

COMPARATIVE APPROACHES TO THE INTERPRETATION OF WILLS IN SELECTED LEGAL SYSTEMS

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Abstract. This article examines comparative approaches to the interpretation of wills in selected legal systems, with particular attention to the persistent tension between testamentary formalism and the imperative to give effect to the testator's genuine intentions. Building on doctrinal analysis and comparative methodology, the study demonstrates that succession law, traditionally characterized by rigid formal requirements, is undergoing a gradual but discernible transformation toward more context-sensitive interpretative models. The article analyses judicial techniques governing the admissibility of extrinsic evidence, the scope of interpretative discretion, and the evolving role of autonomy of will in both common law and civil law traditions. It is argued that contemporary developments reveal a functional convergence across jurisdictions, whereby formal certainty is increasingly balanced against substantive justice. The findings suggest that rigid exclusionary doctrines no longer adequately respond to the social and normative complexities of modern testamentary practice. The article concludes by assessing the implications of these trends for ongoing civil law reforms, including recodification processes, and by proposing a conceptual framework capable of reconciling legal certainty with intention-oriented interpretation in succession law.

Key words: interpretation of wills, succession law, testamentary autonomy, legal formalism, comparative private law.

ПОРІВНЯЛЬНІ ПІДХОДИ ДО ТЛУМАЧЕННЯ ЗАПОВІТІВ У ВИБРАНИХ ПРАВОВИХ СИСТЕМАХ

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Анотація. У статті здійснено порівняльно-правовий аналіз підходів до тлумачення заповітів у вибраних правових системах із фокусом на неспівпадіннях між формалізмом спадкового права та необхідністю реалізації справжньої волі заповідача. На основі доктринального та компаративного методів обґрунтовується висновок про поступову трансформацію спадкового права від жорстко формалізованих моделей до контекстуально чутливих підходів тлумачення. Досліджуються судові практики щодо допустимості зовнішніх доказів, межі судового розсуду та сучасне розуміння автономії волі у традиціях загального і континентального права. Доведено наявність функціональної конвергенції правових систем, за якої правова визначеність дедалі частіше узгоджується з вимогами матеріальної справедливості. Зроблено висновки щодо значення цих тенденцій для сучасних процесів кодифікації цивільного законодавства та запропоновано концептуальну модель узгодження формальної визначеності з інтенційно орієнтованим тлумаченням заповіту.

Ключові слова: тлумачення заповіту, спадкове право, автономія волі, формалізм у праві, порівняльне приватне право.

The construction of testamentary instruments constitutes one of the most conceptually significant and practically sensitive areas of succession law, as it operates at the intersection between the formal articulation of last wishes and the legal system's obligation to give effect to the testator's authentic volitional intent. Because a will becomes operative only after the death of its author, the interpretative process necessarily involves a reconstructive exercise carried out in conditions of evidentiary and contextual asymmetry, which renders the task of interpretation both legally complex and normatively consequential. Courts and other decision-making bodies are therefore required to navigate carefully between the literal wording of testamentary provisions, the formal validity requirements imposed by law, and broader considerations of fairness and coherence within the legal order.

Despite marked divergences among legal systems in terms of doctrinal premises, interpretative techniques, and the permissible scope of judicial discretion, a comparative inquiry reveals a striking convergence in the underlying concerns that shape testamentary interpretation. Across jurisdictions, legal actors grapple with the challenge of harmonizing respect for individual autonomy with the demands of statutory compliance and the preservation of legal certainty. This article undertakes a comparative examination of interpretative approaches to wills within common law, civil law, and mixed legal systems, analyzing statutory norms alongside selected judicial decisions in order to identify prevailing trends, structural tensions, and emerging models of intention-sensitive interpretation.

