operated accounts may, in principle, be treated as inheritable digital assets, provided appropriate safeguards protect confidential information and third-party rights. Such a functional approach offers a balanced solution for reconciling succession rights with digital privacy in both UAE and European legal systems.

4 COMPARATIVE LEGAL APPROACHES TO DIGITAL INHERITANCE

The lack of internationally uniform rules governing digital inheritance has created significant differences between national legal systems. While some jurisdictions recognise certain digital assets as inheritable property, others prioritise privacy rights and contractual obligations imposed by digital platform providers. The European legal landscape is particularly significant because it combines data protection law, human rights principles, and national succession rules. Examining these approaches provides valuable guidance for evaluating the current UAE legal framework and identifying possible legislative reforms.[17]

17 ibid; Hofstede (n 9).

4.1. European Legal Approaches

European legal systems have adopted different approaches to inheriting digital assets, reflecting the absence of harmonised legislation governing the legal status of social media accounts after death. Although the GDPR provides a comprehensive framework for protecting personal data, it does not establish uniform rules concerning the succession of digital assets or the post-mortem management of digital accounts. Consequently, Member States retain considerable discretion in determining whether digital assets should be treated as inheritable property or remain protected by privacy and contractual principles.[18]

Germany represents one of the most influential jurisdictions in this field following the landmark decision of the Federal Court of Justice (Bundesgerichtshof) in 2018 concerning access to a deceased person's Facebook account. The court held that digital accounts generally pass to heirs under the ordinary rules of succession, like letters, diaries, and other inheritable property. The court rejected Facebook's argument that privacy obligations prevented inheritance, emphasising that contractual rights and obligations normally transfer to heirs unless legislation expressly provides otherwise.[19]

Other European jurisdictions have adopted more cautious approaches. France, for example, has incorporated specific provisions on digital data after death into its data protection legislation, allowing individuals during their lifetime to determine how their digital data will be managed after death. In the absence of such instructions, access by heirs remains subject to statutory limitations intended to protect both the deceased's privacy and the legitimate interests of family members.[20]

These different legislative approaches demonstrate that European legal systems increasingly seek to reconcile succession rights with privacy protection rather than treating them as mutually exclusive legal interests. Instead of adopting absolute solutions, modern legislation increasingly favours proportionality, allowing access where justified while maintaining safeguards designed to protect confidential communications, personal dignity, and the rights of third parties.

4.2. The UAE Legal Position

The legal position in the United Arab Emirates differs considerably from the evolving European approach. While the UAE has established an advanced legislative framework for protecting personal data through Federal Decree-Law 45 of 2021 on the Protection of Personal Data, no legislation expressly regulates the inheritance of digital assets or

18 Regulation (EU) 2016/679 (n 3) recital 27, which states that the Regulation does not apply to the personal data of deceased persons and permits Member States to provide rules for such processing.

19 Case III ZR 183/17 (n 6); Fuchs (n 7).

20 Law of the French Republic no 78-17 of 1978 (n 5) art 85.

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determines the legal status of social media accounts after their owners' deaths. As a result, disputes concerning digital inheritance remain governed indirectly by the interaction between succession law, data protection legislation, contractual obligations, and the general principles protecting privacy and personal rights.[21]

The UAE Personal Data Protection Law establishes comprehensive safeguards governing the collection, processing, disclosure, and transfer of personal data. These provisions reflect the legislator's commitment to protecting informational privacy and strengthening confidence in the digital economy. Nevertheless, the legislation primarily regulates the processing of personal data during the data subject's lifetime and remains largely silent on the legal consequences after death. Consequently, neither heirs nor digital platform providers possess clear statutory guidance concerning access to the deceased's digital accounts or the extent to which digital assets form part of the estate.[22]

This legislative silence creates significant legal uncertainty. On the one hand, heirs may invoke the general principles of succession law to argue that economically valuable digital accounts should pass together with the remainder of the deceased's estate. On the other hand, digital platforms may rely on contractual terms of service or data protection obligations to refuse access. At the same time, concerns about post-mortem privacy may justify limiting disclosure of highly personal information contained in the account.

Unlike several European jurisdictions that have gradually developed judicial and legislative solutions for digital inheritance, UAE law has not yet established a coherent legal framework to reconcile these competing interests. Consequently, disputes are likely to be resolved through general legal principles rather than specific statutory rules, increasing legal uncertainty for heirs, digital platform providers, and courts alike.

