

Succession Certificate as Main Executing Document of Legal Basis for Succession Rights Granting: Problematic Issues and Solution Opportunities

Edvard Pilipson

Rīga Stradiņš University, Doctoral department, Latvia

Introduction. The main legal source for succession certificate granting within the territory of the European Union is Regulation (EU) No 650/2012. The main problem of Regulation (EU) No 650/2012 is this document's legal regulation scope – this document action does not spread its force to the relationships, arising from matrimonial property regimes. As known spouses have a legal opportunity to establish succession regime by marriage contract. In situation of the Civil Law of the Republic of Latvia (section 114) and German Civil Code (section 2276), this contract can contain testamentary dispositions.

Aim, Material and Methods. The aim of this study was to research succession certificate issuing under European Union is Regulation (EU) No 650/2012 as the main document to final probation proceeding. To conduct the research, analytical method was used.

Results.

1. Testamentary obligation execution process which arises from succession contract by the present moment generates legal uncertainty and instability – testamentary obligations fixed in concluded contract could not be separated clearly from obligations, arising from family relationships.
2. Despite the fact that succession certificate provides as a legal basis for inheritance succession contract institution, this document does not establish the order and sequence of testamentary obligations execution under inheritance contract concluded between spouses.
3. Succession certificate granting under the situation of the concluded marriage contract with testamentary dispositions by the order prescribed by the Regulation (EU) No 650/2012 connected with serious difficulties – this document's legal force is not sufficient to ensure succession certificate granting under the situation of marriage contract which contains testamentary dispositions.

Conclusions. Suggestion to resolve problematic situations: testamentary obligations execution certificate creation and normative regulation adoption.

1. To resolve current complicated situation, testamentary obligations execution certificate should be developed and implemented.
2. Testamentary obligations execution certificate should determine testamentary obligation execution in time, space, denote this extent.
3. Certificate should be issued in qualified, notary form. The presence of this form allows to authorise persons (creditor and debtor) to determine concrete orderliness and details for obligation execution beginning and expiry.
4. After testamentary obligation execution in nature, certificate should be submitted to competent authority – land register or other public institution or body.
5. Summarising the mentioned above, it seems necessary to state that testamentary executing certificate should be fixed in legislation as subsidiary legal base for inheritance final proceeding.