



MINISTRY OF JUSTICE

INHERITANCE CASES

- How to obtain confirmation of acquisition of inheritance?
- How to distribute the estate?
- Can I reject an inheritance?

The Constitution of the Republic of Poland guarantees all citizens the right to a fair and public hearing of his case, without undue delay before a competent, impartial and independent court.

*Poland has signed and ratified **European Convention of Human Rights**, which guarantees all people the right to fair and public hearing within a reasonable time by an independent and impartial tribunal.*

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INHERITANCE PROCEEDINGS

Inheritance means the proprietary rights and obligations of the deceased passed onto heirs as at the day of his/her death.

There is no obligation to court proceedings in inheritance cases.

Court proceedings will not be necessary, if the property of the deceased is small (e.g. only small real property). There are no time restrictions in inheritance cases, so that the inheritance proceedings can take place even many years after the testator's death.

REMEMBER!

Time has no effect on who is going to be declared an heir, since it is established at the moment of the testator's death. If then one of heirs (who was alive at the moment of testator's death) dies before filing an application for confirmation of acquisition of inheritance, such person will nevertheless be declared heir by the court and everything he/she has inherited will be included in his/her estate.

First step in inheritance formalities is to file an application **for confirmation of acquisition of inheritance**.

You should file it at the regional court within jurisdiction of which the testator has his/her last address of permanent residence. The application can include the request to confirm the acquisition of inheritance from more than one testator.

The application should contain:

- Name and address of the applicant and names and addresses of potential legal heirs and testamentary heirs (parties of the proceedings);
- Name of the deceased, date and place of death and last address of permanent residence;

- Death certificate and other certificate determining kinship with the deceased of persons indicated in the application as heirs with the deceased (certified copy of abridged birth certificate, certified copy of abridged marriage certificate);
- Original copies of last will, if any.

The copies of the application should be provided **in the number corresponding with the number of participants in the proceedings.**

The application fee of 20 PLN should be paid in fiscal stamps or by money transfer (if the application indicates more than one heir – the fee is 20 PLN for each heir).

REMEMBER !

If you do not include all the required information in the application or do not pay the application fee, the court will order you to provide such information or pay the fee. You should always follow court instructions and keep the indicated deadlines. If you cannot fulfill all the requirements, you should inform the court in writing.

After the complete application has been submitted, a judge will set the date for the hearing and summon the applicant and participants of proceedings. The summons will include an instruction whether you have an obligation or do not have an obligation to appear in court.

After the hearing has been held, the court will issue a **decision on confirmation of acquisition of inheritance**, naming the testator and all heirs as well as their shares of inheritance (in form of fraction).

REMEMBER!

The court will declare the acquisition of inheritance even by those heirs, who have not been indicated by the participants and have not appeared in court.

If you are not satisfied with the court decision, you have the right to appeal. If none of the participants appeals, the court decision will become final in 3 weeks after its announcement. Only then you can obtain a copy of the decision and information on its validity. The court will mail copies of the decision only upon request of the interested party. There is a fee for such application (6 PLN per each page of the decision).

REMEMBER !

After the court decision becomes final, the court will send a copy to the Internal Revenue Office to calculate the inheritance tax.

DECISION ON CONFIRMATION OF ACQUISITION OF INHERITANCE

The decision **confirms the estate acquisition by heirs**. It constitutes the legal basis for entering their names in the land register as new owners or changing car registration as well as the access to bank accounts, etc.

If there is only **one heir**, the only formalities regard transfer of property rights onto a new owner.

If there are more **heirs**, they can divide the parts of inheritance among themselves. It is called **distribution of estate**.

If all heirs agree as to how divide the inherited property, they can do so by means of **inheritance contract**. If the inheritance includes a real property, the contract must be drawn in the form of a notarized deed. In other cases, the distribution of estate can be done even orally. However, if the inheritance includes a car or other elements subject to registration, a copy of a written

contract will be required in the registration office for any re-registration formalities.

Heirs can also take the case to **court** and request court distribution of estate by a written application.

The application should contain:

- Names and addresses of residence of all heirs,
- Description of the entire estate and its estimated value;
- If a testator has left a last will or wills, the application should indicate where such will has been deposited;
- If the estate includes a real property, the evidence must be submitted to prove that the property did belong to the testator (e.g. excerpt from the land register);
- The application should also include the decision of confirmation of acquisition of inheritance or reference to the file number.