This legislative gap demonstrates the growing need for a dedicated legal framework governing digital inheritance in the UAE. Such legislation should clearly distinguish between personal and commercially valuable digital assets, regulate the rights and obligations of heirs and digital service providers, and establish procedural safeguards capable of protecting both digital privacy and legitimate succession rights.[23]

21 UAE Federal Decree-Law 45 of 2021 (n 8).

22 ibid. The statute contains no express post-mortem digital-account regime.

23 Al Ali and Mohammed (n 9). Their analysis relied on Federal Law 28 of 2005, which has since been replaced by Federal Decree-Law 41 of 2024. See also Elhag Mohamed Elhag Eldosh, 'Digital Estate Management in UAE Law: An Original Legal Jurisprudential Study' (2026) 14(2) Malaysian Journal of Syariah and Law 375 <https://doi.org/10.33102/mjsl.vol14no2.1096> accessed 30 June 2026.

4.3. Comparative Synthesis: From National Rules to Common Regulatory Functions

The comparison reveals that the apparent conflict between inheritance and privacy is better understood as a problem of legal architecture. Germany demonstrates that a social media contract and its stored communications can, in principle, fall within universal succession. In contrast, France demonstrates that post-mortem data governance can be structured around the deceased's prior directions and limited heir access. The GDPR, meanwhile, does not itself govern the personal data of deceased persons, leaving Member States room to legislate. These approaches are doctrinally different, but they converge on the need for a legally supervised pathway rather than unilateral platform discretion.[24]

This convergence has an access-to-justice dimension. Heirs need a predictable route to establish standing, prove entitlement, and obtain the information needed to identify or administer estate assets. Platforms need rules that clarify when disclosure is lawful and when confidentiality must prevail. Third parties whose messages or personal data are embedded in an account need safeguards against unnecessary disclosure. A regulatory system that leaves all three questions to private terms of service risks producing inconsistent outcomes based on platform design rather than legal principle.

For comparative purposes, five common regulatory functions emerge. First, the law should distinguish the transfer of the account relationship from unrestricted disclosure of every item of content. Second, it should give meaningful effect to the account holder's lifetime instructions. Third, it should protect third-party communications through necessity and proportionality limits. Fourth, it should provide a judicial or similarly independent mechanism for contested cases. Fifth, it should require platforms to maintain transparent, intelligible procedures for post-mortem requests. These functions can be implemented differently in civil-law, common-law, European, and Middle Eastern systems without erasing their doctrinal differences.

The UAE is particularly well suited to this functional approach. Its current Personal Status Law, Federal Decree-Law 41 of 2024, treats the estate as property and financial rights left by the deceased. However, it does not specifically classify social media accounts or post-mortem data. The law came into force in 2025 and replaced the earlier Federal Law 28 of 2005. Any contemporary proposal for UAE reform should therefore be anchored in the 2024 legislation rather than the repealed framework.[25] Table 1 summarises the principal comparative differences and convergences relevant to the proposed framework.

24 Maspes (n 15); Mikk and Sein (n 15).

25 UAE Federal Decree-Law 41 of 2024 (n 8) arts 200–202. This Decree-Law replaced UAE Federal Law no 28 of 2005 'Regarding personal status' (19 November 2005) [2005] Official Gazette 439.

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***Table* 1. Comparative Legal Approaches to Post-Mortem Social Media Accounts**[26]

Jurisdiction / source	Succession position	Privacy and deceased's instructions	Access and platform implications
United Arab Emirates	General succession law can encompass property and financial rights, but current legislation does not specifically classify social media accounts or post-mortem account data.	The Personal Data Protection Law protects personal data but does not create a dedicated post-mortem digital privacy regime. No general statutory digital-directive mechanism is established for social media accounts.	Heirs and platforms lack a dedicated statutory procedure for proving entitlement, determining scope of disclosure, or separating inheritable value from confidential content.
European Union / GDPR baseline	The GDPR does not harmonise digital succession. Succession consequences remain primarily a matter for Member State law.	Recital 27 states that the GDPR does not apply to the personal data of deceased persons and allows Member States to provide rules for such data.	Platform duties depend on national succession, contract, privacy, and procedural law; EU data protection law does not itself create a uniform heir access right.
Germany	The Federal Court of Justice recognised the deceased user's Facebook contractual relationship as transferable to heirs under universal succession.	Privacy and telecommunications-confidentiality arguments did not justify a categorical exclusion of succession; however, access remains subject to the legal interests implicated by account content.	The 2018 judgement established transferability; the 2020 enforcement decision required access that enables heirs to use the account in a manner functionally equivalent to the deceased user, subject to the judgement.
France	French law does not rely solely on ordinary succession rules; post-mortem data management is specifically addressed by data protection legislation.	Article 85 of the French Data Protection Act permits individuals to issue general or specific instructions concerning retention, erasure, and communication of personal data after death.	Heirs may exercise defined post-mortem data rights in specified circumstances, giving platforms a statutory basis for processing certain requests while preserving limits tied to privacy and the deceased's wishes.

