STUDIA PRAWNICZE. Rozprawy i Materiały 2023, nr 1 (32)
STUDIES IN LAW: Research Papers 2023, No. 1 (32)
e-ISSN 2451-0807 • ISSN 1689-8052
DOI: 10.48269/2451-0807-sp-2023-1-001

Mariusz Załucki[1]
Prof., Andrzej Frycz Modrzewski Krakow University
orcid.org/0000-0002-3338-3832
mzalucki@afm.edu.pl

Towards the maintenance nature of the legitim? Some comments on the new Polish regulation

Introduction

The system of protection of persons close to the deceased in contemporary succession law is one of the major dilemmas[2]. This is

[1] Mariusz Załucki is a Full Professor of Law and the head of the Chair of Civil Law at AFM Krakow University (Poland), justice at the Supreme Court of Poland (adjudicating in the Civil Chamber). The text is the result of a research project financed from the AFM Kraków University's funds for scientific activity provided by the subvention of the Polish Ministry of Science and Higher Education.

[2] See e.g. G. Douglas, *Family Provision and Family Practices – The Discretionary Regime of the Inheritance Act of England and Wales*, "Oñati Socio-Legal Series" 2014, no. 2, p. 222 et seq.; L. Wolff, *Pflichtteilsrecht – Forced Hairship – Family Provision. Österreich – Louisiana – Schweiz – England und Wales*, "Salzburger Studien zum Europäischen Privatrecht" 2011, no. 28, *passim*; J.N. Ebi, *The Structure of Succession Law in Cameroon: Finding a Balance Between the Needs and Interests of Different Family Members*, Birmingham 2008, p. 20 et seq.; B.L. Stout, A.M. Perry Jr, *West Virginia Takes a Step Backward in Elective Share Law*, "West Virginia Law Review" 1997, vol. 99, no. 4, pp. 679–685. For a perspective on a possible future European solution, see M. Załucki, *Uniform European Inheritance Law. Myth, Dream or Reality of the Future*, Krakow 2015, p. 105 et seq.

because the rights of those close to the deceased interfere with one of the most valuable values developed in succession law over the years: the freedom to dispose of property upon death. The conflict between the freedom to testate and the powers to contest the testator's dispositions is known in virtually all modern legislation. It is therefore not surprising that also in Poland, the relatives of the testator are granted certain specific rights which they can exercise if, in accordance with the will of the testator, they do not receive other benefits from the inheritance[3].

At the forefront of the rights of the testator's relatives, despite national differences, is the institution of a legitim, the practical importance of which, from the perspective of many countries, has been growing for some time. Whereas until a dozen or so years ago there were not many disputes concerning it, as a result of which some doctrine believed – and, it may be presumed, still believes – that these solutions are correct and guarantee the stability of legal transactions, in recent years legitim has increasingly become a source of conflict which is not needed, as can be seen in particular from the perspective of Central and Eastern European countries[4]. As one may think, this is due to the inadequacy of the regulation of this institution to the requirements of modern times[5]. This last thought, by the way, expresses a certain broader doctrinal view according to which the succession law requires changes.

The time seems right for a discussion on the future law of succession, not only from a Polish perspective[6]. Recently, relatively many voices have started to appear optimising the vision of succession law, primarily, however, in the area of the problem of making a will, which may not be surprising, if only from the perspective of the experience with the pandemic caused by the SARS-CoV-2 coronavirus

[3] K. Smoter, *Zachowek jako ograniczenie swobody testowania*, "Państwo i Prawo" 2013, nr 9, pp. 54–66.

[4] A. Paluch, *System zachowku w prawie polskim. Uwagi* de lege lata *i* de lege ferenda, "Transformacje Prawa Prywatnego" 2015, nr 2, p. 5 ff.

[5] Cf. M. Załucki, *Review: Paweł Księżak: Zachowek w polskim prawie spadkowym, Warszawa 2010*, "Państwo i Prawo" 2011, nr 3, pp. 114–117.

