

The stylistic aspect of Polish wills

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The relation between style and genre is complex and dynamic, which results in creation of a multidimensional arrangement, including diverse connections between these categories¹. Due to differentiation of theories of genre studies and quite selective excerption of particular elements of these concepts by scholars, the term *genre*² in Polish studies is often used interchangeably with its synonyms or quasi-synonyms, such as *texteme*, *genre model*, *genre pattern*, *text pattern*, *text type*, *superstructure*, *text scheme*, *genre prototype*, *Idealized Cognitive Model* (in reference to text representations)³. Stanisław Gajda defines genre as “the manner of linguistic communication, created culturally and historically, and included in social conventions; a pattern of text organization. In its secondary meaning this term means a collection of texts, in which this pattern is accomplished, realized” (Gajda 2001: 255). Since genre is perceived as an abstract entity, Maria Wojtak introduces the concept of *genre pattern*, that may be understood both as an element of competence of a given language community members and the manner in which a given genre scheme exists

¹ More about this complex relationship in: Witosz 1999; Żydek-Bednarczuk 2001; Wojtak 1999a; Gajda 2009.

² The term *genre* is treated here as a translation of the Polish term *gatunek*, yet one can find both these terms in Polish works, e.g. A. Wierzbicka discussed *genres*, whereas S. Gajda uses the term *gatunek*.

³ See: Witosz 2005: 113; Wojtak 2013: 99.

(Wojtak 1999; 2004; 2013: 99). Being influenced by views of Michail Bakhtin (1986) and Stefania Skwarczyńska (1965), the Lublin researcher proposes a description of genres in terms of four intermingling aspects: structural, pragmatic, ontological and stylistic. The structural aspect would include a textual frame, the principles of text segmentation, i.e. its segments, components and elements, as well as the interrelations among the same. The pragmatic aspect refers to the so-called illocutionary potential, i.e. communicative intentions, often being a decisive factor for the genre identity. The ontological aspect defines the theme and its presentation, i.e. the worldview presented by a given genre, reflecting the native speakers' system of values, expectations, attitudes, experiences, emotions, hopes, fears etc. It should be highlighted that genres reflect cultures, since they are created by particular communities to meet their social and communicative needs. The stylistic aspect shall present the linguistic characteristics of the genre, combining elements of all the above mentioned levels of description. Stylistic traits are conditioned structurally, refer to the worldview of a given language community (including their axiological system) and are related to a selection linguistic devices typical of a specific genre. All these factors add to a genre-specific stylistic tone. Therefore, the stylistic aspect includes a collection of extra-linguistic factors with corresponding linguistic exponents and a set of rules defining the interrelations among them and their determinants. The four polymorphic aspects are accompanied by a set of variants of genre patterns: canonical, alternative and adaptive. The canonical variant is a set of the most typical properties of each aspect of description and determines the genre identity. Alternative variants are modifications of the canonical variant in terms of quality or quantity (e.g. reductions or extensions). Whereas adaptive variants are juxtapositions with or borrowings from other genres. Additionally, genre "curios" may occur, which are unique realizations of the genre (Wojtak 1999: 105-117; 2004).

The Polish Civil Code uses the term *testament* in two meanings: as a legal act and as a document containing testator's a declaration of intent (Zdziennicka-Kaczocha 2002: 252). In the first case it is a one-sided, personal, revocable act in law that requires a sound mind and memory to enable the testator to dispose of his/her estate in contemplation of death. This act is formal and not addressed to any definite recipient (Niedośpiał 2002: 49). In the other meaning, *testament* is a genre of a legal text, used to accomplish the above mentioned act in law. It may be executed only in the forms prescribed by law.

