

Legal position of the forced heir

Abstract

This rigorous thesis discusses the legal position of the forced heir. This is one of the major topics in the law of succession and it affects wider public. Forced heirs are guaranteed to receive special protection consisting mainly of property inheritance benefits, even against the will of a testator. Defining the legal position of the forced heir represents a certain compromise between the principles of mandatory family protection and the autonomy of the testator's will.

The goal of this thesis is to provide a comprehensive overview of the position of the forced heir, focusing on certain disputable topics and practical applications. The thesis aims to link legislation with practical examples and to describe changes that are being introduced to the legal status of forced heirs by the practise of courts and by professional literature. Special attention is given to the compulsory portion, collation and the forced heir's position in the inheritance proceedings.

The rigorous thesis consists of seven chapters, each of them divided into subchapters for clarity. The first chapter discusses the basic principles related to forced heirs. The second chapter consists of the basic institutes of the law of succession in relation to forced heirs. The third chapter provides an in-depth analysis of the compulsory portion and related topics. The fourth chapter discusses collation and the traditional institute of forced heir protection which is known as the claw-back mechanism. The fifth chapter analyses the position of the forced heir in inheritance proceedings. The sixth chapter considers the options available to forced heirs to claim their compulsory portion outside of the inheritance proceedings. The seventh chapter compares the designation of forced heirs and the size of their compulsory portion in several selected European countries. The conclusion of this thesis contains a summary of the whole issue, as well as some suggestions for modifications of *de lege ferenda*.

Key words

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forced heir, compulsory portion, inheritance proceedings