[6] See *Green Book. Optimal Vision of the Civil Code in the Republic of Poland*, ed. Z. Radwański, Warsaw 2006; *50 lat Kodeksu cywilnego. Perspektywy rekodyfikacji*, red. P. Stec, M. Załucki, Warszawa 2015, *passim*.

(which results in the COVID-19 infectious disease)[7]. However, the subject of this discussion was also the rights of the testator's relatives, although it is difficult to say that this was the subject of a wide debate in Poland, where, despite critical statements towards the previous legal state[8], the doctrine tended to accept the regulation of the legitim. In this respect, the new Polish solution, which came into force in May 2023 and which has so far hardly received wider attention, may therefore be somewhat surprising. This is the provision of Article 997[1] of the Civil Code, which fundamentally changes the legal nature of the legitim in Polish law.

The new Polish proposal seems to be interesting not only from a Polish perspective, so it is worth taking a look at it and considering whether it is a step in the desired direction, also from the point of view of the possible regulation of legitim in other states. These general comments may be useful in further detailed exploration of the area.

Protection of people close to the deceased

As I have already pointed out in the past, the impact of the rules of succession law on personal relations between people is undeniable[9]. One of the most important functions of succession law – in the non-pecuniary sphere – is generally cited as that of protecting the family of the deceased. This appreciates, on the one hand, the role of family relations on certain behaviour of the future testator and, on the other hand, the need to properly adjust the property situation created by his death – to the personal

[7] E.S. Chamorro, *COVID-19. Testamento ológrafo. Testamento ante testigos*, "Revista de Derecho Civil" 2020, no. 4, pp. 287–330; D. Horton, R.K. Weisbord, *COVID-19 and Formal Wills*, "Stanford Law Review Online 2020", vol. 73, pp. 1–11; K. Purser, T. Cockburn, B.J. Crawford, *Wills Formalities Beyond COVID-19: An Australian-United States Perspective*, "UNSW Law Journal Forum 2020", no. 5, pp. 1–14.

[8] M. Załucki, *Przyszłość zachowku w prawie polskim*, "Kwartalnik Prawa Prywatnego" 2012, nr 2, pp. 529–562.

[9] Cf. *idem*, *Wydziedziczenie w prawie polskim na tle porównawczym*, Warszawa 2010, *passim*.

relations linking him to his family members[10]. The protection of the interests of such persons and the consequent entitlements of such persons is treated by some as a natural thing. When the testator is alive, this protection is carried out by family law institutions (e.g alimony)[11]. After death, on the other hand, succession law may perform certain functions in this respect. This is why in individual legal systems, in the interests of the testator's closest relatives, the freedom to make testamentary dispositions is restricted, granting these persons effective *mortis causa* rights, independent of the will of the testator. Such protection of persons close to the testator is achieved by means of various legal forms and tools. They are closely linked to the issue of freedom of testation, which is either of a limited nature and prevents the testator from freely disposing of his estate in the event of death, or in principle allows for such dispositions, making it possible to correct them in the future[12]. As is well known, the most popular solutions of this type are the legitim, the reserved portion, and the system found in Anglo-Saxon countries, referred to in continental literature as the *discretionary adjustive power* system, which has an alimony character[13].

The differences between these systems are apparent at first glance. Under the legitim system, the testator may effectively dispose of his entire estate and freely appoint persons other than his relatives and spouse or other legal heirs to the succession. An entitled relative is, however, entitled to a claim of a pecuniary nature[14], in an amount corresponding to a certain part of the share of the inheritance that would have fallen to him if he had inherited from

---

10 See more extensively *idem*, *Przyszłość zachowku…*, *op. cit.*, p. 529 ff. See also J. Biernat, *Ochrona osób bliskich spadkodawcy w prawie spadkowym*, Toruń 2002, p. 11.

11 J. Gwiazdomorski, *Przesłanki istnienia obowiązku alimentacyjnego*, Warszawa 1974, p. 5 et seq; F. Bydlinski, *System und Prinzipien des Privatrechts*, Wien–New York 1996, pp. 402–413.

