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# Unworthiness to inherit – a few remarks in the context on the 2023 amendment

## Niegodność dziedziczenia – kilka uwag na tle nowelizacji z 2023 roku

**Abstract**

The aim of the article is to examine the 2023 amendment to the institution of the unworthiness of inheritance, which has expanded the permissibility of stripping an heir of its status based on certain specific neglect of family duties. The legislature, introducing the grounds of unworthiness in the form of persistent avoidance the performance of maintenance obligations towards the testator and avoidance of the duty of care towards the testator, points out that negatively assessed failures of duties of a financial and personal nature should also have their consequences in the form of the possibility of depriving the heir of the right to inheritance. In the further part of the text, the author reflects on the legal consequences of the testator's forgiveness of the heir, as well as the consequences for legal proceedings of the introduced changes.

**Keywords**

unworthiness to inherit, inheritance law, law reform, civil code

**Streszczenie**

Przedmiotem artykułu jest analiza przeprowadzonej w roku 2023 nowelizacji instytucji niegodności dziedziczenia, która rozszerzyła dopuszczalność pozbawienia spadkobiercy tego statusu w oparciu o pewne szczególne zaniedbania obowiązków rodzinnych. Ustawodawca, wprowadzając przesłanki niegodności w postaci uporczywego uchylania się przez spadkobiercę od wykonywania względem spadkodawcy obowiązku alimentacyjnego oraz uchylania się od obowiązku pieczy względem spadkodawcy, wskazuje, że negatywnie oceniane uchybienia obowiązkom o naturze finansowej oraz osobistej powinny mieć również swoją konsekwencję prawną w postaci możliwości pozbawienia spadkobiercy prawa do spadku. W dalszej części tekstu autor zastanawia się nad konsekwencjami prawnymi przebaczenia spadkobiercy przez spadkodawcę oraz skutkami, jakie dla postępowań sądowych niosą wprowadzone zmiany.

**Słowa kluczowe**

niegodność dziedziczenia, prawo spadkowe, nowelizacja prawa, kodeks cywilny

## 1. Introduction

The freedom of inheritance is fundamental to the law of succession. The basic emanation of this principle is the possibility to make a disposition of the entire estate by means of a will, or to refrain from drawing up such a testament, the consequence of which is the determination of the order of inheritance in accordance with the provisions of the Civil Code. This freedom, nevertheless, is not absolute. One of the most extensive interferences with the testator's decision to bestow on a person the status of heir is the institution of unworthiness of the heir to inherit.

The determination that an heir may be unworthy of inheritance is aimed at eliminating the situation in which the acquisition of certain benefits of inheritance by a person would be unjust or even immoral. This provision is quite exceptional – it can be considered a kind of safety valve, which makes it possible to deprive a person of the possibility of acquiring inheritance rights in situations where such an acquisition would have to be assessed as inconsistent with the principles of social conscience.

In view of the significant amendment made in 2023 to the grounds for declaring an heir unworthy, it will be necessary to present not only the new scope of the new provisions and the justifications for the change made, but also present an introductory overview of the potential problems that may arise from it.

## 2. "Old" grounds for declaring an heir unworthy

The issue of unworthiness of inheritance is regulated by Article 928 of the Civil Code. Historically, this article has not been the subject of amendments since its formulation in the original 1964 version of the Polish Civil Code (further: CC)[1].

The article, in its original wording, limited the possibility of declaring an heir unworthy to three groups of situations. The first was the intentional commission of a serious crime against the testator[2]. The second group of situations is related to the process of drafting the testator's last will – a testator may be considered unworthy

[1] Which does not mean, of course, that over the years new *de lege ferenda* proposals have not been formulated with respect to the solutions adopted – see for example: A. Szpunar, *Z problematyki niegodności dziedziczenia*, „Nowe Prawo" 2 (1981), p. 21–33.

[2] Article 928 § 1.1 CC. More on crime as a premise of unworthiness of inheritance J. Kuźmiska-Sulikowska, *Popełnienie przestępstwa jako przyczyna niegodności dziedziczenia w polskim prawie spadkowym*, „Wrocławsko-Lwowskie Zeszyty Prawnicze" 8 (2017), p. 137–152; J. Haberko, R. Zawłocki, *Prawnospadkowe konsekwencje popełnienia przestępstwa*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny" 1 (2014), p. 29–42.

of inheritance if by threat or deceit he incites the testator either to draft a will or to revoke a will that has already been drafted, and finally, using deceit or threats, he interferes with the performance of these acts[3]. The last group of behaviors results from the actions of the heir not against the person of the testator, but against the document of the will – the unworthiness in this situation will be the consequence of hiding or destroying the will, changing its content, as well as the intentional use of a will, the content of which was interfered with[4].

