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SOME NOTES ON THE (IN)COHERENCE OF SUCCESSION LAW REGULATIONS

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Abstract. Along with progressive socio-economic development, relevant legal regulations should undergo appropriate changes. A significant value of a legal system constructed in such a manner should be a certain minimum level of multidimensional consistency, both within a specific branch of regulation and across all branches of law that constitute the legal system. However, an analysis of current legislation clearly indicates that inheritance law – despite the pursuit of a uniform legal system – is an area where numerous incoherencies can be observed. These occur in the scope of interpretation and practice, competing values underlying the drafted provisions, and the objectives set for individual regulations. The aim of this paper is to identify examples supporting the thesis that the principle of the uniformity of the legal system is not always fully and consistently implemented by the legislator. The indicated discrepancies often lead to significant dysfunctions of legal provisions, which destabilize the system of protecting the rights of heirs and the legal relations shaped after the testator's decease.

Keywords: coherence of the legal system; unity of the legal system; legal system; succession law.

INTRODUCTION

Somewhat surprisingly, the coherence of the legal system has not attracted particularly lively legal debate in recent years. This issue cannot, however, be denied its significance, both in theoretical and in practical terms. After all, the coherence of the existing legal system – together with the absence of contradictions between its norms – is commonly treated as a key benchmark for evaluating both the soundness of legal interpretation and the adequacy of legislative solutions. In this way, coherence operates simultaneously as a requirement of sound legislative drafting and as a core principle of the rule of law, offering a form of assurance to those subject to legal norms that the system has been designed in line with their legitimate expectations regarding its quality [Braun 2014, 163].

In its traditional understanding, unity entails viewing the Polish legal system as a comprehensive set of binding normative acts – "the work

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of a single state, albeit represented by different authorities" [Seidler, Groszyk, Malarczyk, et al. 1998, 159]. Accordingly, although the legal system is composed of numerous elements, these elements remain mutually interconnected, and it is precisely on the basis of these diverse interrelations that the principle of the coherence, or unity, of the legal system is formulated.[1] From this perspective, the Polish constitutional framework firmly endorses the unity of the legal system, regardless of whether the relevant legal acts stem from domestic legislative activity or from international regulations of varying reach and nature included within the constitutional catalogue of sources of law.[2]

In everyday usage, coherence is commonly associated with cohesion, logical linkage, harmony, and consistency.[3] Embedded within this understanding is an emphasis on a certain quality or value inherent in the mutual interrelation of individual elements. Following this conception of unity, a coherent legal system is accordingly understood as one that is non-contradictory, complete, orderly, and intelligible. This understanding finds its subsequent expression in legal certainty, which underpins the need to protect the individual's legitimate expectations towards the state and the law enacted by it, thereby guaranteeing legal security for the individual.[4] At the same time, a unified legal system incorporates mechanisms that enable the restoration of stability, in particular through the elimination of gaps and internal inconsistencies. Such a configuration of the legal system is regarded as a fundamental value in contemporary democratic states [Jabłońska-Bońca 2015, 160].

As is rightly observed in the doctrine, the traditional understanding of the unity of the legal system no longer withstands the test of time [Jaskiernia 2022, 402]. This development is largely driven by the continuing evolution and transformation of the state and the law, and, in turn, of the legal system itself. In particular, the legal system has been undergoing successive structural changes, including a transition from the classical monocentric model to a multicentric one [Łętowska 2005, 7; Liżewski 2019, 223]. It would seem that the coherence of the legal system has been eroding across a number of dimensions. This erosion is discernible in the axiological, legislative, and interpretative dimensions, and it also affects the functional, multi-layered protection of the same values under different legal regulations. Finally, procedural coherence, equally significant in practice, may also be disrupted.

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[1] See the judgment of the Supreme Administrative Court of 12 August 2004, ref. no. GK 478/04, Lex no. 969615.

[2] See the judgment of the Constitutional Tribunal of 11 May 2005, ref. no. K 18/04, Lex no. 155502.

[3] See https://sjp.pwn.pl/slowniki/sp%C3%B3jny.html [accessed: 18.12.2025].

