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Notarial registration of inheritance of real estate in independent Ukraine: Socio-legal dimension

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Abstract. The transfer of ownership of real estate from a deceased person to their heirs is carried out in accordance with the legislation in force on the day of the deceased's death. Notarial registration of the transfer of ownership of immovable property from the testator to their heirs is accompanied by certain social ties (relationships), both between the heirs and the authorities authorised to carry out such transactions. The aim of the work was to analyse the legal regulation of inheritance of immovable property in independent Ukraine through the prism of social relations between heirs that arise when registering inheritance in a notarial order. The methodological basis of the work consisted of historical-legal, formal-logical and sociological survey methods. This methodology made it possible to conduct a retrospective review of the legal and legislative regulation of the notarial registration of inheritance of immovable property in modern Ukraine, taking into account elements of sociology. The first stage of legal regulation of inheritance of immovable property covered the period from 1991 to 2008; the second stage covers the period from 2009 to 2020, and the third stage began in 2021. As of the end of 2024, the bodies authorised to indisputably secure the transfer of ownership of immovable property from the testator to the heirs by issuing certificates of inheritance are state and private notaries of Ukraine. The judicial authorities divide the testator's estate in the event of a dispute between their heirs. As of the end of 2024, officials of local self-government bodies in rural areas do not issue certificates of inheritance. A comparative analysis of the inheritance of immovable property in Ukraine and Indonesia has been carried out. In Ukraine, the notarial process for registering inheritance is more regulated and digitised. In the event of disputes between heirs, the judicial authorities of Ukraine and Indonesia decide on the division of inherited property, including real estate. Real estate received by an heir through inheritance serves as a guarantee of improved living standards and social status for the heir and their family members. The results of the study can be used in the educational process, by practitioners, including notaries, and in improving legal regulation in the field of inheritance

Keywords: real estate; inheritance; heir; notary; certificate of inheritance; digitisation; mediation

Introduction

In connection with the death of a person who owned immovable property, the heirs have the right to receive it. When registering inheritance rights for heirs (both by will and, in particular, by law), legal and social ties are formed related to the need to legalise the transfer of ownership rights to real estate from the testator to their heirs. Certain socio-legal relations also arise with the authorities authorised by the state to carry out such operations, in particular notarial ones. Notarial activities are carried out as a type of legal and, accordingly, social activity. The process of notarising inheritance rights to immovable property is lengthy, as the law does not set any time limits for this procedure. In addition, in modern Ukraine, with the adoption of the Civil Code of Ukraine (2003), there have been significant changes in the field of inheritance, including in the number of lines of succession under the law.

The war in Ukraine in 2022 and the need to protect the interests, including inheritance interests, of defenders and their families have led to an expansion of the circle of persons authorised to certify wills equivalent to notarial wills during martial law in the country. Therefore, it is considered necessary to trace the development of legal and legislative regulation of inheritance in independent Ukraine during 1991-2024, both from the point of view of sociology of law and the basic principles of the procedure for notarising inheritance rights to immovable property.

The issue of inheritance, including immovable property, has been considered by both foreign and domestic scholars, mainly in the writing of manuals and textbooks on civil and inheritance law, as well as notarial procedure. In most cases, in the studies of lawyers, the problems of inheritance were considered broadly, only as a legal insti-

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tution, without highlighting the social aspect of inheritance of immovable property. O. Kukharev (2022) conducted research in the field of legal regulation of inheritance. In particular, the author examines the peculiarities of inheritance registration during martial law and outlines the peculiarities of applying the provisions of Resolutions of the Cabinet of Ministers of Ukraine No. 164 (2022) in notarial practice. The issues of extending the deadline for heirs to accept inheritance under martial law and the place of opening the inheritance are highlighted. A conclusion is formulated on the need for additional legal regulation of issues related to determining the place of opening the inheritance under martial law. The above proposals of the scientist were subsequently regulated by the legislator, in particular Law of Ukraine No. 3450-IX (2023).

O. Kukharev (2023) also considered the essence of the heirs' obligation to compensate for the costs incurred for the burial of the testator. The author argues that this obligation is not an element of inheritance. The scholar believes that payment for the burial of the testator gives rise to a non-contractual obligation, in which the creditor is the person who incurred the burial expenses and the heirs are the debtors. At the same time, it is emphasised that the expenses incurred must be reasonable and paid for with the personal funds of the person claiming their reimbursement.

V. Vatras (2021) analysed the sources of international and national (Ukrainian) inheritance law. The author identifies six main groups of sources of inheritance law, which are generally supported. At the same time, it should be noted that legal custom or contract should not be combined into a single group of sources of inheritance law, as these are different legal categories, and separate consequences arise for non-compliance with these sources.

Certain issues of legal regulation of inheritance relations during martial law in Ukraine are considered by V. Makovii *et al.* (2022). The authors emphasise that the legal regulation of inheritance relations during martial law in Ukraine requires the following provisions to be taken into account: temporary (due to the threat) restrictions on the constitutional rights and freedoms of individuals and citizens and the rights and legitimate interests of legal entities, with an indication of the duration of these restrictions; as well as assistance in the exercise of civil rights and the fulfilment of civil obligations by the parties to the relations. The authors pay particular attention to the authorities authorised to certify wills equivalent to notarial wills, in accordance with Resolutions of the Cabinet of Ministers of Ukraine No. 164 (2022). However, the authors do not pay sufficient attention to the practical application of this regulatory act.

A. Barankevych (2023) studied the legal regulation of minors' rights to a compulsory share in inheritance law in EU countries. In her study, the author emphasises that the established right to a compulsory share in the inheritance of minor heirs is due to both the lack of full legal capacity of such persons and the need to ensure an adequate standard of living for such heirs after the death of the testator. The researcher concludes that in EU member states, the right of minor heirs to receive a compulsory share is exercised through legal institutions: compulsory share and reserve share.

