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# Death benefits in favor of the Church: Civil and ecclesiastical law implications

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## Abstract

The relationship between the Church and inheritance law lies at the intersection of private law and ecclesiastical law and therefore raises a number of specific doctrinal and regulatory issues. Civil law approaches inheritance from the perspective of legal capacity, whilst ecclesiastical law emphasizes the acquisition of property and the proper use of the acquired property. In this context, transparency and accountability regarding decisions on the approval of property acquisition and the use of inherited property play a key role. The various denominations regulate all this in accordance with their own organisational structures and normative traditions. Historical and comparative legal experience shows that the relationship between the church and inheritance is constantly adapting to social and legal policy changes. The transformation of funding models and the advance of digitalisation call for new interpretative frameworks, which necessitate a more nuanced understanding of the normative coexistence and dynamics between church autonomy and inheritance law, as well as further refinement of the regulations.

**Keywords:** Ecclesiastical Succession; Church Financing; Acquisition of Property Upon Death; Inheritance Law; Ecclesiastical Law

## 1. Introduction

Death marks the end of earthly life, necessitating the final settlement of the legal status of earthly assets. As death and the final disposition of assets are associated with spiritual significance, it is no coincidence that, for a long time, the churches were the primary beneficiaries of these final dispositions. For centuries, this source of church income played a decisive role in the economic sustenance of the church. [1] The examination of bequests in favour of the church and their impact on church income and church financing cannot be overlooked even today, when the economic sustainability of modern churches is once again becoming a central issue.

The regulation of bequests in favour of the Church lies at the intersection of private law and canon law. The Church is a special legal entity under civil law, recognised by the state and endowed with legal capacity [2]; at the same time, it enjoys regulatory autonomy, meaning that its legal status is determined simultaneously by the state legal system and by the Church's own internal, autonomous system of norms. [3] This duality is reflected in property law relationships, including in the context of inheritance. The question is how ecclesiastical succession fits within the dogmatic framework of civil law, and what specific features ecclesiastical law adds to it. How does the relationship between secular law and the Church's internal regulations manifest itself in probate matters, and what theoretical and practical issues does the Church's capacity to inherit raise?

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## 2. Historical overview

The relationship between the Church and inheritance law has long played a decisive role in the development of European property law, as a significant portion of the Church's property in the Middle Ages came into its possession through inheritance and testamentary dispositions. [4] The Church's accumulation of wealth through inheritance periodically provoked social and political backlash, and this prompted the secular authorities to limit the growth of ecclesiastical wealth – particularly by shaping the rules of inheritance, and within this, by regulating the scope of free testamentary disposition, which formed a condition of ecclesiastical inheritance. The ever-changing dynamics of the relationship between the state and society on the one hand, and ecclesiastical property and ecclesiastical inheritance [5] on the other, had a significant impact on the development of inheritance law.

This European trend was also evident in Hungary. In the early Middle Ages, the nobility – who constituted the wealthiest social class – clung to their ancestral estates, which precluded free testamentary disposition, at least with regard to ancient inherited estates. This strict restriction was temporarily lifted in Hungary by the laws of Kings Saint Stephen and Coloman [6], and subsequently by the Golden Bull [7], but the principle of primogeniture, enshrined in law in 1351, reinstated the original regulations and for centuries made it impossible to dispose of ancestral estates freely by will, including bequests to the Church. However, whilst the nobility could only freely dispose of their personal property and acquired estates by will, the serfs and the burghers, with few exceptions, were not bound by such restrictions. [8] Due to the fragmentation of ancestral estates and the reduction in the amount of land available for donation, from the second half of the 14th century onwards the scale of the Church's acquisition of property through wills declined; the Church's assets acquired by inheritance consisted mainly of movable property and money, and were mostly bequeathed to the Church. Nevertheless, the acquisition of property by the Church through wills continued to be of considerable importance. This is evidenced by the fact that inheritance disputes relating to wills remained within the jurisdiction of ecclesiastical courts – albeit to an increasingly limited extent – until the modern rules of inheritance law were established. [9]

The Reformation marked a significant turning point in the relationship between theology and law – and, within that, between ecclesiastical and secular property law – particularly in the development of European inheritance law. In the medieval legal conception preceding the Reformation, ecclesiastical law prevailed in the areas of inheritance and testamentary disposition, which enabled the accumulation of ecclesiastical property through inheritance and, from a theological perspective, encouraged testamentary dispositions in favour of the Church, as well as charitable bequests. Not only was the Church the beneficiary of wills, but legal disputes concerning inheritance matters also fell within the jurisdiction of ecclesiastical courts. [10] In contrast, the Reformers – particularly Martin Luther – sharply criticised, on theological grounds, the Church's system of inheritance and the practice of accumulating wealth, which they regarded as economically harmful and socially unjust, as it permanently withdrew wealth from secular circulation ('dead hand' – manus mortua). [11] In their view, ecclesiastical property should serve the purposes of the community. The Protestant conception of law treated inheritance as a secular legal institution; [12] in Protestant territories, the regulation of inheritance law became the exclusive competence of state or princely legislation; [13] the adjudication of inheritance disputes was transferred to secular courts. [14] All these developments in the 16th and 17th centuries, in areas under Protestant influence, contributed to the strengthening of the secular system of succession and, [15] in the longer term, paved the way for the emergence of modern civil law on succession, in which inheritance primarily fulfils a family law and economic function.

