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DOI <https://doi.org/10.26661/hst-2022-12-89-12>PROBLEMS OF LEGAL REGULATION OF INHERITANCE RELATIONS
IN LITHUANIAN LAW IN THE CONTEXT OF EUROPEAN UNION LAWOLEGAS, BERIOZOVAS¹
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Abstract

The relevance of this study. Considering globalization and social changes taking place in society, the role of inheritance law as a separate institution remains particularly significant. The principle of free movement of people established by EU legislation leads to the increasingly frequent emergence of inheritance-related relations, which are not linked only to one state. According to statistical data in 2018 more than half a million EU inheritance cases per year consist of international inheritance cases, i.e. about 10 percent of all EU inheritance cases. This number is determined by the fact that, after the opening of EU borders, more and more citizens of EU member states enter into marriages with citizens of other states, acquire property in a state other than their nationality, work in and settle in foreign states. For example, even several million Polish citizens live in other EU countries, and in a country like Luxembourg more than 20 percent of the total population are foreigners. In such a situation, in the case of inheritance, a number of questions may arise related to the determination of the circle of heirs of the decedent and the property owned by him. **The main problems.** The researched problem in the process of handling international inheritance cases is determined by the different practice of regulating these legal relations in the EU member states. In addition to the Inheritance Regulation, which aims to unify this practice, EU member states also apply their national legislation. For this reason, heirs may face conflicts between different legal systems, different interpretations of inheritance law and its application. In some EU countries (Czech Republic, Hungary, Germany, Estonia, Austria, Spain, Latvia), an inheritance agreement defined by the Inheritance Regulation is possible, however, in Lithuania, such a transaction is not carried out at the time of inheritance and there is no equivalent of such a document. The problems raised in the article related to the regulation of inheritance relations in the context can be described in three ways: 1. The problem of practical application of legal acts regulating the legal relations of international inheritance; 2. The problem of recognition and enforcement of court decisions, court agreements and other documents issued in inheritance cases in foreign countries; 3. The problem of ensuring the principles of equality and unity of inheritance in international inheritance cases.

The following tasks: 1. To determine the theoretical prerequisites for the formation of the inheritance institute as an independent branch of civil law. 2. To analyze EU international and Lithuanian national legal acts regulating inheritance relations, as well as the operating principles and application features of these relations established in them. 3. After disclosing the legal significance of court judgments in EU inheritance cases, concluded court agreements and other documents to be issued in inheritance cases, present the basis of the difficulties arising in foreign countries with their recognition and enforcement. 4. On the basis of normative regulation and emerging court practice, to define the problems of the practical application of international inheritance relations in the EU, proposing ways to solve them. **The aim of this work:** after determining the difficulties in the application of legal acts regulating international inheritance relations in the national law of the EU and Lithuania, evaluate the effectiveness of the process of examining inheritance cases. **The paper concluded:** the analysis of EU international and Lithuanian national legal acts regulating inheritance relations and the principles of operation and application of these relations established in them showed that complex application of national, international and EU law is necessary in cases of international inheritance. **The novelty-** today, there are

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different practices of regulating inheritance relations in the international space. In the absence of a clear established legal practice, persons who may have to deal with international inheritance cases, hoping for a quick and clear procedure announced by the Inheritance Regulation, in order to exercise their rights, may experience actual difficulties related to the different application of these rights or their interpretation by individual states. The analysis of legal acts regulating inheritance relations of an international nature presented in the article will be useful in identifying the main gaps in this regulation, creating prerequisites for searching for opportunities for its further improvement. **As the result** – after revealing the legal meaning of court decisions, court agreements and other documents to be issued in inheritance cases in the EU, it was found that their recognition in foreign countries and, accordingly, their enforcement is not always successful. **The used methodology** document analysis, systematic analysis, comparative analysis, logical – analytical and meta – analysis methods.

Keywords: inheritance, free movement, legal practice, legal relations of international inheritance.

