Judiciary and Society between Privacy and Publicity
8th Conference on Legal History in the Baltic Sea Area, 3rd–6th September 2015, Toruń
Danuta Janicka (ed.)
Toruń 2016

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Succession law in People's Republic of Poland – towards western European or Soviet standards?

Introduction

After the Second World War Poland found itself in the bloc of the Eastern countries controlled by the Soviet Union. Initially the changes were carried out gradually. But after the political breakthrough in 1948 the transplantation of the Soviet patterns began in all spheres of the national life and intensive Stalinization.[1] The inheritance law was also doomed not to be bypassed by major changes.

Polish authorities wanted to use the succession law as a tool of shaping and consolidating the socialist system. Inheritance was considered as inseparably connected to ownership, which de-

[1] A. Lityński, *Nowe ustawodawstwo w nowym ustroju. O prawie karnym i cywilnym w pierwszym dwudziestoleciu Polski Ludowej*, "Miscellanea Historico-Iuridica" 2006, Vol. IV, p. 135.

termines the nature of all other property institutions. As it was repeatedly stressed, the capitalist system succession law was one of the instruments that facilitated amassing wealth in the hands of the owning classes and increased the economic inequality.[2] Completely different functions were assigned to it in the socialist system.

The Polish succession law was codified in the decree from 1946, right after the Second World War within a broad unification action. Although the decree was introduced by the new socialist government, in its solutions referred to the rules of the Western European legal systems. This was due to the fact that after Poland regained its independence in 1918 on its territory the old codes of the partitioning countries were still in force, inter alia: the German Civil Code of 1898 (BGB), the Napoleonic Code and the Austrian Civil Code of 1811 (ABGB). Over time, their solutions were gradually replaced by the Polish law, deriving from partitioning and other Western European codifications. The succession Law of 1946 was created by distinguished lawyers accustomed to high, European legal standards. However, this new decree has been soon criticized as political climate in Poland was tightening. It was stressed, that new inheritance law showed "significant influences of bourgeois ideology"[3] and "does not protect the interest of the working world properly."[4] Another allegation was that "it revealed little consideration for the socialist rule, according to which, if acquiring material goods does not result from one's own work, then it should be based on exceptional premises."[5]

[2] J. Gwiazdomorski, *Dziedziczenie ustawowe w projekcie kodeksu cywilnego PRL*, in: *Materiały dyskusyjne do projektu kodeksu cywilnego Polskiej Rzeczpospolitej Ludowej. Materiały sesji naukowej 8-10 grudnia 1954 r.*, Warszawa 1955, p. 221.

[3] J. Wasilkowski, *Kodyfikacja prawa cywilnego w Polsce*, "Nowe Prawo" 1950, No. 12, p. 7.

[4] S. Szer, *Z zagadnień kodyfikacji prawa spadkowego (Uwagi ogólne)*, "Państwo i Prawo" 1951, No. 5-6, p. 918.

Soon trials started to implement Soviet solutions into succession law. Those attempts took place in four main areas: limitation of the group of statutory heirs, increase of the spouse's inheritance share, restriction of the freedom of testation, introduction of the reserve system (forced heirship) in place of legitime.[6] Changes in the succession of farms were also postulated, which would stop the fragmentation of farms process. This proposition was not related with the direct transplantation of Soviet patterns, but with the treatment of the law as an instrument of new socialist economy.

1. During works on the new Polish Civil Code it was postulated to restrict the group of statutory heirs stating that inheriting by distant relatives would mean obtaining property without any work, which was in clear contradiction to the socialist co-existence rules.[7] Authors which promoted Soviet patterns, stressed that a large group of statutory heirs is one of the "institutions distorting the function of family in a socialist society".[8]

The nineteenth-century Western European codifications allowed a wide range of relatives to inherit the property of the deceased: until twelfth grade of roman computation in the

[5] Ibidem, p. 918; S. Buczkowski, S. Szer, A. Wolter, *Prawo cywilne*, in: *Dziesięciolecie prawa Polski Ludowej 1944-1954*, Warszawa 1955, p. 183.

[6] A. Lityński, *Historia prawa Polski Ludowej*, Warszawa 2005, p. 198.