M. Mykhailiv (2020) has conducted numerous studies on the problems of legal regulation of inheritance relations in private international law. The author considered the issue of inheritance law in the context of the recodification of civil legislation. In particular, the author argues that the concept of a will, mainly in terms of its content, is similar to that in the civil legislation of foreign states in the field of inheritance, and that multilateral conventions regulate only certain issues of inheritance (Mykhailiv, 2021). In other words, the author focuses mainly on general theoretical issues of inheritance.

A. Kiryk (2020) devoted her research to the issue of guarantees of the rights of heirs in inheritance law. The Article emphasises that in Ancient Rome there were "prerequisites for the development of legal guarantees, which were later transformed into the institution of civil law guarantees." The author is right in saying that one of the ways to acquire ownership is through inheritance, which in turn provides guarantees of the rights of participants in inheritance relations. The characteristics of guarantees of the rights of heirs include: targeting a specific group of heirs; designed to protect and safeguard the rights of heirs; based on the principles of protecting the interests of the family and arising only from legal facts.

A. Goncharova (2021) devoted her research to the judicial procedure for establishing inheritance rights. The author considers the practice of courts to recognise the illness of an heir or the fact that the heir-plaintiff is on a business trip in another region of Ukraine as valid reasons for missing the deadline for submitting an application for acceptance of inheritance to be erroneous. According to the scholar, this should only be confirmed by witness testimony. The peculiarities of the emergence and realisation of inheritance rights to land plots are considered by M.R. Gabriadze (2023). In particular, the legal relations associated with the inheritance of a land plot by several heirs of joint ownership rights to such a plot are characterised. The author argues that social relations regarding the inheritance of land rights should be subject to legal regulation of land law, since inheritance has a special nature. This view is disagreed with, as the inheritance of land plots follows the general principles of inheritance.

From the above, it appears that Ukrainian scholars have not paid sufficient attention to the social aspect of inheritance registration in Ukraine, in particular with regard to the entities authorised to register inheritance in the state. A. Silviana and A. Fuadi (2023) examine Indonesia's legal policy on the inheritance of immovable property, including citizens' land rights. The authors emphasise that the adoption of the Population Law in Indonesia eliminated racial discrimination in the classification of the population, leaving a division into two main categories: Indonesian citizens and foreigners. According to the authors, as a result of the pluralism of the civil law system in Indonesia, land policy in the process of land registration due to inheritance requires that a Certificate of Inheritance Rights/ Heirs' Certificate be issued on the basis of documents drawn up by three institutions: SKAW drawn up by the village head/lura and notary, as well as SKAW from the Inheritance Property Centre for each population group, which is the basis for registering the transfer of land ownership from the testator to the heirs .

The aim of the work was to analyse the legal and legislative regulation of the institution of inheritance of immovable property in independent Ukraine through the prism of social relations that arise when registering inheritance in a notarial order, including in terms of entities authorised to register inheritance in the state.

Materials and methods

The methodological basis of the work consisted of general scientific and specialised methods of research, both legal and social. Using a synergistic methodological approach, the author considers the notarial registration of inheritance rights to immovable property in Ukraine as a process that is developing and improving consistently and independently. This was reflected in the evolution of notarial bodies authorised to carry out transactions in the field of inheritance. The author used general scientific methods, including analysis and synthesis.

The hermeneutic method was used to interpret the texts of regulatory and legislative acts, as well as scientific achievements of scholars on the subject of research. The historical and legal method was used to reveal the transformation of the social aspect of legislative regulation of inheritance of immovable property within the specified chronological limits. The formal-logical method facilitated the analysis of the norms of the current civil, notarial and land legislation of Ukraine in the field of notarial registration of inheritance rights to immovable property. In order to reveal the social significance of the institution of notarial registration of inheritance of immovable property and to provide a more thorough disclosure of the topic of the article, the study used: the sociological method of questioning as a method of collecting information through questionnaires; the method of statistical processing of information and the method of comparative analysis.

The materials for analysis were regulatory and legislative acts of civil (special inheritance), land and notarial law. The study used a survey method conducted in October-December 2024, which concerned family, inheritance and land legal relations, in which 194 respondents, students of Lviv State University of Internal Affairs, voluntarily participated. The survey was conducted offline with a list of questions with fixed answer options. Respondents were assured of compliance with ethical standards when conducting the survey (American Sociological Association's, 1997). The survey was conducted to identify public perceptions of common practices for protecting land and inheritance rights through notarial procedures, in particular, regarding the choice of a notary to handle the inheritance, methods of disposing of real estate acquired through inheritance, the effectiveness of digitalisation, etc.

Results and Discussion

General principles of inheritance: Socio-legal aspect. The registration of citizens' inheritance rights is based on rules established by the state, which are reflected in both legislative and regulatory acts. These, in turn, take into account the interests of the state and society, including socio-economic, socio-political and socio-cultural interests. According to Y. Zaika (2020), inheritance law is the most conservative sub-branch of civil law. It is based on the national traditions of the country and the particular mentality of society, which has been shaped over centuries.

The emergence of certain rules of inheritance, which were later enshrined in regulatory legal acts, is socially conditioned. These inheritance rules were formed on the basis of existing rules of conduct that had developed in society, i.e. they reflected the needs of society or its main strata and were socially conditioned. The institution of inheritance of immovable property has its roots in ancient times, its origins can be traced back to the tribes that inhabited both the territory of state and the territories of other states of the world. The transfer of ownership of immovable property by inheritance gave heirs the right to ensure a sufficient standard of living for themselves and their family members.

The genesis of the legal regulation of inheritance of immovable property can be seen in the rules of customary law. Subsequently, the main acts confirming the transfer of inherited rights to immovable property from the testator to the heirs were wills, which were drawn up by quasi-notarial bodies (officials, in addition to their main powers) and were subject to state registration.