The Polish Civil code distinguishes the following types of wills (Zdziennicka-Kaczocha 2002: 252):

1. Ordinary wills, including:

a) a holographic (oleographic) will – written in its entirety and undersigned with one’s own hand, including a date of execution; possibly in the form of a letter;

b) a notarial will – executed by a notary in the form of a notarial deed;

c) an allographic (administrative) will – executed through an oral declaration of will, in the presence of two witnesses, before a representative of authorized administrative authority, then recorded in writing, with a date of this official record, read out in the presence of the witnesses and undersigned by the witnesses and the testator;

2. Extraordinary wills, including:

a) an oral testament – executed in special circumstances, when there is a threat of testator’s imminent death or inability to observe the ordinary form, in the presence of three witnesses, written down as an official record by one of them before an elapse of a year from the event, with a place and date of the recording, undersigned by the testator and two witnesses, and confirmed by all witnesses before a court within six months of the opening of *testament*;

b) a traveller’s will (aboard ships or aircrafts), before the captain or its deputy, in the presence of two witnesses, recorded in writing, with a date of the declaration of will, read out to the testator in the presence of the witnesses, undersigned by the testator, the witnesses and the captain;

c) a soldier’s will – executed only in times of mobilization, war or in captivity, declared before a military judge, written down as a report, read out to the testator, undersigned by him and the judge.

*Testament*⁴ is an administrative genre⁵ to be accomplished in the official style and is connected with the institutional sphere of communication⁶. Such

⁴ In Polish we use the term *testament* in reference to all utterances aiming at disposal of estate after death, whereas in contemporary English three terms: *Last Will and Testament*, *Last Will* and *Testament* may be applied. Historically *Last Will and Testament* included both movables and immovables, *Last Will* referred to real estate, whereas *Testament* pertained to personal property.

⁵ Descriptions of testament as a genre can be found in: Dunin-Dudkowska 2014. The author examined 700 Polish wills and 300 American wills of different types. See also: Żmigrodzka 1997.

⁶ See: Wojtak 2001a: 155-172; Malinowska 1995: 431-448; Malinowska 2001.

formality of presentation reflects the weight, seriousness and relevance it has in the society. Not only does it show the control over one's property, but also one's individualism, power and authority. Last will and *testament* are to be respected by everyone. Testamentary dispositions and decisions may reflect a wide range of testator's feelings: from love to hatred, from care to contempt, from tenderness to harshness. *Testament* is a testator's settlement with the material sphere of life and the reflection of relationships with the contemporaries.

The main features of the official style include authoritarianism, impersonality, meticulousness and standardness (Wojtak 2001:155-172). Different types of wills manifest properties of the official style to different degrees, thus creating their own style of the genre. Since *testament* belongs to the legal sphere of communication, it should be analyzed also in terms of the legal language. The most typical categories of its characteristics include: communication traits (meticulousness, intelligibility/unintelligibility, logic of reasoning, "matteroffactness", language traits (authoritarianism/ firmness, standardness, terminologicality) and stylistic devices (impersonality, brevity) (Jopek-Bosiacka 2008: 21-22)⁷. Genre analyses shall also apply to the style of non-literary genres trespassing the limits of traditional functional styles. Maria Wojtak enumerates their template-like nature (we shall call it "templatedness", related to standardization and stereotypicality), persuasiveness/ apelativeness and abundance of stylistic registers. Different non-literary genres show a specific hierarchy of such traits as well as a specific selection of linguistic exponents and register levels (resulting in a stylistic contrast or harmonization) (Wojtak 2001: 38-47). Particular types of Polish wills show a different degree of permeation with style exponents. The basic stylistic properties of all Polish documents in this genre include templatedness related to existence and imitation of normative patterns, matteroffactness and formality.

Templatedness results from the existence of normative patterns and the fact that senders imitate similar utterances. Each type and variant has its own composition, including a text frame and the main element of devising and bequeathing. Notarial, allographic, traveller's and soldier's wills show a fixed and inflexible structure; the utterances are clichés, based on recommended or binding patterns, intended for officials authorized to perform the duty. Holo-

⁷ More about the legal discourse in: Jadacka 2002.

graphic and oral texts are more flexible and prone to modifications, yet they are still inspired by other types or documents. Realizations of the genre are in the form a continuous text or as enumerations. Templatedness of wills manifests their long-lasting relevance for the society. The genre pattern is very traditional and for legal validity of utterances has to include the same structural elements, primary illocutions, the system of values and conventionalized phrases used by them for ages. Therefore people know that their right to dispose their estate is warranted by the State, the hereditary system is a stable element of their culture and there is a strong continuation of the national tradition and customs.