[4] See the judgment of the Constitutional Tribunal of 2 April 2007, ref. no. K 19/06, Lex no. 270205.

From the perspective on legal system coherence adopted herein, an intriguing yet well-justified question emerges: namely, whether succession law regulations that were shaped many years ago – now largely taken for granted, together with the doctrinal and judicial assessments derived from them – exhibit a sufficient, if only minimal, degree of coherence. Only such a level of coherence would justify treating this branch of law as a properly constructed system of consistent norms and evaluations. Given the limited scope of this study, the following considerations are intended merely to outline the issues identified above.

1. AXIOLOGICAL COHERENCE WITHIN SUCCESSION LAW

The ethical, or moral, dimension of succession law regulation is difficult to contest. The axiological rationale for the transfer of property *mortis causa* is readily apparent [Rafałowicz 2022, 213]. From a sociological and theoretical standpoint, however, "law within a given community is regarded as good when it aligns with accepted standards of justice or fairness; or when the rights it confers and the obligations it imposes are grounded in an accepted system of values. If, by contrast, legal regulations diverge from these approved models, the legal system is judged to be bad" [Kordela 1995, 50]. Accordingly, a crucial substantive measure of the quality of law lies in the degree to which legal regulations comply with generally accepted moral requirements [Łopatka 1996, 35-36].

Even at this stage, doubts emerge not only about the rationale but also about the fairness of certain succession law provisions. This is evident, for example, in the rules governing the inheritance position of parents who inherit by operation of law concurrently with the spouse of the deceased. As a general rule, their statutory share amounts to one quarter of the estate as a whole (Article 932(2) sentence 1 of the Civil Code[5]). An exception applies only where the paternity of the deceased's parent has not been established, in which case the legislature has provided that the deceased's mother, inheriting along with the spouse, is entitled to one half of the estate (Article 932(2) sentence 2 CC). The provision was originally designed to close a legal gap created by the absence of rules determining the share of the deceased's mother where paternity had not been established during the deceased's lifetime. This gap generated uncertainty as to whether the mother should inherit the whole share that would normally fall to both parents, or merely the portion due to one of them.[6] At the same time, while seeking to provide

[5] Act of 23 April 1964, the Civil Code, Journal of Laws of 2025, item 1071 [hereinafter: CC].

[6] See the explanatory memorandum to the draft Act amending the Civil Code (Sejm Paper No. 1541), p. 7.

support and to compensate the mother who had raised the child alone, without even emotional support from the child's father [Waszczuk-Napiórkowska 2009, 9], the legislator entirely omitted any reference in the provision to the requirement of the deceased being in fact been raised single-handedly by the mother. Consequently, the exceptional enhancement of the mother's statutory share hinges exclusively on the absence of established paternity, regardless of whether the mother actually raised the deceased on her own. At the same time, the law affords no such entitlement to a widow who raised the deceased single-handedly, even if the child was born after the father's death [Piątowski, Kawałko, Witczak 2025, 311]. Most importantly, however, the axiological concern lies in the fact that the adopted construction applies exclusively to situations in which the paternity of the deceased's father has not been established. Where, by contrast, the identity of the deceased's mother has not been established and the biological father alone shouldered the burden of maintaining and raising the child, that father – if inheriting concurrently with the spouse of the deceased – does not receive a share exceeding one quarter of the estate and does not exclude the deceased's potential siblings from intestate succession [Borysiak 2025b, nb 14].

Comparable concerns are raised in connection with Article 945(2) CC, which introduces time limits on invoking defects in a declaration of intent in a will. Under this provision, the invalidity of a will based on a defective declaration of intent may no longer be asserted after three years from the moment when the interested party learned of the ground for invalidity, and in any case after ten years from the opening of the succession. By privileging stability and the security of legal transactions over the protection of the testator's last will [Idem 2013, 55], this construction has a direct impact on the ability to contest a defective will once the applicable preclusive time limits have elapsed. In consequence, the lapse of preclusive time limits may result in succession proceeding on the basis of a will that – owing to defects in the declaration of intent, such as duress or a lack of awareness or freedom in decision-making and the expression of will – fails to reflect the testator's genuine intentions, whether wholly or, at best, in part. The practical, and not merely theoretical, relevance of such legal challenges is illustrated by the legal question submitted on 22 October 2019 by the District Court for Kraków-Podgórze to the Constitutional Tribunal, entered on the tribunal's register under reference no. P 21/19.[7] The question raised is a narrow one: whether Article 945(2) CC – by excluding, in proceedings seeking to amend a decision on the acquisition of an estate, the possibility of invoking the invalidity of a will after ten years from the opening of the succession, where the will was opened and published only after that period – complies