The above-described scope of behavior constituting the basis for declaring an heir unworthy is closed – the Supreme Court in its judgment of December 10, 1999 indicates that the institution has an exceptional character, and therefore it became necessary to narrow the scope of its application to the stipulated situations, while other behavior, even if judged reprehensible, will not be the basis for the application of the discussed construction, which by its very nature is a penalty imposed on the heir[5].

The consequence of declaring an heir unworthy of inheritance on the basis of one of the circumstances outlined above was the exclusion of him from the inheritance as if he had not lived to see the succession. This is a legal fiction of recognizing that the potential heir died before the testator. This construction is important as it leads to the deprivation of inheritance rights only to the person accused of reprehensible behavior, and at the same time it does not interfere with the inheritance rights of his descendants, who – if their ascendant is declared unworthy of inheritance – inherit in his place.

So far, the catalog of behaviors in question constituted the sole cases in which the subsequent disqualification of an heir from this status was possible. At this point, it should be noted that a testator who, during his lifetime, negatively views the behavior of a potential statutory heir has the right to make a disposition of his property by will in such a manner as to exclude the potential heir[6]. In the case of heirs next of

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[3] Article 928 § 1.2 CC. More about the threat towards the testator to make a will of a certain content as a ground for unworthiness: M. Pazdan, [in:] K. Pietrzykowski (ed.), *Kodeks cywilny. Komentarz*, t. II, Warszawa 2003, p. 743.

[4] Article 928 § 1.3 CC. On one of the forms of behavior described in the passage (concealment of a will): M. Hałgas, *Ukrycie testamentu jako przesłanka niedogodności dziedziczenia*, „Przegląd Sądowy" 11–12 (2007), p. 30–43.

[5] Judgement of the Supreme Court of December 10, 1999, II CKN 627/98 after: J. Gudowski, art. 928. [niegodność dziedziczenia] [in:] *Kodeks cywilny. Orzecznictwo. Piśmiennictwo. Tom IV. Spadki*, Warszawa 2023, link: https://sip.lex.pl/#/monograph/369455794/361644 [accessed online: 14.01.2024].

[6] In the context of the discussed institution of unworthiness of inheritance, it is necessary to draw attention to its special role with regard to people who, due to age, situations of incapacitation or poor health, do not have – either legally or in fact – the capacity to draw a will. In such cases the only procedure to disqualify an unworthy heir will go through an unworthiness action brought by the other after the death of the testator.

kin[7], their rights are further secured by the right to a compulsory share, and therefore to be granted a certain portion of the endowment they would have received through statutory inheritance if they hadn't been deprived of such an endowment through exclusion from the will[8].

At this point it is worth noting the distinction between the two regulations – unworthiness of an heir and disinheritance of an heir. The first in an action of a third party done after the demise of testator, the second is a decision of a testator to not only exclude this heir from the will, but also to deprive them from the right of the compulsory share. When it comes to the grounds, those for declaring an heir unworthy deal with quite precisely defined types of behaviors. In the case of disinheritance, in addition to rather detailed actions in the form of commission of a crime, to harm to the testator or his next of kin, we also find in article 1008 § 1 CC and 1008 § 3 CC general clauses of persistent conduct contrary to the rules of social conscience and persistent failure to fulfill family obligations, which are much more evaluative criteria than the catalog of behaviors that qualify to declare an heir unworthy.

## 3. New grounds for declaring an heir unworthy

The observations made above are necessary to evaluate the amendments to the Civil Code. Under the Law of July 28, 2023[9], two additional clauses were introduced into Article 928 CC, which regulates two new grounds for declaring an heir unworthy of inheritance.

The first ground is the persistent evasion by the heir from performing his alimony obligation towards the testator. Importantly, the legislator explicitly indicates that this obligation must have a basis in a specific legal circumstance – a contract, settlement, or court decision[10]. Thus, it is insufficient to fail to perform an obligation that arises only from principles of social conscience.

The second of the new grounds for the unworthiness of an heir, introduced last year, is the situation in which the heir has evaded the duty to take care of the testator. Such an obligation may find its source, as it is seen in the next part of the provision,

[7] Article 1008 CC. According to the text of the law, the closest heirs are considered descendants (children and grandchildren), parents, and a spouse.