A typical notarial will, which is a part of a notarial deed (with its all mandatory elements, i.e. recitals, a declaration of will, a closing segment) takes the following shape:

Repertory A No. 235/97

NOTARIAL DEED

On this day of the eighth of February nineteen ninety seven (28.02.1997) before Teresa Nowak, the Notary officiating in Warsaw, 5 Nowa Street appeared the following individuals: - Alfreda Kosmala, daughter of Edward and Rozalia, resident at 01-342 Warszawa, ul. Nowa 27/5.

The identity of the Appearer has been verified by the Notary based on her identity card series AB No. 3243566. -----

TESTAMENT

§1. Alfreda Kosmala declares that she calls to succession her sister Jadwiga Wiśniewska, daughter of Edward and Rozalia, born on 20 December 1935 in Raszyn, resident in Warszawa, ul. Pusta 4B/16. -----

§2. Costs of the act are paid by the Appearer. -----

§3. Collected fees from § 9 regulation on notarial fees (Journal of Laws of 1991 No. 33, item 146 as amended) of PLN 25.00 (twenty five zlotys). -----

This act has been read out, adopted and signed. -----

/-/ Alfreda Kosmala

Teresa Nowak – Notary (Janeczko 1999: 282)

Matteroffactness of testaments is reflected in an explicit striving to objective and unemotional expression of testamentary decisions, made in an unambiguous manner. Particular illocutions are presented transparently, according to the hierarchy of their validity for the testator, often explained in consecutive paragraphs. This manner of presentation manifests the logic of disposition and reflects testator's line of reasoning. It also shows his/her hierarchy of values – dispositions are presented according to the order of importance: first the most precious items are appointed to the dearest beneficiaries. Disinheritance, if any,

is in the final part of the utterance. It has to be properly justified so as not to harm anyone unjustly. All decisions are clearly stated to avoid future doubts in their construing. The following holographic will illustrates the order of such elements:

TESTAMENT

My last will written down with my own hand on 17 March 2004 in Lublin, ul. Sucha 170/27. I, the undersigned, Jan Kowalski, son of Władysław and Zofia, born in Ostrowo on 12 December 1930, holder of identity card No. ... issued by Mayor of the City of Lublin on 30 May 2002, permanently residing in Lublin, ul. Sucha 170/27, being of sound mind and memory, write my last will of the following content:

I bequeath all my immovables and movables to my godson Jan Nowak, son of Bolesław and Anna, born on 23 March 1980, resident in Lublin, ul. Sowia 134/12.

At the same time I oblige Him to make accessible and release all objects, gadgets, books etc. to my closest Family (sisters, brothers, nieces, nephews), if any of them expresses their wish to possess any of the above mentioned items.

1. I oblige the Beneficiary to pay PLN 5000 (five thousand zlotys) for the benefit of Ms Ewa Kamińska, daughter of Jan and Antonina, born on 12 January 1950, resident in Lublin, ul. Sucha 170/29 as a compensation for care and all good deeds I have experienced from Her. The payment is to be made not later than within a year after my death. At the same time I oblige Ms Ewa Kamińska to accept the payment.

2. I also oblige the Beneficiary to give a sum of PLN 1000 (one thousand) in my name to my goddaughter Maria Wiśniewska, daughter of Andrzej and Matylda when she gets married. This is my last will, which I have written and signed with my own hand on 17 March 2004.

/illegible signature/

Lublin, 17 March 2004⁸.

The text is highly informational, including, among others, many factographic data (personal details, family status, verification of identity, spatial and temporal information, elements of estate, inventory, instructions for beneficiaries). Such matteroffactness results from the material sphere of the world that is of great importance for the genre. Contemporary Polish wills do not include any philosophical or religious deliberations⁹. Their essence is a distribution of material assets accumulated by testators throughout their lives. There is mainly real-estate that is passed down in testaments. Immovables are mentioned occasionally, usually in alternative variants with bequests and instructions.

⁸ The example comes from an authentic last will stored in the archives of the Regional Court in Lublin. All examples translated by the author.

⁹ The exceptions are in testaments of priests, some artists, writers and politicians, e.g. of John Paul II, Józef Życiński, Wisława Szymborska.

