Succession

Polonja

This factsheet was prepared in cooperation with the Council of the Notariats of the EU (CNUE).

1 How is the disposition of property upon death (will, joint will, agreement on succession) drawn up?

Under Polish law, property can be disposed of after death only by way of a will. Joint wills are prohibited. The following forms of will are accepted:
a holographic will entirely handwritten, signed and dated by the testator;
a notarial will drawn up by a notary in the form of a notarial deed;
a will made orally in the presence of two witnesses before the mayor of a municipality (‘*wójt*’), the mayor of a town (‘*burmistrz*’) or the head of a town council (‘*prezydent miasta*’);
an oral will (only when death is imminent and it is impossible or very difficult to make a will in the ways described above) in the presence of three witnesses.
The only agreements on succession that are accepted are inheritance waiver agreements. Such agreements may be concluded by the future testator and the legal heir and must be in the form of a notarial deed to be valid.

2 Should the disposition be registered and if yes, how?

A will need not be registered to be valid. Wills drawn up in the form of a notarial deed or deposited with a notary may be registered with the National Council of Notaries (‘*Krajowa Rada Notarialna*’).

3 Are there restrictions on the freedom to dispose of property upon death (e.g. reserved share)?

No restrictions on the testator’s freedom to name an heir or heirs are imposed by Polish law. Likewise, the right to a reserved share does not restrict a testator’s freedom to dispose of their property but protects the interests of their blood relatives and spouse, who are entitled to payment of a specified amount.

4 In the absence of a disposition of property upon death, who inherits and how much?

The following rules apply in the absence of a will:
If the deceased was not married and had no children, their parents inherit. If one of the parents is deceased at the time when the succession is opened, that parent’s share is divided equally among the testator’s siblings. If one of the testator’s siblings died before the succession is opened, leaving descendants, their share is divided equally among the descendants. If there are no siblings or descendants, the entire inheritance is divided equally among the testator’s grandparents. If one of the grandparents is deceased at the time when the succession is opened, that grandparent’s share is inherited by their descendants. If a grandparent who died before the succession is opened has no descendants, their share is divided equally among the other grandparents. If there are no relatives entitled to the succession by law, the inheritance goes to the municipality of the testator’s last residence. If it is impossible to determine where the testator last resided in Poland or if the testator resided abroad, the inheritance goes to the Treasury.
If the deceased was not married and leaves children, only those children inherit.
If the deceased leaves a spouse, that spouse becomes the sole heir if there are no descendants, parents, siblings or siblings’ descendants.
If the deceased leaves a spouse and children, the inheritance is divided equally among them. However, the spouse cannot receive less than a quarter of the inheritance. If the deceased leaves a spouse with whom they had a statutory joint property arrangement, the surviving spouse receives half of the joint property for the termination of joint ownership, while the other half forms part of the deceased’s inheritance.
If the testator does not leave a spouse or blood relatives entitled to the succession by law, the inheritance is divided equally between the children of the spouse of the heir whose parents were no longer living when the succession was opened (inheritance relating to stepchildren).

5 What type of authority is competent:

5.1 in matters of succession?

Applicants should refer to a notary or the court with jurisdiction over the testator’s last place of residence.

5.2 to receive a declaration of waiver or acceptance of the succession?

Declarations concerning the acceptance or waiver of a succession are lodged with the court with jurisdiction over the place of residence of the person lodging the declaration, or before a notary. Persons residing abroad may lodge declarations concerning the waiver of a succession in the form provided for by the law of the place in which this action is taken.

5.3 to receive a declaration of waiver or acceptance of the legacy?

There are two types of legacy under Polish law: legacy by damnation and legacy by vindication. Only legacies by vindication can be accepted or waived. This is not possible for legacies by damnation.
The authorities referred to in the previous question are competent to receive such declarations concerning legacies by vindication.

5.4 to receive a declaration of waiver and acceptance of a reserved share?

There are no reserves under Polish law. However, payment of a reserved share, i.e. of an appropriate sum of money, may be claimed. Declarations of waiver or acceptance of a reserved share are not submitted.

6 Short description of the procedure to settle a succession under national law, including the winding-up of the estate and sharing out of the assets (this includes information whether the succession procedure is initiated by a court or other competent authority on its own motion)

A person who wishes to obtain a document confirming their status as heir may apply to the court for a certificate of inheritance or apply to a notary for a registered certificate of succession. If there are several heirs, the estate may be divided, at their request, by the court in proceedings for the winding-up of the estate or by a notary by way of an agreement for the winding-up of the estate in the form of a notarial deed.

7 How and when does one become an heir or legatee?

A person becomes an heir or legatee respectively when the succession is opened under the law (however, the succession may be waived).

8 Are the heirs liable for the deceased's debts and, if yes, under which conditions?

In principle, heirs bear unlimited liability for a deceased's debts. Heirs may limit their liability by accepting the inheritance subject to inventory. In such cases, the heirs should make an appropriate declaration before a notary or the competent court within six months of the date on which they became aware of the inheritance. Heirs are jointly liable for a deceased's debts.

9 What are the documents and/or information usually required for the purposes of registration of immovable property?

In order to enter immovable property forming part of the inheritance in a land and mortgage register, the heir must, as a rule, present documents confirming their status as heir, i.e. a court certificate of inheritance or a notarial certificate of succession.

9.1 Is the appointment of an administrator mandatory or mandatory upon request? If it is mandatory or mandatory upon request, what are the steps to be taken?

Firstly, under Polish law, an administrator of the estate may be appointed *ex officio* or on request when, for any reason, there is a risk that the estate will not be distributed as intended. To that end, the interested party should submit an application to the court with jurisdiction over the testator's property to demonstrate that they are an heir or legatee, or are entitled to a reserved share. An application may also be submitted by the executor of a will, a co-owner of property, a person jointly entitled to the testator's rights, a creditor with a written proof of debt against the testator or a tax office.

Secondly, in the case of an unclaimed inheritance, the court appoints, *ex officio* or on request, an administrator of the estate.

9.2 Who is entitled to execute the disposition upon death of the deceased and/or to administrate the estate?

In their will, a testator may appoint the executor, who will administer the estate after the testator's death.

9.3 What powers does an administrator have?

The executor of a will should administer the estate, pay debts under the succession, in particular execute bequests and instructions, and subsequently distribute the estate to the heirs in accordance with the will and the relevant legislation and, in all cases, immediately after distributing the estate.

The executor may sue and be sued in matters arising from the administration of the estate, an organised part thereof or a specified asset. They may also sue in matters relating to rights forming part of the inheritance and be sued in matters relating to debts under the succession.

The executor should also issue the subject of a specific bequest to the person to which such a bequest was made.

10 Which documents are typically issued under national law in the course of or at the end of succession proceedings proving the status and rights of the beneficiaries? Do they have specific evidentiary effects?

A person who is a statutory heir must submit copies of appropriate civil status documents to demonstrate their relationship to the deceased (e.g. birth certificate, marriage certificate). An heir or legatee should submit the will to demonstrate their rights to the inheritance.