12 M. Niedośpiał, *Testament. Zagadnienia ogólne testamentu w polskim prawie spadkowym*, Kraków–Poznań 1993, pp. 90–166.

13 A. Semprini, *La progressiva erosione della legitimma in natura*, "Diritto di Famiglia e delle Persone" 2017, no. 3, p. 1054 ff.

14 Cf. C. Tabęcki, *Zachowek według kodeksu cywilnego*, "Nowe Prawo" 1965, nr 10, pp. 1120–1123.

the law[15]. This claim is directed against the heirs, and the beneficiaries here are merely creditors, not having the position of heirs in this respect[16]. On the other hand, the system of the reserved portion, also known as the system of the compulsory part of the inheritance falling to the so-called necessary heirs, consists in limiting the freedom of testation in such a way that the testator in his will or through a gift can only dispose of a part of the inheritance (the disposable part), while the other part of the inheritance, the compulsory part (the reserve) falls in nature to the persons indicated by law. If this part is violated, e.g. through excessive donations or legacies, the entitled persons (the necessary heirs) can claim their reduction and return in nature to the estate[11]. In contrast, the system of *discretionary adjustive power* makes it possible to correct the testator's disposition in favour of the deceased's dependants by providing them with maintenance funds after the deceased's death. A beneficiary can apply to the court for a share of the succession estate and show that he has not received any benefit from the estate. The amount of the claim is not set precisely and is subject to the court's assessment in each case. It is pointed out that it is only such financial support as is necessary in a given case. On the other hand, entitled persons are treated as necessary heirs, which is due to the fact that ownership of the inheritance is acquired only with its division, before that it is in the administration of the executor of the will (executor) or an administrator appointed by the court. Nevertheless, it should be pointed out that the testator here may distribute the entire estate freely, and it is only when the beneficiaries make a claim that they can become heirs to such part of the estate as the court deems appropriate. This system is therefore an intermediate solution – between the systems of a legitim and a reserved portion[17]. And, irre-

[15] Z. Truszkiewicz, *Zachowek ze spadku obejmujący gospodarstwo rolne*, "Zeszyty Naukowe Uniwersytetu Jagiellońskiego Prace Prawnicze" 1993, nr 148, pp. 11–16.

[16] M. Pogonowski, *Roszczenie z tytułu zachowku i jego realizacja*, "Monitor Prawniczy" 2008, nr 16, pp. 856–859; M.A. Zachariasiewicz, *Zachowek czy rezerwa? Głos w dyskusji nad potrzebami i kierunkami zmian polskiego prawa spadkowego*, "Rejent" 2006, nr 2, pp. 193–196.

[17] See K. Osajda, *Ustanowienie spadkobiercy w testamencie w systemach prawnych* common law *i* civil law, Warszawa 2009, pp. 212–214.

spective of the manner of protection, each of the systems essentially aims to confer on a person belonging to the circle of beneficiaries a specific benefit from the inherited estate, which is done against the will of the testator.

Legitim in polish law (before the changes)

In Polish law, although not without controversy, a system of a legitim has been adopted[18]. The provision of Article 991 § 1 of the Polish Civil Code stipulates that the descendants, spouse and parents of the bequeather who would be called to the inheritance pursuant to the act, are entitled, if the entitled person is permanently incapacitated for work or if the entitled descendant is a minor – two thirds of the value of the inheritance share which would fall to them in the case of statutory inheritance, and in other cases – half of the value of that share (the legitim). Pursuant to the provisions of Article 991 § 2 of the Polish Civil Code, if an entitled person has not received the due amount of the legitim either in the form of a donation made by the bequeather, or in the form of an appointment to the inheritance, or in the form of a legacy, he is entitled to claim against the heir for payment of the amount of money needed to cover the legitim or to supplement it[19]. The legitim has thus been shaped as a claim, i.e. a claim for payment of a specific sum of money. The heir entitled to the legitim is a creditor of the heir.