[7] See https://ipo.trybunal.gov.pl/ipo/Sprawa?&pokaz=dokumenty&sygnatura=P%2021/19.

with Article 64(1) and (2), in conjunction with Article 2, of the Constitution of the Republic of Poland.[8] The controversy surrounding the status of the judges of the Constitutional Tribunal, combined with the government's simultaneous decision not to publish its judgments[9] – resulting in a multi-year suspension of the proceedings – has ultimately had repercussions for citizens. It has led to the continued presence in the legal order of an axiologically questionable regulation that persistently concentrates a conflict between fundamental values: the protection of the intention expressed in the testator's will and the need to ensure the stability of legal relations established after their death. This is all the more intriguing given that the conflict in question could be effectively resolved by the legislature through a simple legislative adjustment, allowing for the appropriate application, with respect to the preclusive time limits laid down in Article 945(2) CC, of the general provisions governing defects in declarations of intent [Trzewik 2022, 81].

A further manifestation of axiological incoherence can be found in the rules shaping the existing legal mechanism for protecting those closest to the deceased. Under the applicable provisions, the deceased's descendants, spouse, and parents who would inherit by intestate succession are entitled – if the beneficiary is permanently incapable of work or, in the case of a descendant, is a minor – to two thirds of the share they would otherwise receive under intestate succession, and in all other cases to one half of that share (legitim). If the entitled person has not obtained the legitim to which they are entitled – be it as a gift from the deceased, an appointment to inherit, a legacy, a benefit from a family foundation, or property acquired upon the dissolution of such a foundation – they may bring a claim against the heir for payment of the amount required to cover the legitim in full or to supplement it (Article 991(1) and (2) CC). Leaving aside the numerous scholarly voices calling for the reform of the institution of legitim [Załucki 2012, 529-62], or even its outright abolition in favor of a quasi-alimentary model [Partyk 2020, 119-32], the continued operation of a legal mechanism designed to protect those closest to the deceased – on the grounds of safeguarding weaker parties – seems difficult to reconcile with the principle of equality before the law. Thus, under the rules on legitim, minors and persons permanently incapable of work are granted a larger share of the estate than other beneficiaries, regardless of their actual relationship with the deceased or their genuine financial circumstances. As a result, it is not uncommon for benefits obtained by way of legitim, under such rigidly defined

[8] Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483 as amended [hereinafter: Constitution].

[9] See the resolution of the Sejm of the Republic of Poland of 6 March 2024 on addressing the effects of the constitutional crisis of 2015-2023 in the context of the operation of the Constitutional Tribunal, "Monitor Polski" of 2024, item 198.

rules, to appear more as a form of enrichment. This may occur, for example, where a very wealthy minor, who attached little importance to the relationship with the deceased ascendant, enjoys greater economic protection than an adult, healthy but impoverished heir who devoted their entire life to caring for the deceased. Moreover, it is difficult to identify any ethical justification for affording the weakest level of protection to the deceased's parents, who *in casu* are entitled to legitim only where, in the particular factual circumstances, the deceased left no descendants [Sylwestrzak 2024a, 1644]. The consequence may be that individuals who spent their entire lives caring for the deceased and managing the deceased's property – often contributing most to its accumulation – are denied any economic benefit from the estate merely because the deceased left descendants.

2. LEGISLATIVE COHERENCE WITHIN SUCCESSION LAW

As part of the systemic unity of law, often described as legislative coherence [Stępniak 2016, 194 and 202], the internal consistency of the legal system as a whole constitutes a value of particular importance. It is reflected primarily in the absence of contradictions between legal norms, in their logical alignment and mutual reinforcement, and in the lack of internal inconsistencies. Legal provisions are interconnected rather than duplicative or mutually exclusive, which helps to preserve the coherence of the legal system, including at the hierarchical level.