The judicial authorities of the time, both secular and ecclesiastical, played a fundamental role in resolving issues relating to the inheritance of immovable property, including in the event of conflicts. In most cases, inheritance legal relations are related to social and family relations. This is particularly evident in the notarisation of the inheritance rights of citizens of the first line of succession. When registering an inheritance in a notarial order, forms of social interaction between people (heirs) become apparent. It is appropriate to highlight the social relationships between the members of the testator's family in the case of inheritance by law. The family has always been at the heart of society, and the welfare and well-being of all family members has usually been a priority, which in turn was ensured by the availability of real estate. Therefore, the transfer of ownership by inheritance was one of the important grounds for the enrichment not only of the heir, but also of his family members, with the family at its centre.

As noted by M. Dolynska (2021), Article 3 of the Family Code of Ukraine (2003) does not provide a legal definition of the concept of family, but only a social one. The survey shows that 26.3% (51) of respondents understand the concept of family as a social institution, and 59.8% (116) as a group of persons bound by rights and obligations. 86.6% (168) of respondents consider it important to have a legal definition of family, while 7.2% (14) hold the opposite view. In other words, family and kinship relations continue to be at the heart of social relations, and preserving the well-being of future generations of families is one of the means of their further development and improvement.

It should be noted that a church marriage between individuals does not give spouses the right to inherit from each other by law. The Civil Code of Ukraine (2003) does not distinguish the concept of family, but only lists the persons who belong to each of the five lines of succession by law (Articles 1261-1265 of the legislative act). To a certain extent, the concept of family can be observed in the provisions of Article 1261 of the legislative act, which establishes a list of heirs who belong to the first order of succession.

Part 1 of Article 1266 of the Civil Code of Ukraine (2003) also contains a list of persons who may be members of the testator's family. Notarial registration of inheritance is an indisputable complex civil, inheritance and notarial legal relationship based on compliance with the current legislation of Ukraine, and in certain cases also the norms of foreign legislation, with the aim of formalising the transfer of the testator's rights and obligations by issuing a certificate for the deceased's property to their heirs. Taking into account their financial and social situation, the heirs may consider the needs of one of the heirs (in particular, a family member who is in a difficult financial situation or needs expensive

medical treatment) and waive their inheritance rights in favour of other heirs (both by will and by law).

Development of legal regulation of inheritance of immovable property during 1991-2008. In the second half of the 20th century, during the Soviet era in Ukraine, according to the provisions of Chapter 10 of the Civil Code of the Ukrainian SSR (1963), only residential buildings were considered real estate subject to inheritance. That is, the state notary at that time had the right to certify both a will and issue a certificate of inheritance by law or by will for immovable property (residential buildings) that was in the possession of the testator on the day of his death. After the declaration of independence in August 1991, state notaries of state notary offices continued to perform notarial acts in Ukraine, including the issuance of certificates of inheritance rights to residential buildings as real estate objects.

During the period of Ukraine's independence, radical reforms took place, including political, socio-economic, legal, and land and agrarian reforms. The starting point for the rapid development of inheritance and notarial legal relations, including in relation to the inheritance of immovable property in modern Ukraine, should be considered to be 1992, when numerous privatisation regulations were adopted: Law of Ukraine No. 2482-XII (1992), No. 2196-XII (1992), No. 2163-XII (1992), No. 2171-XII (1992), and others. This gave impetus to the reform of the notarial system, as state notaries were overloaded and long queues were forming.

The Law of Ukraine No. 3425-XII (1993), adopted in September 1993, introduced the creation of new notarial and quasi-notarial bodies, in particular a new subject of notarial activity – private notaries – from 1 January 1994. In other words, the Law changed the conditions for the activities of state notaries and granted both state notaries and persons intending to become notaries (subject to certain requirements and passing a qualifying notarial examination) the right to engage in private notarial practice.

As evidenced by notarial practice, it was only in February 1994 that the Ministry of Justice of Ukraine began issuing certificates of the right to engage in notarial activities in accordance with Order of the Ministry of Justice of Ukraine No. 3/5 (1994). Private notaries were granted a wide range of notarial powers, including the drafting of wills, but they were not entitled to issue certificates of inheritance rights or take measures to protect inherited property.

As evidenced by notarial practice and the personal experience of the author of the Article (as a practicing state notary in Lviv at that time), there were many misunderstandings and disputes regarding the registration of inheritance in terms of notaries verifying the existence of wills certified by the testator (in different parts of the state by notarial and quasi-notarial bodies). A similar problem also arose when opening inheritance cases after the death of testators (here is no specific inheritance cases, as this is notarial secrecy).

The above prompted changes to the current legislation. Therefore, the next important step in the development of notarial and inheritance legal relations was the introduction of the Unified Register of Wills and Inheritance Cases into Ukrainian notarial practice on 1 December 2000, i.e. the digitisation of notarial and inheritance legal relations. Only state notaries became full users of this Register, as they entered information not only on certified wills, but also on inheritance cases and issued certificates of inheritance rights. It should be noted that the main type of notarial action in state notary offices was the issuance of certificates of inheritance rights under the law. In 2000, there were 795 state notary offices operating in Ukraine and 7,709 notaries engaged in private notarial practice, who performed almost twice as many notarial acts as state notaries (3,920,000 and 7,709,000, respectively) (Werner, 2021).

Article 78 of the Land Code of Ukraine (2001) enshrines private ownership of land, which gives the owner the right not only to possess and use the land, but also to dispose of it, including by transferring it by inheritance. Given the socio-economic and legal reforms in the country, it was logical to adopt the Civil Code of Ukraine (2003) in 2003. In addition to the five stages of inheritance, the act grants the testator the right to draw up a secret will and have it notarised, including for immovable property, and introduces property rights to use other people's land plots (on the basis of concluded emphyteusis and superficies agreements).

According to Article 1299 of the Civil Code of Ukraine (2003), if real estate is included in the inheritance, the heir is obliged to register such a certificate with the relevant state authorities that register real estate (Article 182 of the act). Such authorities were municipal enterprises of the technical inventory and expert assessment bureau (until 31 December 2012). At the same time, the right of ownership of immovable property arose for the heir only from the moment of state registration of such inherited property on the basis of a certificate of inheritance issued by state notaries.