The interpretation of wills represents one of the most intricate and normatively charged domains of succession law, as it directly concerns the posthumous realization of individual autonomy while simultaneously engaging the systemic imperatives of legal certainty, predictability, and institutional legitimacy. As Langbein persuasively argued in his seminal contribution on substantial compliance, "the law of wills is notorious for its harsh and relentless formalism," [9, p. 489] a premise that remains central to contemporary discussions on the evolution of interpretative methodologies in succession law. Unlike *inter vivos* legal acts, wills operate in a context marked by the irreversible absence of the author of intent, which fundamentally transforms the interpretative task into an exercise of reconstruction rather than clarification. In modern legal systems, this problem is exacerbated by profound socio-legal transformations, including the internationalization of family relations, increased longevity, pluralization of household structures, and the growing frequency of cross-border estates. These developments intensify the risk of interpretative fragmentation and inconsistent judicial outcomes, thereby elevating will interpretation from a doctrinal issue to a matter of practical significance for courts, legal practitioners, and policymakers alike. Consequently, the interpretative framework applied to wills has far-reaching implications not only for individual heirs, but also for the coherence of succession law as a system and for public confidence in the administration of justice.

The interpretative treatment of testamentary instruments represents one of the most theoretically complex and practically consequential domains of succession law, precisely because it determines how individual autonomy is realised after death while simultaneously testing the limits of legal certainty and the legitimacy of judicial intervention. In contrast to *inter vivos* legal acts, which are concluded and interpreted in the presence of all relevant parties, wills operate within a unique legal environment defined by the irrevocable absence of the testator. This structural condition necessitates a retrospective reconstruction of intention, undertaken without the possibility of clarification or correction by the author of the disposition, and thereby exposes the interpretative process to heightened risks of indeterminacy and contestation.

These challenges are further intensified by contemporary socio-legal transformations. The increasing frequency of cross-border successions, the diversification of family models, and the emergence of non-traditional forms of testamentary expression place significant pressure on established interpretative doctrines. As a result, courts are more frequently confronted with situations in which rigid adherence to formal textual analysis may produce inconsistent or normatively unsatisfactory outcomes. In this broader context, the interpretation of wills transcends its traditional doctrinal confines and becomes a focal point for assessing the coherence of private law, the balance between autonomy and protection, and the safeguarding of the legitimate expectations of heirs and beneficiaries within an evolving legal landscape.

The scientific discourse on the interpretation of wills has produced a substantial body of scholarship within both civil law and common law traditions, addressing issues such as the hierarchy of interpretative methods, the evidentiary limits of intention reconstruction, and the role of equity in correcting testamentary defects. Civil law literature has traditionally emphasized systematic interpretation grounded in statutory

provisions, often prioritizing textual coherence and objective meaning, while common law scholarship has elaborated sophisticated doctrines centered on the subjective intention of the testator and the admissibility of extrinsic evidence. Nevertheless, this doctrinal richness has largely developed within isolated national frameworks, resulting in a fragmented understanding of the phenomenon. Comparative studies remain sporadic and frequently descriptive, lacking a coherent analytical model capable of explaining why legal systems diverge or converge in their interpretative choices. Moreover, insufficient attention has been devoted to emerging challenges, such as the growing contractualization of succession law, the influence of constitutional and human rights norms, and the expanding role of judicial creativity. These unresolved aspects reveal a clear gap in the literature, which this article seeks to address through a structured and theory-informed comparative analysis.

The scholarly literature on the interpretation of wills is extensive and well developed within individual legal traditions. Civil law scholarship has traditionally focused on statutory interpretation techniques and the systematic coherence of testamentary instruments, whereas common law discourse has elaborated doctrines centred on the ascertainment of the testator's intention and the admissibility of extrinsic evidence. Despite this substantial body of research, existing studies remain largely jurisdiction-specific and methodologically fragmented. Comparative analyses are often limited to descriptive accounts and lack a structured framework capable of identifying functional equivalents and normative divergences across systems. Moreover, insufficient attention has been devoted to the interaction between classical interpretative doctrines and contemporary developments, including the increasing contractualization of succession law and the influence of constitutional and human rights norms on judicial reasoning. These gaps indicate the need for a systematic comparative inquiry, which this article seeks to provide.