This value, too, is subject to significant pressures within the sphere of succession law. A particularly telling example of this phenomenon is the lack of uniformity in the sanctions attached to the act of concealing a will. There is no dispute that an heir may be declared unworthy by a court where their conduct satisfies at least one statutory condition, most notably where they have deliberately concealed or tampered with a will (Article 928(1)(3) *in primo* CC). The stigmatization of such conduct, aimed at frustrating the last will of the testator, results primarily in the possibility of a declaration of unworthiness to inherit and, consequently, exclusion from succession, whereby the perpetrator is treated as if they had not survived the opening of the succession [Witczak 2013, 59]. At the same time, a more specific issue has given rise to doubts, namely the sanctioning of such conduct in situations where a will that was intentionally destroyed subsequently proves to be invalid. According to the prevailing approach in the case law, the fact that a will – intentionally destroyed by an heir in order to remove the legal effects of its execution – was in fact invalid does not, as a rule, preclude a declaration of unworthiness to inherit. However, an heir does not incur unworthiness where they destroy a will in the conviction that it is invalid and thus legally irrelevant. With respect to wills whose invalidity, owing to an obvious breach

of the statutory requirements as to form, is evident from the document itself, it is possible, where doubts arise as to the heir's intent, to infer – by way of a factual presumption (Article 231 of the Code of Civil Procedure[10]) – that the heir, in destroying such a will, did not act with the intention of annihilating the testator's will.[11] The position outlined above, however, stands in contradiction to Article 646 CCP. That provision expressly says that any person who holds a will is required to submit it to the probate court once they learn of the deceased's death, unless the will has already been lodged with a notary (Article 646(1)), and that an unjustified failure to comply with this obligation incurs liability for any resulting damage. The probate court may also impose a fine on the person concerned (Article 646(2)). Importantly, this obligation applies to every will, even where it has been revoked or is invalid. Notably, the obligation also extends to wills whose validity is uncertain, as well as revoked wills, given that questions concerning validity – including the effectiveness and scope of a revocation – are determined within proceedings for a declaration of acquisition of the estate.[12] This interpretative approach is firmly established not only in the case law but also finds support in the scholarly literature. The literature emphatically points out that the wording adopted in the provision – "unjustifiably fails to perform the obligation" – is defective, since the statute does not provide for any circumstances that would permit or justify the failure to submit a will. Consequently, given the categorical wording of Article 646 CCP, any failure to submit a will must be treated as unjustified and entails liability for damages and, in some cases, disciplinary sanctions (Article 163(1) in conjunction with Article 13(2) CCP) [Gudowski 2016, 520]. This reveals a clear mismatch between the settled approach of the courts and legal doctrine, on the one hand, and the formal sanction provided for by the legislature, on the other.

Similarly, a further source of doubts as to the coherence – and indeed the constitutionality – of succession law regulation is the statutory delegation contained in Article 954 CC authorizing the issuance of a regulation concerning military wills. From the perspective of doctrinal and judicial standards concerning the required precision of enabling provisions, this authorization is open to criticism [Wiącek 2016, Nb 24]. The provision's terse wording nevertheless appears to meet the basic personal and subject-matter requirements of a delegation, in that it identifies the competent authority and outlines the matters to be regulated. The lack of any substantive

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[10] Act of 17 November 1964, the Code of Civil Procedure, Journal of Laws of 2024, item 1568 [hereinafter: CCP].

[11] See judgment of the Supreme Court of 10 May 1977, ref. no. I CR 207/77, Lex no. 2160.