Whilst, within the Josephinian constitutional and ecclesiastical policy context prevailing in Austria, the Allgemeines bürgerliches Gesetzbuch (ABGB) laid down explicitly restrictive provisions regarding bequests for ecclesiastical and charitable purposes, as well as testamentary dispositions in favour of the Church, [16] 19th-century Hungarian legal policy no longer sought to create either privileged or restricted categories in the field of inheritance law. The codification focused on the uniform protection of private property and the removal of previous restrictions on freedom of disposition. [17] This approach made it possible for bequests in favour of the Church to be subject to the general rules of civil inheritance law within the modern legal framework of inheritance law. [18]

During the period of dualism, bequests in favour of the Church were legally permissible and common practice; at the same time, however, the emphasis shifted increasingly towards institutional, earmarked grants – particularly charitable foundations and legacies. [19]

From the mid-20th century onwards, the legal environment underwent a radical change. During the period of state socialism, the financial autonomy of the churches was significantly curtailed: the vast majority of church property was nationalised, the economic activities of ecclesiastical legal entities were restricted, and the acquisition of property by the church – including through inheritance – was deemed politically undesirable. Although the possibility of bequeathing property to the church formally remained, the churches' acquisition of property through inheritance was significantly curtailed by administrative, financial and political means. [20] The 1949 Constitution and subsequent legislation placed the operation and financing of churches under state control, [21] and although Act IV of 1959 (the Civil Code) continued to recognize, in general terms, the capacity of legal persons, including churches, to inherit, as a result of specific legislation and the practices of the state administration, the churches 'actual opportunities to acquire and inherit property became marginal. [22]

The constitutional and legislative reforms following the change of regime created the conditions for the restoration of ecclesiastical autonomy and financial independence, enabling the church once again to effectively exercise the possibility of acquiring property arising from private law provisions relating to death. [23]

## 3. The legal nature and financial status of the Church

From the perspective of state law, the church is an institutionalised religious community whose organisational forms, recognised by law, possess legal personality and may be parties to property law relationships. [24] The legal status and autonomy of churches are guaranteed by Article VII of the Fundamental Law and by the Act on Churches. However, this legal status is not limited to the existence of legal capacity under private law. [25] The essence of ecclesiastical autonomy also lies in the fact that a church may establish its own system of norms, within the framework of which it may determine its organisational structure and operation, as well as the fundamental principles of its asset management. [26] The Church's organisational structure, as defined by its internal rules, and the system of ecclesiastical legal entities, qualify the Church's property status under state law. This is because the property does not belong uniformly to the 'Church' as a whole, but also to internal ecclesiastical legal entities at various organisational levels, which possess legal personality and manage their affairs independently, or at least partially independently. This organisational structure is also significant in matters of inheritance law, particularly where a will designates an internal ecclesiastical legal entity as a beneficiary.

Church property is not intended solely for economic purposes. Church property serves religious activities, community life, the maintenance of institutions and the functioning of the church, which also determines the framework for its management and use. [27] This purpose qualitatively distinguishes church property from private property and particularly justifies the church's autonomy in matters of property law. However, this autonomy is not unlimited but operates within the framework of the state legal system. Legal relationships aimed at the acquisition of church property – such as the acquisition of property by inheritance – are established in accordance with the rules of civil law; whereas internal ecclesiastical law does not regulate the legal basis for the acquisition of property, but rather its acceptance or rejection, management and use, and may impose further obligations on ecclesiastical legal entities in this regard. [28]

## 4. Legal status under inheritance law generally

An air is any person who has legal capacity at the time the estate is opened and who is entitled to inherit under the law or a will. [29] The fundamental condition for inheritance status is therefore the capacity to inherit, that is, the ability of a legal person to acquire rights and obligations from the estate opened upon the testator's death.

Inheritance status is determined by the legal basis on which a legally competent person may inherit. The order of intestate succession determines whether a given person may inherit by operation of law, and if so, in what order and proportion. [30] The statutory rules of succession function as a default regime and apply where the testator has not made a valid will, or where the will does not cover the entire estate. [31] Freedom of testamentary disposition, by contrast, is a key manifestation of the testator's private autonomy, the scope of which is defined by the mandatory rules of the legal system. [32] The relationship between these two forms of succession is not one of alternatives but of complementarity; together, they ensure the completeness of the settlement of the estate.

The legal status of inheritance is determined by the scope of succession. Inheritance based on a will is, as a general rule, universal; however, the legal system also recognizes a separate legal institution aimed at the acquisition of specific assets or financial benefits, namely the bequest. [33] The difference between these two arrangements lies in the scope of succession and the position occupied by the heir within the inheritance relationship, and it substantially affects the heir's legal status under inheritance law. [34] Where the testator names an heir in their will, the heir becomes the legal successor to the entire estate or a specified share thereof; universal succession takes place in respect of the estate; the heir becomes a full party to the inheritance relationship and, in addition to the property rights associated with the estate, is also burdened with obligations in accordance with the rules governing liability for the estate's debts. In the case of a bequest, by contrast, the heir acquires entitlement only to a specific asset, sum of money or other pecuniary benefit, without becoming a full party to the succession. A bequest results in singular succession; the beneficiary does not become the general successor under the inheritance relationship, and the obligations of the estate are not transferred to them.

