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CONFIRMATION OF INHERITANCE ACQUISITION IN THE PRACTICE OF POLISH COURTS – SELECTED ISSUES[1]

Abstract

Amendment to the Civil Code rules on succession, introduced on 2 April 2009, extended the range of statutory heirs by more distant relatives than lineal parents and collateral siblings' descendants, by including stepchildren within the range of statutory heirs.

This article is an attempt of the author – academic lecturer and, at the same time, practising advocate – to reflect on the practical consequences of that legislative reform.

In particular, the problem arose as to how the extension of the range of statutory heirs influences the efficiency and duration of court proceedings in matters for the confirmation of inheritance acquisition.

The article presents the most crucial procedural problems, often following from inconsistent judicial practice, which lead to the protraction of court proceedings, both when we have to do with intestate and testamentary succession.

Another question depicted is the causes of delivering two or more decisions confirming the acquisition of inheritance from the same deceased person and methods of eliminating such defective rulings from legal practice.

[1] This article is a reflection of the author – university lecturer and practising advocate – on the practical consequences of extending the range of statutory heirs in the judicial practice of ordinary courts.

The presented problems should provide a stimulus for necessary legislative amendments in this area.

KEYWORDS

succession court, statutory heir, testamentary heir; inheritance decision

SŁOWA KLUCZOWE

sąd spadku, spadkobierca ustawowy, spadkobierca testamentowy, postanowienie o stwierdzeniu nabycia spadku

I. INTRODUCTION

Amendment to the Civil Code rules on succession, introduced by the Act of 2 April 2009,[2] extended the range of statutory heirs by more distant relatives than lineal parents and collateral siblings' descendants, by including stepchildren within the range of statutory heirs. As a consequence, beginning with inheritances devolving as from 26 June 2009,[3] the range of statutory heirs was specified as follows:

- first, in a situation when the deceased person does not make any testamentary dispositions of his or her estate in case of death, also grandparents and stepchildren are included as heirs, and parents are given a larger share in the succession estate left by a childless deceased person at the expense of the deceased person's siblings;
- second, a single mother receives half of the estate left by her childless child, inheriting together with the deceased person's spouse when the fatherhood of her biological child has not been ascertained;
- third, the extension of the range of statutory heirs limited the possibilities of inheriting by the municipality in which the deceased person had his or her last place of residence or by the State Treasury if the deceased person had his or her last place of residence abroad; the question of amended jurisdiction of the succession court will be discussed in a further part of this article;

[2] Cf. Art. 1 items 2 – 4 of the Act of 2 April 2009 amending the Act – Civil Code (Journal of Laws, No. 79, item 662).

[3] Date of entry into force of the Civil Code's amendment.

– fourth, the range of statutory heirs includes grandparents on the side of either of the parents and their descendants, that is aunts and uncles of the deceased, however, grandparents inherit only if the deceased left no spouse or closer relatives and, obviously, children, grandchildren, parents, siblings and siblings' descendants, who wish and could inherit from the deceased; their shares are equal and it does not matter if they are married.

The need to extend the range of statutory heirs, especially so as to include grandparents, was repeatedly signalled by the Ombudsman[4] as well as academic authors, arguing that too narrow a range of heirs did not take into account the interests of the family when the succession estate was inherited by a municipality or the State Treasury instead of relatively close family members.[5]

The limits and the purpose of this article do not permit a more specific discussion of the substantive law aspects of extending the range of statutory heirs as effected through the above-mentioned amendment to the Civil Code. Attention will be focused on adjudication matters. In particular, a practical problem arose as to how the extension of the range of statutory heirs translates into efficiency and duration of court proceedings in matters for confirmation of inheritance acquisition, bearing in mind the procedural obligations imposed by courts on applicants with regard to designating all participants to the proceedings, submitting their civil status documents and indicating their addresses. If the essence of succession is to enable possibly fast acquisition of the succession estate by the rightful heir (heirs), the adopted practice is definitely not conducive to guaranteeing such effect. This refers also to court proceedings for the confirmation of the acquisition of the succession estate under a testament, in the course of which courts require a statutory heir, often a person loosely connected with the deceased person's family, to designate all potential participants of the procedure to submit their civil status documents and to indicate their addresses of residence, which renders it practically impossible to deliver a decision confirming the acquisition of the succession estate within

[4] Cf., for example, the Ombudsman's letter to the Minister of Justice of 8 January 2007, RPO-276047-IV/98/BB.

