



The Invalidity of Renunciation of Inheritance According to Law in Kosovo

Kastriote Vlahna¹, Argona Kuci², Dafina Vlahna³

University of Pristina "Hasan Prishtina", Pristina, Republic of Kosovo^{1,3}

South Eastern European University, North Macedonia²

kastriote.vlahna@uni-prizren.com

KEYWORDS

Right to inherit, relinquishment of inheritance, declaration, law.

ABSTRACT

As a complex legitimate wonder, the refusal of legacy has been the subject of noteworthy consideration in legitimate ponders in different nations. This investigation points to investigate perspectives related to the weakness of legacy dissent concurring with the law in Kosovo. The researcher uses expressive explanatory strategies to illuminate the miracle of women's heritage denial in Kosovo. The information used consists of two types: important information and additional information. Information collection strategies include consideration of perceptions, interviews and documentation. Preparation for the information examination begins with the translation of the meeting. Information is coded and categorized to differentiate designs and main findings. This investigation lasted six months, starting with preparation, gathering information, investigating information, and planning the final report. According to the Law on Inheritance of the State of the Republic of Kosovo, it is allowed for the heir to reject the property inherited from his parent or any other person; all this can happen because there are cases when the debts exceed the assets of the deceased. In this case, it may move you to disinherit.

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Corresponding Author: Kastriote Vlahna

Email: kastriote.vlahna@uni-prizren.com

INTRODUCTION

As a complex legitimate wonder, the refusal of legacy has been the subject of noteworthy consideration in legitimate ponders in different nations (Leclair, 2019). One viewpoint that analysts have considered is the wrongness of legacy refusal, particularly within the lawful setting in Kosovo. Dismissal of legacy alludes to the activity of a beneficiary to deliberately dismiss or give up his or her rights to the legacy left by the testator. Legacy refusal is of significant concern within Kosovo due to its critical predominance among beneficiaries, particularly ladies.

As a locale encountering energetic post-conflict legitimate improvement, Kosovo offers a curious field for understanding the marvel of legacy refusal (Monk & Mundy, 2014). Lawful hone in Kosovo indicates that inheritance denial frequently happens, including among female beneficiaries. There is still little apparent understanding of the reasons behind this dismissal choice, its suggestions for legacy rights and the position of ladies in Kosovar society.

In this setting, this investigation points to perspectives related to the weakness of legacy dissent concurring with the law in Kosovo (Cachey, 2017). This incorporates a ponder of social components, standard law and composed law that impact women's choices in dismissing or giving up legacy. In expansion, this investigation will recognize and analyze the social, financial, and lawful impacts of the legacy refusal wonder in Kosovo.

Hence, this inquiry will not, as it were, make a hypothetical commitment to the understanding of legacy refusal within the lawful setting of Kosovo but will moreover give profitable bits of knowledge for legitimate arrangements aimed at expanding the assurance and strengthening of

women in terms of legacy rights. With a more profound understanding of legacy dissent, it is trusted that legitimate and social measures can be taken to guarantee that legacy dissent choices in Kosovo are based on genuine blue and reasonable contemplations and in understanding the standards of sex equity and human rights.

METHOD

In this think about, analysts utilized expressive explanatory strategies to clarify the wonder of women's legacy refusal in Kosovo. The information utilized is of two types: essential information and auxiliary information. Essential information was obtained through coordinated interviews with lawful specialists, legal officials, and a few people involved with legacy dismissal. In the meantime, the auxiliary information is obtained from legitimate arc and inquiries about reports related to the proposed point. Information collection strategies incorporate perception, interviews, and documentation. The information examination preparation started with met translation; at that point, information coding and categorization were carried out to distinguish primary designs and discoveries. The information was analyzed subjectively to investigate the components that impact women's refusal of legacy in Kosovo. This inquiry lasted six months, from arranging organ and organ animation to information information and planning of the ultimate report.

RESULT AND DISCUSSION

When the relinquishment of inheritance is invalid

For the declaration to renounce the inheritance to be valid, it must meet the legal presumptions: the content must be understandable and permissible and clearly express the free will of the heir to renounce the inheritance (Glover, 2017). Waiver of inheritance cannot be partial or conditional (Azoune, 2023). The relinquishment will be invalid when made conditional, with a term for a part of the inheritance or the benefit of one of the other heirs (Vlahna et al., 2024).

When the relinquishment is made in order for the inheritance to pass in favour of the designated heir, it will be called a declaration of assignment, and according to point 2 of Article 133 of the LTK: "Relinquishment in favour of the designated heir is not considered a relinquishment giving up the inheritance but as a declaration for the transfer of the inheritance to the designated heir".

When the heir within the term of renouncing the inheritance has performed such actions with the inheritance, for example, he enjoys and disposes of the inherited property, renting it out, alienating it, the right of renouncing cannot be applied.

Waiver of inheritance that has not been opened has no legal effect (LTK) (Vlahna & Kuçi, 2023). In the framework of this legal provision, the solution to the problem created by finding the property after examining the inheritance, this property that was not known to exist at all and was not the subject of examination in the inheritance court, should also be considered (Radian Barataseña, 2022). The declaration of renunciation of inheritance cannot create a legal effect even for the part found later. Future inheritance cannot be waived.