The only body authorised to register the inheritance rights of citizens in an indisputable manner during 1991 – May 2009 was the state notary of the state notary office. At the same time, a private notary was only entitled to draw up a will for immovable property from its owner. Relationships related to the state registration of property rights to immovable property were carried out in accordance with the requirements of Law of Ukraine No. 1952-IV (2004). According to statistics, in 2005, there were already 3,273 private notaries working in Ukraine (who performed 14,510,000 notarial acts) and only 826 state notary offices (which performed only 4,094,000 notarial acts) (Werner, 2021).

Thus, there continued to be long queues at state notary offices for the registration of citizens' inheritance rights, which in turn created a certain amount of social tension in the country. There was also a further reduction in the number of state notaries working in state notary offices. One of the reasons for the reduction was that state notaries were resigning from their positions in order to engage in private notarial practice. The same trend is observed as of 2025.

Development of legal regulation of inheritance of immovable property during 2009-2020. There was a need to expand the types of entities authorised to perform notarial acts, in particular those that would carry out such activities at their own expense, but under the guidance and control of the state. Law of Ukraine No. 614-VI (2008), among other things, granted the right to perform all types of notarial acts not only to state notaries, but also to private notaries of the state from 1 June 2009. In particular, private notaries were granted the right to issue certificates of inheritance rights to immovable property and certificates of ownership of a share in the joint property of spouses in the event of the death of one of the spouses. At the same time, private notaries had had the right to certify wills since 1 January 1994, i.e. they performed certain notarial acts relating to the registration of inheritance rights in the future and provided advice on these

issues. Documents relating to inheritance issued by state and private notaries had equal legal force.

As of 1 April 2009, there were 789 state notary offices in the country, where 1,309 state notaries performed notarial acts. At the same time, 4,655 notaries carried out private notarial activities (Notaries were equalised, 2009). Private notaries received the above powers in the field of notarial and inheritance legal relations only after 1 December 1999, and only on condition that they had undergone further training in inheritance law. This training was conducted by the Ministry of Justice of Ukraine and its territorial bodies, and only 2,613 private notaries in the state underwent it. Thus, not all private notaries at that time expressed a desire to engage in the registration of citizens' inheritance rights. It should be noted that this practice did not apply to all parts of the country. Thus, the author, who at that time was the head of the notary department of the Lviv Regional Department of Justice, claims that all private notaries in the Lviv region underwent advanced training in inheritance law.

On 31 December 2010, the Convention on the Establishment of a Scheme of Registration of Wills (1972), ratified by Ukraine, came into force. Therefore, it is logical to adopt the Procedure for State Registration of Wills and Inheritance Cases in the Inheritance Register, the new Regulations on the Inheritance Register, in accordance with Order of the Ministry of Justice of Ukraine No. 1810/5 (2011). As of 2025, the register is operational, and private and state notaries not only use its information but also independently enter data on certified wills and inheritance contracts, opened inheritance cases, issued certificates of inheritance rights, and more.

E. Nel (2021) draws attention to the importance of registering and drawing up wills for citizens residing in other countries. The author highlights the wills of South African citizens who work, invest or reside in foreign jurisdictions, as the actions of testators may inadvertently leave family members in a financially vulnerable position or reduce family assets due to an underestimation of private international law.

The above prompts heirs to resolve disputes over the division of such inherited property, including real estate, in court. According to statistics, at the end of 2010, there were 843 notary offices operating in the country and 5,325 notaries practising privately. In accordance with Law of Ukraine No. 1878-VI (2010), since 2013, ownership of immovable property, including land plots, has been subject to state registration in the State Register of Real Rights to Immovable Property, which is carried out by state and private notaries when issuing certificates of inheritance rights to inherited immovable property.

Law of Ukraine No. 402-VII (2013) deleted Article 1299 of the Civil Code of Ukraine (2003) concerning state registration of inheritance rights. Law of Ukraine No. 1709-VII (2014), effective from 1 January 2016, granted authorised officials of local self-government bodies who meet certain conditions and have passed an examination in inheritance law in accordance with the procedure established by the Ministry of Justice of Ukraine the right to issue: certificates of inheritance rights and certificates of ownership of a share in the joint property of spouses in the event of the death of one of the spouses.

However, these rules have not been implemented in practice. The reasons for this were the process of decentralisation in the state, which led to the amalgamation of territorial communities in the state (including rural, settlement and urban adjacent councils). As a rule, at the time of their consolidation, the merged territorial communities already had a state notary office and one or more notaries practising privately. Secondly, Law of Ukraine No. 775-IX (2020) stipulated those notarial acts could only be performed in rural settlements.

Thus, the notarial acts provided for in Article 37 of Law of Ukraine No. 3425-XII (1993) may be performed by authorised officials of rural local self-government bodies who must meet certain requirements. Based on the above, it can be argued that the issuance of certificates of inheritance rights, in particular for immovable property, is the sole prerogative of state notaries (both public and private).

An analysis of statistical reports on the activities of notarial bodies during 2015-2020 shows that there has been a reduction in the number of state notary offices (from 780 in 2015 to 719 in 2020) (Werner, 2021). In 2020, there were 5,779 private notaries operating in Ukraine. Compared to 2000, their number has increased almost threefold (Werner, 2021). Therefore, in practice, there has been an increase in the number of certificates of inheritance issued by private notaries.

Legal regulation of inheritance of immovable property during 2021-2024. In 2021, state notary offices performed 1.145 million notarial acts, which is 9.57% more than in 2020. Private notaries performed 11.833 million notarial acts, which is 26.04% more than in 2020. Compared to 2000, the number of notarial acts performed by state notary offices decreased by 70.79%, while those performed by private notaries increased by 53.5% (according to 2021 data) (Number of notarial acts performed, 2024).