The primary purpose of this research is to develop a comprehensive comparative framework for analysing approaches to the interpretation of wills across selected legal systems, with particular emphasis on identifying underlying doctrinal models and normative priorities. Rather than merely cataloguing national differences, the article aims to uncover the deeper structural logic that informs interpretative practices in different legal traditions. By examining how courts and legislators balance testamentary freedom against competing values such as legal certainty, family protection, and judicial restraint, the study seeks to contribute to a more nuanced understanding of succession law as a dynamic and evolving field.

As Alexandra Braun persuasively observes, testamentary freedom – defined as the freedom to determine the distribution of one's assets after death – is frequently portrayed as the bedrock or organizing principle of succession law, a perception that has rendered it, for many, a historically entrenched, self-evident, and ostensibly untouchable feature of private law, notwithstanding its persistent normative contestation and jurisdictional variability [1, p. 2].

Ultimately, the research aspires to demonstrate that, despite formal divergences, legal systems may exhibit functional convergence in addressing similar interpretative dilemmas, thereby opening the door to more coherent transnational dialogue and potential harmonization.

In order to achieve the stated research purpose, the article undertakes a series of interrelated analytical tasks. First, it systematically examines the conceptual foundations of will interpretation within civil law and common law traditions, highlighting their historical evolution and theoretical assumptions. Second, it analyses statutory frameworks and leading judicial decisions in selected jurisdictions to illustrate how interpretative principles are operationalized in practice. Third, the research evaluates the scope and limits of judicial discretion in reconstructing testamentary intent, paying particular attention to the tension between interpretative fidelity and corrective intervention. Fourth, it compares the role of extrinsic evidence across legal systems, assessing its admissibility, probative value, and potential risks. Finally, the article identifies emerging trends that challenge traditional interpretative paradigms, including the influence of human rights discourse and the increasing use of contractual mechanisms in succession planning.

The research is grounded in a comparative doctrinal methodology that combines formal legal analysis with a functional comparative approach. This methodological choice enables the study to transcend superficial comparisons and instead focus on how different legal systems respond to analogous interpretative problems. By integrating teleological reasoning and contextual analysis, the research captures not only the normative content of legal rules but also the values and policy considerations that underpin them. Judicial decisions are analyzed as primary sources of interpretative practice, allowing the article to bridge the gap between abstract doctrine and lived legal reality. The methodological novelty of the study lies in its deliberate effort

to synthesize doctrinal comparison with normative evaluation, thereby offering a model of comparative legal scholarship that is both analytically rigorous and practically relevant.

In common law jurisdictions, the interpretation of wills is predominantly guided by the principle that effect should be given to the testator's intention, insofar as that intention can be ascertained from the language of the instrument read as a whole. In England and Wales, the Wills Act 1837 [15] provides the core statutory framework governing the formal validity of wills, including requirements relating to writing, signature, and attestation. While the Act itself does not articulate specific interpretative rules, English courts have historically developed a robust body of case law emphasizing that the primary task of interpretation is to discern and give effect to the testator's intention, provided it is consistent with legal formalities and public policy. Interpretation therefore operates within a judicially constructed framework rather than an explicitly codified one.

A similar emphasis on testamentary intent characterizes the approach adopted in the United States. Across U.S. jurisdictions, probate courts consistently treat the intention of the testator as the controlling principle of interpretation. The prevailing methodology requires courts to read the will as an integrated whole, to attribute to its words their ordinary and grammatical meaning, and to consider extrinsic evidence where ambiguity arises. This approach reflects broader common law doctrines, such as the "four corners" rule, according to which interpretative efforts must initially be confined to the text of the document itself, with recourse to external evidence permitted only when the language is unclear or internally inconsistent. In both the United States and several Canadian common law provinces, statutory instruments – often styled as Wills or Succession Acts – explicitly direct courts to interpret wills so as to give effect to the testator's intent, thereby reinforcing judicial doctrine through legislation.