[12] See, among others, the judgment of the Supreme Court of 21 July 1951, ref. no. C 691/51, Lex no. 308617; and the resolution of the Supreme Court of 25 June 2003, ref. no. III CZP 14/03, Legalis no. 57083.

guidance as to the content of the regulation is particularly problematic in light of the Constitutional Tribunal's established case law, which rejects delegations aimed not merely at issuing regulations to implement a statute, but at independently regulating an entire range of issues for which the statute itself offers no direct provisions or guidance [Trzewik and Serafin 2024, 49-50]. As a consequence, the hierarchical compatibility between normative acts of different ranks is disrupted, since the regulation is not fully (or at least not properly) grounded in the statute, thereby undermining the coherence of the system of sources of law.

Certain effects of the statutory regulation governing exclusion from succession by virtue of a renunciation of succession and disinheritance should be viewed through the lens of regulatory incoherence. By legislative choice, a renunciation of succession may be limited to a renunciation of the right to legitim, either in whole or in part (Article 1048(2) CC). As a rule, such a renunciation also extends to the descendants of the renouncing party, unless the parties have agreed otherwise (Article 1049(1) CC). Consequently, both the renouncing party and any descendants encompassed by the renunciation of succession are excluded from succession as though they had not lived to see the opening thereof. This mechanism effectively grants the deceased real control over whether persons who would otherwise be entitled may be deprived of the right to legitim. By contrast, where disinheritance is applied – also leading to exclusion from succession, but aimed first and foremost at depriving descendants, the spouse, and parents of the right to legitim, and only thereafter at excluding intestate succession (Article 1008 CC) – the legislature has expressly decided that the descendants of a disinherited descendant of the deceased retain their right to legitim, even if the disinherited person outlived the deceased (Article 1011 CC). This evident inconsistency leads to a situation in which the deceased, aiming during their lifetime to influence the distribution of their estate by determining who is entitled to legitim, is confronted with the divergent – and arguably inadequate – legal consequences of applying two different mechanisms of exclusion from succession. Such differentiation appears to lack any deeper justification, if not to be arbitrary.

3. DOCTRINAL AND JUDICIAL COHERENCE WITHIN SUCCESSION LAW

Any evaluation of succession law regulation must also take account of the many inconsistencies that emerge between doctrinal views and judicial practice. The failure to achieve this interpretative dimension of coherence – sometimes referred to as judicial coherence [Jabłońska-Bońca 2015, 160] – undoubtedly undermines legal certainty. It renders the outcomes of adjudication less predictable and, in doing so, gradually erodes the sense of legal security.

It suffices to draw attention to the regulation concerning legitim, which is granted to an entitled person by virtue of the very close family relationship between them and the deceased. The purpose of this institution is to reflect the moral obligations owed by the deceased to their immediate family, while upholding the principle that a person may not, upon death, dispose of their property with complete freedom while disregarding the closest relatives.[13] For these very moral and ethical reasons, it is of paramount importance that any ground allowing for a reduction of the amount claimed by way of legitim, or for the complete dismissal of an action in this respect, be clear and fully comprehensible to every citizen. Despite the legislative amendment introducing Article 997[1] CC, which expressly allows for adjustments to the manner of satisfying a legitim claim and even for its reduction in light of the personal and financial situation of both the person entitled to legitim and the person obliged to satisfy the claim, doctrine and case law remain divided. In particular, there is still no consensus on whether the nature of the relationship between the deceased and the person entitled to legitim may justify treating the pursuit of a legitim claim, *in casu*, as a manifest abuse of rights. According to one line of reasoning, the determination of an abuse of rights through a claim for payment of legitim may be based exclusively on circumstances arising within the relationship between the entitled person and the heir. The exclusion of the right to legitim on account of improper conduct toward the deceased is effected by the deceased themselves through disinheritance. While circumstances pertaining to the relationship between the entitled person and the deceased are not irrelevant, they may be considered only as supplementary factors [Justyński 2005, 115].[14] Alongside this approach, another view has emerged, holding that a reduction of a legitim claim under Article 5 CC remains permissible where the entitled person's conduct towards the deceased violates the principles of social coexistence.[15] In support of this position, it is argued that Articles 928 and 1008 CC cannot be regarded as special provisions in relation to Article 5 CC that would preclude its application to the reduction of legitim on account of such conduct on the part of the entitled person vis-à-vis the deceased [Kuźmicka-Sulikowska 2025, nb 22]. Although both lines of reasoning carry a measure of persuasive force, the latter position seems to have gained dominance.