[5] Cf., for example, S. Wójcik, *Ochrona interesów jednostki w polskim prawie spadkowym w zakresie powołania do dziedziczenia* , ZNUJ Pr. Praw. 1981/98, p. 178 *et seq*., A Dyoniak, *Ochrona rodziny w razie śmierci jednego małżonka,* Warszawa-Poznań 1990, p. 42 *et seq.*, J. Pietrzykowski, *Wybrane zagadnienia reformy prawa spadkowego*, SI 1994/21, p. 250 *et seq*., M. Pazdan, *O potrzebie i kierunkach zmian dziedziczenia ustawowego w polskim prawie cywilnym,* Rejent 2005/9, p. 44 *et seq*., id., *Prawo spadkowe* (in:) *Zielona Księga. Optymalna wizja Kodeksu cywilnego w Rzeczypospolitej,* Z. Radwański (ed.), Warszawa 2006, pp. 187-188, id., *Projektowane zmiany w unormowaniach dziedziczenia* ustawowego, Rejent 2008/4, p. 16 *et seq*., J. Wierciński, *Uwagi o teoretycznych założeniach dziedziczenia ustawowego*, SPP 2009/2, p. 87 *et seq*., W. Żukowski, *Projektowana nowelizacja przepisów regulujących dziedziczenie ustawowe*, KPP 2008/1, p. 257 *et seq*., T. Mróz, *O potrzebie i kierunkach zmian prawa spadkowego*, PS 2008/1, p. 84 *et seq*., M. Załucki, *Krąg spadkobierców ustawowych de lege lata i de lege ferenda*, PS 2008/1, p. 98 *et seq.*

a reasonable timeframe.[6] This problem seems to be gradually recognised by the legislator, who once again is heading in the direction of limiting the range of statutory heirs and, in consequence, also the number of participants to a succession case.

As signalled above, the range of statutory heirs was defined quite extensively. In practice, situations repeatedly take place in which the succession estate devolves to such distant relatives that even did not know the deceased person. Most often, this is the fate of inheritance estates encumbered with debts, which estates had been previously rejected by closer relatives of the deceased person. It must be added that such a wide range of heirs frequently hinders or even precludes creditors from seeking their receivables, that is the deceased person's liabilities since in the succession proceedings it is the creditor-applicant holding a legal interest in the confirmation of inheritance acquisition – that is obliged to designate any potential heirs, participants to the proceedings, to submit their civil status documents and to indicate their addresses of residence, although in practice such creditor generally does not even know the closest family members of the deceased person.

Amendments proposed in this regard are heading towards a limitation of the so-called third group of statutory heirs. As has been the case so far, when any of the grandparents of the deceased person has not lived up to the devolution of the succession estate, the share in the estate due to such grandparent would devolve to the grandparent's children, or to their children. However, the Draft Proposal assumes a principal modification in the form of excluding from succession any further generations of descendants, the deceased person's cousins. Within the same group, the range of statutory heirs is to be limited to uncles and aunts of the deceased person and their children (cousins of the deceased person). According to the assumptions of the authors of the Draft Proposal, this is intended to contribute to solving the problem of excessive courts' backlog in matters for confirming inheritance acquisition as the courts will not be forced to search for the deceased person's distant relatives.[7]

II. SELECTED SPECIFIC ISSUES

As indicated at the beginning of this article, the limits of this article do not allow to carry out an analysis of all legal consequences of the applicable legislative regime on the range of statutory heirs. Therefore, attention will be focused, in the first place, on the selected procedural aspects relating to the confirmation

[6] I left outside the scope of this article the matters of certifying succession under Art. 95a and following the Act of 14 February 1991 – Law on Notaries (consolidated text: Journal of Laws 2022 , item 1799) in conjunction with Art. 1025 of the Civil Code.

[7] Cf. Draft Proposal of the Act amending the Act – Civil Code and amending certain other Acts – Parliamentary print No. 2977, including explanatory memorandum. The Draft Proposal was referred to further legislative works on 8 February.

of inheritance acquisition, based either on intestate or testamentary succession. In this context, it seems legitimate to refer to the courts' practice also in matters held with the author's involvement as an attorney of applicants in succession matters. For obvious reasons, it is impossible to generalise such experiences, however, one should point to certain directions which have become apparent in judicial practice and which seem to prolong the processing of succession matters.