The legal status of inheritance is also shaped by restrictions and conditions. Some of these restrictions are of a general nature, applying to all inheritance relationships, [35] whilst another group consists of specific restrictions relating to the person of the heir. [36]

Within the framework of freedom of testamentary disposition, the testator may specify in their will the purpose for which the heir is obliged to use the bequeathed property. From the perspective of civil law, such stipulations form part of the testator's will and – provided they do not conflict with legislation or public policy – are binding [37]

## 5. The legal status of the Church under inheritance law, ecclesiastical succession

One of the fundamental characteristics of the Church's legal status in matters of inheritance lies in its dual normative framework. The legal treatment of the Church in matters of inheritance is shaped jointly by civil law, on the one hand, and by internal norms arising from ecclesiastical autonomy, on the other. Civil law defines the legal framework and foundations of inheritance, whilst the Church's normative provisions relating to inheritance may be applied within this framework but must not conflict with it. Under civil law, the capacity of a church legal entity to inherit is governed by the general rules applicable to legal entities: its existence is linked to the existence of legal personality and the scope thereof as defined by law. Accordingly, the church – as a legal person – has the capacity to inherit provided that its legal personality exists at the time of the opening of the estate. [38] Under current Hungarian law, the church cannot be considered a statutory heir; its acquisition of property by inheritance may be based on a disposition of property upon death – typically a will. A disposition in favour of the church may take the form of a bequest or a legacy. The difference between these two legal institutions is decisive when the church decides on the acceptance, administration, and use of the estate. Furthermore, the general restrictions under inheritance law also apply to the church; however, the church is exempt from certain specific restrictions on the acquisition of property by virtue of statutory authorization, and may thus, for example, acquire ownership of agricultural land through a testamentary disposition. [39]

In addition to state legislation, the legal status of the Church under inheritance law is also governed by denominational legal rules, which may prescribe – in addition to, and in a manner not contrary to, state legislation – further conditions and restrictions on the acquisition of property under inheritance law. The testator may specify in their will the purpose for which the ecclesiastical legal entity is obliged to use the bequeathed assets. However, while accepting and fulfilling such purpose-bound bequests, the church's internal law may lay down further conditions and procedural requirements. A distinctive feature of testamentary bequests made in favour of the church is that their acceptance and administration are not exclusively matters of private law. Whilst the validity and effect of a testamentary disposition are determined in accordance with the rules of civil law, internal church law may stipulate which church body's approval is required for the acceptance of a given bequest, as well as the conditions under which it may be utilized. This normative duality does not affect the validity of the testamentary provision under private law; however, it does influence its enforcement, whilst [40] the church's regulatory autonomy regarding the use of assets highlights that, unlike other heirs, the church's role in inheritance law is not limited to the acquisition of the estate.

Ecclesiastical succession is thus a distinctive legal institution in which the testator's autonomy, civil law regulations and the normative framework of ecclesiastical autonomy are intricately intertwined. This justifies a separate legal analysis of bequests made in favour of the Church.

## 6. Acquisition of ecclesiastical property other than by inheritance

The acquisition of property upon death is not in itself synonymous with inheritance. A distinctive feature of the legal relationship of inheritance is the succession based on legislation or a last will and testament which extends to the unity of the estate and comes into effect automatically upon the opening of the estate. [41] In contrast, in the case of legal titles not based on inheritance law, the acquisition of property takes place through contractual or institutional channels and occurs within a legal relationship separate from the estate. From a legal theory perspective, it is therefore justified to distinguish between succession under inheritance law and those legal arrangements which, whilst linked to the event of death, do not result in succession to the estate. In this context, the acquisition of property by the Church is not based on inheritance or bequest but is linked to legal categories distinct from these.

A gift in the event of death is a contractual arrangement in which the legal relationship between the donor and the done is established during the donor's lifetime, but the legal effects of the acquisition of property only take effect upon the donor's death. [42] This legal title is of a contractual nature and is dogmatically distinct from inheritance, as it does not result in succession to the estate but rather in the acquisition of property based on a contract, where the death of the testator is a condition. [43] Its significance lies primarily in the fact that, as a general rule, such a benefit does not form part of the estate; however, it must be taken into account when calculating the statutory share in cases specified by law. [44] A gift made in the event of death for the benefit of the church is legally possible, although it occurs less frequently in practice.

A typical example of the acquisition of property linked to death, but not governed by inheritance law, is the acquisition of rights based on the designation of a beneficiary. Such arrangements are primarily found in the context of bank deposits, insurance policies and investment contracts [45], where the identity of the beneficiary is determined not by succession under the law of inheritance, [47] but by a contractual designation of a beneficiary [46] If the church is designated as the beneficiary, the acquisition of the assets takes place immediately upon death, [48] irrespective of the probate proceedings. This legal title does not constitute inheritance, as the asset does not become part of the estate, and the church acquires the right not through a relationship of inheritance but as a direct beneficiary; however, its acquisition extends only to the specific amount set aside by the bank.

