

TRANSFER OF INHERITANCE TO HEIRS

Abstract

The aim of the rigorosum thesis is to clarify the issue of transfer of inheritance to heirs. Particular chapters of the thesis are defined at the beginning. Main attention is given to the current regulation of transfer of inheritance to heirs set in § 1670 – § 1713 of the current Czech Civil Code. First of all, the inheritance and the decedent's estate are characterised for a better understanding of the chosen topic. Particular key terms related to the issue of transfer of inheritance to heirs are explained then. The administration of inheritance, the administrator of inheritance, his rights and duties, subject of administration of inheritance, free disposal of property, differences between simple and full administration of inheritance are mentioned. The inventory of inheritance, its aim, order, reimbursement of expenses, substitution, and incomplete inventory of inheritance and the issue of status of creditors is discussed as well. The closure of inheritance and the way of distribution of inheritance based on last will of decedent, determination of third person, agreement between heirs, decision of court, related settlement of heirs and allocation of claims and debts is analysed later. The issue of debts related to the transfer of inheritance to heirs is solved in a great detail. Legal effects of inventory's reservation, rights of creditors, refusal of inheritance and separation of inheritance, and also other concepts related to debts befalling heirs are solved very detailed. Eventhough the thesis is mainly focused on substantive law, the own probate proceeding is briefly described because the issue is closely related to the topic of transfer of inheritance to heirs. Marginal attention is given to the alienation of decendant's estate, legal institute regulated in Czech Civil Code following the legal regulation of transfer of inheritance to heirs. A quite new legal instrument, The European Certificate of Succession, is also peripherally characterised with its practical application. The relation between transfer of inheritance to heirs and Trust Fund, legal institute regulated in the current Czech Civil Code is mentioned further. The attention in the last chapter is given to the legal regulation of transfer of inheritance to heirs in Germany and Austria. These two European countries provide an interesting comparison. Finally, the actual legislation in the Czech Republic is evaluated and considerations de lege ferenda are suggested.