By contrast, civil law jurisdictions typically embed the interpretation of wills within comprehensive statutory codes that regulate both form and substance. In France, the Civil Code contains detailed provisions governing testamentary dispositions and succession [4]. French courts interpret wills primarily through the lens of codified rules, seeking to ascertain the testator's intention while remaining strictly bound by mandatory provisions of the Code. This interpretative process is significantly constrained by the doctrine of forced heirship, which reserves fixed portions of the estate for certain heirs, most notably children. As a result, testamentary freedom – and by extension, interpretative flexibility – is more limited than in common law systems. Even where the testator's intention is clear, it cannot prevail over statutory rules that protect reserved heirs. As Braun further compellingly argues, there is nothing inevitable or self-evident about testamentary freedom; rather, it constitutes a historically contingent concept marked not by a linear trajectory of inevitable expansion, but by continuous fluctuation – characterized by successive phases of loosening and restriction of the power to make a will – such power having neither uniformly extended to the entirety of the estate nor been universally available to all individuals [1, p. 30-31].

German law likewise situates will interpretation firmly within a codified framework. Under the German Civil Code (*Bürgerliches Gesetzbuch*, BGB), wills must comply with detailed formal requirements set out in §§ 2231–2247 BGB. Interpretation is governed both by general provisions on the construction of declarations of intent (§§ 133–157 BGB) and by specific succession rules, including § 2084 BGB, which instructs courts to interpret a will in a manner that upholds its validity wherever possible [2]. German courts therefore adopt a purposive approach that prioritizes the ascertainable intent of the testator, while simultaneously harmonizing conflicting clauses and ensuring compliance with statutory limitations. This approach demonstrates a balance between subjective intention and objective legal structure.

At the supranational level, the interpretation of wills within cross-border contexts in Europe is influenced by the European Succession Regulation (Regulation (EU) No 650/2012) [11]. Although the Regulation does not harmonize substantive succession law, it plays a crucial role in determining the applicable law and jurisdiction in cases involving multiple member states. Consequently, a probate court in one member state may be required to interpret a will in accordance with the substantive law of another state, thereby introducing an additional layer of complexity to testamentary interpretation.

Related arguments have been systematically examined by Angelo Davi in his *Introduction to The European Succession Regulation. A Commentary* (2016), where he draws attention to the profound structural diversity of family and succession laws within the European Union and critically analyses the implications of such diversity for the uniform application of the European Succession Regulation (ESR). Davi underscores the significant divergences among national legal systems with respect to the identification of heirs, the scope and

intensity of forced heirship regimes, and the legal recognition of succession agreements, thereby revealing the inherent challenges faced by the Regulation in reconciling deeply rooted domestic traditions with the overarching objective of legal harmonization. In this context, the commentary elucidates the ESR's delicate balancing function, which seeks to promote cross-border legal certainty and coherence while simultaneously accommodating entrenched normative differences that continue to shape succession law across the Member States [5, p. 51].

Mixed legal systems further illustrate the interplay between formality and intent. South African succession law, rooted in Roman-Dutch civil law but significantly influenced by common law principles, provides a particularly instructive example. The Wills Act 7 of 1953 [15] establishes strict formal requirements for the execution of wills, yet South African courts have demonstrated a willingness to engage in substantive interpretation where the testator's intention is evident. Judicial decisions such as *Kidwell v The Master* [8] underscore the consequences of non-compliance with statutory formalities, as wills may be declared invalid despite clear evidence of intent. Conversely, cases such as *Senekal v Meyer* [13] and *Henriques v Giles* [7] illustrate a more flexible judicial stance, in which unmistakable intention or contextual factors may justify the recognition, revocation, or rectification of a will. These decisions reflect an ongoing tension between legal certainty and equitable outcomes.

Canada presents a further hybrid model, particularly when comparing common law provinces with the civil law jurisdiction of Quebec. In provinces such as Alberta and Ontario, statutory and judicial approaches closely mirror those of other common law systems, emphasizing holistic interpretation and the primacy of testamentary intent. In Quebec, however, wills are governed by the Civil Code of Québec [3], which applies civil law interpretative techniques similar to those used in contract law. Quebec courts therefore consider the text of the will, its internal coherence, contextual elements, and, where appropriate, extrinsic evidence, in order to determine the testator's true intention within a codified framework.