Extension of the range of statutory heirs, introduced by the amendment to the Civil Code cited at the beginning, requires verification of the legal instruments at the disposal of courts and applicants in succession matters with regard to the possibilities of finding the heirs.

Already at this point, it must be highlighted that, by the Act of 24 July 2015 amending the Code of Civil Procedure,[8] Article 628 of the Code of Civil Procedure was amended, governing the matters of court jurisdiction in succession matters, that is also in matters for the confirmation of inheritance acquisition. As of 17 August 2015, the competent court is not – as had been the case previously – the court having jurisdiction over the last place of abode of the deceased person but the court having jurisdiction over the last place of the deceased person's habitual residence. Only if the place of habitual residence in Poland cannot be established, the competent court shall be the court in whose circuit the succession estate or its part is situated, and in the absence of the above jurisdiction grounds, the court of succession shall be the district court for the capital city of Warsaw.

As emphasized by commentators of the provision of Article 628 of the Code of Civil Procedure,[9] its amendment was a consequence of the entry into force of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.[10] Under Article 4 of that Regulation, the courts of the Member State in which the deceased had his habitual residence at the time of death shall have jurisdiction to rule on the succession as a whole. However, it must be clearly stressed that the cited provision of the Regulation of the European Parliament and of the Council relates to national jurisdiction, that is jurisdiction of a specific Member State in which the deceased person had a place of habitual residence. On the other hand, the provision of Article 628 of the Code of Civil Procedure relates not only to

[8] Cf. Art. 1 item 3 of the Act of 24 July 2015 amending the Act – Code of Civil Procedure, the Act – Law on Notaries and certain other Acts (Journal of Laws of 2015, item 1137), which entered into force on 17 August 2015.

[9] Cf., especially, M. Kuchnio, commentary to Article 628 of the Code of Civil Procedure, (in:) *Kodeks postępowania cywilnego. Postępowanie nieprocesowe. Postępowanie w razie zaginięcia lub zniszczenia akt. Postępowanie zabezpieczające. Komentarz*, O.M. Piaskowska (ed.), Publ. WKP 2022.

[10] OJ L 201, p. 107.

the required designation of national jurisdiction, but also of the specific place in which the deceased person habitually resided at the time of his or her death. This question is not obvious and therefore – as pointed out by M. Kuchnio in the commentary to that provision – the judicial body holding a succession case should make a general assessment of the circumstances of the deceased person's life in the years preceding his or her death and at the time of death, taking into account any essential factual elements, in particular, the duration and regularity of the deceased person's presence in a given country, as well as the circumstances and reasons for such presence. So established place of habitual residence should have a strict and stable relation with a given country, having regard to the specific purposes of the discussed Regulation. In certain cases, it may prove complicated to establish the place of the deceased person's habitual residence. Such a situation may be the case especially when the deceased, for professional or economic reasons, went abroad to work, sometimes for a long period of time, but maintained a strict and stable relation with his or her country of origin. However, courts adjudicating in succession matters, invoking directly the provisions of Article 126 and Article 511 of the Code of Civil Procedure, impose on applicants, especially the ones represented by professional attorneys, often an impracticable obligation to designate the deceased person's place of habitual residence already in the application for the confirmation of inheritance acquisition, and then, if the applicant proves unable to indicate that circumstance, courts return the application or, alternatively, impose such obligation on pain of suspending the proceedings. In such situations, the courts completely disregard the fact that the applicant is frequently, for example, the deceased person's creditor, who does not have any knowledge about the deceased person's place of habitual residence. Moreover, courts treat the applicant on equal terms with a plaintiff in contentious matters, while an applicant, according to Article 510 of the Code of Civil Procedure, is at the same time a participant to the proceedings, except for the fact that the applicant initiates the non-contentious procedure. In this context, courts overlook even the information heard from participants to the proceedings, who had generally been in a close relationship with the deceased person. Importantly enough, there is no doubt that the terms "abode" and "residence" are still ambiguous concepts.[11] Ordinary courts often seem to overlook also the specificity of succession proceedings and their special role in the regularization of property relations. In fact, such specificity requires also the court's activeness and actions taken *ex officio*. From this point of view, it would be hard to accept the practice leading often to discontinuation of the proceedings for confirmation of inheritance acquisition for the sole reason that, in the period of suspension of the proceedings, it was