[7] S. Szer, *Z zagadnień kodyfikacji*, pp. 921-922; J. Wasilkowski, *Kodyfikacja prawa cywilnego*, p. 7.

[8] *Materiały dyskusyjne do projektu kodeksu cywilnego Polskiej Rzeczpospolitej Ludowej. Materiały sesji naukowej 8-10 grudnia 1954 r.*, Warszawa 1955, p. 280.

Napoleonic Code (art. 755), the sixth line of parantel (parentage)[9] (§ 748) in the ABGB, the BGB did not provide any limitations in number of parantels (§§ 1924-1930).

During the nineteenth and twentieth centuries, limiting the group of statutory heirs to the close family of the deceased took place. This evolution of succession law was related with weakening of the family bonds between collateral relatives.[10] The aim of legal transformations was to eliminate distant relatives from inheritance, as the testator often did not realise of their existence. They were called ironically "cheerful" or "laughing heirs" (*lachende Erben*).[11] The first amendment of the ABGB from 1914 restricted the statutory order of succession to the first 4 parantel, with meant the great-grandfathers of the deceased, but without their descendants.[12] In 1917 the circle of heirs in the Napoleonic Code was limited to the sixth degree of kinship. Although in the course of evolution a group of statutory heirs has been limited in Western European legal systems, this circle remained still wide.

[9] In parantel (parentage) system heirs allowed to intestate inheritance are assigned to the successive parantels (classes). Particular parantel includes relatives descended from a common ancestor. Any successor of a foregoing parantel excludes any potential successor of a higher parantel. The first parantel create relatives descended from the deceased (his children, grandchildren, great-grandchildren). The second parantel consists of the relatives derived from the father of the deceased (siblings of the deceased and their descendants). The third parantel includes relatives descended from the grandfather of the deceased (uncles, aunts and cousins of the deceased). Higher parantels are determined according to the same system.

[10] See the resolution of the II Congress of Comparative Law in Hague in 1937. (S. Płaza, *Historia prawa w Polsce na tle porównaczym*, Vol. III, Kraków 2001, p. 147.)

[11] K. Sójka-Zielińska, *Wielkie kodyfikacje cywilne. Historia i współczesność*, Warszawa 2009, p. 142.

[12] E. Till, *Nowela do kodeksu cywilnego austriackiego*, Kraków 1915, p. 41.

In the USSR after the October Revolution the circle of statutory heirs was limited only to the spouse and children of the deceased.[13] The group of heirs was then gradually expanded, however, limiting the intestate succession strictly to the narrow circle of the nearest family remained the rule.[14]

Following the Soviet patterns, in the draft of the Polish Civil Code of 1954 the statutory order of succession was restricted – the circle of statutory heirs was created exactly as in Civil Code of RSFSR (Russian Soviet Federative Socialist Republic) binding at that time.[15] After the death of the deceased the property could have been inherited by the spouse, descendants, parents or siblings. Further relatives, especially the siblings' descendants, were excluded.

Some serious discussion was raised around the provisions of the Polish draft from 1954, which main part took place on a scientific conference organised in the end of this same year. Most of the speakers pleaded against narrowing the group of statutory heirs, and tried to defend the Western European solutions in this matter. They pointed to the fact that in the current stage of transformation of the economic system, inheritance consists mostly of personal belongings and inheriting such property is not likely to become a source of achieving income without work or any kind of exploitation of a man by another man.[16] The biggest critic raised a conception of excluding descendants of siblings from the circle

[13] Decree of 27 (10) April 1918 abolished inheritance both by act of law and by testament stating that at the moment of death of the bequeather his property was transferred under state ownership. Only property of low value – under 10 thousand roubles – was inheritable by the closest members of the family of the deceased.

[14] In 1945 and later in 1961 the circle of statutory heirs was widened.

[15] Article 765 of the Civil Code draft of 1954 r. (*Projekt Kodeksu Cywilnego Polskiej Rzeczypospolitej Ludowej*, Warszawa 1954, pp. 113-114.)