Despite these jurisdictional differences, several interpretative principles emerge as common threads across legal systems. Foremost among these is the objective of giving effect to the testator's intention wherever legally permissible. Courts across jurisdictions tend to interpret wills holistically rather than clause by clause, attribute ordinary meaning to language unless a contrary intention is demonstrated, and respect formal requirements as a prerequisite to interpretation. The admissibility and weight of extrinsic evidence, however, vary considerably, with common law systems generally adopting a more permissive approach than their civil law counterparts.

In conclusion, the interpretation of wills reflects deeper structural distinctions between legal traditions, particularly with respect to the role of judicial discretion, statutory codification, and mandatory succession rules. Common law systems prioritize interpretative flexibility and intent, civil law systems emphasize codified constraints and legal certainty, and mixed systems attempt to reconcile these competing values. Nevertheless, the centrality of testamentary intent remains a unifying theme, underscoring the universal aim of succession law to respect individual autonomy while maintaining coherence within the legal order.

Moreover, Harding's central conclusion is that the traditional common law rule excluding extrinsic evidence in the interpretation of wills is normatively unstable and doctrinally overstated, functioning less as an absolute prohibition than as a context-sensitive presumption. While historically justified by concerns for certainty, finality, and protection against fraud, the rule increasingly fails to reflect modern judicial practice, which routinely admits external evidence – either explicitly or implicitly – when strict textual interpretation would frustrate the testator's apparent intentions [6, p. 501].

In addition, it is necessary to continue to improve judicial practice in the field of inheritance, especially regarding the use of alternative dispute resolution methods, such as mediation. This will reduce the time and costs of the legal process and reduce social tension between heirs, which is extremely important for the preservation of family ties. Kenneth Norrie advances a reconceptualising approach to succession law by challenging its traditional classification as a subfield of property law, observing that although pedagogical practice – particularly within Scottish legal education – has entrenched a property-centered mindset grounded in the mechanics of transmission, conveyancing, and title, the normative foundations of intestate succession in particular align more convincingly with family law, given its underlying concern with relational status, dependency, and intra-familial ordering rather than proprietary abstraction [10, p. 79]. The involvement of

alternative dispute resolution mechanisms can significantly facilitate the process of interpreting a will, ensuring a faster and more efficient resolution of issues between the parties.

In this broader constitutional and private-law landscape, Reid's analysis assumes particular relevance precisely because it foregrounds the concept of succession as a pivotal legal mechanism mediating continuity and transformation. Reflecting on the first series of reports published by the United Kingdom Government in early February 2013 under the title *Scotland Analysis: Devolution and the Implications of Scottish Independence*, Reid emphasises that the legal status of an independent Scotland would depend to a significant degree on political negotiations conducted both before and after the referendum, especially with regard to questions of continuity and succession [12, p. 208]. These questions extend beyond symbolic constitutional change and penetrate the technical core of legal succession, encompassing the transfer, preservation, or reconfiguration of rights, obligations, and legal relationships. Reid's observations illuminate how succession, far from being confined to the private-law transmission of property upon death, operates as a fundamental juridical concept structuring legal continuity at multiple levels, thereby reinforcing its centrality within both domestic legal orders and the broader international legal framework.

Reid's conceptualization of succession as a juridical instrument designed to secure continuity in moments of structural transformation acquires particular salience when viewed against the contemporary Ukrainian legal reform agenda. Ukraine is presently undertaking a comprehensive reassessment of its civil law framework, within which the modernization of succession law occupies a strategically important position. Legislative initiatives aimed at amending the Civil Code extend beyond the refinement of individual provisions and reflect a broader ambition to recalibrate the foundational principles governing private-law relations, including the scope of testamentary freedom, the protection of vulnerable heirs, and the mechanisms for interpreting and enforcing testamentary dispositions. In this sense, succession law functions as a normative hinge, linking inherited legal traditions with evolving societal values and European regulatory standards.