A foundation provision made in the event of death is a legal declaration mortis causa (a disposition of property upon death) in which the testator establishes a foundation in a will or a contract of inheritance. A foundation established by such a disposition of property comes into existence upon registration, with retroactive effect from the date of the founder's death. In this case, upon the testator's death, it is not the church that becomes the legal successor, but a new legal entity – the foundation – is established, which will hold the transferred assets. In this arrangement, the church does not function as an heir, but as a beneficiary, a sponsor or an organization assisting in the fulfilment of the purpose. The significance of this legal title lies particularly in the fact that it enables the permanent separation and institutional management of assets earmarked for a specific purpose.

A specific legal title, distinct from inheritance and applicable in the event of death, is the maintenance or life annuity contract. If the testator enters into a maintenance or life annuity contract with the Church or a legal entity governed by ecclesiastical law and makes the transfer of ownership contingent upon their death, then the assets are transferred not by way of inheritance but on the basis of the contract.

## 7. The ecclesiastical law approach

### 7.1. Inheritance is one possible source of ecclesiastical property

ecclesiastical law interprets ecclesiastical property not as a general category of property rights, but as community property bound to a specific purpose. The function of ecclesiastical property is to serve the Church's religious, communal and institutional maintenance tasks, which determine its management and use.

Property acquired by inheritance fits within this logic of purpose. The legal basis for the acquisition of property does not in itself determine the ecclesiastical legal status of the property; rather, this is specified by internal norms and decision-making mechanisms.

Regarding property acquired by inheritance, the ecclesiastical law of the Catholic Church is based on the concept of 'bona ecclesiastica', which encompasses all property lawfully acquired by the legal entities of the Church. [49] The legal basis for the acquisition of property – such as inheritance or a bequest – is of secondary importance compared to the ecclesiastical purposes served by the property. [50] Reformed and Lutheran ecclesiastical law likewise does not distinguish inheritance from other grounds for the acquisition of property but places the emphasis on the intended purpose and communal function of the acquired property. In these legal systems, inheritance is primarily treated as a matter of stewardship and responsibility.

For this very reason, the acceptance of property acquired by inheritance is not an automatic legal consequence, but a process requiring a decision under ecclesiastical law. Internal regulations provide the Church with the opportunity to weigh up the consequences of accepting an inheritance, with particular regard to any encumbrances, obligations and restrictions on the use of the property. When considering acceptance, ecclesiastical law does not examine validity under civil law, but rather whether the assets acquired through inheritance are consistent with the Church's purpose and financial management principles.

### 7.2. The principles of ecclesiastical asset management

The fundamental principles of ecclesiastical asset management follow a similar logic regardless of denominational differences. The church is entitled to acquire and hold assets, but regardless of the legal basis for their acquisition, such assets are not subject to free disposal in the sense of private law; rather, they are a means of serving communal purposes, a communal resource placed at the service of the church's mission, the management of which is governed by the requirements of diligence, accountability and the requirement for use in accordance with its intended purpose are paramount. [51] The management and use of property acquired on grounds related to death – such as through inheritance, a bequest or other arrangements – cannot be freely determined, but must take place within the framework defined by the testator's will and by the Church's internal law. [52]

Under Catholic canon law, property is not an autonomous economic asset, but an instrument of the Church's mission; decisions regarding the acquisition and management of property must serve three purposes: the maintenance of divine worship (cultus divinus), the proper maintenance of the clergy (clerus honestus sustentatio) and apostolic and charitable purposes (opera apostolatus et caritas). The Church may acquire property through donations, bequests or contracts, and may also accept benefits in the event of death, but always in accordance with ecclesiastical legal norms and the law of the state in question [53], whilst respecting – particularly in the case of pious foundations and traditions – the protection of the founder or donor (religiose servari debet) [54] The assets are not the personal property of the ecclesiastical official, but belong to ecclesiastical legal entities. The acceptance, management and disposal of assets are subject to the approval of designated ecclesiastical authorities, particularly in the case of donations of significant value or those earmarked for a specific purpose. [55] In the management of assets, the responsibility of church officials is bound by the principle of the prudent steward (diligentia boni patris familias) and the obligation to render accounts. [56] The management of the Catholic Church's assets is communal in nature, earmarked for specific purposes, hierarchically controlled, and subject to legal and moral responsibility.