26 Source: Authors' synthesis based on the UAE Federal Decree-Law 45 of 2021 (n 8); UAE Federal Decree-Law 41 of 2024 (n 8); Case III ZR 183/17 (n 6); Case III ZB 30/20 (n 6); Law of the French Republic no 78-17 of 1978 (n 5) art 85.

5 RECONCILING PRIVACY RIGHTS AND SUCCESSION: A COMPARATIVE REGULATORY FRAMEWORK

The comparative analysis demonstrates that neither absolute inheritance nor absolute privacy protection provides an adequate legal solution for digital inheritance disputes. Treating all social media accounts as inheritable property risks violating the deceased's privacy and third-party rights, whereas denying heirs access may unjustifiably deprive them of economically valuable digital assets that form part of the estate. Consequently, a balanced legislative approach is required, one capable of reconciling competing legal interests while ensuring legal certainty for heirs, digital platforms, and judicial authorities.

5.1. A Functional Legal Classification of Social Media Accounts

This study proposes that a single legal rule should not govern social media accounts. Instead, their legal treatment should depend upon their predominant legal function. Under this functional approach, digital accounts may be divided into three principal categories. Table 2 operationalises this functional classification for succession and access decisions.

The first category comprises purely personal accounts, whose primary purpose is private communication, family interaction, and personal expression. Because these accounts contain highly personal information and confidential communications, they should continue to receive the highest degree of privacy protection after death, with heirs' access remaining subject to strict judicial supervision.

The second category includes commercially operated accounts generating measurable economic value through advertising revenue, sponsorship agreements, digital marketing, electronic commerce, or other business activities. Such accounts should generally be treated as inheritable digital assets forming part of the deceased's estate, subject to safeguards protecting third-party confidential information.

The third category consists of mixed accounts that simultaneously perform personal and commercial functions. These accounts require individual judicial assessment that balances the deceased's privacy interests against the legitimate proprietary interests of heirs, taking into account the proportion of commercial activity, the nature of the stored information, and the potential impact on third parties.

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Table 2. **Functional Classification and Presumptive Legal Treatment of Social Media Accounts[27]**

Account type	Predominant function	Presumptive succession treatment	Access standard	Core safeguards
Personal	Private communication, family interaction, memories, and identity expression.	No automatic unrestricted transfer of content. Succession interests should be recognised only to the extent compatible with privacy and applicable law.	Restricted or purpose-specific access; judicial authorisation where necessary, especially for intimate or disputed content.	Deceased's instructions; third-party privacy; confidentiality of communications; data minimisation; proportionality.
Commercial	Revenue generation, advertising, sponsorship, e-commerce, brand value, or other measurable economic activity.	Presumptively inheritable as an economic digital asset or contractual interest, subject to platform terms and mandatory law.	Heirs should receive the access reasonably necessary to preserve, value, administer, or transfer the economic interest.	Protection of third-party data; business confidentiality; intellectual property rights; verification of heirship and authority.
Mixed	Substantial personal and commercial functions coexist in the same account.	No categorical rule; the inheritable economic component should be separated, where feasible, from highly personal or confidential content.	Structured case-by-case balancing using the nature of the account, economic value, deceased's instructions, heir interests, third-party privacy, and platform obligations.	Proportionality; selective disclosure; technical segregation of content where feasible; judicial or independent oversight for contested access.

27 Source: Authors' proposed comparative framework, developed from the doctrinal analysis in Sections 3 to 5. The classifications are analytical categories rather than categories presently codified in a single jurisdiction.