Introduction

Statement of the problem

The researched problem in the process of handling international inheritance cases is determined by the different practice of regulating these legal relations in the EU member states. In addition to the Inheritance Regulation, which aims to unify this practice, EU member states also apply their national legislation. For this reason, heirs may face conflicts between different legal systems, different interpretations of inheritance law and its application. In some EU countries (Czech Republic, Hungary, Germany, Estonia, Austria, Spain, Latvia), an inheritance agreement defined by the Inheritance Regulation is possible, however, in Lithuania, such a transaction is not carried out at the time of inheritance and there is no equivalent of such a document. The problems raised in the article related to the regulation of inheritance relations in the context can be described in three ways: 1. The problem of practical application of legal acts regulating the legal relations of international inheritance; 2. The problem of recognition and enforcement of court decisions, court agreements and other documents issued in inheritance cases in foreign countries; 3. The problem of ensuring the principles of equality and unity of inheritance in international inheritance cases.

Relevance of the topic when handling inheritance cases of an international nature, one encounters different regulatory practices of the EU member states on this issue. This creates the risk of duplication of inheritance cases and the occurrence of unequal distribution of assets left by the same decedent, possibly even to completely different heirs. In order to simplify and unify inheritance procedures with an international element in the EU, in 2012 July 4 the Inheritance Regulation was adopted by the EU Parliament and the Council of the EU, which establishes the legal norms applicable to courts dealing with inheritance cases. However, the Inheritance Regulation aims at the entire inheritance, regardless

of the origin of the property that constitutes it and its actual location, and the encompassing regulation is difficult to implement in practice. Meanwhile, the EU jurisprudence of international inheritance cases is only emerging and more and more cases concerning the interpretation of the application of the law reach the CJEU. Taking into account the gaps in the legal regulation of international inheritance relations and the growth of migration and mortality rates in the EU, i.e. to the corresponding possible increase in international inheritance cases, there is a need to find ways to ensure greater clarity of this process, its fair and uniform regulation.

The aim of the research after determining the difficulties in the application of legal acts regulating international inheritance relations in the national law of the EU and Lithuania, evaluate the effectiveness of the process of examining inheritance cases.

Results

It should also be noted that there are cases when only property registered or actually existing in the country where the inheritance is handled is inherited, and the parties to the inheritance process may not even be aware of the property belonging to the decedent located in a foreign country. Problems could also arise regarding the correct determination of the circle of heirs. The institution managing the inheritance may not know about the marriages concluded by the decedent in other states or the children they have, if these data were not submitted to the registers of the state where the inheritance case is conducted in accordance with the established procedure. These circumstances lead to the risk of inheritance fragmentation and duplication of inheritance cases in several states.

Principles of inheritance law and their significance

In paragraph 1 of Article 5.1 of the Lithuanian Civil Code, inheritance is defined as "the transfer of property rights, duties and some personal non-property rights of a deceased natural person to his heirs

according to the law or (and) heirs according to the will" (Civil Code of the Republic of Lithuania..., 2001). The concept of inheritance law is specified in paragraphs 1 and 2 of Article 5.1 of the Civil Code, emphasizing that "tangible things (immovable and movable objects) and intangible things (securities, patents, trademarks, etc.), property claims of the decedent and rights of the decedent can be inherited" property obligations, in cases provided by law, intellectual property (property rights of authors to literary, scientific and artistic works, related property rights and rights to industrial property) and other property rights and obligations established by law. Non-inheritable personal non-property and property rights, inseparably related to the person of the decedent (right to honour and dignity, authorship, right to the author's name, to the inviolability of the work, to the name of the performer and the inviolability of the performance), the right to alimony and allowances paid to support the decedent, the right to pension, except for exceptions established by law" (Civil Code of the Republic of Lithuania..., 2001). Inheritance law applies common law, general civil law, as well as special principles of inheritance law (Chamber of Notaries of Lithuania..., 2018).

Special legal principles applicable to inheritance can be determined from doctrine, case law and the content of specific legal norms. Regardless of the fact that legal doctrine does not provide a unified list of principles of inheritance law, the following basic principles of inheritance law are distinguished: universal transfer of rights, freedom of the testator and family inheritance (Čaplinskiene, 2011).

Part 2 of article 5.1 of the Lithuanian Civil Code states that "inherited material things (real and movable objects) and intangible things (securities, patents, trademarks, etc.), the property claim rights of the decedent and the property obligations of the decedent, in cases provided by law, intellectual property (authors' property rights to works of literature, science and art, related property rights and rights to industrial property) and other property rights and obligations established by law" (Civil Code of the Republic of Lithuania..., 2001).