[11] In this subject matter, cf. O. Bobrzyńska, *Ujednolicenie pojęć „zamieszkania" i „pobytu" w rezolucji (72) i Komitetu Ministrów Rady Europy*, KPP 2015/3, p. 727 *et seq*. and M. Rzewuski, M. Rzewuska, *Jurysdykcja* (in:) *Unijne rozporządzenie spadkowe nr 650/2012. Komentarz*, M. Załucki (ed.), Warszawa 2018, p. 96 *et seq*.

impossible – in the light of the court's inaction – to establish such a fundamental element of the procedure as the place of the deceased person's habitual residence. Inconsistent judicial practice in this regard leads to situations, which has been on many occasions signalled by the Ombudsman, of dissimilar inheritance decisions of different courts in respect of the confirmation of acquiring inheritance from the same person.[12] At this point, it should be noted that an inheritance decision is the only proof of acquiring the rights to the succession estate vis-à-vis a third party who does not claim to have any rights to the estate under the law of succession. Accordingly, in case of delivery of two or more legally valid decisions confirming the acquisition of inheritance from the same person, the heirs do not hold any unambiguous judicial confirmation of their rights acquired by succession. This has far-reaching consequences, for example, in possible proceedings for the division of the succession estate, or in land and mortgage registry proceedings, or in administrative proceedings, in which legal succession is demonstrated according to civil law provisions. Also, it happens frequently that third parties and state authorities, including ordinary courts and public administration bodies, or even heirs themselves do not realise that there are several dissimilar but legally valid inheritance decisions. This undermines the public order, including legitimate third-party rights, and gives rise to complications for everyone, for example, a risk of concluding contracts with persons who, in fact, are not the heirs. It seems that an extraordinary petition submitted by the Ombudsman under Article 89 § 1 item 2 of the Act of 8 December 2017 on the Supreme Court[13] is an insufficient solution in this regard. As argued by the Ombudsman, the simultaneous presence of dissimilar inheritance decisions is in stark contrast with the principle of legitimate expectation, trust in the state and the law enacted by the state, as well as the principle of legal certainty (Article 2 of the Constitution). In such situations, the right of access to the courts (Article 45(1) of the Constitution) becomes illusory as the participants to legal proceedings do not obtain a binding resolution of their case. Most importantly, however, in case of multiple confirmations of acquiring inheritance from the same person, we are dealing with a violation of the right of succession (Article 21(1) of the Constitution).

It must be added that extraordinary petition is only an interim solution leading to the elimination of defective inheritance decisions and cannot be considered a remedy that allows to effectively solve the problem. Legal instruments enabling to eliminate subsequent inheritance decisions confirming the acquisition of inheritance from the same deceased person should be characterized by informalization and the widest possible availability to persons affected by the defective decision. Only in this way, such remedies could restore full realisation of the violated right of access to the courts.

[12] Cf. letter of the Ombudsman of 2 July 2020 addressed to the Minister of Justice (available at the Ombudsman's official website: brpo.gov.pl.)

[13] Consolidated text: Journal of Laws of 2021, item 1904.

Thus far, however, no legislative works have been initiated in this regard. Therefore, it is all the more important that in succession matters courts should cooperate with participants to the proceedings with a view to establishing all circumstances relevant to the determination of the actual place of habitual residence of the deceased person, and in situations when it is objectively impossible to obtain such information from the applicant or participants to the proceedings, that the courts should take actions *ex officio*.

In this context, the legal regime envisaged in Article 670 § 1 of the Code of Civil Procedure is not without significance, under which the succession court shall *ex officio* examine who the heir is. In particular, the court shall examine if the deceased has left a testament and shall call on the person who, as substantiated, holds the last will to submit such testament. If the testament is submitted, the court shall open and announce it.

Under such a legislative framework, the practice of ordinary courts of shifting all the obligations in this regard to the applicant cannot be accepted, especially when this is an institutional applicant, for example, a municipality represented by a professional attorney. It should be made clear that the activities of a professional attorney in an inheritance case must fit into a strict legislative framework. In the first place, such a professional attorney is bound by all requirements relating to the application of the provisions of the Act on the protection of personal data.[14] Consequently, the status of professional attorney does not imply any special instruments available to such attorney for accessing the data of persons that might be heirs, or for ascertaining their addresses. Only the court, acting *ex officio* in a succession case, has access to the data of such institutions as the National Health Fund, the Tax Office, the Powiat Labour Office or the Social Insurance Institution, in which agencies one might subsidiarily search for the address details of potential heirs. On the other hand, the requirement that this obligation should be fulfilled by the applicant's attorney has no legal grounds. Unfortunately, the courts, in the justifications of their decisions suspending the proceedings because of non-designation of all heirs or their addresses, argue that the attorney did not demonstrate what actions he or she took to comply with the court's order. Such "requests" of the courts are legally and factually impracticable. Even if the applicant, represented by a professional attorney, demonstrates that it was impossible to designate the addresses of participants to the successions proceedings despite a relevant search in the PESEL system, the courts still argue that the applicant did not duly evidence that it was impossible to determine the addresses otherwise. On such occasions, courts do not specify what actions they expect of the applicant and if such actions fit into the applicable legal order. It would be hard to imagine that, in this regard, a professional attorney of the applicant should use the services of a detective agency.

