



**FACULTY
OF LAW**
Masaryk University

Law of Succession





Successio mortis causa

- *Successio in universitatem*
- *Nemo pro parte testatus pro parte intestatus decedere potest*
- *Hereditas*
- *Bonorum possessio*
- *Hereditas iacens*
- *Pro herede gestio*
- *Semel heres, semper heres*

Intestacy (civil law)

- *Hereditas*
 - *hereditatis petitio*
- *Heredes sui et necessarii*
 - *Beneficium abstinendi*
 - *In capita*
- *Agnatus proximus*
 - *In stirpes (ius repraesentationis)*
- *Gentiles*



Intestacy (Praetorian Law)

- *Bonorum possessio*
- *Interdictum Quorum bonorum*
- *Unde liberi (vocantur)*
- *Unde legitimi*
- *Unde cognati*
 - *Successio ordinum et graduum*
- *Unde vir et uxor*



Intestacy (Justinian)

- Descendents
- Ascendents and full brothers/sisters (and their descendents)
- Half-blood brothers/sisters (and their descendents)
- Nearest collaterals
 - + *Vidua indotata*

Testamentum

- *Pater familias* or *peculium (quasi) castrense*
- *Nasciturus*
- *Incapacitas => Caducum*
 - *Latini Iuniani, Caelibes, Orbi, Mulieres probrosae*
- *Indignitas => Ereptorium bonorum Heres esto!*
- *Unitas actus*
- *Favor testamenti*



Testamentum per aes et libram

- 5 witnesses
- *Libripens* (holds weighing scale)
- *Familiae emptor*
- Mancipation, not the writings, is of essence



Written Testament

- Holographic
 - 5 witnesses
 - Signature not required

- Allographic
 - 7 witnesses
 - Signature required



Other types of testament

- By blind people
- Privileged
 - *In procinctu*
 - *Militis*
 - *Ruri conditum*
 - *Pestis tempore conditum*
 - *Parentum inter liberos*
- Public
 - *Calatis comitiis*
 - *Apud acta conditum*
 - *Principi oblatum*

Forced Heirs

- *Querella inofficiosi testamenti*
- Formal rights
 - *Ius civile: filius familias nominatim*
 - *Ius honorarium: mužští potomci nominatim*
- Material rights
 - $\frac{1}{4}$
- *Exhereditio*
 - Acknowledged grounds

Beneficium separationis

- Insolvent heir
- Applied for by the creditors
- Deprives of right to claim from the heir



Beneficium inventarii

- *Insolvent estate*
- Start within 30 days
- Finish within following 60 days (90 total)

Legatum

- *Heres = oneratus*
- *Legatarius = honoratus*

- *Per vindicationem*
- *Per damnationem*
 - *SC Neronianum*
- *Sinendi modo*
- *Per praeceptionem*



Fideicommissum

- Not only testamentary heir burdened with
- *Fideicommissum hereditatis*
- *Substitutio fideicommissaria*
- *Fideicommissum familiae relictum*



Other institutes

- *Codicilli*
 - *Clausula codicillaris*
- *Mortis causa donatio*



Quarta Falcidia

- *Lex Falcidia de legatis*
- *SC Pegasianum*
- *Septimius Severus*
- *Iustinianus*



Are There Any Questions?

- ... if not, thank You for Your attention