According to statistical data (Statistical report on the work..., 2024), this trend regarding the majority of notarial acts performed by private notaries continued in 2024. Thus, private notaries performed 11,536,000 notarial acts, while state notaries performed only 1,053,914. Accordingly, 638,770 and 412,533 certificates of inheritance rights were issued, and 107,088 and 24,012 wills were certified. In other words, there is trust in private notaries when it comes to formalising inheritance rights. Insurance of private notarial practice also serves as a guarantee of the correctness of notarial acts.

Borrowing the best international experience in diversifying legal activities by introducing new areas of activity into its practice, it seems logical for Ukraine to introduce the use of mediation in various spheres of life, including jurisprudence. Law of Ukraine No. 1875-IX (2021), from 15 December 2021, state and private notaries are granted the right, in addition to performing notarial acts aimed at legally establishing indisputable civil rights and facts, also to conduct mediation as an out-of-court procedure for resolving conflicts (disputes). However, only notaries, at their own discretion, decide whether to undergo mediator training.

M. Bondareva (2019) believes that mediation can be seen as a way to sort out differences (not just resolve disputes) that happen in private, voluntarily by the parties, and carried out by an independent and unbiased person (like a notary as part of their notarial work). When registering inheritance, state and private notaries de facto use certain means of mediation (Dolynska, 2023). Notaries will primarily conduct mediation with the aim of preventing conflicts (disputes) in the future or resolving any conflicts (disputes) in civil, family and inheritance matters.

The war started by Russia, due to the possibility of losing important information, led to the suspension of almost

all electronic registries in the country for a certain period of time. Legal regulation of the specifics of notarial activities, including the certification of wills and the issuance of certificates of inheritance rights, during martial law in Ukraine was mainly based on resolutions of the Cabinet of Ministers of Ukraine, including No. 164 (2022), No. 209 (2022), No. 480 (2022), No. 469 (2023), No. 1038 (2023), No. 1309 (2023), No. 330 (2024), and No. 131 (2025). In accordance with Resolution of the Cabinet of Ministers of Ukraine No. 164 (2022), the following persons have the right to certify wills equivalent to notarial wills under martial law: the commander (chief) or a person authorised by such commander (chief) of the Armed Forces, other military formations established in accordance with the law, as well as law enforcement (special) bodies (including the National Police), civil protection bodies involved in measures to ensure national security and defence, repel and deter armed aggression by a foreign state; the head of a camp (institution where a section has been established) for prisoners of war. Thus, state and private notaries are entitled to issue certificates of inheritance on the basis of the above-mentioned wills.

Significant changes regarding the notarisation of inheritance rights were introduced by Law of Ukraine No. 3449-IX (2023) and 3450-IX. Law of Ukraine No. 3450-IX (2023) sets out a new version of Article 1221 of the Civil Code of Ukraine (2003). The above-mentioned Article has been supplemented with a new third part, which regulates the formalisation of inheritance after the death of a testator who had their last place of residence in a foreign country. In other words, the state has regulated the rules of inheritance for testators residing outside its borders, including those who were forced to relocate due to military actions in Ukraine.

Therefore, from 30 January 2024, the registration of inheritance left after the death of a testator who, at the time of death, resided in a foreign state (including Ukrainians who relocated due to military events in Ukraine) shall be carried out in accordance with Law of Ukraine No. 2709-IV (2005). The rules for inheritance are the same for Ukrainians and foreigners, including the deadlines for accepting inheritance. On the basis of the above-mentioned legislative acts, amendments were made to both Order of the Ministry of Justice of Ukraine No. 296/5 (2012) and Resolution of the Cabinet of Ministers of Ukraine Order of the Ministry of Justice of Ukraine No. 3253/5 (2010) during 2024-2025, including in terms of the place of opening of the inheritance and the procedure for preserving inheritance cases.

Certain social aspects of formalising citizens' inheritance rights through notarisation. It should be noted that the Civil Code of Ukraine (2003) gives preference to inheritance by will rather than by law. In other words, the personal will of the testator, as a subject of social and legal relations, takes precedence over the rules established by law. Due to the war in Ukraine, in 2022 there was a reduction in the number of state notaries and notarial acts performed in the country as a whole. In 2023, there were only 565 state notary offices operating in Ukraine (i.but, 2024). As of the end of 2024, only 518 state notary offices were operating in Ukraine (Statistical report on the work..., 2024). In other words, there was a further reduction in the number of state notary offices and, accordingly, state notaries. The reasons for the reduction are military actions, occupation of territory, death or retirement of notaries, as well as the intention of state notaries to engage in private notarial practice.

This is confirmed by statistical data: as of April 2009, there were 1,309 state notaries, and by the end of 2023, there were only 726, i.e. the number had almost halved (1.8 times). During the same period, the number of private notaries involved in inheritance registration increased from 2,613 (who had undergone advanced training in inheritance law) to 5,607, i.e. an increase of 2.1 times. In 2023, private notaries issued a total of 650,399 inheritance certificates, which is almost 1.5 times more than state notaries (425,167 certificates) (Ministry of Justice summarised, 2024). The above data indicates the trust of ordinary citizens in documents drawn up by private notaries, since most of them have previously gained notarial practice in state notary offices. Insurance of private notarial activities also serves as an additional guarantee of the authenticity and legality of certificates of inheritance issued by private notaries.

It should be noted that private and state notaries have issued almost twice as many certificates of inheritance by law as by will. In other words, society continues to prefer inheritance by law. The opinions of 73.2% (142) of the respondents regarding the most effective form of inheritance indicate that the most effective form of inheritance is still inheritance by will. At the same time, for 14.4% (28) of respondents, it does not matter whether inheritance is by law or by will. The registration of inheritance of immovable property and property rights to it is a complex, comprehensive and lengthy notarial process. According to 67.5% (131) of respondents, it is worth contacting a notary who has experience in registering inheritance rights. 9.3% (18) of respondents preferred a notary recommended by acquaintances as qualified. 16% (31) of respondents wanted to contact a private notary to register their inheritance, and only 2.1% (4) wanted to contact a state notary.