[16] *Materiały dyskusyjne*, pp. 228-229.

of statutory heirs. Arguments about usually close emotional bonds between childless devisor and descendants of his brothers and sisters were brought.[17] In fact the aim of those voices was not only the restoration of siblings' descendants inheritance rights but also blocking further attempts at narrowing the group of legal heirs.

The new edition of the Civil Code draft of 1955 only partly took into account the results of the discussion.[18] Eventually – under further criticism and discussion in the Codification Commission – the next draft from 1960 restored a traditional circle of statutory heirs, including the descendants of the siblings.[19] Finally, this solution was upheld in the Civil Code.

2. The demand of increase the spouse's inheritance share was common to the Soviet and Western European legal evolution. In Western Europe it derived from an increasing trend that circle of statutory heirs should not reach beyond the family ties in typical meaning. This trend resulted not only in the above-described limitation of the group of relatives admitted to intestacy succession, but also in the improvement of the deceased's spouse inheritance rights.[20] The progressive emancipation of women (they often survived their spouses and inherited after them) also had influence. In the USSR the postulate of increasing the spouse's inheritance share was associated with emphasis on the role of women in building a new socialist society.[21] As it was stressed, the progressive development of the productive forces created the need to include women in the process of social production.[22] These two different ideologies led ultimately to the transformation of the succession law in the same direction. Because the tendency to enlarge the spouse's inheritance share was common to both: Western and Eastern legal systems, it did not raise opposition during the codification works in Poland. Without serious doubts this solution was introduced to the new Civil Code of 1964, thus significantly increasing the position of a spouse in the circle of legal heirs.

3. Testamentary freedom has been a core of succession law in the Western European legal systems.[23] But in Poland under communist rules this principle was seen as another obstacle on the way to build new socialist economic and social relations. Restriction in the freedom of testation was considered necessary, so that there were no more forms facilitating the appropriation of property without work. For this purpose, the words of Marx were recalled, that inheriting under a will "is a lawless and exaggerated abuse [...] of the private property rules".[24] Through the introduction of these postulates the draft of the Civil Code of 1954 significantly decreased the freedom of testation. The testator could include only his or her statutory heirs or socialist legal entities in the will.[25] This solution was strictly based on the Soviet

[17] Ibidem, s. 226, 258-259.

[18] Children of brothers and sisters (nephews and nieces) were included in intestate succession but their further descendants were not (article 763 point 4 of the Civil Code draft of 1955).

[19] Article 1038 § 1 point 4 of the Civil Code draft of 1960.

[20] *System Prawa Prywatnego*, Vol. 10, *Prawo spadkowe*, B. Kordasiewicz (ed.), Warszawa 2009, p. 176.

[21] See K. Marks, F. Engels, W. Lenin, J. Stalin, *O wyzwoleniu kobiety i jej roli w walce o socjalizm. Wybór artykułów, fragmentów prac i wypowiedzi z dzieł klasyków marksizmu-leninizmu*, Warszawa 1953, pp. 156-162.

[22] *Zagadnienia prawne Konstytucji Polskiej Rzeczypospolitej Ludowej. Materiały Sesji Naukowej PAN 4-9 lipca 1953 r.*, Vol. III, Warszawa 1954, p. 67.

[23] K. Osajda, *An Overview of Fundamental Principles of Polish Succession Law in the Light of Eventual Unification of Succession Law in the European Union*, in: *The Perspectives of Europeanization of Law of Succession*, Turiba University Publishing House 2010, p. 44.

[24] S. Szer, *Z zagadnień kodyfikacji*, p. 921.

[25] Article 788 of the Civil Code draft of 1954.

patterns. According to the Civil Code of the RSFSR (the Russian Soviet Federative Socialist Republic), persons not qualified as legal heirs were unable to inherit on the base of a will.[26]

These provisions were criticised by most of the members of the Codification Commission[27] – either openly or by cautiously presenting technical reservations or pointing to problems with using the norms in practice.[28] Some of them categorically voiced the need to broaden the freedom of testation, arguing that "the freedom of making will is one of the material stimuli of economical and productive way of life".[29] It was pointed out that the draft abolished almost entirely testate succession, because the circle of statutory heirs (*ipso facto* potential testate successors) was defined very narrowly.[30]

Similarly, as in above mentioned case, the critique of the draft did not achieve instant results – its new version of 1955 did not significantly change the discussed issue. Considerable changes were made three years later at the meeting of the Codification Commission.[31] One of the members submitted a proposal of restoring unfettered freedom of testation in the draft of the Civil Code. He argued that potential restrictions of testation could be

[26] Article 418 of the Civil Code of the Russian Soviet Federative Socialist Republic (RSFSR) of 31 October 1922.

