

Inheritance by Contract Institution Subject Matter Conception: Integration Necessity between Succession Law and Obligation Law

Edvard Pilipson

*Rīga Stradiņš University,
Doctoral Studies Programme "Law", Latvia*

Introduction. Traditionally, succession law and obligation law possess subject matter conceptions that are contrary to each other.

Material and Methods. To conduct the research, legal act interpretation method was used. Succession law as a main subject matter understands category "*legacy is a legal person (entity)*". This conception is proved by examples as follows:

1. An estate is a legal person [Civil Law of the Republic of Latvia. Inheritance Law. Section 383].
2. A debt owed to a decedent is not charged against the intestate share of any individual except the debtor. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's descendants. [Uniform Probate Code Section 2-110].
3. Unless notice has already been given under this section, a personal representative upon appointment [may] [shall] publish a notice to creditors once a week for three successive weeks in a newspaper of general circulation in the [county] announcing the appointment and the personal representative's address and notifying creditors of the estate to present their claims within four months after the date of the first publication of the notice or be forever barred [Uniform Probate Code Section 3-801].

The subject matter of the obligation law is often characterised with unstable and indirect nature which is frequently limited with a definition of the conclusion of contract without its subject matter definition:

1. (1) By virtue of an obligation an obligee is entitled to claim performance from the obligor. The performance may also consist in forbearance. (2) An obligation may also, depending on its contents, oblige each party to take account of the rights, legal interests and other interests of the other party [German Civil Code. Book 2. Law of Obligations. Section 241. Duties arising from an obligation].
2. The conclusion of a contract requires a mutual expression of intent by the parties. The expression of intent may be express or implied. [Federal Act on the Amendment of the Swiss Civil Code (Part Five: The Code of Obligations). Article 1. Conclusion of the Contract].

Aim. The aim of this paper is to explore succession law and obligation law conceptions and norms under the situation of the inheritance by contract institution and to clarify these norms interaction and their possible collisions.

Results. In the situation of legal norms in their actual position, it is quite difficult to correctly generate inheritance by contract subject matter conception.

Conclusion. Because the subject matter of the inheritance by contract institution includes both obligation law and succession law essential parts and categories which often contradict each other and sometimes demonstrate legal instability seems necessary to elaborate specific inheritance by contract institution subject matter. This action must be carried out by the isolation of norms which endowed with an optional nature and with the introduction of norms of imperative, mandatory character.