When issuing certificates of inheritance, including for immovable property, state notaries of state notary offices and private notaries are guided by the provisions of the current legislation of Ukraine (primarily the Civil Code of Ukraine (2003), the Land Code of Ukraine (2001), the Family Code of Ukraine (2002), Tax Code of Ukraine (2010) and subordinate regulatory acts issued on their basis, and in certain cases, the provisions of foreign legislation, explanations of the Ministry of Justice of Ukraine, the Notary Chamber of Ukraine, existing notarial and judicial practice.

Social and inheritance relations are manifested in the behaviour of heirs when they formalise their inheritance. The formalisation of inheritance is to a certain extent linked to the consciousness of the heirs, their values, desires and needs. Also, when inheriting immovable property, it can be seen that some heirs take into account the interests of both social communities (to which they belong, including ethnic communities) and members of the testator's family and relatives. According to 49.5% (96) of the respondents, inheriting real estate (including land) will improve the socio-economic status of the heir. The same number of respondents believe that this will depend on the value of the inherited property.

The right to inherit is exercised by heirs through acceptance or rejection of the inheritance. Heirs, guided by the norms of legislation, social values and rules, decide whether to accept the inheritance or to refuse it in favour of another heir. As evidenced by notarial practice and the personal experience of the author of this Article in issuing certificates of inheritance rights, in some cases, heirs take into account their social status, membership of a particular social

community or ethnic group when registering the inheritance rights of citizens.

A period of six months is established for accepting or refusing an inheritance, which begins from the time the inheritance is opened. It is important that the Civil Code of Ukraine (2003) gave the heir the right during this period to change their mind about accepting or refusing an inheritance, including in favour of another heir. If the heir does not submit an application for acceptance of the inheritance to the notary's office within six months, they are considered not to have accepted the inheritance. However, the court may grant an heir who has missed the deadline for accepting the inheritance for a valid reason an additional period sufficient for them to submit an application for acceptance of the inheritance. A. Goncharova (2021) considers the practice of local courts of recognising the validity of reasons for missing the deadline for submitting an application for acceptance of inheritance as actual use and possession of the testator's property or cohabitation with the testator at the time of the opening of the inheritance to be unfounded.

As evidenced by judicial practice, during 2018-2024, courts began to increasingly refuse to grant an additional period for accepting inheritance. This follows, in particular, from reviews of the judicial practice of the Civil Cassation Court within the Supreme Court, both in disputes arising from civil legal relations for 2018-2023, as well as judicial practice for 2024 in disputes arising from inheritance legal relations. Decisions entered into the Unified State Register of Court Decisions for the period from 2018 to February 2023 of the judicial practice of the Civil Court of Cassation within the Supreme Court for 2024. An example is civil case No. 619/2906/23 (2024).

We believe that in connection with the military actions in Ukraine, local courts should continue to use the practice of recognising valid reasons for missing the deadline for accepting inheritance at their "own discretion", using a human-centred approach. A. Kondratova (2016) is right in saying that the peculiarities of inheriting rights to immovable property are related to the type of rights being inherited and may have their own characteristics in each individual case.

When issuing a certificate of inheritance, a notary must comply with clear rules established by law, including the obligation to verify: the fact of the testator's death; the time and place of the opening of the inheritance; the existence of grounds for calling to inheritance by law of persons who have applied for the issuance of a certificate; the composition of the inherited property for which a certificate of inheritance is issued (Order of the Ministry of Justice of Ukraine No. 3253/5, 2010). The heirs are required to provide relevant documents to confirm these circumstances.

When issuing certificates of inheritance rights to immovable property, notaries use information from the Unified Registers of Ukraine system. In particular, notaries are required to use information from the following registers: the Inheritance Register, the State Register of Real Rights to Immovable Property, and the State Land Cadastre. When issuing certificates of inheritance rights to immovable property, notaries not only obtain information from the above registers, but also enter information about the certificates of inheritance rights they have issued in the name of the heirs to such inherited property. In particular, after issuing a certificate of inheritance by law or by will for immovable property, notaries immediately enter information about the notarised document into both the Inheritance Register and the State Register of Real Rights to Immovable Property.

The annexes to Order of the Ministry of Justice of Ukraine No. 3253/5 (2010), which are still in force nowadays, provide for forms of certificates of inheritance, but no separate forms have been established for specific types of immovable property and real rights to it. This leads to notaries interpreting the forms at their own discretion. A manifestation of social interaction (social dialogue) between the heirs of the deceased is the conclusion of a notarised agreement on the division of the inherited property between them. However, this notarial practice is not widespread. It applies to cases where the estate includes several types of immovable and movable property. This allows the heirs, by mutual agreement, to agree on the personal ownership of specific property.

Comparative analysis of authorities authorised to register citizens' inheritance rights to immovable property under the legislation of Ukraine and other countries. Comparing inheritance of real estate in different countries around the world, it appears that there are certain peculiarities in each particular state. As of 2025, in Ukraine, as a general rule, the re-registration of citizens' inheritance rights takes place in an indisputable manner by notary authorities, which issue the relevant certificates of inheritance rights. In the event of a dispute between heirs regarding the division of inherited property, the issue is resolved in court. According to Article 1297 of the Civil Code of Ukraine (2003), an heir must apply to a notary or local government body for the issuance of a certificate of inheritance, including in cases where the inherited property includes real estate. An analysis of the provisions of Article 461 of Law of Ukraine No. 3425-XII "On Notaries" (1993) and paragraph 21 of the Transitional and Final Provisions of the Civil Code of Ukraine (2003), as amended by Law of Ukraine No. 3450-IX (2023), Law of Ukraine No. 402-VII (2013), it appears that the only authority in Ukraine that has the right to conduct inheritance proceedings regarding real estate as of 2025 is a notary, namely: a state notary of a state notary office or a private notary. Notaries not only issue certificates of inheritance, but also register the notarial acts they issue regarding the inheritance of immovable property, both in the Inheritance Register and in the State Register of Real Rights to Immovable Property and Their Encumbrances.

