

A notary in inheritance proceedings

The aim of the study is to describe the activity of the notary as a court commissioner in inheritance proceedings and to compare Czech and Slovak legislation on this issue.

In our legislation the inheritance proceeding is mandatory, as well as court commissariat, which means that when the court learns of the death of the person promptly starts the inheritance proceedings and instructs the court commissioner with the acts in proceedings.

Court commissioner has de facto the control of the inheritance proceedings in his hands and with small exceptions he makes all acts in the proceeding.

I chose this theme because I am interested in notary in general and court commissariat is one of the most important activities of the notary.

This study is divided into three parts: 1. part- Notary in the inheritance proceedings in Czech Republic, 2. part- Notary in the inheritance proceedings in Slovak Republic, 3. part- final summary and the comparison. The parts are further divided into chapters and subchapters. I and II. part are structured similarly, but differ in scope. First part is more detailed and brings out also some problems, which are connected with this institution. In this part, I wrote also about some aspects of court commissariat in Austrian legislation to provide better comparison.

After the introduction comes the first part where I provided the historical outline and I tried to explain the terms as Notary and Notary activity. After that comes the fundamental chapter, where I described the activity of the court commissioner and its scope. Fourth chapter comprises the basic facts of inheritance proceedings, jurisdiction and the authority of the court, parties of the proceedings and the principles of the proceedings. This chapter is important because the notary as the court commissioner operates in the inheritance proceeding and is bound with its principles. The fifth chapter is divided in subchapters which deal with individual actions of the notary in the inheritance proceedings. The notary does the preliminary investigation, finds out the heritor, inquiry in the registers when he tries to find if the deceased left a will, deed of disinheritance, marriage contracts, he further identifies assets and debts of the deceased, makes an inventory of assets and liabilities etc.. The following sequence of chapters

focuses on the activities of the court commissioner in the subsequent hearing of legacy, in appeals process and the activities of the commissioner after the legal validity of the meritorious resolution.

Part II. has a similar structure as the first part, the differences between the legislation are described particularly in the third chapter part two, where I described the scope of the activity of court commissioner, with emphasis on the commissioner's discretion and authority to issue certificates of inheritance.

In the third final part I focused on a summary of the comparison and I presented the main differences between the Czech and Slovak legislation.