The application should be submitted in the number of copies corresponding with the number of participants.

The court will order the applicant to pay an application fee.

INHERITING

There are certain rights and obligations of the deceased that are subject to specific regulations and are passed onto certain persons regardless of whether they are heirs or not. Since they are not part of the inheritance, their inclusion in the last will is ineffective.

One of the examples is an apartment lease. Civil Codes clearly defines who and under what circumstances takes over lease relation. It does not matter, whether such persons have been declared heirs of the deceased.

REMEMBER!

The inheritance includes not only **rights** (e.g. ownership of property and real property, bank account savings, loans granted to other persons, co-operative right to an apartment, perpetual usufruct, etc.) but also **obligations** – debts of the deceased.

If there is only one heir, he/she inherits the entire estate.

If there are more heirs, each of them acquires a fraction of each of the above rights and obligations. At the moment of death of the testator, heirs do not acquire certain things but a fraction of everything included in the estate (including debts).

REMEMBER!

In case of death of a spouse, the joint marital property is divided in half: one half is acquired by the surviving spouse and is excluded from inheriting. Only the other half will constitute the inheritance.

ACCEPTANCE AND REJECTION OF INHERITANCE

The heirs are named in the last will of the deceased. If the deceased died intestate (left no testament) – the heirs will be determined by the law. However, heirs do not have to accept the inheritance, since it is **not obligatory**.

The right to reject the inheritance is particularly important when the deceased has left **outstanding debts**.

The heirs have the obligation to pay inherited debts. Such debts also include the costs of funeral, costs of inheritance proceedings, the obligation to satisfy legitim claims and obligation to execute legacies and instructions.

The responsibility for inherited debts can vary w depending on declaration submitted by the heir.

The heir can declare:

1. to reject the inheritance,
2. to accept an inheritance unreservedly,
3. to accept the inheritance up to the level of net assets.

1. **Rejection of inheritance** means that the heir does not want to inherit. In such case no rights or obligations of the deceased are passed on the heir. The heir, who has rejected an inheritance will be excluded from inheriting, as if he died before the testator and the inheritance will be passed onto other heirs.
2. **Unreserved acceptance of inheritance** means accepting of all rights and obligations included in the estate. The heir will be then responsible for inherited debts without limits, and if the debts exceed the value of the estate, the heir will have to pay the difference with his/her own money.
3. **Acceptance of inheritance up to the level of net assets** means that the heir agrees to pay the debts only up to the value of the estate so that he/she will not be forced to pay the creditors with own money.

Declaration on acceptance or rejection of inheritance **can be submitted:**

- At the notary public,
- At the regional court of jurisdiction over the address of residence of the declarant,
- In court – during inheritance acquisition confirmation proceedings.

The declaration fee is 20 PLN, regardless of the place of its submission .

The declaration has to be submitted within 6 months from the moment the heir was notified about the inheritance.

If the heir does not submit a declaration within the designated deadlines, it will mean an unreserved acceptance of inheritance. If an heir is a minor child under 18 years of age, an incapacitated person or a legal person, lack of declaration submitted within deadlines will mean acceptance of inheritance up to the level of net assets. That is why, the decision on confirmation of acquisition of inheritance can be issued only after 6 months from the testator's death, unless all heirs submit acceptance or rejection declarations before that time.

GLOSSARY OF TERMS:

Inheritance – all proprietary rights and obligations of the deceased, which upon his/her death are passed onto the heirs.

Testator – a deceased person, who leaves an inheritance (estate).

Heir – person, who inherits the estate.

Opening of an inheritance – definition provided for in the Civil Code – it means the moment of testator's

death and the moment when heirs acquire the inheritance.

Inheriting – transfer of the estate left by the deceased onto heirs.

Testate succession – takes place if the testator has left a legal last will. It takes precedence over intestate succession.

Intestate succession – takes place when the deceased has not left a last will or if none of the persons named in the last will can or want to inherit.

Distribution of the estate – dissolution of joint inherited property by court decision or by contract.

The brochure contains information of general nature. It is recommended to seek a legal opinion at any case. Information is also available at courts and selected non-governmental organizations.



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