Dispositions reflect the state of affluence of the society as well. In Poland the property to be inherited is usually a flat or a house, a plot of land, a farm, or a share in the same. A new phenomenon is testators' leaving assets to start foundations to support e.g. talented poets or poor students (W. Szymborska¹⁰, J. Życiński¹¹). Only occasionally are there bequests for charities. Yet hopefully, along with the increase of the society's affluence, such decisions will become a new Polish tradition.

The most frequent notarial and holographic wills include appointments of one or more heirs, without enumeration of particular items of the estate. Some farmer's wills may designate specific parts of the property to nominated beneficiaries, yet there is a tendency to save the entirety of the farm to continue its production.

The number of details and the length of utterances vary depending on the type of the genre. Holographic testaments may be as short as one sentence and as long as a several pages. They are the most individual documents and may include many additional wishes and intentions, for example, there are often acknowledgments to children or friends who nursed testators in sickness and senility. The inheritance seems to be a reward for their love, patience and responsibility. The configuration of testators' relationships with their family, friends and the society is another main type of values expressed in the texts.

Polish notarial, allographic, soldier's and traveller's wills are uniform, as they are regulated by normative patterns and thus often copied. This stylistic form reflects lawfulness of the legal act and its conformity with the legal tradition. Texts are usually short and represent the canonical variant, including only the mandatory elements for the genre. They lack provisions that are only morally binding, yet do not have a legal force, e.g. the place and manner of burial. Holographic wills and reports of oral wills are usually written down by laics, which results in their originality and inventiveness, e.g. they may include blessings, greetings, explanations of testator's decisions as well as complaints, curses and accusations. They may have a narrative form with a chronological order of events, or the shape of the letter. Testamentary disinheritance in notarial, allographic, soldier's and traveler's wills is very short and stereotypical,

¹⁰ Wisława Szymborska (1923-2012) – a Polish poet, essayist and translator; recipient of Nobel Prize in literature (1996).

¹¹ Józef Życiński (1948-2011) – a Polish philosopher and publicist, the Roman Catholic Archbishop and a professor of catholic universities in Rome, Cracow and Lublin.

whereas in holographic testaments it is individualized, sometimes very emotional and personal. The relevant segment in a notarial will may read as follows:

Jan Jabłoński declares that he disinherits his daughter from his first marriage Daniela Jabłońska, daughter of Jan and Mieczysława, born on 20 September 1946 in Warsaw, since she has not kept contact with him for over twenty years, and has not been interested in him during his current severe disease. In May 1997 Daniela Jabłońska's contact with her father was limited to an offensive letter, in which she called her father a bandit, rascal and deviant. - Jan Jabłoński declares that because of Daniela Jabłońska's breach of family bonds and emotional ties and due to the offensive letter he cannot forgive her her behavior. ----- (Janeczko 1999: 301).

All wills are formal documents, executed to be opened in public and read out by appropriate authorities (judges, notaries, lawyers) and private individuals (family members, friends, neighbors). Rich and famous people have to be aware that their wills may be published online. We can find wills of public persons, e.g. by W. Szymborska, V. Villas¹², Z. Beksiński¹³ or Pope Saint John Paul II¹⁴ on the Internet, not to mention older wills, among others, by T. Kościuszko¹⁵, J. Piłsudski¹⁶, I. J. Paderewski¹⁷. The relationships between the interlocutors are formal, although they are often a family. The official style adds to solemnity, seriousness, dignity of the utterance, strengthening its legal validity. The temporal distance between the moment of execution and opening of the will contributes to an increase of distance in communication. The lexis is official, related to the subject-matter of the utterance. One can find petrified expressions, clichés, conventionalized collocations, e.g. *będąc w pełni władz umysłowych/ being of sound mind and memory, z własnej i nieprzymuszonej woli/ of one's*

¹² Violetta Villas (1938-2011) – a Polish singer, composer, songwriter, cabaret star and actress. Her voice, called coloratura soprano, spanned 4 octaves, and she had absolute pitch.

¹³ Zdzisław Beksiński (1929-2005) – a Polish painter, sculptor and photographer, representing dystopian surrealism in art.