An analysis of the provisions of Chapter 84 of Book Six, "Inheritance Law," of the Civil Code of Ukraine (2003) shows that Article 1225 of the legislative act highlights the peculiarities of inheriting rights to land plots. At the same time, the Civil Code of Ukraine (2003) does not specify the peculiarities of registering inheritance rights to other types of immovable property. Land is one of the most important and significant types of real estate. In certain countries, the inheritance of land is primary, and the objects built on it are considered additional. It is worth remembering that in Ukraine, the inheritance of land plots, as one of the most important types of real estate, as in other countries, is one of the ways to improve the social status of the heir and their family. This is because the inheritance of land allows the heir to build a residential house on the inherited land plot, i.e. to exercise the right to housing.

In the case of inheriting agricultural land, this gives the heir the opportunity to engage in agricultural production, i.e. to exercise one of their social rights – the right to work.

However, only 20.6% (40) of respondents say they would use the inherited land for its intended (agricultural) purpose. 18.6% (36) of respondents expressed a desire to start a farm if they inherited a large plot of land. The same number of respondents wanted to sell the agricultural land. On a positive note, 39.7% (77) of respondents considered it necessary to consult with their family about the fate of the inheritance when receiving agricultural land as an inheritance.

In France, Poland and Germany, notaries are the main authorities that register the inheritance rights of the deceased are notaries, and in the event of a dispute between heirs, the judicial authorities act as such.

From the point of view of research and the scientific interests of the author of the article, it is proposed to identify specific rules for the inheritance of real estate, including land, in Indonesia. Land in Indonesia, as in most countries of the world, is a strategic asset (Zhang *et al.*, 2023) and, from time to time, has high value, therefore it often causes conflicts, in particular regarding the inheritance of land rights between heirs. The body responsible for registering inheritance rights in Indonesia, as in Ukraine, is a notary.

Notaries in Indonesia can register inheritance for all Indonesian residents, regardless of their ethnic group. Legal confirmation of land ownership in Indonesia is carried out through land registration by state authorities. J. Palenewen (2023) is right in saying that registration gives heirs legal confirmation of their rights to inherited land plots. The SKAW (certificate of inheritance) is a necessary document for registering the transfer of land rights from the testator to the heirs. In Indonesia, separate legislation has been established regarding the rules of inheritance by Indonesian citizens in order to obtain SKAW. The bodies authorised to deal with the re-registration of inheritance rights for Muslims in Indonesia are religious courts (Sharia courts). In Indonesia, the body that can cancel SKAW is the court.

Analysing Indonesian legislation, A. Parlindungan (1999) states that SKAW is issued according to the classification of citizens, namely: the European group with a certificate of inheritance issued by a notary; indigenous groups with a certificate of inheritance from heirs, certified by the village head. Lura, known as the sub-district head; groups of Chinese origin notarised and for other foreign groups of Eastern origin (Indians, Arabs), inheritance certificates are issued through inheritance at the Property Office (Parlindungan, 1999).

The issuance of a certificate of inheritance (SKAW) by the village head and its confirmation by the sub-district head is a custom from the Dutch colonial era, especially for the Bumi Putra group. The officials authorised to sign and ratify SKAW are the village head/Lura and the sub-district head for local or indigenous residents (Dewanata, 2021). S. Rohmatin *et al.* (2022) are correct in stating that SKAW, which is signed by the heirs and confirmed by the village/district head and the district head, is not sufficient as evidence, but it must have legal validity. The above order only confirms the veracity of the SKAW's content, legally confirming the absence of other heirs or other people who do not have inheritance rights but are included in the SKAW as heirs (Yuliyana *et al.*, 2021). In other words, the above document confirms the existence of the deceased's heirs listed therein. However, there are cases when not all heirs are included in this document. In such cases, other heirs who are not included in the document must apply to the court to protect their inheritance interests.

Compared to Ukrainian legislation, as of 2025, modern Ukrainian notaries obtain information about heirs and the place of residence of the testator, in accordance with Article 461 of Law of Ukraine No. 3425-XII "About the Notary" (1993), independently through direct access to unified and state registers, including the Unified State Demographic Register and the State Register of Civil Status Acts of Citizens.

The SKAW is essential for confirming the acquisition of a land plot as a result of inheritance and is the basis for registering the transfer of land rights, namely the certificate of proof (Sugitha & Dahana, 2021) issued by the land administration. In the case of the transfer of land rights as a result of inheritance without SKAW, the land administration refuses to register the transfer of such rights from the testator to the heirs. SKAW is a mandatory legal act and a condition for registering land rights as a result of inheritance. It can also be used as evidence in resolving a legal dispute over inheritance. In Ukraine, between June 1992 and April 2009, there was a practice of confirming ownership rights to inherited land plots, which was carried out by the relevant state land authorities – the State Committee for Land Resources. This document was a state act on the right of private ownership of land, issued by the State Committee on Land Resources on the basis of a certificate of inheritance rights to a land plot.

Comparing the procedure for issuing certificates of inheritance rights to immovable property in Ukraine and Indonesia, it is clear that in Ukraine this process is more regulated, unified and digitised. This is because only state and private notaries are authorised to issue certificates of inheritance rights to immovable property in Ukraine. At the same time, they (along with issuing the relevant certificates to each heir) also carry out state registration of the transfer of rights to such inherited immovable property (from the testator to the heirs) by performing the relevant registration actions in the State Register of Real Rights to Immovable Property and Their Encumbrances.