Reformed ecclesiastical law emphasizes the communal nature and functionality of assets. Church property is a means dedicated to serving its mission; the purpose of the property is to ensure the preaching of the Word and the administration of the sacraments, to support the pastor and church staff, to carry out diaconal and educational tasks, and to maintain the infrastructure necessary for congregational life. The assets are therefore functional – they are not an end in themselves but serve missionary and diaconal purposes; however, in their use, the donor's wishes must be respected, provided they do not conflict with church law. The Reformed Church is built from the bottom up; consequently, ownership is not hierarchical or centralized, but assets are primarily owned by the congregations, whilst the diocese, the church district and the national church are also independent legal entities. Decisions regarding the acquisition of assets are autonomous but subject to approval by higher church bodies. The starting point of Reformed thinking is that God is the ultimate owner of all material goods; the church and its members are merely stewards. This perspective, derived from Calvinist theology, forms the basis of financial stewardship, which is not merely a legal but also a moral category. Accordingly, the internal law of the Reformed Church in Hungary emphasizes the requirement for appropriate, transparent and responsible financial management. [57]

Whilst Catholic property law enforcers hierarchical control, is centralized under ecclesiastical law, and places strong emphasis on sacredness, Reformed thinking on property law emphasizes presbyterian-synodal control, collegial autonomy, a functional-communal approach and collegial approval. The Lutheran approach to church property, like the Reformed one, is steward- and community-based and follows similar principles, placing particular emphasis on accountability and the supervisory role of church bodies; [58] at the same time, it is more strongly institutionalised and subject to stricter normative regulation. Ownership is not centrally concentrated but multi-tiered, with assets being subordinate to the church's mission. Here too, asset management takes place within a framework of collective decision-making.

### 7.3. Ecclesiastical approval mechanisms

Church legal systems typically employ institutionalised approval or decision-making mechanisms in cases of asset acquisition following death. The acceptance of a bequest, legacy or other benefit in the event of death is usually not a matter for the personal discretion of a single office-holder, but an act subject to the decision of a church body or a higher ecclesiastical authority. The reason for this is that property acquired in this way is not regarded as private property but as the communal property of the ecclesiastical legal entity, the disposition of which must be determined in accordance with the community's institutional order.

In the Catholic legal system, based on the Codex Iuris Canonici, the management of ecclesiastical property is founded on the distinction between ordinary and extraordinary administration. In the case of accepting donations of greater value, or those subject to specific conditions or earmarked for a particular purpose, the role of the diocesan bishop is decisive;

above a certain value threshold, the approval of the Holy See may also be required. The requirement for approval is particularly significant where the donation is subject to conditions, is of a foundation-like nature, or involves a long-term commitment. The purpose of the decision is not to review the validity under civil law, but to assess whether the acceptance and management of the assets in question are consistent with the intended purpose of church property and the interests of the community.

According to the internal regulations of the Reformed Church in Hungary and the Evangelical Church in Hungary, the decision to accept a bequest or a significant donation is taken by the relevant church body – typically the presbytery, general assembly or a higher church body – and requires the approval of a higher church body.

The purpose of these approval mechanisms is not to influence the legal relationship of inheritance, but to ensure that the management of the acquired assets is in accordance with the church community’s mission and internal norms. This institutionalization of decision-making is an important means of realizing ecclesiastical autonomy at an organisational level.

## 8. The relationship between ecclesiastical law and secular law in the context of acquisitions of property following death

In cases of acquisition of property following death, ecclesiastical law and secular law coexist, but fulfil different functions. Civil law determines whether the acquisition of property is valid, when and how succession takes place, who becomes the owner, and what external legal effects arise in relation to third parties. The Church, as a legal entity, acts in this context as a subject of civil law, and its acquisition of property takes place in accordance with the conditions laid down by secular law. Civil law therefore governs the validity of the title, the transfer of ownership, the restrictions on inheritance and creditor protection, as well as all those issues that are decisive from the perspective of legal certainty and the unity of legal transactions. By contrast, ecclesiastical law does not examine the external validity of the acquisition of property, but rather regulates the canonical status of the acquired property. The primary question here is not whether the Church has validly acquired the property, but how the assets already acquired fit into the Church’s internal order and purpose. Church norms govern the admissibility of property, particularly where the grant is subject to conditions or encumbrances; they also set out the requirements for its intended use, as well as the internal decision-making and approval mechanisms. This includes control over the disposal of assets and significant financial transactions, as well as the obligation to respect the wishes of the founder or donor.

The Catholic legal system expressly recognizes this dual structure. Canon 1290 of the Codex Iuris Canonici states that the provisions of secular law – as far as they do not conflict with divine law – are also applicable in canon law. Canon law therefore regards the acquisition of property under civil law as a given and builds its own system of rules concerning ecclesiastical property upon it. The purpose and management of ecclesiastical property are determined by canonical norms, but these do not reclassify the title under civil law, nor do they create categories of acquisition independent of it. [59] A similar logic applies in the internal law of Protestant churches. The regulations of the Reformed Church in Hungary and the Evangelical Church in Hungary do not re-examine civil law validity, but focus on the management, use and control of acquired property. Decision-making takes place within a collegial framework, and the emphasis is on responsible stewardship in accordance with the intended purpose. Nor do the Protestant models involve a parallel ecclesiastical reclassification of civil law categories. Overall, in the context of acquisitions of property related to death, the two legal systems operate in distinct but complementary spheres. Civil law governs ownership status and external legal effects, whilst ecclesiastical law regulates matters of internal purpose, organisational control and accountability. Internal ecclesiastical law cannot replace civil law, cannot alter its dogmatic categories, and cannot establish an independent system of property acquisition that takes precedence over the secular legal order. It is this dual, complementary functioning that enables the exercise of ecclesiastical autonomy whilst preserving the unity of property transactions and the integrity of the secular legal system.