The fourth book of the Lithuanian CC defines the concepts of things and their types. Problematic situations can arise when dealing with an inheritance with an international element, because the same property may be classified as movable property under the law of one country, but it may be perceived as immovable property in another country (for example: a beehive is movable in the law of

the Netherlands, but it is considered immovable in France (Broniušienė, 2018).

In some foreign countries, the regulation of inheritance legal relations is the exclusive prerogative of the courts. For example, in Austria, the inheritance procedure is considered a judicial process, which, upon the death of a person, is automatically initiated by the district court of the deceased person's place of residence. The process itself is carried out by a notary, but he does so as a representative of the court, who acts on behalf of the court in Austria, and the legal procedure itself ends with a court decision. Meanwhile, in Germany, only the court is competent to handle inheritance cases (Golichenko, 2015).

According to the law, the spouse and relatives of the deceased have the right to inherit. In Lithuania, the kinship ties and degrees that correspond to the persons who have the right to inherit the property and property rights remaining after the death of the deceased are established in Article 5.11 of the Civil Code. The list presented in this CC article is exhaustive and cannot be expanded. In Lithuania, based on the data provided by the Register of Residents, the relationship of the heirs is established by a notary. In the event that the data and information from the registers are not sufficient, documents proving the relationship of kinship are submitted in the inheritance file. The relationship of kinship can also be determined through the court (1972 May 16 Convention on the establishment of a system of registration of wills..., 2022).

In conclusion, it should be noted, that during the inheritance process, the inheritance passes to the heirs as a whole set of rights and obligations, and the heir cannot accept or refuse only a part of the inheritance. The heir has the right to express his/her will regarding the acceptance or rejection of the inheritance in accordance with the procedure and terms established by law. The principles of inheritance law are closely related and applicable together. They help to correctly understand and apply inheritance law. However, these principles are not absolute; they complement each other, but sometimes limit each other. Thus, the principle of family inheritance essentially limits the principle of the testator's freedom and vice versa.

Analysis of legal acts establishing international inheritance legal relations

Citizens of EU member states enjoy all the freedoms of movement of persons, labor and capital. It is not surprising that, due to these circumstances, more and more legal relations of family and inheritance are formed, which are associated with not one, but two

or even more states. Migration rates are increasing rapidly in other (non-EU member states) countries as well. The number of citizens of other countries coming to Lithuania for permanent or temporary residence is growing. According to the data of the Migration Department under the Ministry of Internal Affairs of the Republic of Lithuania in Lithuania in 2022 January 1 the number of living foreigners is 100,184 people (Main indicators of migration in the Republic of Lithuania..., 2022). The largest part of them consists of citizens of other countries who came from the Republic of Belarus and Ukraine. The number of war refugees from Ukraine registered by the Migration Department in 2022. March 11 consists of as many as 10,522 units. These numbers lead to the need to apply the norms of international law more and more often, including in cases of inheritance (Statistics..., 2022).

The principles of international jurisdiction in international inheritance cases in Lithuania are established by Article 787, Part 1, Clause 3 of the Criminal Procedure Code, which stipulates that cases to be examined by dispute law are subject to the jurisdiction of Lithuanian courts, if "the subject of the dispute is an object located in Lithuania, an inheritance located in Lithuania or an obligation that arose or must be fulfilled in Lithuania" (Law on approval, entry into force and implementation of the Code of Civil Procedure of the Republic of Lithuania..., 2002). Part 2 of Article 810 of the Civil Code facilitates the conditions for recognition of foreign court decisions in Lithuania, if the requested recognition of the decision of a court of a foreign country is confirmed in accordance with the law of that country, that a person living in Lithuania acquires an inheritance that was in the territory of that country at the time of the deceased's death (Chamber of Notaries of Lithuania..., 2018).

The EU, although it can be considered a unified entity, has not unified the national legal systems of all its members, which is why the rules applicable to the succession process in the member states differ greatly. One of the first attempts at the international level to harmonize the norms of the inheritance law institute of different states was in 1961. October 5 Adoption of the Hague Convention on the Conflict of Laws Related to the Form of Testamentary Will (participants of this convention are Denmark, Norway, China, Estonia, etc.). This convention was aimed at eliminating contradictions between different states regarding the requirements set by their laws for the form of expression of testamentary will. This con-

vention was most notable for the fact that it regulated the law applicable not only to individual inheritances, but also to general wills (1961 October 5 the Hague Convention on the Conflict of Laws Governing the Form of Testamentary Provisions..., 2022).