More generally, Ukraine's recodification efforts exemplify a pattern observable in jurisdictions undergoing profound legal and institutional transformation, where succession law becomes a focal point for negotiating continuity and change. As comparative experience demonstrates, reforms in this area often serve as a testing ground for broader commitments to legal certainty, autonomy of will, and proportional judicial intervention. Ukraine's agenda, informed by European integration processes and comparative legal discourse, increasingly mirrors these trajectories, positioning succession law not merely as a technical domain of private law, but as a reflective space in which the legal system articulates its response to demographic shifts, social vulnerability, and cross-border legal interaction. Against this background, the Ukrainian reform process underscores the enduring significance of succession law as both a stabilizing institution and a dynamic field of legal innovation in transitional legal orders.

The proposed amendments to the text of Article 1256 of the Civil Code of Ukraine, concerning the interpretation of a will, are of great importance for the development of the legal system of Ukraine, in particular in the field of inheritance law. The correct interpretation of a will is not only a technical act, but also a process that directly affects the implementation of inheritance rights and ensures the protection of the interests of heirs. Not only the effectiveness of the inheritance, but also the fairness in the distribution of the inheritance between the persons claiming it depends on how clearly the will of the testator is determined. The proposed amendments, including the requirement for notarization of the heirs' application and clarification of the procedure for judicial interpretation of the will, are part of the overall strategy for improving the inheritance legislation of Ukraine. However, these amendments require a detailed analysis in the context of both their advantages and potential difficulties that may arise during their implementation. The analysis of the proposed amendments is important for several reasons. Firstly, the interpretation of a will is one of the most controversial topics in inheritance disputes, as situations often arise when the parties interpret the testator's intentions differently. Secondly, the innovations are related to the need to involve notaries and judicial authorities in the interpretation process, which can significantly change the existing practice in this area. Since inheritance disputes are often not only legal, but also emotional in nature, the proposed changes require careful study in terms of their real feasibility and effectiveness.

1. Changes related to the procedure for interpreting a will by heirs

One of the most significant innovations provided for by the amendments to Article 1256 is that the interpretation of a will can be carried out by heirs after the opening of the inheritance by submitting a statement,

which must be notarized. This strengthens the legal position regarding the authenticity of the heirs' statement and ensures the legal purity of the process. Notarization of signature is an important tool for protection against possible manipulation or forgery, since the notary not only certifies the signature, but also verifies the legal significance of the document. This makes it possible to avoid situations where one of the parties, relying on incorrect or falsified information, tries to influence the interpretation of the will.

At the same time, this mechanism increases the legal certainty of the process of interpreting the will, since the notary is an impartial body that ensures transparency of actions. It also gives heirs the opportunity to receive additional advice on the correctness of their actions and the possible legal consequences of their steps. However, in practice, this innovation may have its own difficulties, in particular regarding access to notarial services for remote or low-income individuals. The cost of notarial services may become an obstacle for individuals who cannot afford to pay for the certification of the application, which may lead to delays in the inheritance process or even refusal to submit the application at the interpretation stage.

In addition, by requiring notarization of the signature, the amendments may create certain additional legal barriers for persons who are unable to promptly execute documents at a notary. This also creates additional bureaucratic complexity for persons who do not have sufficient knowledge of the legal procedure and may not understand the need for such certification. Therefore, it is important to provide measures to facilitate access to notarial services, especially for those in difficult economic or geographical conditions.

2. Judicial interpretation of a will in the event of a dispute between heirs

The amendment concerning the judicial interpretation of a will in the event of a dispute between heirs is important and necessary to ensure legal certainty and fairness in cases where there are serious disagreements between heirs regarding the interpretation of a will. It provides that in the event of a dispute, the court has the right to interpret the will in accordance with Part Three of Article 213 of the Civil Code of Ukraine. This allows the court to go beyond the literal interpretation of the will, but also to take into account other circumstances, including the content of prior negotiations, established practices between the heirs, and the testator's intentions, which may have been expressed in other forms, such as correspondence or oral conversations.