[8] Deprivation of this right is a consequence of the effective disinheritance of heirs due to the circumstances indicated in Article 1008 CC.

[9] The Act of July 28, 2023, amending the Civil Code Act and certain other acts [Journal of Laws 2023, number 1615 (hereinafter referred to as "the Amending Act").

[10] Article 928 § 1.4 CC as amended by the Amending Act.

in obligations arising from parental authority, guardianship, the exercise of the function of a foster parent, the marital duty of mutual assistance, or the duty of mutual respect and support of the parent and child[11].

The Civil Code Amendment Act also contains two provisions relevant to the application of the new statutory solutions. The legislation in question entered into force three months after the publication of the text of the law in the Journal of Laws, which occurred on November 15, 2023[12]. As for the new grounds for declaring an heir unworthy, they will apply only to those events that have occurred after the date of entry into force of the law[13].

## 4. Rationale behind the amendment

The reasons for the proposed extension to the catalog of grounds justifying the possibility to declare an heir unworthy are shown in the text of the rationale for the bill[14]. The Authors point out that it is almost uniformly accepted that the catalog of prerequisites for unworthiness of inheritance listed in the existing wording of Article 928 of the Civil Code is a closed catalog, which makes it impossible to apply this legal construction by analogy to other, including very grave, situations which indicate grossly improper behavior of the heir towards the testator. It was pointed out that it is the role of the State to respond to unethical behavior of heirs that violates particularly important personal rights of the testator[15].

Authors of the amendment point out that the two new classes of behaviors justifying declaring an heir unworthy relate to two spheres of family relations, *i.e.*, economic, and personal, in which family members should demonstrate their support to each other. At the same time, they note that in the latter sphere, the proposed solution refers to the term "care", which in the semantic sphere is broader than the term "guardianship", which in family law is used with respect to persons requiring custody of both their property and their person[16]. H. Witczak points out that the solution as a whole is a significant novelty in view of the absence of recognition in the current

[11] Article 928 § 1.5 CC as amended by the Amending Act.

[12] Article 14 of the Amending Act.

[13] Article 11.1 of the Amending Act.

[14] The text of the rationale for the bill can be found on the website of the Ninth Parliament: https://www.sejm.gov.pl/Sejm9.nsf/druk.xsp?nr=2977 [accessed 14.01.2024].

[15] Page 1 of the rationale for the bill.

[16] Guardianship refers to a minor or a person who is legally incapacitated (fully), and is regulated by the Law of February 25, 1964 – Family Code, in articles 145 to 177.

form of the succession law of the negative consequences of evasion of maintenance and custodial obligations, while the very rationale of sanctioning this type of behavior should not raise any doubts[17].

## 5. New grounds – a legitimate expansion of the grounds of unworthiness or a headache for the courts?

The main problem with the amendment of the grounds for unworthiness of inheritance seems to be a significant expansion of the level of evaluability of the behavior of the heir accused of unworthiness. The previous state of the law assumed a rather limited scope of behavior related to the commission of a grave intentional crime to the harm of the testator, and actions related to forcing the testator to complete or revoke a will disposition, as well as those amounting to the destruction, interference with the content, or use of a forged or altered last will disposition.

Meanwhile, the content of the two new grounds was worded in such a way that only behavior described in them, in relation to which it becomes reasonable to use the quantifier in the form of "persistent" behavior, can be understood as grounds for declaring the heir unworthy. While it is undoubtedly accurate to limit the possibility of making such an assessment from the perspective of the most far-reaching behavior (both in terms of forms of behavior or omission, as well as from a temporal perspective), the use of the extremely vague phrase "persistent" already places a significant burden of proof on the entity seeking to prove such a circumstance, and from the point of view of the court it make a perspective of lengthy proceedings given the need to prove the behavior of the heir over decades.

The aforementioned issue was already signaled by the Authors of the amendment, who give the example of the elimination of this term from the content of the substantive elements of the crime of non-alimony criminalized in Article 209 of the Polish Criminal Code of 1997, in which, as a result of the amendment introduced in 2017[18], eliminated the notion of persistence in the behavior of non-performance of the alimony obligation, replacing it with the easy-to-assess requirement of having an alimony overdue in the amount – as a rule – of three monthly periodic ali-

[17] H. Witczak, *O potrzebie reformy instytucji niegodności dziedziczenia w świetle zmian proponowanych przez Ministerstwo Sprawiedliwości*, „Prawo i Więź" 3 (2002), p. 26.