The state of the law in force until 22 May 2023 provided that a legitim was in principle due whenever a person entitled to it was not called to inherit and would have inherited by operation of law in a given order. A claim for payment of a legitim, although some advocated it, did not depend on circumstances such as the assets and needs of the beneficiary or the assets and abilities of

[18] Cf. *Discussion materials for the draft civil code of the People's Republic of Poland. Materials of a scientific session 8-10 December 1954*, ed. J. Wasilkowski, Warsaw 1955, *passim*.

[19] See P. Księżak, *Zachowek w polskim prawie spadkowym*, Warszawa 2012, *passim*.

the obligor. If the testator's statutory heir belonged to the circle of beneficiaries entitled to a legitim but did not receive from the inheritance a benefit corresponding to the share he would have received in the event of a statutory succession, the legislator generally granted him the right to claim the legitim regardless of any other circumstances[20]. In this way, the testator's will that the estate should end up in hands other than those of the person entitled to the legitim could be contested. In this system, it was in principle not possible to assess the legitimacy of interference with the testator's last will *ad casum*[21]. The legislature did not see the need for an assessment based not only on findings aimed at proving a formal relationship, but also made, for example, on the actual needs of the person in question in order to possibly protect them socially, which is, after all, the primary purpose of the special rights granted to the testator's relatives in the event of the testator's death, which the law of succession implements as a protective function for the testator's relatives. Belonging to the circle indicated by the law was sufficient to receive the legitim.

This solution was therefore increasingly questioned. Hence, the constitutionality of the retention was, inter alia, the subject of assessment by the Constitutional Tribunal, which dealt with the compliance of the provisions of the Civil Code concerning the legitim (Article 991 of the Civil Code) with the constitutional standard of inheritance resulting from Article 64(1) of the Polish Constitution[22]. The Court, while not questioning the constitutionality of the legitim, indicated that the regulation of the legitim occurring in the Polish civil law is only one of the possibilities and this does not prejudge the lack of constitutionality of a possible change of the statutory system of protection of the testator's relatives to another model,

[20] Obviously, instruments of exclusion from the succession play a certain role against this background, but this does not in any way prejudge the appropriateness of this type of solution.

[21] See also A.-L. Verbeke, *De legitieme ontbloot of dood? Leve de echtgenoot!*, Amsterdam 2002, *passim*.

[22] See the judgment of the Constitutional Court of 25 July 2013 in case P 56/11.

including the mixed model or the model of maintenance claims[23]. What is noteworthy, however, is not so much the Court's ruling itself as the legal question initiating the proceedings before the Court, where the questioning court noted, inter alia, that the historical justification of the legitim has lost its significance in the current legal system, and that maintaining statutory barriers to the movement of property values only so that they remain at the disposal of the family no longer finds axiological justification.

The Constitutional Court's decision was – as one might think – the result of observing certain modern legal systems (such as Dutch law, English law and the law of the United States of America), where it has been repeatedly argued that the system of rights of relatives in the event of the testator's death should be based on considerations of social justice and allow interference with the testator's last will only when necessary.

Criticism of the Polish solution

The automaticity of the solution found in the Civil Code has been criticised at times, including by me (on several occasions)[24]. For example, I have indicated it has not been a more stable solution from the point of view of the testator and the heirs than, for example, the Anglo-Saxon system. It was this seemingly stable Polish regulation to date that allowed varying degrees of interference in the freedom to testate and its lack of flexibility was highly debatable. It was precisely the powers granted to would-be heirs at the expense of the heirs that could vary greatly, often straining the inheritance estate, depriving those for whom they are necessary (minors, incapacitated persons) of the benefits of the inheritance. For this reason, I have proposed, inter alia, to make the recovery of the legitim conditional on the recipient's privation. As I indicated, adoption of such a regulation in the context of Article 991 of the

[23] Justification of the judgment of the Constitutional Court of 25 July 2013 in case P 56/11.

[24] The most comprehensive statement is contained here: M. Załucki, *Przyszłość zachowku*…, *op. cit*.

