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On 25 November 2018, the Act of 5 July 2018 on succession management of a natural person's enterprise and other facilitations related to the succession of enterprises [consolidated text: Journal of Laws of 2021, item 170, further: SuccA. In the original text, the title of the act was: "on the succession management of a natural person's enterprise". It was changed to the currently binding one as a result of the amendment, which was made on the basis of Article 66 of the Act of 31 July 2019 concerning the change of some acts to reduce regulatory burdens] entered into force. Pursuant to Article 1 of SuccA, the Act regulates the following rules: 1) temporary management of an enterprise after the death of an entrepreneur who in his own name performed business activity on the basis of an entry in the Central Register and Information on Economic Activity [further: CRIEA] and continuation of business activity performed with the use of this enterprise; 2) inheritance management in the scope of temporary exercise of rights from the share in the enterprise of the spouse of an entrepreneur performing business activity in his own name on the basis of an entry in CRIEA, after the death of this spouse; 3) taking over concessions, permits and licenses issued to an entrepreneur performing business activity on his own behalf on the basis of an entry in CRIEA, in the form of a decision of a public administration body, related to his business activity. The main purpose of the regulation is to provide entrepreneurs who are natural persons with the conditions enabling maintenance of the continuity of the enterprise after their death, taking into account that the enterprise should be perceived as a legal good possessing not only property and economic value, but also social value. The legislator's recognition in Polish law of the problem of generational succession of business activity conducted by entrepreneurs who are natural persons as well as the introduction of normative solutions to ensure the continuity of its performance after the death of the entrepreneur deserves approval. Polish law deems that inheritance law as a set of norms regulating the transfer of the property of a deceased person to other persons, but also issues functionally related thereto [Książak 2017, p. 19]. Thus, from the systemic point of view, succession management falls within inheritance law. Upon the death of an entrepreneur, enterprise in the inheritance is formed [Bieluk 2019, p. 19; Jaśniewicz 2021, p. 35]. Enterprise in the inheritance cannot be considered equivalent to an enterprise in the material sense, which in Polish law is defined in Article 551 of the Act of 23 April 1964 – Civil Code [consolidated text: Journal of Laws of 2020, item 1740 with amendments, further: CivC], which stipulates that an enterprise is an organized set of intangible and tangible assets intended for conducting business activity. On the one hand, an undertaking in succession may or may not include an undertaking in the material sense. On the other hand, the enterprise in the inheritance may include more than one enterprise in the material sense if, before his death, the entrepreneur carried out business activity by means of more than one enterprise in the material sense [Blicharz 2019, p. 45–46; Szczurowski 2018, p. 32]. Article 2 of SuccA contains a definition of the enterprise in the inheritance. It includes intangible and tangible assets intended for the performance of business activity by the entrepreneur, constituting the property of the entrepreneur at the time of his death. If, at the time of the entrepreneur's death, the enterprise within the meaning of Article 551 of CivC constituted solely and exclusively the property of the entrepreneur and his spouse, the enterprise in the inheritance embraces the entire enterprise. Enterprise in the inheritance also includes intangible and tangible assets intended for the performance of business activity, acquired by the succession manager or on the basis of the activities referred to in Article 13 of SuccA (conservative activities), in the period from the death of the entrepreneur to the date of expiry of the succession management or the expiry of the right to appoint the succession manager [Article 2 section 1–3 of SuccA].

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Shares in the enterprise in the inheritance are vested in the owners of the enterprise in the inheritance. The owner of the enterprise in inheritance within the meaning of the Act is: 1) a person who, in accordance with a final decision on the acquisition of the inheritance, a registered deed of certification of succession or a European certificate of succession, has acquired intangible and tangible assets forming part of the enterprise in the inheritance on the basis of an appointment to the inheritance from the Act or will, or has acquired such enterprise or a share therein on the basis of a debt collection legacy; 2) the spouse of the entrepreneur in the event when within the meaning of Article 551 of CivC the enterprise was entirely the property of the entrepreneur and his spouse who is entitled to a share in the enterprise in the inheritance; 3) a person who has acquired the enterprise in the inheritance or the share in the enterprise in the inheritance directly from the person referred to hereinabove, including a legal person or an organizational unit as set forth in Article 331 § 1 of CivC, to which the enterprise has been contributed – if after the death of the entrepreneur such enterprise or a share therein is disposed of [Article 3 of SuccA].