## 9. Contemporary challenges

The dogmatic framework governing the acquisition of church property upon death remains fundamentally stable. The classic institutions of inheritance law – such as the freedom to dispose of one’s estate, the compulsory share and invalidity clauses – have been operating within an unchanged framework for some time, and there is no observable trend in legal development that would specifically aim to restrict the testator’s autonomy of disposition. Contemporary challenges lie not in a transformation of the fundamental principles of inheritance law, but in the increasing complexity of the legal and social environment. Provisions governing bequests to the Church in the event of death now operate within a regulatory, financial and technological environment that creates new pressures to adapt for both the Church and the legal system.

### 9.1. State regulation and ecclesiastical inheritance

The state has still not established a separate legal regime governing bequests in favour of the Church and the limits thereon. Such provisions are governed by the general rules of inheritance law, and the limits on the testator's autonomy – in particular public policy, public morality and the institution of the compulsory share – apply in the same way as they do in the case of any other beneficiary. State intervention in the acquisition of property by inheritance is not aimed at restricting the acquisition of property by the Church or other heirs through inheritance, but rather at ensuring that the exercise of testator's autonomy remains consistent with the fundamental functions and principles of inheritance law. Overall, state restrictions on bequests in favour of the church remain within the general dogmatic framework of inheritance law and assess not the specific characteristics of the ecclesiastical beneficiary, but the harmony between the testator's autonomy and the purpose of inheritance law. The contemporary challenge lies not in the tightening of classical inheritance doctrine, but in the stratification of the regulatory environment.

The use of assets acquired by inheritance is now influenced not only by the framework of inheritance law, but also by other civil law provisions (the law of legal persons, the law of obligations, etc.), as well as accounting, tax law, [60] anti-money laundering and transparency requirements. The financial management of ecclesiastical legal entities – particularly in the case of significant financial bequests -may be subject to heightened administrative and compliance requirements. The emphasis, therefore, is not on reducing the autonomy of the testator, but on the differentiation of external controls over the institution's operations. This complexity does not directly restrict the exercise of ecclesiastical autonomy, but it does impose new burdens of adaptation at the organisational and operational levels.

### 9.2. Structural transformation of church funding, institutional forms of asset allocation

Another key area of contemporary challenges is the structural change in church funding. Alongside traditional bequests, institutional forms of asset transfer are becoming increasingly prominent, whereby the church does not acquire assets directly as an heir or through a traditional bequest, but rather through foundations, segregated asset management or other arrangements involving financial intermediation. These arrangements enable the bequeathed assets, designated for a specific purpose in accordance with the testator's intentions [61], to be used in an organizationally separate manner and exclusively for the purpose specified by the testator, [62] which fits well with the church's functional conception of property. At the same time, new legal issues arise in the areas of ownership classification, liability, oversight and transparency. The challenge here lies in how traditional categories of inheritance and the Church's internal property law system can adapt to increasingly complex financial structures without compromising ecclesiastical autonomy or legal certainty.

### 9.3. Digitalisation and new forms of assets

The regulation of the inheritance of digital assets – such as online accounts, cryptocurrencies [63], other virtual assets and digital rights – is still under development, which also presents new challenges for the Church's asset management practices. From the Church's perspective, the inheritance of these forms of property raises not only the question of legal succession under inheritance law, but also issues concerning the identification, acceptance and management of the property. In the case of digital assets, it is often unclear under what conditions they may be acquired and utilized. [64] A distinctive feature of digital assets is that they can be of significant value, their management requires specialized expertise, and the risks associated with them differ from those of traditional assets. However, due to rapid technological development, ecclesiastical asset management practices must also adapt to these new forms of assets within a short timeframe. Traditional internal regulations are not yet necessarily prepared for all this, but in the longer term, it will certainly necessitate further dogmatic development of inheritance law.

## 10. Conclusion

Ecclesiastical succession uniquely combines secular property law with internal church norms focused on purpose-bound stewardship. To remain effective, this dual framework must continuously adapt to modern challenges like digitalization and complex financial structures.

## Compliance with ethical standards

*Disclosure of conflict of interest*

No conflict of interest to be disclosed.

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[3] Article VII (1)–(4) of the Fundamental Law; Sections 20, 6–7 and 19 of the Civil Code.

[4] Berman, Harold J.: Law and Revolution: The Formation of the Western Legal Tradition. Harvard University Press, Cambridge, Mass., 1983. 85–102.; Dr Annamária Schlosser, István Csízi: op. cit. [2]; Brundage, James A.: Medieval Canon Law. Routledge, London, 1995. pp. 98–112.; Helmholz, R. H.: The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s. Oxford University Press, Oxford, 2004. pp. 143–160.

[5] Brundage: op. cit., pp. 120–125.

[6] St Stephen II: Title 2; King Coloman I: Title 20. In: Hungarian Law Code. Corpus Juris Hungarici 1000–1895. Ed. Dezső Márkus, Franklin Society, Budapest, 1897.

