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REVIEW OF INHERITANCE

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INTRODUCTION

Institute of inheritance is considered as one of the oldest institutions of the civil rights today, and provides a legal and social fact in any society that attracts the curiosity to study, encourage debate and remains always a topic of discussion for all lawyers, as well as for legal structures that deal with law enforcement and legal norms in everyday life. This is due to the inheritance of the testator for centuries and generations after generations have passed by legally valid grounds for call in inheritance.

Under the positive law in Kosovo there are some basis of call for inheritance and:

- By law
- With a testament and
- According to the contract.

Among the major challenges in our country are considered the courts, and the functioning of certain state bodies on implementation of the law of inheritance legal relationships within the reform and issued the law on inheritance, 2004 and other legal acts.

Republic of Kosovo as a country with a different reality, after 1999 aims to provide an overview of the complex question of the institutions of the inheritance law with new reforms stipulated by the law on inheritance, seeking better consolidation of this institution by inheritance relations.

The legal basis of this institute is the passage of the testator's property to inheritor. Therefore, this subject is studied in two aspects, namely the procedural and material terms. Inheritance-legal relations in terms of substantive law governed by the law of inheritance in Kosovo in 2004, and legal-inheritance relations in the procedural sense, where is included the inheritance, are governed by the law of extrajudicial procedure. This means that the development of the proceedings on the review of inheritance is regulated with the law of procedure out contentious but during the procedure of the development of inheritance, inheritance is proceeded without contestation of both sides.

During the procedure it can be shown divergence and disagreements and conflicting interests where the court instructs both sides with legal and civil litigation.

The purpose of this paper and the overall study of this subject, is based on an analysis, to examine the procedure of the inheritance review in Kosovo in legislative terms, and how it is regulated by court principle. The possibility initiative and leadership of the inheritance procedure can simultaneously take place ex officio (ex officio) and the professional establishment of the office of martial status keeping the registry book of the dead, and the functioning of the Directorate for Geodesy, Cadastre and Property.

The objective of concentration in the correct content of these issues is based on the current legislation, in research and in cooperation with the courts. To provide scientific opinions,

knowledge of opinion, the real situation and challenges for the future, are the basis of scientific study. We must take to regulate the relations of the inheritance law as part of regulating civil legal relations. So as well we should consolidate property rights norms, starting by the constitution, laws, customary law, legal science and litigation-practice implementation and application of the right.

The entire study is based on scientific research methods and methodology, it's understood as a process of usage, ways, tools and ways to come to the set goal. Finally we should look the cooperation with state bodies determined by formal communication with law raising the level of action to the competent authorities.

CONCLUSION

At the time of creation and development of the productive forces it was created the property, then we can say that it was born the element of the state but also of the right regulated by law in the form of issuance of rules of conduct that were applied by force, with state elements and the right, moving gradually along with the development of the productive forces from the creation of the social and political system of the state forms and the right.

State and the right in the period of slavery, the code of Hammurabi has devoted some articles that means that the Babylonian inheritance right was regulated by customary law, states of ancient east in Babylon, men were the legitimate inheritors, and boys were the necessary inheritors, the first son didn't have any more rights than his brothers. The father could exclude from inheritance his son only with the consent of the court, tirahta was given to men after the death of their father, shiritka was given to the single and married women and nuduna was given to the wife, so at this time it was developed only the legal inheritance and not the testamentary one.

But in the west and slave-owner countries and ancient greek countries in Athens and in Sparta it has existed the inheritance law right. Based on customary law and traditions of the ancestors, priority in inheritance have had male descendants, the reforms of Solon in addition to legal inheritance it was applied the inheritance testament, the testator was not quite free and there were some restrictions, by testament he could reduce the inheritress part to legal inheritors, but he couldn't exclude them from the inheritance.

At the beginning in feudalism the inheritance right of franks is known as legal inheritance according to the law of saliks advantage in heritage have had the children of testator which is known as the principle of representation in inheritance and in the 5th century franks showed a form of testamentary inheritance called atomia.

But in feudalism in the independent cities-countries with a separate social and state regulation and with various monarchial and feudal legal system. When it comes to the inheritance law was quite developed and processed and that the Sheriat law accepted the legal and testamentary inheritance but it didn't accept the contracting inheritance, basis of legal inheritance were marriages, blood genders, civil genders. The legal inheritor had priority towards the testamentary inheritor while form of the civil gender in the right of sheriat was adoption, custody and letting the slaves free.

The right of inheritance, which is considered as one of the oldest institutions of civil rights presents a social fact in society. Inheritance wealth of testator for centuries and generations has passed to inheritors by valid bases for inheritance, by law and testament and now in the modern times with a contract as well.

One of the main principles of inheritance are the principle of inheritors equality, the principle of testamentary inheritance, the principle of limiting the legal bases of inheritance, the principle of universal success, the principle of singular success and the principle of parallel implementation of the bases for inheritance. Categories of people who have the right for

inheritance are the testator which is a physic person, to reach the age of 18, to have legal ability to act, ability to assume juridical-civil rights and obligations, to have ability in a mental state and to understand his actions. The Inheritor is inheritor of a wealth and can be a physic or juridical person. Every person who was born alive or is active within the 300 days after the death of the testator has the right to inherit. In the first place as inheritors can be the children or grandchildren, the husband some the second (when there's no child, parents of the testator) the thirds comes sisters and brothers of the testator and their children as well, the fourth comes the grandfather and grandmother and the fifth comes the public authority.

Basis notions in inheritance relations are the inheritance of wealth, the inheritance, the inheritor, the testator, and the juridical base of inheritance.

As an object of inheritance we think of a certain wealth which consists of movable and immovable property and other real rights that are related with this wealth. In the objective meaning we can define as legal regulation of property from the testator to the inheritor but in the subjective meaning of the inheritance rights lies on the authority of a person to inherit the wealth of another person after his death.

In the testamentary inheritance which stands as a law according to the testament is an act of unilateral conduct by its legal inheritance, through which he disposes of for the time after the death, we have the written testament by the testator himself, the written testament in the presence of witnesses and judicial testament, testament made in unexceptional circumstances. To make a testaments takes good ability to do it and ability to inherit, but we had the revocation of the testament and invalidity of the testament and superseding the testamentary inheritance.

Review of inheritance is regulated in the law on non-contested procedure with common provisions, prior procedural actions and actions that are related with the testament and procedures of the court after increasing the act of death and review of hereditary estate the court issues a ruling on inheritance then the inheritors requirements after receiving the final decision on inheritance and procedures in the case when the authority of the foreign state is competent, management and exploitation of the common things, division of movable things in ownership.