[18] The Act of March 23, 2017 amending the Act – Criminal Code and the Act on Assistance to Persons Entitled to Alimony (Journal of Laws of 2017, item 952).

mony payments[19]. At the same time, the authors of the amendment to the Civil Code note that the indicated change took place on the grounds of criminal law and cannot be directly translated into relations within civil law. This is why it is reasonable to formulate the provision in the discussed manner, which will leave to the court the obligation to assess whether in a given situation there was such a far-reaching violation of the rights of the testator by failing to fulfill the maintenance obligations incumbent on the heir, that it would be justified to consider him unworthy of inheritance[20].

Ewa Łapińska points to an interesting problem of qualifying the heir's behavior in the context of the heir committing[21] a crime of non-alimony against the testator. Although the mere conviction of the heir for such a crime against the testator will potentially exhaust the two grounds of unworthiness, that is, the premise of committing a grave, intentional crime against the testator and persistent evasion of alimony obligations, at the same time, both of these circumstances must be subject to further evaluation by the court[22]. This is because the Criminal Code does not contain a definition of a "grave" crime[23], dividing offenses into misdemeanors and felonies, and this gravity of the offense must be a product of the circumstances of the crime. Thus, it is impossible to conclude that the crime of non-alimony regulated by Article 209 of the Criminal Code, due to the fact that it is a misdemeanor, can be considered grave[24]. And the same principle must be applied to the evaluation of the premise of persistence of non-alimony – on a similar basis, it is impossible to consider that a single, incidental fulfillment of the hallmarks of the crime of non-alimony and

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[19] More on the reasons for and scope of the amendment of the crime of non alimony: A. Palińska, *Przestępstwo uchylania się od alimentów po ostatniej nowelizacji*, „Palestra" 5 (2018), p. 41–50.

[20] Page 4 of the rationale for the bill.

[21] Piotr Krzyżanowski points out that the mere intention to commit a crime or the intention to perform another act with which the legislator associates the possibility of declaring the heir unworthy (for example, the intention to destroy the will) are insufficient for declaring him unworthy. P. Krzyżanowski, *Instytucja niegodności dziedziczenia*, [in:] K. Pujer (ed.), *Problemy nauk społecznych, humanistycznych i ekonomicznych. Konteksty i wyzwania*, Wrocław 2017, p. 235.

[22] E. Łapińska, *Uporczywe uchylanie się od wykonywania wobec spadkodawcy obowiązku alimentacyjnego jako przesłanka niegodności dziedziczenia*, „Transformacje Prawa Prywatnego" 1/2023, p. 60.

[23] In this regard, it is necessary to agree with the views appearing in the jurisprudence and doctrine that the value of the "severity" of the crime will be determined primarily by the circumstances of the case. So, for example, the judgment of the Court of Appeals in Gdansk of 14.06.2000 (I ACa 262/00) with an approving gloss: M. Niedośpiał, *Glosa do wyroku Sądu Apelacyjnego w Gdańsku z dnia 14 czerwca 2001 r., sygn. I ACa 262/00*, „Orzecznictwo Sądów Apelacyjnych" 8 (2006), p. 76–88.

[24] In this context, it is worth noting the new qualified type of non alimony offense introduced in 2017, regulated by Article 209 § 1a of the Criminal Code, which provides for a higher level of criminal liability if the consequence of the offender's avoidance of alimony payments is the result of an inability to meet the basic needs of life of the one who is entitled to alimony support.

a conviction for this act will be tantamount to persistent non-alimony[25]. In this case, too, it is justified to evaluate the financial support relationship occurring between the heir and the testator based on a comprehensive assessment of their circumstances.

## 6. Observations on court proceedings for the declaration of the unworthiness of an heir

The question of who a defendant in the aforementioned cases will be is simple – this category is limited, obviously, to the heirs, and those of them whose behavior, in the opinion of the party initiating the proceedings, will bear the hallmarks of unworthiness.

Less precise in this regard is the designation of entities entitled to bring an appropriate action – the possible plaintiffs. The provision of Article 929 CC indicates in this regard that the demand for declaring an heir unworthy may be made by anyone who has an interest in it. It should be noted here that the legislator does not narrow the circle of subjects only to those who may have a legal interest, but more broadly shapes the circle of standing for such proceedings. In the doctrine, the prominent view appears to be that this circle should be as broad as possible, and therefore it will not be limited only to those who, as a result of the recognition of the heir as unworthy, may increase or obtain a benefit by inheritance at all[26], but also entities that are tasked with ensuring the proper conduct of the inheritance process, such as the trustee or curator of the estate, as well as the prosecutor who may take part in the case[27].