As set forth in Article 18 of SuccA, succession management includes the obligation to run the enterprise in the inheritance as well as the authorization for judicial and extrajudicial actions related to running such enterprise in the inheritance. In order to establish succession management, three prerequisites must be met, i.e.: 1) the appointment of a succession manager; 2) consent of the person appointed as a succession manager to perform this function; 3) making an entry of the succession manager in CRIEA. The establishment of succession management is of utmost importance as far as performance of the function of a succession manager is concerned since, pursuant to Article 29 of SuccA, as of the moment of establishing succession management, the succession manager exercises the rights and obligations of the deceased entrepreneur resulting from the business activity performed by him as well as the rights and obligations related to running the enterprise in the inheritance [Article 6 section 1 point 1 of SuccA].

The legal relationship of succession management is established as a result of the appointment of a succession manager, as set forth in Article 6 section 1 point 1 of SuccA. In principle, according to Article 8 section 1 of SuccA, a natural person who has full legal capacity may be appointed as a succession manager. The succession manager may be appointed during the life of the entrepreneur, but also after his death. As regards the procedure for appointing a succession administrator during the entrepreneur's lifetime, the entrepreneur may appoint the succession manager by indicating a specific person to perform the function of a succession manager or makes a reservation that upon his death the indicated proxy will become the succession manager [Article 9 section 1 of SuccA]. The appointment of a succession manager in this mode requires a written form under pain of nullity [Article 9 section 2 of SuccA]. In the case of such procedure for appointing a succession manager, the establishment of succession management takes place, as a rule, upon the death of the entrepreneur [Article 7 section 1 point 1 of SuccA], with certain exceptions resulting from Article 7 section 2 of SuccA.

If the succession manager is not appointed at the time of entrepreneur's death, it is possible to appoint the succession manager using the mode of appointment after the death of the entrepreneur. Before confirming the rights of the deceased entrepreneur, the succession manager may be appointed by: 1) the spouse of the entrepreneur who is entitled to a share in the enterprise in the inheritance, or 2) the statutory heir of the entrepreneur who accepted the inheritance, or 3) the testamentary heir of the entrepreneur who accepted the inheritance, or the

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beneficiary of legacy by vindication who accepted the legacy per vindicationem, if, according to the published will, he is entitled to a share in the enterprise in the inheritance [Article 12 section 1 of SuccA]. On the other hand, after confirming the right of the deceased entrepreneur by means of a final decision on the acquisition of the inheritance, a registered deed of certification of succession or the issuance of a European certificate of succession, the succession manager may be appointed only by the owner of the enterprise in the inheritance within the meaning of Article 3 of SuccA [Article 12 section 2 of SuccA]. In both cases, the appointment of a succession manager requires the consent of persons who are jointly entitled to a share in the enterprise in the inheritance with a value exceeding 85/100 [Article 12 section 3 of SuccA]. The appointment of a succession manager in this mode requires the form of a notarial deed [Article 12 section 7 of SuccA]. In this mode of appointment of a succession manager, the establishment of succession management takes place upon entry of a succession manager in CRIEA [Article 7 section 1 point 2 of SuccA]. Importantly, the right to appoint the succession manager after death exists for a very short time, it generally expires two months after the date of death of the entrepreneur [Article 12 section 10 point 1 of SuccA], with some exceptions in this respect referred to in Article 12 section 10 point 2 of SuccA.