[27] J. Gwiazdomorski, *Prawo spadkowe*, Warszawa-Wrocław 1952, pp. 339-341.

[28] *Materiały dyskusyjne*, pp. 257-270.

[29] Ibidem, p. 264.

[30] Ibidem, p. 267.

[31] Minutes from the meeting of the Material Civil Law Group of the Codification Commission of 13 May 1958, Archiwum Akt Nowych (New Acts Archive), collection No. 285 – Ministry of Justice in Warszawa, file signature 5407, pages 57-58 (further quoted as: AAN 285/5407, pp. 57-58). Compare with: J. Gwiazdomorski, *Prawo spadkowe w kodeksie cywilnym PRL*, "Państwo i Prawo" 1965, v. 5-6, pp. 715-716.

placed in special rulings. His proposal was supported by all participants of the meeting. Not without significance was the fact, that the draft referee and the main advocate of transplanting the Soviet model to the Polish legal system, was not present at the session.

Thus at the mentioned sitting a regulation of inheritance law was adopted, which still is the essence of unlimited freedom of testation: "The testator may appoint one or more persons to the whole or part of the inheritance".[32] Accordingly, the bequeather was able to transfer his property to any natural or legal person.

4. Another point of discussion during the works on the inheritance law, concerned a choice of institution which would protect the so-called forced heirs. The doubts referred to keeping the current institution of legitime (regulated in inheritance law decree of 1946 following the German and Austrian patterns) or introducing the reserve system, similar to the one included in the RSFSR Civil Code. It is hard to assume the reserve as a Soviet solution. The inheritance reserve system was familiar also in Western European legal systems and the most well-known provisions of forced heirship are located in the Napoleonic Code. However, the plans of changes in this scope were directed for implementation of the system according to the Soviet design, with complicated regulations that aroused much doubt.

For the authors under Soviet influence it was obvious, that "legitime as an expression (...) of a bourgeois law tendency is impossible to keep in the future Polish inheritance law"[33] and "only the reserve, based on just treatment of all the heirs is appropriate".[34] The legitime, by granting to the entitled party a money claim in-

[32] Article 791 of the Civil Code draft of 1955 in the new version of 1958. It is identical with Article 959 of the Polish Civil Code which is still in force.

[33] S. Szer, *Z zagadnień kodyfikacji*, p. 924.

[34] Ibidem.

stead of the right to *in natura* inheritance allowed preventing the division of capitalist property: factories, lands, etc. However, the main argument was that the Soviet legal system provided the reserve.

The draft of the Civil Code of 1954 kept the name of "legitime". As a matter of fact, it introduced the institution of inheritance reserve under the old name.[35] It was the same solution as in the RSFSR Civil Code of 1922,[36] where in favour of minor descendants and other heirs unable to work the solution called legitime was pioneered. The construction of those legitime provisions meant, contrary to the name, the introduction of a reserve system.

During the discussion in the Codification Commission the opinions on this matter were divided: some of the members supported the new solution, however guided by economic, not political, purposes,[37] others criticized the implementation of the reserve system.[38]

The next version of the Civil Code draft of 1955 upheld the reserve system. Three years later – the proposition of returning to the legitime was twice submitted for a vote in the Codification Commission. First time it was rejected by almost all participants of the sitting.[39] One month later another voting on this matter took place. The proposition was also rejected, but this time by only one vote.[40] It seemed that reserve system would permanently enter into the Polish Civil Code. But in 1960 a wide discussion was

[35] *Materiały dyskusyjne*, pp. 254-255, 279.

[36] After the amendments from 1945.

[37] Materiały dyskusyjne, p. 259.

