

# **ABSTRACT**

## **Inheritance proceedings**

The goal of my Master's thesis is to describe in detail the course of the inheritance proceedings. Even though, the overall rule states that inheritance is assumed at the moment of decedent's death, the inheritance proceedings must take place. It is therefore a procedure set by law that is presided by a notary as a court commissar who is authorized by a competent court. During the proceedings, the notary locates decedent's inheritors, his assets and debts. With conclusion of the proceedings, all decedent's property relations are assorted in order. Simply it can be said, the conclusion of the inheritance proceedings is a division of decedent's assets and debts among all heirs.

This thesis is divided into five chapters.

The first chapter describes the history of the inheritance proceedings and the position of a notary as a court commissar in the period in between the First Republic to the contemporary practice. Furthermore, the contemporary inheritance proceeding is characterized as well as its function and legal framework, including its demarcation as a non-adversarial process.

The second chapter deals with matters of court's authority and competence for the inheritance proceedings. The subchapter with inheritance proceedings with a foreign aspect, e.g. inheritance proceeding where the decedent was not a Czech citizen at the time of death or the inheritance is at least partly abroad, is also included in this chapter. The uniting collision legal framework for the whole European Union is also sketched out in this chapter.

The participants of the inheritance proceedings are handled in chapter three.

Chapter four is the longest, as it is describing the course of the proceeding itself. The competent court initiates the proceedings without a motion as soon as it finds out someone had died or had been pronounced as dead by a court. In consequence, the court gives authority to a notary to be the court commissar in that particular case. The notary then investigates in the central testament database and in the central evidence of pre-nuptial agreements whether or not the decedent had a will. Subsequently, the notary does a preliminary inquiry to find out decedent's inheritors, assets and debts.

The outcome of this phase is a protocol with all the assorted information. The court commissar has a right to execute certain urgent precautions that should guarantee that no harm, loss or alienation will come to the decedent's assets. A special type of this urgent precaution is an appointment of the administrator of the inheritance. Furthermore, the obligatory and optional cessation of the inheritance proceeding is also dealt with in this chapter. If the proceedings have not been ceased, the court commissar continues with the proceedings by notifying the heirs of their heritage rights and by giving a notice of the possibility to disclaim the inheritance. In the following text, the process of inquiry about the assets and debts of the decedent and the possibilities of its disposal during the proceedings is also described. After the deliberation of the inheritance, which does not necessarily have to take place, the notary delivers a decision by which he or she ends the proceedings. By this, the notary either verifies the acquisition of the inheritance to a single inheritor or, if there is no such an inheritor, decides that the inheritance falls to the state. Another option is a certification of an inheritors' agreement of the inheritance settlement or of disclaimer of the insolvent inheritance and of its disposal to the creditors. If an agreement cannot be reached, the notary certifies the acquisition of the inheritance according to the inheritors' shares. In the conclusion of the fourth chapter, the matter of an insolvent inheritance is managed, i.e. the after-judgment agendas, additional inheritance proceeding and legal remedies.

The last chapter is dedicated to selected differences between the Czech and Slovak legal framework of the inheritance proceedings.