Civil Code would have to mean that an entitled person could claim a legitim only if he was not able to satisfy his justified needs by his own efforts. Such a solution would bring the legitim closer to alimony, for which reason I believe it would be appropriate[25].

In the above context, I recalled, for example, the English solution, which is a kind of model legislation, where the entitlements of the testator's relatives are of a maintenance nature. According to the solution there, which makes the effectiveness of a claim for so-called family provision dependent on whether the entitled person has been properly provided for [section 1(1) of the Inheritance (Provision for Family and Dependants) Act 1975], a number of circumstances must be taken into account when determining whether the entitled persons are properly provided for. The nature of the relationship between the deceased and the person concerned, the standard of living of the family, the attitude of the beneficiary or the effect of the settlement on the rights of others are of great importance. I have taken the view that consideration should be given to whether the effects of the disposition on death or the statutory rules are reasonable and fair in the particular case. Indeed, the English statute here indicates that if the court comes to the conclusion that the beneficiary has not been adequately provided for, it should have regard to the following general considerations in the application of the discretionary power when deciding whether to interfere with the process of testamentary and statutory succession: the resources and financial needs of the applicants and heirs, both present and future; the obligations the deceased had to the applicants and heirs; the size and nature of the inheritance; any physical and mental impairments of the applicants and heirs; any other issues, including the behaviour of the applicant or others, which the court may consider relevant in the circumstances of the case. This is an interesting solution that is also worth applying more widely[26].

---

25 *Ibidem*.

26 See however, M. Załucki, *Protection of family against testamentary dispositions in English law. Recent case of Ilott v. Mitson: On the road to a regime of forced heirship?*, "Studia Prawnicze. Rozprawy i Materiały" 2016, nr 1, pp. 27–38.

As I thought until recently, the discussion on the future shape of the legitim, including the legitim in Poland, will continue for many years to come[27]. Foreign models could, of course, be helpful in this discussion. However, when designing appropriate solutions, it should be borne in mind that even the best foreign solutions will not necessarily work in every reality. Today, due to the entry into force and application of the EU Succession Regulation No 650/2012 (on jurisdiction, applicable law, recognition and enforcement of decisions, acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession)[28] any proposals for changes should be approached with caution. However, I thought that the Polish law should be modified. Such modification has recently occurred.

New regulation

On 26 January 2023, the legislature passed the Family Foundation Act[29]. This act is to regulate the organisation and operation of a family foundation, including the rights and obligations of the founder and the beneficiary, a new legal creation which has appeared in Polish law and which is intended, among other things, to be a remedy for the problem of family business succession. This law came into force on 22 May 2023. On the occasion of its enactment, the legislator, despite the absence of any broad discussion to that extent, decided to modify also the existing regulation of the legitim. The provision of Article 129 para. 8 of the Family Foundation Act introduced a new Article 997[1] into the Civil Code.

---

27 Cf. M. Janssen, *Zachowek w prawie polskim – rozważania* de lege ferenda, "Białostockie Studia Prawnicze" 2017, nr 4, pp. 143–151; A. Partyk, *Brytyjskie systemy ochrony osób bliskich spadkodawcy a prawo polskie. Studium prawnoporównawcze*, Kraków 2020, *passim*.

28 OJ EU No. L 201 of 27 July 2012, p. 107.

29 Act of 26 January 2023 on the family foundation, Journal of Laws, item 326.

It reads as follows:

Art. 997[1].

§ 1. The obligor to satisfy a claim for a legitim may request a postponement of its payment, its payment in instalments and, in exceptional cases, its reduction, taking into account the personal and financial situation of the person entitled to the legitim and the obligor to satisfy the legitim.

§ 2. In the case of installment payments of a legitim, the deadlines for their payment may not exceed a total of five years. In cases deserving special consideration, the court, at the request of the obligor, may postpone the date for payment of instalments already due or extend the term referred to in the first sentence. The amended term may not be longer than ten years.