[38] Ibidem, p. 275.

[39] Por. J. Gwiazdomorski, *Prawo spadkowe w kodeksie cywilnym PRL*, p. 720.

[40] AAN 285/5407, p. 183.

organised among provision of the draft. It turned out, that even lawyers from the central Poland, where the Napoleonic Code was once in force, were in favour of the legitime. Only several discussants were defending the reserve.[41] Thus the draft of 1961 returned to legitime system.[42] This solution finally entered to the Civil Code.

5. Unfortunately, not all the attempts to prevent the inheritance law from political influence were successful. The succession law was considered by Polish authorities as a tool of new socialist economy. The Communist Party established "the increase of agricultural production" as the priority of new agricultural policy.[43] The progressing fragmentation of farms stood in the way on realization of this postulate, mainly as a result of division of inheritance.[44] This resulted in the initiation of work leading to changes in the inheritance law which would prevent further partition of farms.

Work on changes in the regulations on inheritance of agricultural land started in 1958. Contrary to the other work on the succession law, they were not conducted in the Codification

[41] AAN 285/5413, p. 241.

[42] This solution was approved at the meeting of Codification Commission of 22 May 1961 (AAN 285/5413, p. 238-253). Compare with J. Gwiazdomorski, *Prawo spadkowe w kodeksie cywilnym PRL*, p. 720, idem, *Prawo spadkowe w zarysie*, p. 27; *Projekt kodeksu cywilnego Polskiej Rzeczypospolitej Ludowej*, Warszawa 1961, p. 206.

[43] Compare the resolution of III Congress of the Communist Party on party policy guidelines in the country ("Nowe Drogi" 1959, No. 4, pp. 716-744) and the resolution of Central Committee and NK ZSL on fundamental tasks of agriculture in the years 1959 to 1965 ("Nowe Drogi" 1959, No. 8, pp. 148-163).

[44] Research made by the Agricultural Economy Institute showed that in 61% of cases, inheritance was the cause for diminishing the area of farms (AAN 285/434, p. 184).

Commission, but in the Ministry of Agriculture. The government worked, initially in secret, in parallel to the official codification work, on the introduction of the amendments to regulations on inheritance of farms.

The first result of this work were the theses concerning inheritance. The classified document contained short propositions which covered revolutionary changes in the scope of the inheritance law: heirs that were of age and for at least 3 years worked in a profession granting them livelihood, lost their inheritance rights (both as statutory and testate successors).[45] The heirs, who did not yet finish their education, could receive their share of the inheritance estate. But they lost their inheritance rights, if after graduation chose the profession not associated with agriculture.

The theses were handed over for acceptance to the Ministry of Justice[46] where they faced great criticism. They were judged as "a significant restriction of the property rights" which "deprives the testator of the right to manage his own property through his testament. It leads to depriving the owner of one of the most important attributes of property right, namely the right to dispose his property". It was also pointed that, "depriving some heirs of the right to inheritance and real estate attributed to them by way of division (...) would be the confiscation of their property rights".[47] On the original document containing the theses, preserved in the archive, a handwritten postscript is visible: "tremendous upheaval, legal shock, and what effects we achieve? I am afraid that small".[48] This prediction proved to be exceptionally accurate. Soon it turned out that, according to the research of the Agricultural

[45] AAN 285/2425, pp. 29-30.
[46] AAN 285/2425, p. 28.
[47] AAN 285/2425, pp. 13-14.
[48] AAN 285/2425, k. 43.

Economy Institute published in 1959,[49] the farms below three hectares of area were paradoxically far more productive per hectare than larger farms, while the productivity was decreasing as the size of the farm increased.[50]

Regardless of these data, the work on amendments to the succession law progressed, by the end of 1958 an initial draft of the act on inheriting agricultural real estate was ready. Similarly to the abovementioned theses, it was widely criticized in the Ministry of Justice.[51]

As mentioned before, the authorities started to fight intensively the partitioning of farms, as this phenomenon was considered the main obstacle in improvement of farm productivity. The representatives of the party continued work on regulations that would stop the agricultural land fragmentation process, mostly by changes to the inheritance law.