[14] Cf. The Act of 10 May 2018 on the protection of personal data (consolidated text: Journal of Laws of 2019, item 1781).

For another thing, ordinary courts commonly attach a special status to the municipality as an applicant or participant to succession proceedings and impose on the municipality's attorney obligations in the sphere of *imperium*, and not *dominium.* It must be emphasised that the municipality, just as any other territorial self-government unit or the State Treasury, acts in succession proceedings as civil law subjects, and not authoritatively as administrative bodies. Accordingly, they are not in a position within such proceedings, even for the purpose of establishing the range of statutory heirs or their addresses of residence, to take advantage of instruments in the sphere of administrative power. If a different line of argument was adopted – as certain courts seem to do – this would lead to inequality of participants to succession proceedings since one of them would act within its authoritative powers (*imperium*). This would be in stark contrast with the principle of party equality in civil proceedings. It must be added that, in succession proceedings, the municipality does not act in its own interest but usually performs its duties under special provisions, which obligate the municipality – just as any other territorial self-government units and the State Treasury – to regularize the legal status of immovable properties, or to enforce public liabilities from inheritance debtors. Courts should not lose sight of these questions.

It should also be remembered that succession proceedings, as such, have a regulatory nature and should guarantee the certainty of civil law transactions. As a consequence, the court, acting *ex officio* and in cooperation with all participants to the proceedings, should strive to establish the full range of heirs. Receipt of information in the course of court proceedings that, possibly, yet other participants should take part in the proceedings should induce the court to take all legal measures with a view to establishing the place of residence of such participants and determining where their civil status documents are located. On the other hand, courts, against the very essence of a regulatory procedure, treat the applicant, especially when they deal with an institutionalised applicant represented by a professional attorney, as the party that should comply with every order of the court, even one without legal grounds, on pain of sustaining the proceedings. The courts often overlook the fact that, in succession proceedings, apart from measures correlated to the requirements prescribed for pleadings, the court has special powers allowing to determine the range of heirs.

Along these lines, under Article 671 of the Code of Civil Procedure, proof that there are no other heirs can be an inheritance assurance made by an heir coming forward. It must be noted that such assurance can be made by any participant to the proceedings having the status of an heir, not only by the applicant.

Moreover, under Article 672 of the Code of Civil Procedure, when an inheritance assurance cannot be made or when the assurance or other pieces of evidence are not considered sufficient by the court, a decision in the case for confirming inheritance acquisition may be delivered upon summoning heirs by an announcement.

Apart from those institutions specific to the law of succession, it is also admissible for the court to appoint a curator for a person of unknown whereabouts under Article 13 § 2 in conjunction with Article 143 and Article 144 of the Code of Civil Procedure. In this context, however, courts, prior to delivering such procedural decision, often impose on applicants rigorous obligations regarding substantiation that the whereabouts of a participant are unknown to them, which are impossible to comply with bearing in mind the limited range of legal instruments available to the applicant. Once again, it should be remembered that the applicant – even if represented by a professional attorney – does not have any legal instruments enabling him or her access to the databases of personal information. In this matter, courts too often neglect the possibility of informational questioning of participants to the proceedings, who are generally family members of the missing participant of unknown whereabouts. Such informational questioning can convince the court that the whereabouts of the participant are indeed unknown since information in this regard is not even known to (a) member(s) of his or her close family. This should be one of the essential legal instruments of the substantiation referred to in Article 144 of the Code of Civil Procedure and give rise to the appointment of a curator.