¹⁴ Pope Saint John Paul II (Karol Józef Wojtyła, 1920-2005) – a Polish poet, actor and philosopher, Pope of the Catholic Church (1978-2005); declared a saint of the Catholic Church in 2014.

¹⁵ Tadeusz Kościuszko (1746-1817) – a military engineer, statesman and military leader, fought on the American side in the War of Independence and led the Kościuszko Uprising in 1792, a national hero in Poland, Lithuania, Belarus and the United States.

¹⁶ Józef Piłsudski (1867-1935) – a Polish statesman; the founding father and leader of the Second Polish Republic (1918-1935).

¹⁷ Ignacy Jan Paderewski (1860-1941) – a Polish pianist, composer, politician, statesman and spokesman for Polish independence.

own will, powołuję do spadku/ I call to succession. The lexis refers mostly to the material sphere of life, such fields as law, administration, economy, agriculture, arts and education. Testators create a new state of affairs, change the legal and economic reality. They “do things with words”¹⁸ by frequent use of performative verbs, e.g. *powołuję/ I appoint, daruję/ I bequeath; devise, daję/ I give, przekazuję/ I transfer, rozdzielam/ I distribute, zostawiam/ I leave, ustanawiam/ I establish, zapisuję/ I register, zarządzam/ I instruct, przeznaczam/ I assign*, etc. Text are highly nominalized and include many personal names. Other lexical categories are kinship terminology, types of real estate, household articles, funeral and medical terminology, pathologies (in disinheritance) as well as legal, administrative and economic lexis. There are few adjectives or adverbs, and very rare personal pronouns. However, one can find many anaphoric pronouns (due to use of complex sentences) and frequent possessive pronouns (in different grammatical cases). Active voice, present tense and direct speech prevail in most texts.

One should stress the formulaic discourse of the genre, resulting from a fixed textual frame and the formula of bequeathing. They strengthen the templatedness and organize the composition of utterances. Notarial wills have to obey the rules for notarial deeds and reports of oral wills must be in conformity with requirements for reports. Both use the delimitation formulas that are signals of such genres, e.g. the headline, preamble and the provision on reading out, approval and undersigning for notarial deeds, or the title, spatial and temporal beginning of the narrative, with the signature of the recorder for reports.

Another secondary characteristics of testaments is their meticulousness, indispensable to accomplish the testator's will in full. Testaments will be examined in terms of their authenticity, legality and accuracy. Especially when disinheritance is in place or family connections complicated, the manner of expressing one's will should be meticulous, accurate and detailed. Therefore, wills are read out before they are accepted and signed by testators to ensure they reflect their will accurately.

In spite of the official register of utterances and against the typical impersonality of administrative-legal texts, wills are often very personal expressions. The primary sender, i.e. the testator and, depending on the type of the text, a notary, witnesses, an official, a judge or a captain are present when the

¹⁸ More about the performative function of utterances that do not constate but perform actions in: Austin 1962. Such acts are also called speech-acts or illocutionary acts. See also: Searle 1969.

will is declared. The receiver, i.e. beneficiaries, family, revenue or court officials, and sometimes the public will be present upon the testator's death when the will is opened. All participants of the communication act are usually defined, with their names and surnames, their parents' names, dates of birth, numbers and series of identity cards and addresses. The inheritance usually goes to family members (children, grandchildren, siblings, cousins), which reflects a high position of family values in the Polish society. Such decisions are expected in the Polish culture as they are in conformity with the course of nature and our sense of justice. Therefore, despite being a deviation from intestacy, Polish wills usually protect the family; they only change the proportions and order of inheritance.

In the stylistic aspect, Polish holographic wills show more freedom in their form, which reflects testator's individual wishes and ideas. This might result from self-dependence of Polish testators, their economizing on lawyers or procrastination in making the last will. Rare curios refer to metaphorical wills, e.g. a bequest of a system of values and request for continuation of family traditions by an aristocratic testator who lost all his property in WWII. In spite of numerous individual and emotional elements and due to high social genre awareness most senders can execute a legally binding document, close to the prototypical texts. Here is an example of a holographic will highly influenced by a notarial will:

Lublin, 28.02.2000

Testament

I, undersigned Bogdan Tadeusz Kowalski declare that I call to succession my wife Barbara Kowalska, daughter of Józef and Maria, resident in Lublin, ul. Skrzetuskiego 170/21.