[7] Article 4 of the Golden Bull of 1222 https://net.jogtar.hu/ezer-ev-torveny?docid=22200000.TV&searchUrl=/ezer-ev-torvenyei [downloaded: 16 January 2026]

[8] István Werbőczy: Tripartitum. Trans. Sándor Kolosvári, Kelemen Óvári, Franklin Society, Budapest, 1897, Part III, Title 30, pp. 404–406; and Act 46 of 1655 on restrictions concerning ecclesiastical property and foundations. In: Hungarian Law Gazette. Corpus Juris Hungarici 1000–1895. Ed. Dezső Márkus, Franklin Society, Budapest, 1897.

[9] Section 1458(9), Section 1462(3), Section 1464(17); In Hungary, ecclesiastical courts were first excluded from disputes over testamentary estates, then from all inheritance law disputes with the exception of the examination of the formal validity of wills, and finally excluded entirely (cf. Werbőczy: op. cit.; Act 15 of 1647; Act 54 of 1868, Section 22)

[10] György Bónis: Elements of Medieval Hungarian Law, Közigazgatási és Jogi Kiadó, Budapest, 1972, 59–141.

[11] Berman, Harold J.: Law and Revolution II: The Impact of the Protestant Reformations on the Western Legal Tradition. Harvard University Press, Cambridge, 2003, 45–52.; Witte, John Jr.: Law and Protestantism: The Legal Teachings of the Lutheran Reformation. Cambridge University Press, Cambridge, 2002, 88–101.;

[12] Witte, John Jr.: op. cit., 88–101.; McGrath, Alister: Reformation Thought: An Introduction, 4th ed. Wiley- Blackwell, Oxford, 2012, 187–201.

[13] Witte, John Jr.: op. cit., 88–101.

[14] Elemér Balogh: The Bishop's Judicial Council in Medieval German Ecclesiastical Jurisdiction (Eds.: Krisztina Korsósné Delaçasse, Gábor Máthé and Barna Mezey). Gondolat, Budapest, 2023, pp. 16–20.

[15] Barna Mezey: A History of Hungarian Law, Osiris Kiadó, Budapest, 2018, pp. 136–140.

[16] Coing, Helmut: European Private Law. Volume II: The 19th Century – An Overview of the Development of Private Law in the Former Common Law Countries, C.H. Beck, Munich, 1989, 94–102; and Brauneder, Wilhelm: A History of European Private Law, Böhlau Verlag, Vienna–Cologne–Weimar, 2014, 213–218.

[17] Bónis, György: Feudalism and the Estates System in Medieval Hungarian Law, Osiris Kiadó, Budapest, 2003, 547–568; and Mezey: op. cit., 132–140.

[18] Szladits, Károly: An Outline of Hungarian Private Law. Volume I, Grill Károly Könyvkiadó, Budapest, 1937, 412–415; see also Act XV of 1848 on the abolition of primogeniture, which fundamentally altered the marketability of noble landholdings and the principle of free disposal, thereby laying the doctrinal foundations of modern inheritance law. According to Szladits, the civil law of succession that emerged in the second half of the nineteenth century consciously broke with the distinctions based on social class and canon law; the principles of equality and freedom of testamentary disposition became the focus of codification. Accordingly, Act XVI of 1876 on the formal requirements of wills, inheritance contracts and gifts upon death, as well as Act XVI of 1894 on succession proceedings, did not treat the Church any differently from other legal entities.

[19] Mezey: op. cit. 214–218.

[20] Mezey: op. cit., pp. 214–218; Lajos Vékás (ed.): Commentary on the Civil Code, Vol. I, Complex Kiadó, Budapest, 2010, pp. 312–315.

[21] Act XX of 1949 (Constitution of the Hungarian People's Republic), in particular the state-socialist interpretation of the provisions concerning the separation of church and state

[22] Act IV of 1959 on the Civil Code, Sections 28–29;

[23] Act IV of 1990 on freedom of conscience and religion, and on churches; Act XXXII of 1991 on the return of property to churches and the settlement of their ownership status;

[24] Article VII of the Fundamental Law; Act CCVI of 2011 on the right to freedom of conscience and religion, and on the legal status of churches, religious denominations and religious communities (Ehtv.), Section 7(1); András Molnár: The place of ecclesiastical legal entities within the civil law system. Magyar Jog, 2017/3, 129–138.

[25] Act V of 2013 on the Civil Code (Ptk.), Section 3:1(1); Section 3:2; Imre Szabó: General rules governing legal persons in the new Civil Code. Civil Law, 2014/2, 3–12.

[26] Section 7/A(1) and Section 11/A of the Act on the Legal Status of Legal Entities;

[27] Constitution of the Reformed Church in Hungary (MRE), Chapter II; Code of Canon Law (Codex Iuris Canonici), Canons 1254–1257; Fundamental Law of Hungary (25 April 2011), Article VII (3); Sections 19–20 of the Ehtv.;

[28] Act V of 2013 on the Civil Code (Ptk.), Section 3:1(1); Section 7:1; and Section 19 of the Ehtv., with particular regard to the rules governing the acquisition and management of assets by ecclesiastical legal entities; Elemér Balogh: 'Church, Property, Autonomy'. In: Elemér Balogh (ed.): State and Church in the 21st Century. Dialóg Campus, Budapest, 2016. pp. 145–162

[29] Civil Code, Sections 7:1, 7:87, 7:25, 2:1

[30] Civil Code, Sections 7:55–67 3

[31] Civil Code, Section 7:3 3

[32] Civil Code, Section 7:10; on the theoretical basis of the freedom to make a will, see: András Osztovits (ed.): Comprehensive Commentary on the Civil Code and Related Legislation, Volume IV, Opten Informatikai Kft., Budapest, 2014. 436–442; András Földi and András Jakab: Private Law in András Jakab, Miklós Könczöl, Attila Menyhárd and Gábor Sulyok (eds.): Online Encyclopaedia of Legal Science (section on the general part of private law; section editor: András Földi) http://ijoten.hu/szocikk/maganjog [20 February 2026].