In the period from the death of the entrepreneur to the date of establishment of the succession management or until the expiry of the right to appoint the succession manager, if the succession management has not been established, it is possible to perform actions necessary to retain the property or the possibility of running the enterprise in the inheritance. Pursuant to Article 13 section 1 of SuccA, the said activities consist in particular in: 1) satisfying due claims or accepting receivables that result from the entrepreneur's obligations related to the performance of business activity arising before his death; 2) disposing of property current assets. The legislator has also provided for a special type of conservative activities, the undertaking of which is necessary due to the continuity of business activity. Pursuant to Article 13 section 2 of SuccA, these are acts of ordinary management performed by a person authorized within the scope of the subject matter of the business activity performed by the entrepreneur before his death. At this point, it needs to be emphasized that the regulations do not define the concept of the activities of ordinary management and those going beyond ordinary management [Sieradzka 2018, p. 1197]. Persons entitled to perform the abovementioned activities are: 1) the spouse of the entrepreneur who is entitled to a share in the enterprise in the inheritance, or 2) the statutory heir of the entrepreneur, or 3) the testamentary heir of the entrepreneur or the beneficiary of legacy by vindication who, according to the published will, is entitled to a share in the enterprise in the inheritance [Article 14 section 1 of SuccA]. On the other hand, after the decision on the acquisition of the inheritance has become final, and upon registration of the deed of certification of succession or issuance of the European certificate of succession, these can only be performed by the owner of the enterprise in the inheritance [Article 14 section 2 of SuccA]. The succession manager acts in his own name, but on behalf of the owner of the enterprise in the inheritance [Article 21 section 1 of SuccA]. The succession manager may sue and be sued in matters arising from the entrepreneur's business activity or the enterprise in the inheritance, as well as take part in administrative, tax and court administrative proceedings related thereto. In proceedings in such cases, the succession manager acts in his own name, on behalf of the owner of the enterprise in the inheritance [Article 21 section 2 of SuccA]. Therefore, the succession manager is deemed to have the status of the indirect representative [Babiarz 2021, p. 180; Bieluk 2019, p. 73; Kopaczyńska-Pieczniak 2018, p. 7–8; Koziół 2020, p. 56; Rogacka-Łukasik 2020, p. 272; Śledzikowski 2019, p. 36]. Declarations and service of

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documents in matters pertaining to the entrepreneur's business activity or the enterprise in the inheritance are made to the succession manager [Article 21 section 3 of SuccA].

Pursuant to Article 17 section 1 of SuccA, in matters arising from running the enterprise in the inheritance, the succession manager uses the entrepreneur's current company name adding designation "in the inheritance". However, running the enterprise in the inheritance does not constitute performance of business activity within the meaning of the provisions of the Polish law [Sieradzka 2018, p. 1198], however, to the extent not regulated in the Act, the provisions on the performance of business activity by the entrepreneur apply accordingly to running the enterprise in the inheritance by the succession manager [Article 5 of SuccA]. The acts of ordinary management in matters related to running the enterprise in the inheritance are performed independently by the succession manager [Article 22 section 1 of SuccA], whereas in order to perform the activities exceeding the scope of ordinary management, the succession manager is required to obtain the consent of each and every owner of the enterprise in the inheritance, and in the absence of such consent – court's permission [Article 22 section 2 of SuccA].

Pursuant to Article 53 of SuccA, the succession manager ceases to perform this function as of: 1) the date of death, 2) the date of limitation or loss of legal capacity, 3) the moment of dismissal, 4) the expiry of the period of two weeks from the resignation from the function of a succession manager, and if another succession administrator was previously appointed – upon the appointment of another succession administrator, 5) the date on which the decision on the prohibition of conducting business activity has become final – but no later than on the date of expiry of the succession management. Nevertheless, the succession management itself does not expire in these cases, therefore it is possible to appoint another succession administrator. The right to appoint another succession administrator expires one month after the date on which the previous succession administrator was deleted from CRIEA [Article 54 of SuccA]. Whereas the succession management expires as of: 1) the expiry of two months from the date of the entrepreneur's death if during this period none of the heirs of the entrepreneur accepted the inheritance or the beneficiary accepted the legacy per vindicationem, the subject of which is an enterprise or a share in the enterprise, unless the succession manager acts for the benefit of the entrepreneur's spouse who is entitled to a share in the enterprise in the inheritance; 2) the date on which the decision on the acquisition of the inheritance has become final, as well as upon registration the deed of certification of succession or issuance of the European certificate of succession becomes final, if one heir or legatee has acquired the enterprise in the inheritance in its entirety; 3) the date of acquisition of the enterprise in the inheritance in its entirety by one person; 4) the expiry of one month from the date of deleting the succession manager from CRIEA, unless another succession manager was appointed during this period; 5) the date of declaring the entrepreneur's bankruptcy; 6) the date of distribution of the estate involving the enterprise in the inheritance; 7) the expiry of two years from the date of death of the entrepreneur [Article 59 section 1 of SuccA]. For important reasons, the court may extend the period of succession management for a period not longer than five years from the date of death of the entrepreneur [Article 60 section 1 sentence 1 of SuccA]. However, it should be added that there are also some exceptions when, instead of the date of death of the entrepreneur, the expiry dates of the succession management begin to run as of the time of another event [Article 59 section 2; Article 60 section 1 sentence 2 of SuccA].

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