§ 3. In the event that the circumstances justifying the reduction of the legitim cease to exist, the obligor of the legitim shall, at the request of the person entitled to the legitim, return to the person entitled to the legitim the sum of money by which the legitim has been reduced. The repayment of the sum of money may not be demanded after the lapse of five years from the date of the reduction of the legitim.

This solution introduces fundamental changes to the previous Polish regulation of a legitim. First of all, the legitim ceases to be an institution independent of the factual relations between the beneficiary and the obligor. The legislator provides a possibility of postponing the payment of the legitim or spreading the legitim in instalments. It is also possible to reduce the legitim, including, as it may be supposed, a decision that it is not due at all. The assessment of such claims, formulated *ad casum* by the party liable for the legitim, will involve an assessment of the personal and financial situation of the person entitled to the legitim and of the person obliged to satisfy the claim. This is therefore a way of ensuring that the system of entitlements of relatives in the event of the death of the testator is based on considerations of social justice and allows interference in the testator's last will only when necessary, so the new regulation is a step in the right direction[30].

[30] Cf. R.K. Müller, S. Müller, *Neues Erbrecht: Treuhänder als Erbschleicher?*, Regensdorf 2018, *passim*.

The Polish system of legitim has, overnight, become an interesting solution that may serve as a possible model for other legal systems. In the discussion on the future of succession law, this solution should undoubtedly not be underestimated. Although the practice of applying the new law is still one big unknown, its preliminary assessment seems to be positive, at least if the point of reference is the previous Polish model of a legitim.

Conclusions

The legal regulations concerning the protection of the testator's relatives are certainly among the most important legal regulations of any succession law system. Their transformation is worth noting and observing. For they are legal solutions concerning a large group of society, interesting for lawyers from many perspectives. For this reason, the new Polish solution may become interesting not only from the point of view of the testators and heirs to whom it will apply in the future. Certainly also in other legal systems, where there is an ongoing discussion about the desired shape of the rights of persons close to the testator, these solutions will be noticed. This does not mean that they will work in the future, although a tentative assessment can be made that this is a move in the right direction. Therefore, despite some surprise at its entry into force, it is to all intents and purposes to be welcomed. Further legal developments in this area are also to be hoped for.

Bibliography

50 lat Kodeksu cywilnego. Perspektywy rekodyfikacji, red. P. Stec, M. Załucki, Warszawa 2015.

Biernat J., *Ochrona osób bliskich spadkodawcy w prawie spadkowym*, Toruń 2002.

Bydlinski F., *System und Prinzipien des Privatrechts*, Wien–New York 1996.

Chamorro E.S., *COVID-19. Testamento ológrafo. Testamento ante testigos*, "Revista de Derecho Civil" 2020, no. 4, pp. 287–330.

Discussion materials for the draft civil code of the People's Republic of Poland. Materials of a scientific session 8-10 December 1954, ed. J. Wasilkowski, Warszawa 1955.

Douglas G., *Family Provision and Family Practices – The Discretionary Regime of the Inheritance Act of England and Wales*, "Oñati Socio-Legal Series" 2014, no. 2, pp. 222–242.

Ebi J.N., *The Structure of Succession Law in Cameroon: Finding a Balance Between the Needs and Interests of Different Family Members*, Birmingham 2008.

Green Book. Optimal Vision of the Civil Code in the Republic of Poland, ed. Z. Radwański, Warsaw 2006.

Gwiazdomorski J., *Przesłanki istnienia obowiązku alimentacyjnego*, Warszawa 1974.

Horton D., Weisbord R.K., *COVID-19 and Formal Wills*, "Stanford Law Review Online" 2020, vol. 73, pp. 1–11.

Janssen M., *Zachowek w prawie polskim – rozważania* de lege ferenda, "Białostockie Studia Prawnicze" 2017, nr 4, pp. 143–151.

Księżak P., *Zachowek w polskim prawie spadkowym*, Warszawa 2012.

Müller R.K., Müller S., *Neues Erbrecht: Treuhänder als Erbschleicher?*, Regensdorf 2018.