Unlike Indonesian Sharia law, ecclesiastical law in Ukraine cannot be considered a source of law in inheritance matters. In particular, a marriage concluded in accordance with church rites does not give rise to inheritance legal relations. Notarial registration of inheritance of immovable property is an indisputable comprehensive civil and inheritance notarial legal relationship, which is carried out in compliance with the civil, notarial and land legislation of Ukraine, and in certain cases also foreign legislation, with the aim of formalising the transfer of the testator's rights and obligations to immovable property and property rights to it to their heirs.

Conclusions

The Article examines the social aspect of legislative and legal regulation of notarial registration of inheritance rights to immovable property in Ukraine during 1991-2024. The evolution of legislative and legal regulation of notarial registration of inheritance rights to immovable property is traced, highlighting three main periods. During the first period (1991-2008), it was established that two main groups of bodies were authorised to register citizens' inheritance rights. The bodies of indisputable jurisdiction were state notary offices represented by state notaries. The judicial authorities confirmed the transfer of ownership of immovable property from the deceased owner to the heirs in the event of a dispute between the latter. From 1 June 2009, in addition to state notaries, the legislator granted private

notaries the right to register citizens' inheritance rights by issuing certificates of inheritance (in an indisputable manner).

Despite the fact that Law of Ukraine No. 1709-VII, effective 1 January 2016, granted the right to register inheritance, subject to certain conditions, to authorised officials of local self-government bodies and for certain categories of testators, these provisions remained only declarative. Granting notaries the powers of a mediator in 2021 contributed to the expansion of their powers and gave them the right to carry out mediation agreements, including when re-registering inheritance rights to immovable property. Using mediation and the heirs' intention to settle the inheritance issue peacefully, private and state notaries have the right to conclude an agreement on the division of inherited property between the heirs. The war of 2022 brought significant changes to the legal regulation of inheritance in the country, including on the basis of Resolution of the Cabinet of Ministers of Ukraine No. 164. Significant changes have taken place in the legal regulation of inheritance by will, including on the basis of expanding the circle of persons authorised to certify wills equivalent to notarial wills during martial law in Ukraine.

The importance of obtaining inheritance of immovable property is particularly felt during martial law in Ukraine. Holding inheritance of immovable property is one of the ways to ensure the proper financial status of displaced persons, especially those who have lost their property as a result of Russian aggression. In the event of the sale of inherited real estate, this can become the start-up capital for a new stage in the formation of a family. State and private notaries not only certify wills and issue certificates of inheritance rights to real estate, but also re-register ownership rights to heirs in the State Register of Real Rights to Real Estate.

As of the end of 2024, the only authorities authorised to indisputably register citizens' inheritance rights to real estate located in Ukraine are state and private notaries. In the event of a dispute between heirs, the judicial authorities divide the inherited property between the heirs. Comparing the procedure for issuing certificates of inheritance rights to immovable property in Ukraine and Indonesia, the following conclusions may be drawn: in Ukraine, this process is more digitised; in Indonesia, the right to re-register inheritance is exercised by other authorities in addition to notaries; the registration of the transfer of ownership rights to land plots is carried out by bodies specified by law, and in Ukraine – by notaries who issue certificates of inheritance; in the event of disputes between heirs regarding the division of inherited property, this is resolved in court.

The limitation of research abroad, particularly in Indonesia, is the lack of published statistical information on certificates of inheritance issued for immovable property. Further research will consist of comparative studies of the legislative regulation of inheritance by compulsory (vulnerable) heirs in other countries and in Ukraine as one of the social means of protecting the rights of the above-mentioned persons.

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Conflict of interest

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Нотаріальне оформлення спадкування нерухомості в незалежній Україні: соціально-правовий вимір

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Анотація. Перехід права власності на нерухоме майно від померлої фізичної особи до її спадкоємців здійснюється згідно із законодавством, діючим на день смерті спадкодавця. Нотаріальне оформлення переходу права власності на нерухоме майно від спадкодавця до його спадкоємців супроводжується певними соціальними зв’язками (відносинами), як між спадкоємцями, так і органами уповноваженими на здійснення таких операцій. Мета роботи полягала у аналізі правового регулювання спадкування нерухомого майна у незалежній Україні крізь призму соціальних взаємозв’язків спадкоємців що виникають при оформленні спадщини у нотаріальному порядку. Методологічну основу роботи склали історично-правовий, формально-логічний та соціологічний метод опитування. Така методологія дозволила провести ретроспективний огляд правового та законодавчого регулювання нотаріального оформлення спадщини на нерухоме майно в сучасній Україні з врахуванням елементів соціології. Перший етап правового регулювання спадкування нерухомого майна оххоплював 1991-2008 роки; другий етап охоплює 2009-2020 роки, третій етап розпочався у 2021. Станом на кінець 2024 року, органами, уповноваженими у безспірному порядку закріплювати перехід права власності на нерухоме майно від спадкодавця на спадкоємців, шляхом видачі свідоцтв про право на спадщину, є державні та приватні нотаріуси України. Судові органи здійснюють поділ спадкового майна спадкодавця у випадку виникнення спору між його спадкоємцями. Станом на кінець 2024 року посадові особи органів місцевого самоврядування сільських населених пунктів не видають свідоцтва про право на спадщину. Проведено порівняльний аналіз спадкування нерухомого майна в Україні та Індонезії. В Україні нотаріальний процес щодо оформлення спадщини є більш унормованим та діджиталізованим. Судові органи України та Індонезії у разі виникнення спорів між спадкоємцями вирішують поділ спадкового майна, в тому числі нерухомості. Отримане спадкоємцем в порядку спадкування нерухоме майно виступає гарантією покращення життєвого рівня, соціального стану його та членів його сім’ї. Результати дослідження можуть бути використані у навчальному процесі, практичним працівникам, в тому числі нотаріусами, при вдосконаленні правового регулювання у сфері спадкування

Ключові слова: нерухоме майно; спадщина; спадкоємець; нотаріус; свідоцтво на спадщину; діджиталізація; медіація