The court's decision in such disputes is final, which guarantees stability and legal certainty in inheritance relations. This approach avoids legal manipulation and ensures an accurate determination of the testator's will, which is critical for the fair distribution of the inheritance. Among the important aspects of this change, it is worth highlighting the ability of the court to pay attention to the context and purpose of the will, as well as other elements that may be important for an accurate determination of the deceased's will.

At the same time, Harding demonstrates that courts have progressively relaxed the rule through exceptions (such as latent ambiguity, surrounding circumstances, and rectification), thereby revealing a quiet shift from formalism toward intention-sensitive interpretation. The article concludes that the rule's continued rhetorical prominence masks a deeper transformation: testamentary interpretation has moved toward a pragmatic balancing of certainty and autonomy, with extrinsic evidence serving as a legitimate interpretative aid rather than a threat to the integrity of succession law [6, p. 519-520].

However, judicial intervention also has some disadvantages. First, it can significantly delay the process, since court cases often take a long time due to the workload of the courts and the complexity of procedural issues. Second, legal costs can be significant for the parties, especially in cases where one party cannot afford to pay the costs, lawyer's fees or other costs associated with the legal process. Moreover, the legal procedure can become long-term and traumatic for the heirs, which can negatively affect the psychological state of the participants in the case, as well as lead to an increase in the conflict between them.

3. Analysis of changes in the context of modern legal regulation of inheritance relations

The changes to Article 1256 of the Civil Code of Ukraine are of significant importance in the context of the modern development of inheritance legislation. They can be an important step towards greater legal clarity and fairness in the field of inheritance relations. However, to achieve maximum effect, these changes should take into account the real conditions in which inheritance distributions are carried out and be adapted to the specifics of Ukrainian legal practice. In particular, attention should be paid to the possibility of reducing legal barriers for persons in difficult circumstances, and mechanisms should be provided to facilitate access to notary services.

The proposed amendments to Article 1256 of the Civil Code of Ukraine, particularly the introduction of a mandatory notarization requirement for heirs' statements, represent a significant step toward strengthening legal certainty in the interpretation of wills. This innovation aims to enhance the procedural reliability of

inheritance relations by formalizing the expression of heirs' positions through the involvement of a notary, who functions as an independent public authority vested with ensuring the legality, authenticity, and procedural correctness of legally relevant declarations. As a result, the risk of manipulation, misrepresentation, or subsequent contestation of heirs' statements is substantially reduced, thereby contributing to greater predictability and stability in inheritance proceedings.

The notarization requirement also reinforces the transparency of the inheritance process and increases the level of trust among participants. As Sitkoff convincingly demonstrates, while the trust is frequently conceptualized as functionally analogous to a third-party beneficiary contract, this analytical model proves inadequate when assessing the interaction between the trust's principal parties and external actors, since, unlike in conventional third-party beneficiary contracts – where the legal relations of the contracting parties and beneficiaries remain insulated from nonparties – the trust structure inherently implicates and affects the rights and interests of outsiders [14, p. 630]. By institutionalizing an additional layer of procedural control, the amendment provides stronger guarantees for all parties involved, including both heirs and third parties whose rights may be affected. From a systemic perspective, this formalization aligns with broader trends in civil law aimed at minimizing ambiguity in the application of dispositive norms and ensuring consistency in legal practice. Consequently, the amendment may have a positive impact on the overall legal environment in Ukraine by promoting legal certainty and reducing the number of inheritance-related disputes arising from unclear or improperly documented expressions of intent.

At the same time, it is necessary to acknowledge that the proposed changes may generate certain practical challenges, particularly for individuals who face limited access to notarial services. This includes residents of rural or remote areas, persons with disabilities, and economically vulnerable groups. The imposition of additional formal requirements, while beneficial in terms of legal clarity, may inadvertently restrict access to justice if not accompanied by appropriate compensatory mechanisms. Therefore, the implementation of the amendment should be supplemented by measures aimed at ensuring equal access to notarial services, such as expanding remote notarization options, introducing fee reductions, or providing state-supported legal assistance.