Niedośpiał M., *Testament. Zagadnienia ogólne testamentu w polskim prawie spadkowym*, Kraków–Poznań 1993.

Osajda K., *Ustanowienie spadkobiercy w testamencie w systemach prawnych* common law *i* civil law, Warszawa 2009.

Paluch A., *System zachowku w prawie polskim. Uwagi* de lege lata *i* de lege ferenda, "Transformacje Prawa Prywatnego" 2015, nr 2, pp. 5–30.

Partyk A., *Brytyjskie systemy ochrony osób bliskich spadkodawcy a prawo polskie. Studium prawnoporównawcze*, Kraków 2020.

Pogonowski M., *Roszczenie z tytułu zachowku i jego realizacja*, "Monitor Prawniczy" 2008, nr 16, pp. 856–859.

Purser K., Cockburn T., Crawford B.J., *Wills Formalities Beyond COVID-19: An Australian-United States Perspective*, "UNSW Law Journal Forum" 2020, no. 5, pp. 1–14.

Semprini A., *La progressiva erosione della legitimma in natura*, "Diritto di Famiglia e delle Persone" 2017, no. 3, pp. 1054–1091.

Smoter K., *Zachowek jako ograniczenie swobody testowania*, "Państwo i Prawo" 2013, nr 9, pp. 54–66.

Stout B.L., Perry Jr A.M., *West Virginia Takes a Step Backward in Elective Share Law*, "West Virginia Law Review" 1997, vol. 99, no. 4, pp. 679–685.

Tabęcki C., *Zachowek według kodeksu cywilnego*, "Nowe Prawo" 1965, nr 10, pp. 1120–1123.

Truszkiewicz Z., *Zachowek ze spadku obejmujący gospodarstwo rolne*, "Zeszyty Naukowe Uniwersytetu Jagiellońskiego Prace Prawnicze" 1993, nr 148, pp. 11–16.
Wolff L., *Pflichtteilsrecht – Forced Hairship – Family Provision. Österreich – Louisiana – Schweiz – England und Wales*, "Salzburger Studien zum Europäischen Privatrecht" 2011, no. 28.
Verbeke A.-L., *De legitieme ontbloot of dood? Leve de echtgenoot!*, Amsterdam 2002.
Zachariasiewicz M.A., *Zachowek czy rezerwa? Głos w dyskusji nad potrzebami i kierunkami zmian polskiego prawa spadkowego*, "Rejent" 2006, nr 2, pp. 193–196.
Załucki M., *Protection of family against testamentary dispositions in English law. Recent case of Ilott v. Mitson: On the road to a regime of forced heirship?*, "Studia Prawnicze. Rozprawy i Materiały" 2016, nr 1, pp. 27–38.
Załucki M., *Przyszłość zachowku w prawie polskim*, "Kwartalnik Prawa Prywatnego" 2012, nr 2, pp. 529–562.
Załucki M., *Review: Paweł Księżak: Zachowek w polskim prawie spadkowym*, Warszawa 2010, "Państwo i Prawo" 2011, nr 3, pp. 114–117.
Załucki M., *Uniform European Inheritance Law. Myth, Dream or Reality of the Future*, Krakow 2015.
Załucki M., *Wydziedziczenie w prawie polskim na tle porównawczym*, Warszawa 2010.

Abstract
Towards the maintenance nature of the legitim?
Some comments on the new Polish regulation

The system of protection of persons close to the deceased in contemporary succession law is one of the major dilemmas. This is because the rights of those close to the deceased interfere with one of the most valuable values developed in succession law over the years: the freedom to dispose of property upon death. Any new solution from a particular country that addresses this issue may prove interesting for the ongoing development of substantive law in individual countries. For this reason, the author presents the new Polish solutions, which have been in force since 22 May 2023 and which change the Polish legitim system fundamentally. The aim of the article is to first assess the changes introduced and to present them to the foreign reader.
Key words: succession, inheritance, legitim, reserved portion, people close to the deceased