In 1972 The Council of Europe adopted the Basel Convention already mentioned in this thesis, the participants of which are Cyprus, Luxembourg, Belgium, Estonia, Denmark, Italy, France, Germany, Holland, etc. This convention has been in force in Lithuania since 2004. August 20 1973 is also worth mentioning. UNIDROIT Washington Convention on the Form of International Testament Establishing a Uniform Law (participants of this convention are Iran, Russia, France, Canada, USA, Vatican, Belgium, Portugal, etc.). It provides for an international registration system and has been attempted to establish an international will (common form). This attempt was not successful and the form of international will is not common, but it is still used in Portugal. In the same year, the Hague Convention on the Administration of the Estate of Deceased Persons was signed (participants of the convention – Holland, Italy, Luxembourg, Portugal, Great Britain, etc.), the purpose of which was to facilitate the international administration of the estate and to create an international certificate that would give the right to the person appointed by the testator to administer movable property belonging to him.

In 1989, an attempt was made to unify the law applicable to inheritance relations in different states. The Hague Convention on the Law Applicable to Succession Relations was adopted. However, in Europe, only Luxembourg and the Netherlands signed it and it never entered into force.

In 2005 The European Commission has launched a consultation on inheritance issues with an international dimension, presenting the Green Paper "Inheritances and Wills". In the Green Paper, the European Commission stated that it is not possible to harmonize the provisions of the substantive law of the member states, therefore it was chosen to act in the context of the conflict of laws, i.e. i.e. to decide the question of applicable law. Regarding the applicable law, the Green Paper mentions two alternatives, the law of nationality or the law of habitual residence, as an issue that requires a lot of attention (2005 March 1 Green Book – Successions and Wills..., 2022).

In order to create more favorable conditions for international inheritance, the Inheritance Regulation adopted by the European Parliament and the Council, which has been applied in all EU member states

(except the United Kingdom, Ireland and Denmark) since 2015, should be considered an important step. August 17 and intended for persons, who died in 2015 August 17 or later, for inheritance (2012 July 4 Regulation (EU) of the European Parliament and Council No. 650/2012..., 2022).

The European Commission states, "The Inheritance Regulation ensures that inheritance cases are handled consistently, using one legal system, and that one institution deals with it. [...] The fact that in the case of international inheritance, one legal system is applied and one institution carries out the process, avoids duplication of process and conflicting court decisions. In this way, the recognition of the judgment of the Member State court ensured throughout the EU without additional procedures. This regulation also introduced the European Succession Certificate" (Chamber of Notaries of Lithuania..., 2018).

It should be noted that the Inheritance Regulation establishes a general rule – the law of the decedent's habitual residence on the day of death applies to the inheritance of all the decedent's property, and the inheritance case is handled by the authorities of the state where the decedent's habitual residence was on the day of death (The procedure for registration of inheritance rights in Lithuania..., 2022). The Inheritance Regulation itself establishes that it does not affect the application of international conventions to which one or more member states are parties at the time of the adoption of this Regulation and which related to the issues regulated by this Regulation. The succession regulation takes precedence only in relation to conventions concluded by EU member states. For example, if the inheritance related to Lithuania and Estonia, the notary would apply the provisions of the Inheritance Regulation and would not apply the provisions of the international agreement on legal aid concluded by Estonia, Latvia and Lithuania. However, when the inheritance is related to other countries (for example, the decedent had property in both Lithuania and Russia), the Inheritance Regulation would not apply. In this case, 1992 would apply concluded the agreement between the Republic of Lithuania and the Russian Federation on legal assistance and legal relations in civil, family and criminal cases. EU law must be applied by the courts *ex officio*, i.e. For Lithuania, as a member of the EU, the application of the Inheritance Regulation is mandatory and takes precedence over the rules of national law regulating inheritance of an international nature (1992 July 21 Agreement between the Republic of Lithuania and the Russian Federation..., 1995).