Furthermore, given the inherently complex and emotionally sensitive nature of inheritance disputes, the inclusion of judicial interpretation of wills in cases of disagreement between heirs appears to be both justified and necessary. Judicial intervention enables a more nuanced and comprehensive examination of the testator's intent, extending beyond a purely literal interpretation of the testamentary text. Through the application of methods of extended and systematic interpretation, courts are able to consider the broader factual, social, and personal context in which the will was drafted, thereby facilitating a more equitable and substantively just distribution of the estate.

However, reliance on judicial mechanisms is not without drawbacks. Court proceedings are often time-consuming and financially burdensome, which may further exacerbate conflicts between heirs and strain judicial resources. Accordingly, the legal system should prioritize the development and integration of alternative dispute resolution mechanisms, particularly mediation, as a complementary means of resolving inheritance disputes. Such mechanisms offer the potential to reduce procedural costs, expedite resolution, and preserve familial relationships, while simultaneously alleviating the workload of the courts.

In conclusion, the amendments to Article 1256 of the Civil Code of Ukraine may be characterized as progressive and conceptually sound, yet their effectiveness will largely depend on the quality of their practical implementation. Special attention must be given to mitigating potential negative consequences for low-income and socially vulnerable individuals through guaranteed access to notarial services and financial support mechanisms. In parallel, the promotion of alternative dispute resolution methods should be regarded as an essential component of a modern and efficient inheritance law framework. Taken together, these measures can contribute to a more accessible, balanced, and fair system for resolving disputes arising in the inheritance process.

Viewed in a broader perspective, the interpretative challenges surrounding testamentary dispositions reveal a structural tension that transcends individual legal systems. Succession law has long been characterized by an uneasy equilibrium between the demands of formal certainty and the normative imperative to respect testamentary autonomy. While formalism has traditionally been defended as a safeguard against fraud, uncertainty, and posthumous manipulation, its rigid application increasingly appears misaligned with the complex social realities in which modern wills are drafted and executed. Comparative developments demonstrate a

gradual, albeit uneven, shift toward interpretative methodologies that prioritize the reconstruction of the testator's genuine intentions, even where this necessitates a cautious departure from strictly textual analysis.

Against this background, the growing judicial willingness to engage with contextual and external factors in will interpretation should not be understood as an erosion of legal certainty, but rather as an adaptive response to the limitations of purely formalist approaches. Courts are increasingly confronted with testamentary instruments that fail to capture the full scope of the testator's intentions due to linguistic ambiguity, evolving familial relationships, or the use of standardized forms ill-suited to complex personal circumstances. In such cases, strict adherence to the literal text risks producing outcomes that are formally valid yet substantively unjust, thereby undermining public confidence in succession law as an instrument for the orderly and legitimate transmission of wealth. The growing recourse to contextual interpretation reflects an implicit recognition that the communicative function of a will cannot be fully apprehended in isolation from the circumstances of its creation.

From a comparative perspective, this development is neither accidental nor confined to a single legal tradition. Common law jurisdictions have incrementally expanded the admissibility of surrounding circumstances and rectification doctrines, while civil law systems – despite their traditionally codified frameworks – have long accommodated purposive and systematic methods of interpretation aimed at uncovering the testator's true will. These parallel trajectories suggest an emerging functional convergence, in which doctrinal labels differ but underlying judicial reasoning increasingly gravitates toward a balanced accommodation of certainty and autonomy. The persistence of formal requirements thus coexists with an evolving interpretative sensibility that is more responsive to context and intent.

It is within this broader doctrinal evolution that Harding's analysis assumes particular analytical force. By exposing the rule against extrinsic evidence as a qualified and policy-driven presumption rather than an inflexible exclusionary norm, Harding elucidates the internal dynamics through which testamentary interpretation has adapted to contemporary realities. His conclusions capture a pivotal moment in succession law, where formalist rhetoric continues to structure doctrinal discourse, yet practical adjudication increasingly embraces a nuanced, intention-sensitive approach. This insight not only clarifies the current state of the law but also provides a conceptual framework for understanding future reforms, including those undertaken in jurisdictions engaged in the recodification of their civil law systems.

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