5.2. Balancing Test between Privacy and Succession

Building upon comparative European experience, this study proposes that courts should apply a structured balancing test when resolving disputes concerning digital inheritance. Rather than granting automatic access or automatic refusal, judicial authorities should evaluate each case against clearly defined legal criteria.

These criteria should include:

(1) the legal nature of the digital account;

(2) whether the account possesses independent economic value;

(3) the degree of personal and confidential information contained within the account;

(4) the existence of instructions left by the deceased concerning the management of digital assets after death;

(5) the legitimate interests of heirs;

(6) the privacy rights of third parties whose communications or personal information may be affected; and

(7) the contractual obligations arising from the platform's terms of service.

Applying these criteria enables courts to reconcile succession rights with digital privacy while ensuring proportionality, legal certainty, and respect for fundamental rights.

5.3. Comparative and Transnational Legislative Principles

The proposed framework should not be understood as a set of recommendations addressed only to the UAE legislator. The comparative evidence supports a broader set of principles that can inform national law, European debates, and platform governance wherever succession rights intersect with digital privacy.

First, legal systems should separate whether an account relationship is transmissible from whether heirs are entitled to inspect all account content. Transferability may follow from succession law, yet confidentiality, third-party privacy, professional secrecy, or the deceased's express instructions can still limit disclosure of particular communications. This distinction allows inheritance and privacy to operate cumulatively rather than as mutually exclusive rules.

Second, lifetime autonomy should receive substantial weight. Individuals should be able to issue clear, revocable directions concerning preservation, deletion, transfer, memorialisation, or disclosure of digital material after death. France provides a useful legislative model because Article 85 permits general and specific post-mortem data directives and recognises a role for heirs in implementing them where appropriate. Similar

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mechanisms could be incorporated into succession legislation, data protection legislation, or legally recognised digital-will systems in other jurisdictions.[28]

Third, judicial access should be calibrated to necessity and proportionality. Where an heir seeks access to administer a commercially valuable account, identify an estate asset, or resolve a concrete legal claim, a court should be able to order targeted disclosure. In contrast, a request motivated only by curiosity should not automatically justify access to intimate communications. This is particularly important where communications contain data or secrets belonging to living third parties.

Fourth, platform terms should not be permitted to defeat mandatory succession rights or statutory post-mortem directives through blanket non-transferability clauses. At the same time, legislation should not require platforms to disclose content without a lawful basis. Clear statutory safe harbours can reduce the incentive for excessive refusal while protecting platforms that comply in good faith with verified requests and judicial orders. Scholarship on private ordering in digital estates has long identified the risks created when platform contracts effectively determine the fate of digital assets without adequate public law safeguards.[29]

Fifth, lawmakers should adopt technologically neutral definitions. Regulation should apply to digital accounts, stored content, access credentials, monetised channels, cloud-based assets, and functionally equivalent services without tying the rule to a particular social media brand. This is essential because platforms and business models change more quickly than succession legislation.

Sixth, cross-border disputes require rules on jurisdiction, applicable law, and recognition of orders. A deceased user may reside in one country, hold citizenship in another, contract with a platform established elsewhere, and store data in multiple locations. Comparative reform should therefore connect substantive digital succession rules with private international law and procedural cooperation. The objective is not worldwide uniformity, but sufficient interoperability to prevent an heir from possessing a substantive right that cannot practically be enforced against a foreign platform.[30]

For the UAE, these principles support targeted legislative clarification within the current succession and data protection framework. For European jurisdictions, they support greater coherence between national post-mortem rules and the GDPR-based data protection environment. Internationally, they identify a minimum architecture for fair digital-estate administration: user autonomy, differentiated asset classification, third-party protection, platform transparency, and effective judicial remedies.

28 Law of the French Republic 78-17 of 1978 (n 5) art 85.

29 Banta (n 1).

30 See generally, Hofstede (n 9); Szwajdler (n 1).

6 DISCUSSION: ACCESS TO JUSTICE, PLATFORM POWER, AND COMPARATIVE LEGAL DEVELOPMENT

Digital inheritance is not only a substantive private law problem. It is also an access-to-justice problem because the practical value of an inheritance right depends on whether heirs can identify the asset, establish entitlement, secure cooperation from the service provider, and obtain an enforceable remedy. A rule stating that an account is inheritable is incomplete if the heir cannot access it meaningfully; conversely, a platform procedure that permits download or memorialisation cannot substitute for a legal determination of ownership, confidentiality, or succession.