The Inheritance Regulation also establishes norms aimed at ensuring that a court decision related to inheritance passed in one EU member state or a document issued by a notary public is more easily recognized in another EU member state. It should be noted that despite the fact that the Inheritance Regulation is not binding on the United Kingdom, Ireland and Denmark, it might be applied to the inheritance of citizens of any of those countries or in cases where the decedent resided permanently or had property in any of these three countries. In addition, this means that in cases where the law of one of these states is applicable under the Succession Regulation, the authorities of the Member State dealing with the case of an international succession must take into account the fact that the law of a third country is applicable and may be guided by a "*renvoi*" principle.

There are quite a few countries that are not members of the EU, but with which Lithuania has international inheritance cases (hereinafter – other countries) and, unfortunately, Lithuania has not established relations with all such countries in the field of inheritance. In the field of inheritance, Lithuania has ratified only one multilateral convention, which came into force in 2004. August 20 – 1972 Convention of the Council of Europe on the creation of a system of registration of wills. This convention enables the testator to register his own will in a state other than his place of residence.

Attention should be drawn to the fact that Lithuanian legal acts provide for certain restrictions (acquiring ownership of land, inland waters and forests) for entities of foreign states that do not meet the criteria of European and transatlantic integration chosen by Lithuania, which are listed in the Constitutional Law on the Implementation of Article 47, Part 3 of the Constitution of the Republic of Lithuania Article 4 (Constitutional Law on the Implementation, 1996). These criteria are met only by Ukraine, Moldova and Georgia from the states with which Lithuania has concluded bilateral agreements regulating inheritance rights.

Inheritance of immovable property would always be governed by the law of the state where the immovable property owned by the testator is located. In the meantime, depending on the specific contract, the law of the state of the citizenship of the decedent, the law of the state of the last place of residence of the decedent, or the law of the state of the presence of the movable property is determined for the inheritance of movable property. As for the law applicable to the recognition of a will, the international treaties

discussed in this subsection of the thesis, unlike the Inheritance Regulation, only determine the basic requirements of the form of the will to which they must comply.

It should be noted that, in accordance with the laws of the contracting states, inherited "intangible" property passes to the ownership of the state: movable property is transferred to the state of which the decedent was a citizen at the time of his death, and immovable property passes to the property of the state in whose territory it is located. Ownership rights to assets that can be physically transferred pass to the state of the decedent's nationality (Chamber of Notaries of Lithuania..., 2018).

In summary, the inheritance legal relations of Lithuania and other states (non-EU member states), which have an international nature, are regulated fragmentarily by bilateral or tripartite legal aid and legal relations agreements. The conflict of law norms applicable to the inheritance of movable and immovable property are established in the agreements concluded between Lithuania and other countries, which regulate cases of assignment of an international nature associated with these countries. However, it should be noted that, without delving into the criteria for determining international jurisdiction and competence, such regulation leads to the fact that there are no provisions for states regarding the criteria (for example, the presence of real estate, the last place of residence of the decedent, citizenship or the place where the movable property is located), which would have priority over the inheritance of all the inherited property. For these reasons, two (or even several) different inheritance cases related to one decedent may be handled simultaneously in different states.

Problematic issues of international inheritance proceedings

When assessing the court practice related to the examination of international inheritance cases in Lithuania, it should be noted once again that the main process of conducting inheritance cases (including international ones) in Lithuania is organized by notaries. Courts in Lithuania usually intervene in this process only when the heirs apply for the renewal of the missed deadline for acceptance of the inheritance, determining the acceptance of the inheritance by the actual management of the heir's property or the facts of the authenticity of the documents, when a dispute arises in the inheritance case to be resolved by the court procedure or in cases of determining jurisdiction in cases of assignment of an international nature. There are quite a lot of cases filed on these grounds every

year. According to the statistical data of the examination of civil cases, in 2021, 506 cases related to inheritance relations were received in Lithuanian courts of first instance, 41 of which related to the determination of jurisdiction in the international nature of the inheritance process (2021 statistical reports..., 2022).

The rules for determining jurisdiction established in the Inheritance Regulation are clear enough, the difficulties arise more in determining the decedent's usual place of residence on the day of his death. This concept is not precisely defined in the Inheritance Regulation, just like the concept of the courts already mentioned in this thesis of mine, and although the CJEU has already been referred to the CJEU for its clarification at the request of the LAT, unfortunately the CJEU's interpretation was not comprehensive and in each case, when initiating an international inheritance case, the obligation remained decide on the usual place of residence of the decedent individually, after assessing many circumstances connected with the life of the decedent (2020 of the Court of Justice of the European Union (First Chamber) July 16 decision in civil case..., 2022).