The Civil Code draft of 1961 for the first time introduced special rulings on inheriting farms, however, they mostly concerned the division of inheritance. If the inheritance included a farm, then it could have been transferred only to the heir that chose the profession of a farmer or who was qualified to run a farm and obliged himself to do so.[52] This solution was repeated in the next draft of the Civil Code with minor amendments.

Unfortunately, the determination of authorities in conducting the new agricultural policy was too strong and finally much

[49] Statistical Yearbook 1959, p. 190 and the following.
[50] AAN 285/434, p. 200. This research included the comparison of small farms (below 3 hectares) and medium size (from 10 to 14 hectares). The data concerned farms which did not employ additional work force but on which only a single family worked. As it was proved: "The less land to farm the more time consuming and lucrative works, in plant or animal production, can be undertaken" (ibidem).
[51] AAN 285/2425, p. 40.
[52] Article 1009 § 1 of the Civil Code draft of 1961.

more radical solutions were implemented. The act of 1963 provided not only for omission of some types of statutory heirs during the division a farm as an inheritance, but excluded them from inheriting in general.[53] The testator had no right to dispose of the farm in the testament in a way contrary to the act.[54] If there were no heirs entitled to inheritance, the farm would go to the State Treasury who was a legal heir.[55] Solutions included in the act were later implemented in the draft of the Civil Code which was at the Parliamentary level at that time. The Civil Code of 1964 included special provisions on inheriting farms in the shape close to the act of 1963.

The introduction of specific regulation on succession of farms had an enormous socio-economic importance. After the nationalization of the key sectors of the economy and an almost complete elimination of private enterprise, farms remained the only asset of significant value subject to inheritance on a large scale and affecting therefore assets of many families. This special regulation on inheriting farms was repeatedly amended and remained in force until 2001, when it was finally abolished by the judgment of the Constitutional Court.[56]

[53] Act of 29 June 1963 on restriction of partition of farms (J/L No. 28, item 168).

[54] Article 18 item 1 of the act.

[55] Article 6 item 1 of the act.

[56] Wyrok Trybunału Konstytucyjnego (judgment of the Constitutional Court) of 31 January 2001, P 4/99 (J/L No. 11, item 91).

CONCLUSIONS

Polish draft of the Civil Code of 1954 introduced Soviet solutions into the inheritance law. Those regulations were repeated in the next project of 1955 and met with a decidedly negative opinion in scientific circles. A wide discussion started over the projected legislation which headed for returning to earlier solutions, similar to the Western European standards. Many of the changes, which could not be conducted, despite strong criticism, in 1954 and 1955, were pushed through in 1958. This was due to the changed political climate in the People's Republic of Poland. Stalin died in 1953 but in Poland Bolesław Bierut, the orthodox believer of communism, still persisted in power. The political crisis of 1956 ended both: the stage of Bierut rules and the so-called Stalinist era in Poland. A period of political thaw and the gradual loosening of the rigors of the system therefore followed. This opportunity was eagerly used by the members of the Codification Commission.

The researchers involved in the codification works tried to preserve the classical institutions of the inheritance law by manipulating the political doctrine. They skilfully chose arguments to avoid copying the Soviet patterns, simultaneously not exposing themselves to the repressions from the authorities. Thanks to ideological justification of the proposed regulations, in fact they were able to keep in the future Civil Code most of the previous solutions from decree of 1946, in the form close to the Western European standards.

The defence of the classical inheritance law regulations was usually justified by the level of development of the socialist system in Poland. The members of the Codification Commission stressed that at the contemporary stage of socio-economic transformation the traditional rules were not an obstacle for the implemented

changes.[57] They argued that the succession law provisions itself were of no such significance for the realisation of socialist targets. Much more important were the types of property that could have been transferred.[58] After the nationalisation and parcelling out of the estates through the land reform, most of the citizens were deprived of almost everything, apart from minor personal property. The scientists managed to convince the decision-makers, that in such situation classical inheritance law regulations were not an obstacle for the development of socio-economic system, as in practice succession was limited only to small property. This struggle for preventing the traditional solutions of the inheritance law ended with almost complete victory. It was impossible only to prevent "radical intervention of the legislator"[59] in reference to inheriting farms. Eventually, inheritance law regulations in this matter were submitted to the political objectives of increasing agricultural production.

