

The Role of Notary in Inheritance Proceedings

Notary is a person, who makes a lot of legal activities, legal documents and legal agreements. One of his activity is an activity during the inheritance procedure. I am very interested in the Civil law and I think, that the inheritance proceedings is really important for all person, because It is the proceedings, which starts always, when somebody die. This is one of the reasons, why I decided on this question.

Firstly, I engaged in the historical development of the notary. Secondly, I defined the term of “Notary”, according to the relevant Czech legislation and I defined the principles of the inheritance procedure.

In the following chapters I focus on the role of a notary in the inheritance proceedings. The premise to start inheritance proceedings is the death of a personal entity. Only then a notary is appointed by court to incapacitate for single acts in the inheritance proceedings.

At first I determine the basic principles of such a procedure as they are important for both the court and the notary. Next, I describe the aspects according to which the court appoints a notary and how to cognize a notary within the inheritance procedure. I determine the participants to the proceedings, for only with those can the court as well as the notary proceed within the inheritance proceedings. The next part of my thesis focuses on preliminary investigation. Within the preliminary investigation the notary finds out the content of the documents important for the inheritance proceedings. To the above stated the following documents are ranked: last will, deed of disinheritance, deed of heirdom administration, marriage settlement and heirdom contract, which should be regulated in the new Civil Code. In the preliminary investigation the notary proceeds also immediate arrangements, finds out the heritor, the belongings and debts of the testator. Should the inheritance proceedings in this stage be not interrupted, the notary enacts further proceedings. Throughout the proceedings the notary leads the heritage to conclusion of an arrangement, settles the tenancy by entirely, settles the heritage value, and acts in the heritage liquidation if occurred.

In the final part of my thesis I focus on issuing a resolution of heritage which commencing with effect of the amendment No. 7/2009 Coll. is no longer issued by the court but by the notaries themselves. I mention mainly the applicable problems which have been put in practice within the above-mentioned amendment.

Last, I try to assess the contribution of the amendment regarding the inheritance proceedings, mainly its conformity with the principle of thrift and pace of the proceedings. On the other hand some contras are to be pointed out, such as higher administrative intensity for notaries together with the lack of financial resources to appoint new employees.