It should be noted that, taking into account the fact that according to the provisions of the Inheritance Regulation, judgments of courts of other EU member states should also be automatically recognized in Lithuania and cause the same legal consequences as they would cause in the country of adoption, without applying for the declaration of such judgments as enforceable to the Lithuanian Appellate Court. court (unless there is a dispute about it), and if such court decisions determine any rights of individuals in legal relations of inheritance that must be implemented in Lithuania, all Lithuanian institutions (including notaries and state registries) must rely on and be guided by such decisions of other EU member states decisions made by the courts (Chamber of Notaries of Lithuania..., 2018).

In summary, the practice of Lithuanian courts in international inheritance cases is usually limited to establishing jurisdiction in them, as well as in cases where disputes arise in the inheritance process. When making decisions in inheritance cases, in addition to national legal acts, Lithuanian courts are also guided by ratified international treaties and EU legal acts, and among them, first of all, the Inheritance Regulation. Among them, it is worth noting that in the practice of the CJEU in inheritance cases of an international nature, many processes related to the interpretation of the established concepts of the Inheritance Regulation are observed.

Conclusions

1. The formation of the Institute of Inheritance as an independent branch of civil law is determined by the need to regulate inheritance relations by legal norms, establishing the main principles of the distribution of the inheritance and the general order of this process, in order to ensure the implementation of the expressed will of the decedent, the balance and protection of the legitimate interests of his heirs and creditors, the inheritance itself smoothness and justice of the process. The relevance of the application of the norms of international private law in an inheritance case is determined by the presence of elements that determine its internationality, but these legal provisions are usually applied directly in the EU only to the inheritance process of an international nature, related to other (third) countries.

2. The analysis of EU international and Lithuanian national legal acts regulating inheritance relations and the principles of operation and application of these relations established in them showed that complex application of national, international and EU law is necessary in cases of international inheritance. One of the main legal acts regulating international inheritance relations in the EU is the Inheritance Regulation, but due to the different interpretation of the limits of the exception to the application of the Inheritance Regulation, a number of difficulties arise in transferring its provisions to the national law of the EU member states.

3. After revealing the legal meaning of court decisions, court agreements and other documents to be issued in inheritance cases in the EU, it was found that their recognition in foreign countries and, accordingly, their enforcement is not always successful. The

Inheritance Regulation does not clearly define which documents related to the examination of inheritance cases in the EU states have the same legal force and cause the same consequences in inheritance cases of an international nature, which, due to the peculiarities of the national laws of the EU states, in practice causes problems related to the determination of the authenticity of these documents, and due to the fact that in the recognizing state the specifics of the established public order may even lead to the risk of these documents being declared unenforceable in that country.

4. The analysis of the normative regulation of international inheritance and emerging judicial practice shows that, in addition to the complexity of the uniform application of the provisions of the Inheritance Regulation in the international inheritance process, a number of problems arise related to the status of natural persons, their capacity, family relationships and relationships considered according to the law applicable to them causing similar effects, determining what causes difficulties in the implementation of the principle of freedom in the inheritance process of an international nature.

5. As practice shows, the Inheritance Regulation is equally applied by EU member states only when determining jurisdiction in the process of conducting an international inheritance case and the law applicable to this case, when conducting the inheritance case itself, states usually choose to apply national legal norms rather than the provisions established in the Inheritance Regulation. The reluctance of the EU member states to achieve a uniform practice of handling cases of an international nature to the greatest extent also determines the problematic nature of the handling of these cases.

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ПРОБЛЕМИ ПРАВОВОГО РЕГУЛЮВАННЯ СПАДКОВИХ ВІДНОСИН У ЛИТОВСЬКОМУ ПРАВІ В КОНТЕКСТІ ПРАВА ЄВРОПЕЙСЬКОГО СОЮЗУ

Анотація.