/illegible signature/

/two illegible signatures of witnesses¹⁹

Notarial wills are all identical in terms of composition, all the intentions are expressed in general terms, without any emotional elements or redundancies, with usage of formulaic verbal forms. The utterances are relatively short, impersonal, laconic, similar to the report pattern. More personal elements may appear in a disinheritance, yet there are often unified, cliché and standardized. Therefore the utterances are uniform, logically arranged, and in accordance with the

¹⁹ This example and the following ones come from an authentic last will stored in the archives of the Regional Court in Lublin.

law. The main element is the appointment of a beneficiary as a declaration of will. The text is written by a notary and the testator's declaration is expressed in the 3rd person sing., i.e. *Jan Kowalski calls to succession his son Jerzy Kowalski*. Additional elements may include specific bequests and a provision about registration of the will in the NORT (notarial register of testaments). Traveller's and soldier's wills are similar to the essential part of notarial wills and based on bindings normative patterns.

The stylistic shape of allographic testaments and reports on oral wills is similar to that of official reports. It is conventional and long-lasting. Anna Wojciechowska mentioned the following characteristics of the latter genre: a structural templatedness, pragmatically determined matterofactness (i.e. objectivism, lack of emotions, lack of assessments) and formality, related to the genesis of stylistic devices (institutional base for communication, formalized and loose bonds between participants of an event) (Wojciechowska 2012: 189). Secondary features include formulaic manner of expression (a textual frame, repetition of certain segments, clichés), meticulousness (dates, personal data, series and numbers of documents, signatures, explanations), impersonality (usually narration in the 3rd person sing.). Utterances are based on normative patterns, yet they include repetitions and redundancies to ensure a precise interpretation of facts and decisions. The textual frame can read as follows:

On the fourteenth of April nineteen hundred sixty four (14.04.1964) I visited Citizen Jan Kowalski, son of Józef and Maria, residing in Płouszowice Kolonia GRN Dąbrowica commune of Lublin, on his request, who declared before me Citizen Jan Nowak as Chairman of the Communal National Council in Dąbrowica that he wanted to declare his testament.

[...]

This testament has been read out after taking the minutes in the presence of the above mentioned individuals, who at the same time have stated that it is written in full agreement with the testator's declaration²⁰.

In all types of Polish wills canonical variants contain only three elements: a date of execution, the appointment of a beneficiary and the testator's personal signature. Alternative variants may include mostly legacies and testamentary instructions, or additionally special bequests in notarial deeds. Adaptive variants are wills in the form of a notarial deed, a letter, or an official report. The genre pattern of wills of all types and variants in Poland is highly influenced by

²⁰ The example comes from an authentic last will stored in the archives of the Regional Court in Lublin.

notarial wills. Yet it should be stressed that validity of Polish wills depends only on their legality and not on their legalese.

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The stylistic aspect of Polish wills

Testament in the Polish culture is an administrative-legal genre, accomplished in its own style of the genre, based on the official and legal style. In the stylistic aspect it shows authoritarianism, impersonality, templatedness and meticulousness of expression. As an example of the legal discourse it tends to be unambiguous, logical, concrete, and it contains specialist terminology related to dispositions of the estate in contemplation of death. It refers mainly to the material sphere of life, yet it implies abundance of various hidden feelings: love, gratitude, attachment, hatred, contempt, or revenge. The most popular and expansive type of the genre is a notarial will executed in the form of a notarial deed. Holographic wills are realized more freely, with use of elements of colloquial style, may include expressive speech acts or take the form of an informal letter. The stylistic form of allographic and oral wills is similar to a report. Notarial testaments are becoming dominant and influence the linguistic shape of all other types of the genre. Lack of legal verbosity in a document, while meeting the requirement concerning appointment of an heir, date and testator's signature, does not invalidate the legal force of the utterance.

Keywords: *testament, genre of speech, genre pattern, stylistic aspect, ontological aspect, values, administrative-legal style, style of a genre*