The German Facebook litigation illustrates this distinction. The Federal Court of Justice first recognised the contractual relationship as inheritable. It later clarified that meaningful access could not be reduced to delivering a static data copy where the heir was entitled to use the account environment in a legally relevant manner. The case shows that remedy design matters as much as abstract classification.[31]

The comparative analysis also challenges the assumption that privacy necessarily ends at death. Although the GDPR expressly excludes deceased persons from its direct personal scope, post-mortem interests remain legally significant through national legislation, confidentiality rules, personal interests, the privacy of living correspondents, and the deceased's autonomous choices made during their life. Recent empirical work on digital legacy likewise shows that users, practitioners, and regulators experience continuing uncertainty about post-mortem privacy and platform practices.[32]

This suggests that future regulation should avoid two extremes. A property-only model risks transforming intimate communications into ordinary estate inventory. A privacy-only model may freeze economically valuable assets, frustrate estate administration, and give platforms excessive power. The functional classification proposed in this article is intended to avoid both outcomes by asking what legal function a particular account or component of an account performs.

The framework also has implications beyond the UAE-Europe comparison. Digital platforms operate transnationally, while succession remains predominantly national. The resulting mismatch means that even well-designed domestic legislation can be undermined by jurisdictional fragmentation. A practical international agenda should therefore

31 Jenny Gesley, 'Germany: Federal Court of Justice Rules Digital Social Media Accounts Inheritable' (*Library of Congress*, 7 September 2018) <https://www.loc.gov/item/global-legal-monitor/2018-09-07/germany-federal-court-of-justice-rules-digital-social-media-accounts-inheritable/> accessed 20 June 2026. Discussing the BGH follow-up ruling on meaningful account access.

32 Harbinja, McVey and Edwards (n 9).

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encourage interoperable procedures for death verification, heir authentication, recognition of court orders, preservation of disputed data, and targeted disclosure. These procedural elements are particularly relevant to jurists and policymakers concerned with access to justice because they determine whether rights can actually be exercised across borders.

Finally, the analysis indicates that legislative reform should be accompanied by public-facing estate planning tools. Users should be informed, in clear language, of available legacy settings and the legal effect of those settings. Lawyers and notaries should treat digital accounts as a routine component of estate planning. Courts should have authority to tailor orders to the type of account and the sensitivity of its contents. Platforms should publish transparent criteria and preserve data while bona fide disputes are pending. Together, these measures translate comparative legal principles into an administrable system rather than leaving digital inheritance to ad hoc negotiation.

7 CONCLUSION

This study has shown that digital inheritance cannot be resolved by asking a single binary question about whether a social media account is "property" or "privacy". Accounts combine contractual rights, economic interests, personal communications, intellectual property, and data concerning both the deceased and living third parties. Effective regulation must therefore distinguish among these functions and provide a legal process that can balance them.

The comparative findings extend beyond a proposal for UAE reform. Germany demonstrates the capacity of ordinary succession doctrine to encompass digital account relationships; France demonstrates the value of express post-mortem data directives; the GDPR demonstrates that European data protection law leaves space for Member States to regulate deceased persons; and the UAE demonstrates the uncertainty that remains where modern succession and data protection statutes do not expressly connect those regimes to social media accounts. The lesson is not that one model should be copied wholesale, but that coherent digital succession systems require the same core regulatory functions: classification, user autonomy, third-party protection, transparent platform obligations, and enforceable remedies.

The article proposes a functional three-part classification of personal, commercial, and mixed accounts, supported by a structured judicial balancing test. It further derives transnational principles separating transmissibility from disclosure, giving weight to lifetime directions, limiting access by necessity and proportionality, constraining contractual clauses that defeat mandatory rights, using technologically neutral definitions, and addressing cross-border enforcement.

For the UAE, these findings support targeted reform anchored in Federal Decree-Law 41 of 2024 on Personal Status and Federal Decree-Law 45 of 2021 on Personal Data Protection. Reform should expressly address the status of digital accounts, the effect of digital-will instructions, platform duties, and judicial authority to order proportionate access. For European legal systems, the findings support greater coherence between national succession law, *post-mortem* data rules, and platform practices rather than reliance on the GDPR as if it supplied a complete answer.

