

The Inheritance Act¹

Invalidity of a will

Article 60

- (1) A will shall be rendered invalid when the testator was under threat or duress to write the will or when he or she had decided to write it with fraudulent intent or because he or she was mistaken / in error?
- (2) Threats, duress or fraud on part of a third person shall also result in the will being invalidated.
- (3) Testamentary dispositions are also invalid when the testator is mistaken about the facts which have led him to such dispositions.
- (4) When only some of the provisions of a will have been written under threat or duress, with fraudulent intent or in error, only the provisions in question shall be invalid.

A will drawn up in court

Article 65

- (1) A will may be drawn up by a judge in a court with jurisdiction over these matters, following the testator's statement, after proving the identity thereof.
- (2) After the testator has read and signed the will made in this way, the judge shall write a postscript on the will stating that the testator has read and signed the will in his or her presence.

A will drawn up in court when the testator does not know how or is unable to read it

Article 66

- (1) When the testator does not know how or is unable to read a will drawn up for him or her by a judge, the latter shall read it to the testator in the presence of two witnesses and the testator shall then, after he or she has declared that that is his last will, sign it or make a mark on it with his or her own hand in the presence of the same witnesses.
- (2) The two witnesses shall sign the will.

Invalidity of an inheritance contract

Article 103

A contract in which a person leaves his or her estate or a portion of the estate to the other party or another person shall be invalid.

Invalidity of a contract of expected inheritance or legacy

Article 104

- (1) A contract in which a person alienates an expected inheritance is invalid, as is any contract of inheritance from another person who is still alive.
- (2) Equally, a contract of a legacy or another benefit that a party to a contract expects from inheritance, which has not yet occurred, is invalid.

¹ Official Gazette of SRS, Nos. 15/76, 23/78, Official Gazette of the Republic of Slovenia, Nos. 13/94 – ZN, 40/94 – decision of CC, 117/00 – decision of CC, 67/01, 83/01 – OZ, 73/04 – ZN-C, 31/13 – decision of CC and 63/16

Invalidity of a contract on the contents of a will

Article 105

A contract with which a person engages himself or herself to determine something in his or her will, or not to determine something, or to revoke a provision in his or her will, or not to revoke a provision, is invalid.

Deposit of a will and the handing of the will to the testator

Article 155

(1) The testator may leave the will drawn up in court to be deposited by the court. He or she may also request that the will is handed to him or her.

"(2)) If the testator leaves a will to be deposited with the court, the will shall be placed in a special folder and sealed, and a receipt shall be given to the testator on request, certifying that the will has been drawn up and deposited with the court.

(3) The will shall be deposited by the court separately from other files.

(4) If the testator requests that the will drawn up in court is handed to him or her, the judge shall give the testator the minutes of the drawing up of the will and in separate minutes, signed by the testator, it shall be declared that the will was drawn up in court and handed to the testator.

Article 156

(1) If a will that was not drawn up by the court is handed over to be deposited by the court the testator or another person shall hand it over to the judge, either opened or in a sealed folder.

(2) The handing over of the will shall be minuted. The court shall issue an acknowledgement of receipt of the will. If the will is not handed over by the testator, the court informs the testator of receipt of the will.

(3) An open will shall be placed in a special folder and sealed.

(4) If the testator hands an open will to be deposited by the court the judge shall inform him or her of mistakes which would render the will invalid.

Article 157

(1) A will deposited at the court shall be returned to the testator at his or her request.

(2) A will shall be returned to the testator's agent when the latter has a certified authorisation.

(3) Minutes shall be taken on the returning of the will, stating in what manner the identity of the person the will was returned to was proved.

(4) If the will is returned to an agent, the authorisation document shall be attached to the minutes and retained at the court.

The Notaries Act²

Article 46

A notarial last will and testament drafted in the form of a notarial record by a Notary upon a verbal or

² Official Gazette of the Republic of Slovenia, Nos. 2/07 – officially consolidated text, 33/07 – ZSReg-B, 45/08 and 91/13

prewritten statement of the testator submitted to the Notary for authentication has the same legal effects as a judicial last will and testament.

A Notary shall issue a certificate to the testator that his last will and testament is being deposited with the Notary.

A last will and testament may not be drafted in electronic form.

Witnesses and interpreters

Article 51

Two witnesses must be present when drafting notarial records in the following circumstances:

1. if the legal transactions enumerated in indent 3 of Article 47 of this Act, or a deed of gift in the event of death are concluded, or if a last will and testament is being drafted
2. if a party to the legal transaction does not understand the official language
3. if a party to the legal transaction is blind, deaf, dumb or deaf and dumb
4. if a party to the legal transaction is illiterate or cannot read the script in which the instrument is drafted

In all other instances, a Notary or the parties concerned must determine whether witnesses must be present when drafting a notarial record.

Another Notary may be present instead of witnesses when drafting a notarial record.

Engrossed copies and transcriptions of notarial records regarding last wills and testaments

Article 78

Engrossed copies or transcriptions of last wills and testaments may be issued while the testator is still alive (unless a notarial record states otherwise) only to the testator himself or a person authorised by the testator with an authenticated authorisation. Upon the death of the testator such engrossed copies or transcriptions may be issued after the last will and testament has been read. The date of reading must be noted on the engrossed copy or the transcription.

Article 108.b

The central register of last wills and testaments shall contain the data on last wills and testaments drafted in a form of a notarial record, on last wills and testaments deposited with a Notary, on last wills and testaments drafted by an attorney or deposited with an attorney, on judicial last wills and testaments and those deposited with a court in accordance with probate law.

A Notary drafting a last will and testament in the form of a notarial record, or a Notary accepting a last will and testament for safekeeping shall issue a request to the Chamber to enter such last will and testament in

the central register within 15 days at the latest after he has drafted the last will and testament or received it for safekeeping.

A court drafting a judicial last will and testament or accepting a last will and testament for safekeeping in accordance with probate law shall issue a request to the Chamber to enter such last will and testament in the central register within 15 days at the latest after the court has drafted the last will and testament or received it for safekeeping.

An attorney drafting a last will and testament or accepting a last will and testament for safekeeping, drafted in accordance with probate law shall issue a request to the Chamber to enter such last will and testament in the central register within 15 days at the latest after it has been drafted or received for safekeeping.

Persons listed in the second, third and fourth paragraph of this Article shall include in their request to enter a last will and testament into the central register all the data in their possession that are enumerated in Article 108c of this Act.

Article 108.c

The central register of last wills and testaments shall include the following data:

- the sequence number and date of entry
- the name and surname of the testator (also the maiden name if the testator is a married woman)
- the personal identification number and place of birth of the testator, or date, place and country of birth if the testator is a foreign citizen
- the testator's address
- the date and reference number of the last will and testament
- the surname, name and address of the Notary with whom the last will and testament is deposited, or name and address of other persons, or title and address of the authority with whom the last will and testament is deposited
- the type of last will and testament
- each amendment, cancellation or nullification of a last will and testament if it is drafted in a form for which an entry in the register is required by law
- the date when the last will and testament was returned to the testator
- the data on the death of the testator
- the data on persons accessing the register)

Article 108.č

Entry in the register shall remain confidential while the testator is alive.

Upon the death of the testator, the data in the central register may be accessed by a court or a person proving just cause.

Data in the central register of last wills and testaments shall be stored permanently.

More detailed provisions on the procedure regarding entry and access in the central register of last wills and testaments and the duties of persons requesting entry shall be determined by the regulation as per the third paragraph of Article 108.a of this Act (By consent of the Minister responsible for justice the Chamber shall determine the manner of access and the persons entitled to access the central register of last wills and testaments.).