Applying the foregoing reflections to the new grounds of unworthiness, it should be noted that in the case of failure to fulfill the duty of care or evasion of maintenance by the heir for the benefit of the testator, the natural subject with an interest to file a lawsuit in such a situation – for reasons related to the principles of social conscience – will be those persons who fulfilled these duties for the testator. In this regard, we can imagine that these are the people who, as a result of declaring the heir

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[25] E. Łapińska, *op. cit.*, p. 66.

[26] The Supreme Court aptly states in this regard in its judgment of November 23, 1990 (III CRN 318/90) that „The institution of unworthiness of inheritance is based primarily on a moral consideration. For this reason, the interest of those bringing an action to declare an heir unworthy may also be of a purely non-pecuniary nature and stem from a reverence for the memory of the deceased and a related desire to condemn the heir".

[27] J. Kremis, *Komentarz do art. 929*, [in:] E. Gniewek (ed.), *Kodeks cywilny. Komentarz*, Warszawa 2011, p. 1682.

unworthy of inheritance, will obtain or increase the endowment[28]. At the same time, we can imagine that such standing will also be vested in a person who will not obtain an endowment as a result of the inheritance[29].

The timing of the submission of a claim for declaring an heir unworthy becomes an important issue from the point of view of the proceedings. A party with an interest in declaring an heir unworthy must, in accordance with Article 929 CC, make such a demand within a year from the date on which she or he became aware of the cause of unworthiness, while the right to bring proceedings is subject to an additional restriction – it must be initiated before the expiration of a three years term starting from the death of the testator. At the same time, these proceedings cannot be initiated before the opening of the inheritance, and therefore during the life of the testator[30].

Taking into account the fact that declaring an heir unworthy will affect the shape of the succession decree, three situations are possible – when the proceedings to declare the acquisition of an inheritance have ended first, when they are going on simultaneously, and when the first, legally concluded proceedings will be those in which the heir was declared unworthy.

The simplest situation is the last one, because in such case the court deciding the acquisition of the inheritance will already have the ability to implement the ruling declaring the heir unworthy, and therefore disregard him as if he had not lived to inherit.

The situation of conducting both proceedings at the same time will require the suspension of the proceedings to determine the acquisition of the inheritance[31], since the outcome of the proceedings to declare the heir unworthy will affect the circle of heirs and their shares in the inheritance estate. Also relevant is the comment

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[28] An example of such a situation may be the case of the fulfillment of an alimony obligation arising from a court decision to an elderly parent by one of the two children on whom this obligation was imposed. Thus, we can imagine situations when there would be an increase in the inheritance share of the heir who fulfilled the maintenance obligation – such a situation will arise when the unworthy heir did not have legal heirs (financial reason). In turn, when he had them, their inheritance will occur in accordance with the legal consequence of declaring the heir unworthy, and therefore accepting the fiction that he did not live to see the opening of the inheritance and his heirs would inherit in his stead.

[29] As an example of such a situation, let us consider the case of the concubine of an ill testator, who takes care of him, while the testator has children who do not have any contact with him and do not care for him, without it being his fault. It should be recognized that although the consequence of her bringing a successful action to declare the children as statutory heirs unworthy will not – in the absence of a will – be ground for granting her any share in inheritance, but undoubtedly as a person who fulfilled this duty to the testator, it is reasonable to consider that she has a interest in bringing such an action.

[30] L. Kaltenbek, W. Żurek, *Niegodność dziedziczenia* [w:] L. Kaltenbek, W. Żurek, *Prawo spadkowe*, Warszawa 2016, link: https://sip.lex.pl/#/monograph/369394792/312183 [accessed 14.01.2024].

[31] In accordance with article 177 § 1 of Code of Civil Procedure.

of P. Krzyżanowski[32] made in the context of the decision of the Supreme Court[33], which indicates that, due to the different the modes of the two inheritance proceedings[34], there is a procedural necessity of separate examination of both cases – in the event that during the proceedings for the declaration of inheritance a plea of unworthiness would be raised against one of the heirs, it becomes necessary to exclude this issue to separate proceedings with simultaneous suspension of the main inheritance proceedings.