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[13] See the judgment of the Supreme Court of 7 April 2004, ref. no. IV CK 215/03, Legalis no. 73074.

[14] See, among others, the judgment of the Court of Appeal in Białystok of 23 April 2014, ref. no. I ACa 692/13, Lex no. 1461014; and the judgment of the District Court in Wrocław of 22 September 2014, ref. no. I C 1065/12, Legalis no. 1569227.

[15] For example, see the judgment of the Supreme Court of 16 June 2016, ref. no. V CSK 625/15, Lex no. 2073929; and the judgment of the Supreme Court of 25 April 2024, ref. no. II CSKP 2195/22, Lex no. 3710047.

Closely connected with this issue is the need for an unambiguous approach to benefits acquired under a gratuitous title. The protection afforded to those entitled to legitim may prove largely illusory where lifetime gratuitous dispositions by the deceased significantly deplete the estate or deprive it of any assets altogether, thereby weakening the realistic prospects of satisfying any future legitim claims. Consequently, the rationale underlying the legislative solution in question – based, as a rule, on the obligation to include gifts made by the deceased in the legitim substratum – would be seriously undermined if the concept of gift were to be interpreted solely on the basis of a literal construction. Restricting the range of testator's dispositions detrimental to persons entitled to legitim to just one named contract under the Civil Code, namely gift (Article 888 CC), while overlooking a variety of other gratuitous legal acts that produce the same effects as a gift contract, inevitably raises serious concerns [Szpunar 2002, 24-27]. Teleological considerations, including the need to safeguard the interests of the deceased's relatives, require the adoption of an extensive interpretation of the concept of gift, encompassing within its scope other gratuitous acts performed by the deceased during their lifetime that result in a depletion of the active estate. These include, but not only, amounts transferred under a bank deposit disposition mortis causa, the value of an agricultural holding transferred to a successor, amounts corresponding to the diminution of the estate resulting from the conclusion of a marital property agreement extending the joint property of spouses, as well as losses suffered by the deceased as a result of the termination of co-ownership without any obligation of compensation or payment [Sylwestrzak 2024b, 1649]. Thus, a merely typological difference between a gift and other acts conducted under a gratuitous title should not determine their significance for the purposes of calculating legitim, defining the scope of legitim claims, or allocating liability for this succession debt. The decisive factor should be the effect achieved, not the normative construction of a specific transaction [Księżak 2012, 280]. For the time being, however, owing to the predominantly literal approach to the relevant provisions taken by adjudicating authorities, this view remains controversial in both legal scholarship [Pyzioł 1999, 357-368] and judicial practice.[16]

Urgent legislative clarification is also required with regard to the problem of multiple transmittees, an issue that has generated significant doctrinal uncertainty and corresponding difficulties in case law [Wolak 2014, 1149]. Both in theoretical and practical terms, a highly problematic situation is one in which the right to make a declaration of acceptance or rejection of an estate (and, due to the wording of Article 981[5] CC, also a vindication bequest)

[16] See, among others, the resolution of the Supreme Court of 19 February 1991, ref. no. III CZP 4/91, Legalis no. 27245; and the judgment of the Court of Appeal in Gdańsk of 29 June 2020, ref. no. V ACa 532/19, Legalis no. 2467286.

that is left after the deceased heir (Article 1017 CC) is vested with not one but with several transmittees. Depending on how the concept of transmission is understood, different solutions have been proposed, including the requirement of separate declarations, a single joint declaration, or the primacy of a declaration on accepting the estate [Rzewuski 2016, 199-215]. Regardless of the adopted approach, unresolved questions continue to arise such as: (i) whether one or several declarations should be submitted, depending on the number of transmittees, (ii) how to address a lack of consensus as to its or their content, and, ultimately, (iii) when the time limit for making the declaration expires, namely whether it lapses six months after the first or the last of the transmittees learns of the fact. As scholars have rightly pointed out, the use of existing interpretative methods has failed to produce a coherent and structurally convincing solution to this issue. The case law of common courts is extremely divergent [Justyński and Kabza 2022, 19], and the legislature itself remains silent. There is, however, no doubt that the codified regulation contains a significant gap in this area, which can be fully remedied only through positive legislative intervention [Borysiak 2025c, Nb 42].