Актуальність даного дослідження. В умовах глобалізації та соціальних змін, що відбуваються в суспільстві, роль спадкового права як окремого інституту залишається особливо значною. Закріплений законодавством ЄС принцип вільного пересування людей призводить до все частішої появи спадкових відносин, які не пов'язані лише з однією державою. Згідно зі статистичними даними, у 2018 році понад півмільйона спадкових справ у ЄС на рік складаються з міжнародних спадкових справ, тобто близько 10 відсотків усіх спадкових справ у ЄС. Це число визначається тим фактом, що після відкриття кордонів ЄС все більше громадян країн-членів ЄС вступають у шлюби з громадянами інших держав, набувають майна в державі, відмінній від свого громадянства, працюють і поселяються в іноземних державах. Наприклад, навіть кілька мільйонів польських громадян живуть в інших країнах ЄС, а в такій країні, як Люксембург, більше 20 відсотків населення є іноземцями. У такій ситуації при спадкуванні може виникнути низка питань, пов'язаних із визначенням кола спадкоємців спадкодавця та належного йому майна. Основні проблеми. Досліджувана проблема у процесі розгляду міжнародних спадкових справ зумовлена різною практикою регулювання цих правовідносин у державах-членах ЄС. На додаток до Регламенту про спадкування, метою якого є уніфікація цієї практики, країни-члени ЄС також застосовують своє національне

законодавство. З цієї причини спадкоємці можуть зіткнутися з конфліктами між різними правовими системами, різними тлумаченнями спадкового права та його застосування. У деяких країнах ЄС (Чехія, Угорщина, Німеччина, Естонія, Австрія, Іспанія, Латвія) можливий спадковий договір, визначений Регламентом про спадкування, однак у Литві такий правочин не здійснюється під час спадкування та еквівалента такого документа немає. Порушені у статті проблеми, пов'язані з регулюванням спадкових відносин у контексті, можна охарактеризувати трьома напрямками: 1. Проблема практичного застосування нормативно-правових актів, що регулюють правовідносини міжнародного спадкування; 2. Проблема визнання та виконання судових рішень, судових угод та інших документів, виданих у спадкових справах в іноземних державах; 3. Проблема забезпечення принципів рівності та єдності спадкування в міжнародних спадкових справах. Завдання: 1. Визначити теоретичні передумови становлення інституту спадкування як самостійної галузі цивільного права. 2. Проаналізувати міжнародні правові акти ЄС та національні правові акти Литви, що регулюють спадкові відносини, а також закріплені в них принципи дії та особливості застосування цих відносин. 3. Після розкриття правового значення судових рішень у справах про спадщину в ЄС, укладених судових угод та інших документів, які мають бути видані у справах про спадщину, представити основу труднощів, що виникають в іноземних державах з їх визнанням та виконанням. 4. На основі нормативного регулювання та судової практики, що формується, визначити проблеми практичного застосування міжнародних спадкових відносин в ЄС, запропонувавши шляхи їх вирішення. Мета роботи: визначивши труднощі застосування правових актів, що регулюють міжнародні спадкові відносини, у національному праві ЄС та Литви, оцінити ефективність процесу розгляду спадкових справ. У статті зроблено висновок: аналіз міжнародних правових актів ЄС і Литви, які регулюють спадкові відносини, і встановлених у них принципів функціонування та застосування цих відносин показав, що у справах про міжнародне спадкування необхідне комплексне застосування національного, міжнародного права та права ЄС. Новизна – сьогодні в міжнародному просторі існують різні практики регулювання спадкових відносин. За відсутності чітко встановленої юридичної практики особи, яким, можливо, доведеться мати справу з міжнародними спадковими справами, сподіваючись на швидку та чітку процедуру, оголошену Положенням про спадкування, для реалізації своїх прав, можуть відчувати реальні труднощі, пов'язані з різними заявами цих прав або їх тлумачення окремими державами. Наведений у статті аналіз нормативно-правових актів, що регулюють спадкові відносини міжнародного характеру, буде корисним для виявлення основних прогалин цього регулювання, створення передумов для пошуку можливостей його подальшого вдосконалення. Як наслідок – після виявлення правового значення судових рішень, судових угод та інших документів, які мають видаватись у спадкових справах на території ЄС, було виявлено, що їх визнання в іноземних державах і, відповідно, їх виконання не завжди є успішним. методологія аналізу документів, системного аналізу, порівняльного аналізу, логіко-аналітичних та мета-аналізних методів.

Ключові слова: спадкування, вільне пересування, юридична практика, правовідносини міжнародного спадкування.

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