Problems with the establishment of heirs become even more complicated in a situation when it is probable that an heir resides abroad. In such a legal situation, the court – upon determining on the basis of an inheritance assurance and other pieces of evidence (such other evidence can be information from the embassy or consular office of the state in which the heir may reside) that the participant does not appear in consular databases, even once a curator has been established for such missing participant – should resort, under Article 672 of the Code of Civil Procedure, to a press announcement.[15] This is the case since only by such means is it possible to verify if such persons actually exist, if they live and have civil status records. On the other hand, the imposition on the applicant, in such a factual situation, of the obligation to submit a civil status document of such a participant – which unfortunately is the practice before ordinary courts – on pain of suspending the proceedings, leads only to frustration of the succession proceedings and impossibility to regularize the legal status, which must be evaluated critically.

What is more, the practices of courts in testamentary succession proceedings should be approached with criticism.

It should be noted that a testamentary heir is often a person in a special relationship with the testator, while not having good relations with statutory heirs. It should be reminded that participants to succession proceedings, even when the basis of acquiring the succession estate is a testament, are all potential statutory heirs. This is the case as in such proceedings they have the right to question the

[15] Obviously, this is not an entirely precise legal instrument. However, so far, there are no legal provisions enabling to order press announcements outside the country of succession.

regularity of the testament and of the appointment of heir under the testament. The extended range of statutory heirs gives rise to a situation in which their designation by the testamentary heir, who usually acts as an applicant, is confronted with difficulties of different type, especially that, as a rule, the testamentary heir cannot hope for cooperation in this regard of other participants to the proceedings. In this case, a special role should be attached to the court which, under Article 670 § 1 of the Code of Civil Procedure, should examine *ex officio* not only who the heir is but also determine if the deceased person has left a testament and – upon receiving such information – call on the person who, as substantiated, holds the last will to submit it to the court. If the last will has been submitted, the court is obliged to open and announce it.

It must be noted that, by its nature, testamentary succession should guarantee a relatively fast transition of the succession estates to rightful heirs. Quite contrarily, litigating experiences show that succession proceedings based on a testament last much longer than succession proceedings in which the succession is based on statutory provisions. It is often the case that the succession estate is subject to decapitalisation, which is in contrast with the essence of transferring estates *mortis causa* and in violation of the Constitutional principle of the protection of property. Moreover, in succession proceedings, courts commonly impose only on applicants the obligation to submit the testament, even when the applicant points out that the testament is in the hands of another person. This practice is not grounded in the existing legislative regime. Notably, under Article 646 § 1 of the Code of Civil Procedure, the person holding the testament is obliged to submit it to the succession court once he or she learns about the testator's death.[16] Therefore, the existing practice should not be approved of in the court proceedings for the confirmation of inheritance acquisition.

The presented analysis of the adjudication practice by ordinary courts in matters for the confirmation of inheritance acquisition does not permit any categorical conclusions of general type, especially since it is partly based on the litigating experiences of the author of this article, who acted in the discussed proceedings as an attorney of applicants or participants to the proceedings, also ones being legal persons.

However, it seems legitimate to conclude that the extension of the range of statutory heirs, as postulated by academic authors and the Ombudsman, which

[16] Unless the testament is deposited with a notary. Moreover, further provisions give the court measures to enforce that obligation – see Article 647 § 2 of the Code of Civil Procedure, enabling the succession court to impose a fine on a person refraining from the submission of a testament, irrespective of the fact that such person incurs compensatory liability in this regard; see also Article 647 of the Code of Civil Procedure, under which the succession court may order a statement to be made in respect of the existence of a testament and its whereabouts, applying appropriately the procedure provided for the disclosure of items belonging to the succession estate; under Article 648 of the Code of Civil Procedure, the court shall deliver *ex officio* a decision ordering submission of the testament within a prescribed deadline.

was introduced through the amendment of the Civil Code in 2009, was not combined with any rationalisation of procedural law instruments, which would enable efficient adjudication in matters for the confirmation of inheritance acquisition under statutory provisions or under a testament. The indicated shortcomings of the discussed proceedings are not always a consequence of improper judicial practice but often are of a systemic nature, which must be clearly emphasized. Accordingly, the purpose of the analysis was not to criticise ordinary courts but to highlight the need for systemic reforms. In the first place, situations in which two or more decisions have been delivered confirming the acquisition of inheritance from the same person are unacceptable. Another unacceptable element, from the point of view of protecting succession estates, is the duration of court proceedings as a result of which such succession estates are often subject to decapitalisation.

Only these questions should induce the legislator to undertake adequate legislative actions.

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