Consequences of disinheritance

The consequences caused by relinquishing inheritance by law differ from those caused by inheritance by will. When the heir called to inherit based on inheritance by will has renounced the inheritance, it will be divided among the legal heirs if it is not left out of the will. The testator had another intention (Sawyer & Spero, 2015).

It will be considered that the testator had other goals. The inheritance cannot be inherited by the legal heirs when, in the will, he has written the name of the person who will replace him in the inheritance if the heir designated by the will has waived the right of inheritance and has not accepted

the inheritance. The issue is different when we are dealing with inheritance by law. Where there has been a repudiation of inheritance, what happens to the denied benefits will depend on the terms of the will, if there is one (Friedmann, 2020).

For example, the testator may have stated in the will that X will inherit; failing that, Y will inherit. If X predeceases the testator or disinherits, Y will become entitled. The heir who renounced the inheritance in his name is considered as if he had never been an heir (Basset, 2018). Therefore, the other legal heirs will now inherit the part of the inheritance that would belong to him. When the heir has not explicitly stated with a statement that he renounced the inheritance only in his name, then it is considered that his descendants were also excluded from the inheritance (Vlahna et al., 2024).

Also, where a benefit is bequeathed to the spouse and surviving descendants of the deceased and then a descendant repudiates his/her share, that share will be vested in the surviving spouse. This is the case even if the will provides otherwise. The situation is, of course, different when there is no other surviving spouse. In such cases, the portion of the disclaimer shall be vested in the other successors in disorder or at will.

How the share of the person who renounced the inheritance is inherited?

From the provisions of the LTK, it appears that when the heir waives the inheritance, he has expressly stated that he waives only in his name. His descendants will inherit by replacing the heir (Woolman & Bishop, n.d.). Suppose all the descendants who belong to the closest line of succession at the time of the testator's death have renounced the inheritance (Woolman & Bishop, n.d.). In that case, the descendants of the following line of inheritance are called to the inheritance. (Podgorica) The heir renounced in his name is considered as if he had not been an heir (Sedlenieks, 2021). Specifically, the part of the inheritance of the legal heir who renounced the inheritance is inherited as if this heir had died before the testator. "Consequences of renouncing the inheritance if a person who has renounced the inheritance is considered as if he had never been an heir of the testator, it means that he cannot even use the rights that belong to him as an heir". The part of the inheritance of the heirs with a will who has renounced the inheritance now belongs to the legal heirs of the testator if the will does not provide otherwise.

Gave up female inheritance in Kosovo

In Kosovo, the right to renounce inheritance is primarily used by female heirs (Beshi, 2020). This is confirmed by the judicial practice in Kosovo, according to which it is said that it is primarily the female gender that renounces the acceptance of the inheritance (Jashari & Osmanaj, 2016). It is emphasized that women do not give any particular reason for renouncing the inheritance. So, the reasons why women are renouncing inheritance are numerous and varied (Engels & Untermann, 2021). One has to do with tradition because in our customary law, the code of Lekë Dukagjini, women have been forbidden the right to inherit. According to the canonical provisions, women have not had the right to inherit either in the family of origin or the husband's family (Kok, 2017). (Dukagjin) (Usually, women do not give any particular reason when renouncing their inheritance.") Women give up inheritance because they want to maintain their connection with their families of origin and still have their support. "In addition, when women go to their husband's family, they do not want to take the property from the family of origin because they want to maintain their biological ties with the family of origin, to have support in the family of origin". However, it should be emphasized that even though the reasons are known, when women give up their inheritance, they do not give specific reasons for giving up. In these cases, we can mention the tradition because, in our customary law, women have been denied the right of inheritance. According to the provisions of the canon, the woman did not have the right to inherit either in the family of origin or in the husband's family, which

is what is discrimination against the female gender (Universal Declaration of Human Rights) which today through the written rights has tried to equalize the gender in terms of inheritance.

CONCLUSION

According to the Law on Inheritance of the State of the Republic of Kosovo, it is allowed for the heir to reject the property inherited from his parent or any other person; all this can happen because there are cases when the debts exceed the assets of the deceased. In this case, it may move you to disinherit. In Kosovo, the same happened before the Notary Public and with the submission of the proposal to the Judicial system since the assets and debts of the deceased will be inherited. However, one must be careful, and one can even accept inheritance except for "inventory benefit". In this case, it would be inherited only if the debts do not exceed the amount to be inherited. There are times when an inheritance is complex to obtain due to the debts of one of the co-heirs, as the creditors will make things more difficult for all the beneficiaries. If there were too many debts, we might be unable to inherit anything. We could also lose inheritance if the deceased's Will was drawn up unfairly or the will was not clearly in your favour. Moreover, here, so that the inheriting party is not harmed by the inheritance when it inherits more obligations than rights, then it may be more fitting to renounce that inheritance, and within the context of explicitly renouncing the formulation of the declaration for renunciation of inheritance, make sure that the declaration of renunciation is well formulated and that the deadlines for submitting the declaration have not passed or otherwise the declaration is considered invalid absolute or relative.

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