More broadly, digital inheritance should be understood as an access-to-justice issue at the intersection of succession, privacy, contract, data protection, and cross-border procedure. The long-term objective should be neither automatic inheritance nor automatic secrecy. It should be a legally supervised framework in which economically legitimate succession claims can be realised without treating personal communications and third-party data as ordinary property. Such a framework offers a durable basis for national reform and for international convergence as digital assets become an increasingly ordinary part of deceased persons' estates.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ЦИФРОВЕ СПАДКУВАННЯ ОБЛІКОВИХ ЗАПИСІВ У СОЦІАЛЬНИХ МЕРЕЖАХ: БАЛАНС МІЖ ПРАВОМ НА ПРИВАТНІСТЬ І СПАДКУВАННЯМ ЗА ЗАКОНОДАВСТВОМ ОАЕ ТА ЄВРОПЕЙСЬКИХ ДЕРЖАВ

Енас Мохаммед Аль-Кодсі*, Сумая Аль-Джахурі, Хабіба Аль-Шамсі, Абуельвафа Ібрагім та Омар Юнес

АНОТАЦІЯ

Передумови. *Облікові записи в соціальних мережах дедалі частіше поєднують у собі економічну цінність, приватне листування, об'єкти інтелектуальної власності, персональні дані як власників облікових записів, так і третіх осіб. Після смерті власника облікового запису спадкоємці нерідко вимагають надання доступу до нього для належного управління спадщиною, тоді як онлайн-платформи посилаються на необхідність захисту приватності, конфіденційності або на договірні обмеження. Ця правова проблема значно ускладнюється тим, що Загальний регламент про захист даних (GDPR) не поширюється на персональні дані померлих осіб, підходи національних правових систем європейських держав залишаються неоднорідними, а законодавство ОАЕ, попри наявність сучасних норм у сфері спадкування та захисту персональних даних, не містить спеціального правового режиму спадкування облікового запису в соціальних мережах. У цьому*

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і на яких підставах, а також як правові системи можуть узгодити спадкове правонаступництво із захистом приватності після смерті особи.

Методи. *У статті застосовано догматичний (формально-юридичний), аналітичний та функціонально-порівняльний методи. Досліджено положення GDPR, статті 8 Конвенції про захист прав людини і основоположних свобод, законодавство Франції щодо захисту цифрових даних після смерті особи, судову практику Федерального верховного суду Німеччини у справі стосовно доступу до облікового запису померлої особи у Facebook, Закон ОАЕ про захист персональних даних та чинний Закон ОАЕ про особистий статус. Аналіз вторинних джерел обмежено науковими працями, безпосередньо присвяченими цифровому спадкуванню, посмертній приватності, цифровим активам, договірним умовам онлайн-платформ та успадкуванню облікових записів. Німеччину та Францію розглянуто як контрастні європейські моделі, тоді як ОАЕ є прикладом відсутності спеціального законодавчого регулювання на перетині спадкового права та права захисту персональних даних.*

Результати та висновки. *Порівняльний аналіз свідчить, що ні модель автоматичного спадкування, ні абсолютизація права на приватність не забезпечують належного вирішення проблеми. Автори пропонують функціональну класифікацію, яка розмежовує особисті, комерційні та змішані облікові записи, а також структурований алгоритм судового зважування конкуруючих прав та інтересів. Крім того, виокремлено шість порівняльно-правових принципів: розмежування переходу права на обліковий запис і розкриття його змісту (контенту); врахування цифрових розпоряджень особи, зроблених за життя; захист конфіденційності комунікацій за участю третіх осіб; забезпечення пропорційного доступу на підставі судового рішення; недопущення позбавлення спадкоємців прав, гарантованих імперативними нормами права, на підставі стандартних договірних умов онлайн-платформ; подолання колізій та забезпечення виконання судових рішень у транскордонних правовідносинах. Зазначені принципи мають значення не лише для реформування законодавства ОАЕ, а й для розвитку європейського та міжнародного права. Отже, цифрове спадкування слід розглядати як проблему забезпечення доступу до правосуддя, що потребує реалізації прозорих процедур, запроваджених онлайн-платформами, судового контролю за застосуванням засобів правового захисту та узгодженого регуляторного підходу на перетині норм спадкового, договірного права, законодавства про захист приватності та персональних даних.*

Ключові слова: *Цифрове спадкування; облікові записи в соціальних мережах; посмертна приватність; спадкове право; GDPR; законодавство ОАЕ; доступ до правосуддя.*