There are also extreme instances of purely judicial inconsistency, where the same factual situation produce two competing but final succession determinations; for example, two court decisions confirming the acquisition of an estate, or a certificate of succession issued alongside a court ruling. As the Supreme Court has noted, such a situation leads to a violation of the principle of legal certainty and trust in the state, as well as of the constitutional right to a court. Resolving the issue then requires recourse to extraordinary procedural measures, thereby weakening the system's effectiveness and the uniformity of interpretation.[17]

4. FUNCTIONAL COHERENCE WITHIN SUCCESSION LAW

Viewed from a dogmatic standpoint, the current legal order also displays a gradual erosion of functional coherence, reflected in the lack of proper alignment between the goals pursued by individual legislative measures. This is evident already at the level of parallel legal fields – and even entire branches of law – which purport to serve the same or closely related socially beneficial objectives, yet ultimately produce outcomes that are inconsistent, or even mutually exclusive. As a result, functional disunity across different branches of law can no longer be defended merely on the basis of formal separation but increasingly stands in the way of a coherent state policy.

[17] See the decision of the Supreme Court of 18 November 2021, ref. no. I NSNc 639/21, Lex no. 3314738.

A clear illustration of this phenomenon is the way in which succession law and tax law overlap. Tensions between the two stem not merely from the inconsistent use of succession-related terminology in tax legislation – where, despite borrowing concepts from succession law, the demands of doctrinal precision often lead to those concepts being understood differently (such as inheritance, which does not cover public-law rights and obligations, which may be transferred to other persons only on the basis of an explicit statutory provision within the relevant branches of law[18]) – but also from the essentially different aims that the two branches of law seek to achieve. Succession law, as a branch of civil law, is primarily designed to protect private interests: safeguarding property, ensuring stability in legal relations, and maintaining continuity in property arrangements following the death of their former holder. It further contributes to the stability of transactions, helps prevent undue fragmentation of assets, and plays a role in sustaining family ties and keeping the memory of the deceased alive.[19] Tax law, by contrast, as an area of public law, focuses on the public interest and the needs of the State Treasury, which is manifested in its fiscal, redistributive, stimulative, and informational or record-keeping functions [Smoleń 2025, 19-20]. Yet these seemingly clear functional differences between the two spheres of regulation may collide in factual scenarios that require both bodies of law to be applied at the same time. In simplified terms, inheritance – conceived as the continuation over time of property relations through the universal succession of all property rights and obligations from the deceased to their legal successors – collides with the obligation to satisfy a tax liability (Article 1(1) of the Act on Inheritance and Gift Tax[20]). While Article 4a IGT seeks to advance non-fiscal (social) aims by exempting from taxation the acquisition of property or property rights arising from legal events connected with the death of the deceased – and while this exemption benefits persons eligible due to their close personal relationship to the transferor of the property or property right (including the spouse, descendants, ascendants, stepchildren, siblings, and step-parents),[21] in social reality it is not uncommon that, due to the failure to comply with additional legal obligations attached to that exemption (namely, the failure to notify, or the late notification of, the acquisition of ownership of property or property rights to the competent head of the tax office, Article 4a(1)(1) IGT), the deceased's legal successors become subject

[18] See the judgment of the Supreme Court of 7 March 2017, ref. no. III UK 88/16, Legalis no. 1581145.

[19] See the judgment of the Constitutional Tribunal of 25 July 2013, ref. no. P 56/11, Legalis no. 722201.

[20] Act of 28 July 1983 on Inheritance and Gift Tax, Journal of Laws of 2024, item 1837 [hereinafter: IGT].