Thanks to these endeavours for maintaining classical legal standards, most of the prepositions of the Polish Civil Code are valid until today. The Code of 1964, despite the fact that it was created in difficult times for traditional civil law, derived its structure and most institutions from the great Western European codifications. In countries that moved away from the classical concept of the civil law (e.g. GDR or Czechoslovakia) the adaptation of civil codes to social and political transformations after 1989 was much more complicated or simply impossible.

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[57] J. Gwiazdomorski, *Prawo spadkowe w kodeksie cywilnym PRL*, p. 707; *Materiały dyskusyjne*, p. 267.

[58] J. Gwiazdomorski, *Prawo spadkowe w kodeksie cywilnym PRL*, p. 707.

[59] Ibidem, p. 707 (footnote 1).

SUMMARY

After the Second World War Poland found itself in the bloc of the Eastern countries controlled by the Soviet Union. Initially the changes were carried out gradually. But after the political breakthrough in 1948 the transplantation of Soviet patterns began in all spheres of national life and intensive Stalinization. The inheritance law was also doomed not to be bypassed by major changes. After the initiation of work on the new Polish Civil Code, Soviet solutions started to be implemented into the succession law. Those attempts took place in four main areas: limitation of the group of statutory heirs, increase of the spouse's inheritance share, restriction of the freedom of testation, introduction of the reserve system (forced heirship) in place of legitime.

However, as it turns out, most of the researchers involved in the codification work were able to bypass the political determinants in order to keep a high legal standards. The author strives to show how the scholars tried to save the classical inheritance law institutions. By manipulating the political doctrine, in fact they enabled to keep in the Civil Code most of the basic succession law rules consistent with the Western European standards and at the same time prevented the transfer of the Soviet model. Despite the fact that the Polish Civil Code of 1964 was created in difficult times for traditional civil law, it derived its structure and most institutions from the great Western European codifications.

ERBRECHT IN DER VOLKSREPUBLIK POLEN – EIN SCHRITT IN RICHTUNG WESTEUROPÄISCHER ODER SOWJETISCHER STANDARDS?

ZUSAMMENFASSUNG

Polen wurde nach dem Zweiten Weltkrieg Teil des Ostblocks, der von der Sowjetunion kontrolliert wurde. Die Änderungen wurden anfangs

stufenweise eingeführt. Nach dem politischen Umbruch 1948 begann jedoch eine Implementierung sowjetischer Muster und eine beschleunigte Stalinisierung aller Bereiche des Staatslebens. Bald, nachdem mit den Arbeiten an einem neuen Zivilgesetzbuch angefangen worden war, begann man sowjetische Lösungen zu übernehmen, u.a. im Bereich des Erbrechts. Diese Versuche bezogen sich vor allem auf vier Gebiete: der Einschränkung des Kreises der gesetzlichen Erben, der Erhöhung des Ehegattenerbteils, der Begrenzung der Testierfreiheit sowie der Einführung eines Systems des Vorbehaltsteils anstelle des Pflichtteils.

Die Autorin versuchte darzustellen, wie die an den Kodifikationsarbeiten teilnehmenden Wissenschaftler bemüht waren, klassische Institute des Erbrechts zu bewahren. Der Mehrzahl von ihnen ist es gelungen, die politischen Bedingtheiten zu umgehen, um die hohen Rechtsstandards zu bewahren. Die Vertreter der Rechtslehre begründeten die vorgeschlagenen Rechtslösungen zwar ideologisch, in Wirklichkeit aber haben sie ermöglicht, im polnischen Zivilgesetzbuch von 1964 die wichtigsten Grundsätze des Erbrechts entsprechend den westeuropäischen Standards einzuhalten, und haben dabei die Umsetzung sowjetischer Muster verhindert. Obwohl das polnische Zivilgesetzbuch in einer für das polnische Zivilrecht schwierigen Zeit entstanden ist, knüpfte es in seiner Struktur und Lösungen an die großen westeuropäischen Kodifikationen.