A fairly typical situation will be the case of an initial final conclusion of the inheritance proceedings, followed by the initiation of proceedings to declare the heir unworthy. This situation happens, in particular, if the reasons for unworthiness came to light some time after the death of the testator. The possible dismissal of the action for declaring the heir unworthy will not have any effect on the previously completed proceedings for the declaration of inheritance. The opposite situation will require a modification of the final decision already in force – this situation, quite exceptionally, was foreseen by the legislator in the form of a procedure for revoking, or acquisition, of an inheritance decree[35]. The procedure provided for in Article 679 of the Code of Civil Procedure allows for proof that the person recognized as an heir does not, in fact, have such standing. Within the scope of this provision, a distinction is noticeable between the requirements for heirs – who, generally speaking, took part in the earlier inheritance proceedings, and other possible parties. In the case of the first of these groups, the possibility of carrying out such proof is limited – they need to demonstrate that they couldn't raise those issue during previous succession proceedings.

## 7. Forgiveness – a negative premise for declaring an heir unworthy?

The last element of the institution under review is the forgiveness outlined in Article 930 CC. According to the content of the aforementioned provision, an heir cannot be considered unworthy if the testator has forgiven him.

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[32] P. Krzyżanowski, *op. cit.*, p. 238.

[33] Decision of the Supreme Court dated July 14, 2015, in the case III CK 670/04.

[34] Proceedings for the determination of the acquisition of an inheritance are conducted in non-trial proceedings, while proceedings for the declaration of an heir unworthy of inheritance are trial proceedings.

[35] More about the proceedings to revoke or amend the inheritance decree: A. Szpunar, *Zmiana postanowienia o stwierdzeniu nabycia spadku*, „Przegląd Sądowy" 9 (2002), p. 34–47.

The fact that forgiveness is not a declaration of intent is indirectly indicated by § 2 of the provision in question – for it is possible to forgive an heir by a testator who lacks legal capacity, as long as the testator did so with sufficient awareness[36].

Taking into account the previous considerations regarding the existing grounds for the unworthiness of the heir and the grounds introduced by the 2023 amendment, it should be noted that while the literature emphasizes the relevance of the institution in question in the context of those factual situations in which the testator is unable to make a negative assessment of the heir's behavior amounting to not including him in the will or depriving him of the right to the reserved portion as a result of disinheritance, which also is a situation in which he is unable to forgive the heir. The new grounds are based on behaviors, which in general are long-lasting, thus making the possibility of the testator's forgiveness more possible – this can be done even on the deathbed, as long as the testator possesses sufficient awareness of his actions.

The fact of forgiveness does not mean that the future behavior of the pardoned heir will not exhaust the nature of the grounds for declaring him unworthy. Thus, the legislator does not provide for the institution of forgiveness for the future, while not excluding the possibility of repeated forgiveness of a wayward heir[37].

## 8. Conclusion

The amendment to the Civil Code, considered in this text, expands the closed catalog of behaviors that constitute grounds for declaring an heir unworthy of inheritance thus excluding him from the possibility of his receiving inheritance. However, the introduction of the undoubtedly legitimate grounds of wrongful behavior of the heir in the sphere of his care and maintenance of the testator must encounter the problem of evaluating such behavior, which leads to far-reaching consequences.

The introduction of the premise of persistence of those behaviors, while, on the one hand, undoubtedly correct by making it impossible to deprive an heir of this status in the case of insignificant violations of his family obligations to the testator, at the same time opens the door to a substantial extent of evaluability in court

[36] The issue of the sufficient discernment of the forgiving heir, both on the grounds of the institution of unworthiness of the heir and disinheritance, including the form of this act, was discussed more extensively by the Supreme Court in a resolution of the Supreme Court dated October 19, 2018. In the case with the file number III CZP 37/18 with approving gloss: G. Wolak, *Glosa do uchwały SN z dnia 19 października 2018 r., III CZP 37/18*, „Rejent" 3 (2019), p. 120–137.

[37] More on the role of forgiveness as an act impacting the outcome of legal relations: M. Wilejczyk, *Cywilnoprawne znaczenie przebaczenia*, „Studia Prawnicze" 1(193), p. 101–112.

proceedings and – in the context of the rules of the burden of proof – must lead to a much more extensive evidentiary procedure, which in the end will affect the lengthiness of succession proceedings.

Given the peculiar nature of the changes to the institution, which in its current form has already functioned for more than half a century, and because new grounds of unworthiness will apply only to those situations which will take place after the entry into force of the law, it becomes reasonable to consider carrying out a wide-ranging information and education campaign, which will point out the additional legal consequences of those behaviors, which to this moment were mostly perceived negatively from moral standpoint.

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