[21] In this respect, and in the absence of an explicit normative regulation, the exclusion from tax liability of persons acquiring property rights by way of legitim must be assessed positively.

to a tax liability under the general rules [Borszowski 2022, 156]. Importantly, given the substantive-law nature of the six-month time limit for submitting the notification,[22] once that period has elapsed the taxpayer can no longer effectively seek the establishment of a legal relationship conferring entitlement to tax exemption. Non-compliance with the notification requirement (Article 4a(1)(1) IGT) thus leads to the loss of the exemption.[23] Viewed from the standpoint of succession law's protective function toward the deceased's immediate family, this arrangement must give rise to serious objections.[24]

A comparable lack of functional coherence can be observed at the junction of penal law and succession law. On the one hand, penal legislation affords protection to certain general interests, such as broadly understood personal liberty (Chapter XXIII of the Penal Code[25]) or the reliability of documents used in legal transactions (Chapter XXXIV thereof). On the other hand, in factual situations that equally satisfy the hypothesis of a criminal norm, the legislature may choose to exclude the application of a corresponding civil-law sanction. Accordingly, conduct such as threatening to commit an offence against an individual or a person close to them (Article 190 PC), or using violence or unlawful threats to force a person to act or not to act in a particular manner (Article 191(1) PC), although punishable under penal law, does not necessarily entail the civil-law consequence of unworthiness to inherit where such acts are committed by a third party with the aim of influencing the drafting or revocation of a will. Under the dominant reading of Article 928(1)(2) CC, only the conduct of the heir is subject to sanctions.[26] Likewise, the penalty under penal law imposed for forging or altering a document in order to use it as authentic, or for using such a document as authentic (Article 270 § 1 PC), does not necessarily align with the civil-law consequence of exclusion from succession under Article 928(1)(3) CC. That provision does not encompass the concealment or destruction of a will by a third party, and doctrine assumes that

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[22] See the judgment of the Supreme Administrative Court of 12 April 2017, ref. no. II FSK 631/15, Lex no. 2299843.

[23] See the judgment of the Voivodeship Administrative Court in Gdańsk of 11 December 2019, ref. no. I SA/Gd 1520/19, Lex no. 2768062.

[24] This evident malfunction of tax law at its point of contact with succession law has been acknowledged by the legislature itself, which has undertaken legislative action allowing heirs, as taxpayers, to apply for the restoration of the time limit, provided they plausibly demonstrate that the failure to observe the deadline occurred without fault on their part (see Article 4c IGT, added Article 2 of the Act of 21 November 2025 amending IGT, Journal of Laws of 2025, item 1854, effective as from 7 January 2026).

[25] Act of 6 June 1997, the Penal Code, Journal of Laws of 2025, item 383 as amended [hereinafter: PC].

[26] It may, of course, be considered whether such conduct could qualify as incitement or aiding and abetting in the commission of a serious offence against the deceased, sanctioned under Article 928(1)(1) CC [Borysiak 2025a, Nb 98].

the civil-law sanction will extend to the heir only where, being aware of the concealment or destruction of the will by a third party, the heir deliberately benefits from it [Borysiak 2025a, Nb 102].

CONCLUSIONS

Rapid economic change, shifting circumstances, political developments, and evolving social awareness all call for parallel adjustments in the law [Fuller 1978, 81]. Yet even necessary reform should respect at least the basic demands of multidimensional coherence within the legal system. Against the background of the foregoing analysis, succession law emerges as a field in which, despite the aspiration toward unity of the legal system, multiple forms of incoherence still persist. These inconsistencies can be identified across a range of dimensions, including those of interpretation and practice, competing values, and the objectives attributed to individual regulatory solutions. The examples cited above confirm that the principle of unity of the legal system is not invariably realized in a complete and consistent manner. Existing divergences consequently undermine the protection of heirs' rights and contribute to the instability of legal relations after the testator's death. At the same time, the cases of similarly serious disunity in succession law discussed in international literature show not only that the issue is global in scope,[27] but also how substantial a challenge it poses for the domestic legislature in the years to come.

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[27] For example, reference may be made to documented instances of incoherence in succession law in Peru [Pinchi Bartra, Velazco Lévano, and Coral Pérez 2024, 7108-114], Indonesia [Kusmayanti and Suwandono 2024, 26-43], Iran and Egypt [Raeesi 2014, 3225-233], as well as in Ukraine [Dzera 2020, 95-108; Oliyarnyk 2025, 155-78].

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