[33] Civil Code, Sections 7:31–7:34

[34] Civil Code, Sections 7:87, 7:91, 7:99, 7:31–7:34

[35] These include the institution of the compulsory share (Civil Code, Sections 7:75–7:82), as well as the rules on the invalidity of testamentary dispositions (Civil Code, Sections 7:38–7:40; 6:95–6:96), in particular the invalidity of wills that contravene public policy or public morality, and the exclusion from inheritance of rights that are personal to the testator and are therefore non-negotiable – such as personality rights and usufruct rights (Civil Code, Section 7:1).

[36] Examples include restrictions on the acquisition of agricultural land by legal persons (Sections 9–11 of Act CXXII of 2013 on the Transfer of Agricultural and Forestry Land (Land Transfer Act)

[37] Section 7:32 of the Civil Code; Lajos Vékás: op. cit., pp. 88–90.

[38] Sections 10–12 of the Land Act; Section 3:1(1) and Section 7:1 of the Civil Code.

[39] Act CXXII of 2013 on the Transfer of Agricultural and Forestry Land, Section 11(2): "Ownership of land may be acquired by (a) an established church or its internal ecclesiastical legal entity on the basis of a maintenance, life annuity, care or gift contract, as well as by testamentary disposition (…)"

[40] See also Section 6:118 of the Civil Code regarding the acquisition of property subject to the approval of ecclesiastical bodies

[41] Civil Code, Section 7:1; Section 7:87

[42] Section 7:53 of the Civil Code

[43] Ferenc Fábián: The Inheritance Contract. Gifts in the Event of Death. Disposal of an Expected Inheritance; In: István Sándor (ed.) Civil Law III – Inheritance Law, Family Law; Budapest: Patrocinium Publishing (2021) 48–54.

[44] Civil Code, Sections 7:80–81.

[45] Examples include the designation of a beneficiary in the event of death under a life insurance policy, a voluntary pension fund account or a bank account.

[46] Civil Code, Sections 6:439, 6:478, 6:390, 6:391–393; József Banyár, Koppány Nagy: On the situation regarding the protection of beneficiaries in the event of death in Hungary, Insurance and Risk 2, 2015, pp. 76–85

[47] Civil Code, Section 3:388; Civil Law I–IV – New Civil Code – Commentary for Practitioners, updated: 15 January 2025, Law Code [20 January 2026]

[48] Zoltán Csehi: The Concept of Time in the Civil Code and the Conception of Time in Our Private Law, Monographs on Legal Science 4, Iustum Aequum Salutare, Pázmány Press, Budapest, 2013, p. 102.

[49] Codex Iuris Canonici (1983) (CIC) canons 1257–1258

[50] Codex Iuris Canonici 1254–1310.

[51] Codex Iuris Canonici 1284.

[52] Codex Iuris Canonici 1284.

[53] Canon 1290 of the CIC stipulates that the norms of state civil law are to be applied, provided they are not contrary to divine law.

[54] Codex Iuris Canonici 1300

[55] Codex Iuris Canonici 1277, 1291–1295.

[56] Codex Iuris Canonici, canon 1284

[57] Act IV of 2013 on the Financial Management of the Reformed Church in Hungary www.reformatus.hu [21 January 2026]

[58] Act VI of 2016 of the Evangelical Church in Hungary on church finances https://zsinat.evangelikusoldalak.hu/wp-content/uploads/sites/9/2025/06/2016.-evi-VI. -toerveny.pdf [2 March 2026].

[59] Codex Iuris Canonici, canons 1290–1292

[60] Ildikó Szabó: Tax Structures Before and After COVID-19: An International Comparative Analysis. Hungarian Review. 2022/3. pp. 47-58.

[61] source: https://mahanakornpartners.com/asset-diversion-structures-for-tax-deferral-and-wealth-management, downloaded on 3 March 2026

[62] Ádám Boóc: Some Current Issues in Inheritance Law, Notaries' Gazette, Budapest 2024/2, 52–73.

[63] Halász Zsolt: Az állami pénzkibocsátás vs virtuális fizetőeszközök. In: Halász Zsolt (ed).: Magistra et Fautrix: Halustyik Anna emlékére, Pázmány Press Budapest, 2019., 167-182.

[64] Ildikó Szabó: Possibilities and Practical Experiences of Using Artificial Intelligence in Taxation. PÁZMÁNY LAW REVIEW 11 : 1 pp. 53-66., 14 p. (2024)