ABSTRACT IN ARABIC*

پژوهشی مقاله

الميراث الرقمي لحسابات وسائل التواصل الاجتماعي: الموازنة بين حقوق الخصوصية وأحكام الميراث في القانونين الإماراتي والأوروبي

إيناس محمد القدسي*، سمية الجهوري، حبيبة الشامسي، أبو الوفا إبراهيم، وعمر يونس

الملخص

الخلفية

أدى التوسع المتسارع في التقنيات الرقمية إلى تحويل حسابات وسائل التواصل الاجتماعي إلى أصول رقمية تجمع بين القيمة الشخصية والاقتصادية والعاطفية. وبعد وفاة صاحب الحساب، يثور التساؤل حول ما إذا كان الحساب ينتقل إلى الورثة بوصفه جزءًا من التركة، أم يظل محميًا بمقتضى الحق في الخصوصية. وبينما بدأت بعض الدول الأوروبية في تطوير حلول تشريعية وقضائية للميراث الرقمي، لا تزال المعالجة القانونية متباينة، كما لا يتضمن التشريع الإماراتي إطارًا صريحًا ينظم مصير حسابات التواصل الاجتماعي بعد الوفاة. وتهدف الدراسة إلى تحديد الطبيعة القانونية لهذه الحسابات، وبيان كيفية الموازنة بين الخصوصية الرقمية للمتوفى، والمصالح المشروعة للورثة، والتزامات المنصات الرقمية.

المنهجية

تعتمد الدراسة منهجًا قانونيًا تأصيليًا وتحليليًا ومقارنًا. وتحلل التشريعات الإماراتية المتعلقة بحماية البيانات الشخصية والميراث، وتقارنها بالأدوات القانونية الأوروبية ذات الصلة، ولا سيما اللائحة العامة لحماية البيانات، وبعدد من التشريعات الوطنية والأحكام القضائية الأوروبية. كما تتناول الدراسة الشروط والسياسات التي تعتمدها أبرز منصات التواصل الاجتماعي، بهدف تحديد أوجه التشابه والاختلاف والفجوات التنظيمية في معالجة الميراث الرقمي.

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النتائج والاستنتاجات

أظهرت الدراسة أن غياب قواعد تشريعية صريحة للميراث الرقمي يسبب حالة من عدم اليقين بشأن ملكية حسابات التواصل الاجتماعي وإمكان انتقالها إلى الورثة. كما كشفت المقارنة عن تعدد الاتجاهات القانونية بين اعتبار الحسابات أصولًا قابلة للميراث، والنظر إليها بوصفها حقوقًا شديدة الارتباط بشخص صاحبها وتستحق حماية مستمرة للخصوصية. وتبين كذلك أن سياسات المنصات، بمفردها، لا توفر حلًا كافيًا؛ لأنها لا تحقق درجة اليقين والقوة الإلزامية التي يوفرها التنظيم التشريعي. وخلصت الدراسة إلى ضرورة التمييز وظيفيًا بين الحسابات الشخصية، والحسابات ذات القيمة التجارية، والحسابات المختلطة؛ فالحساب التجاري يمكن، من حيث الأصل، أن يدخل في التركة مع حماية بيانات الغير، بينما تظل المراسلات الشخصية محمية بعد الوفاة، ما لم يوافق صاحب الحساب مسبقًا على الكشف عنها أو يصدر إذن قضائي لسبب قانوني ملزم. وتقترح الدراسة اعتماد اختبار قضائي للموازنة يراعي طبيعة الحساب وقيمته الاقتصادية ودرجة احتوائه على بيانات شخصية، وتعليمات المتوفى، ومصالح الورثة، وحقوق الغير، وشروط المنصة. كما توصي بإصدار تنظيم إماراتي خاص يجيز إعداد وصية أو توجيهات للميراث الرقمي، ويلزم المنصات بوضع إجراءات شفافة لطلبات الورثة، بما يحقق التوازن بين حقوق الميراث والخصوصية والأمن القانوني.

الكلمات المفتاحية

الميراث الرقمي؛ حسابات وسائل التواصل الاجتماعي؛ الخصوصية الرقمية؛ اللائحة العامة لحماية البيانات؛ الأصول الرقمية؛ قانون الميراث؛ القانون الإماراتي؛ القانون المقارن.