

# **Inheritance and the Role of Notaries in Inheritance Procedure in the Republic of North Macedonia**

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## **Abstract**

In the Republic of Northern Macedonia, the right to property and inheritance are guaranteed by the state constitution and the law of inheritance. According to the Macedonian legislature, all citizens, regardless of their differences in terms of religion, race, nationality and gender under the same conditions are equal in inheritance. In the Republic of Northern Macedonia, the inheritance of the deceased is inherited primarily by his children and spouse. They inherit equal parts. In terms of inheritance, the extramarital partner equals the marital spouse, and the extramarital union created by full adoption by blood relation. When there are children of the testator that do not originate from the marriage with the surviving spouse and the property of this spouse is more than the share that would belong to him in the division of the will in equal parts, then each child of the testator has twice as much part of the inheritance than the spouse. In terms of court proceedings, in the Republic of Northern Macedonia the procedure is conducted before civil courts. The court sets up the proceedings on the basis of official duty when it receives data on the death of a certain person (death certificate). The competent court entrusts this procedure to the Notary, within eight days from the day of the beginning of the procedure. Notaries further have the authority to take action and make decisions in the inheritance procedure. When it comes to the notary as an institution, it is very old, which is proven in various documents from the time of Egyptian and Roman law. With the process of democratization of the legal systems of many countries in the world, and also with the democratization of the legal system in the Republic of North Macedonia, in 1996 notary was introduced as an independent public service, which performs public works for private interest. The significance of this paper relies on the importance of the institute of inheritance and the inheritance procedure as one of the oldest institutes of civil law, i.e. one of the largest non-litigation procedures, but also of the great social significance it has for each individual. In the Republic of North Macedonia, this procedure is regulated by the Law on non-contentious

procedure. This paper will try to focus on the work and the entrusted powers of the notary public in the inheritance procedure, as well as why the notary public was entrusted with the conduct of the inheritance procedure. All this is intended to be achieved through theoretical analysis and by analyzing cases before and after it was given to the notaries the authorization for conducting the inheritance procedure in our country. This paper in addition to having theoretical significance, will also have a number of practical aspects. Efforts will be made to show the practical importance of this paper, especially the reasons that contributed to the appearance of this novelty, i.e. the participation of the notary public in this procedure. First of all, with this unloading of the court from the inheritance procedures, the increase of the trust of the citizens, as participants in the inheritance procedure, has been achieved. Apart from this aspect, it also enables the acceleration of the resolution of cases and the increase of the efficiency of our legal system, because the cases will not remain closed in the drawers of judges for years, especially those cases that do not deserve to remain unresolved because they have nothing disputable. Through research methods will be identified difficulties in terms of legislation in the relevant field and the implementation of these legal norms in the application of regulation in this field.

**Keywords:** *Inheritance in Republic of North Macedonia, Inheritance court proceedings, Notaries as trustees of the court.*

## **Introduction**

### **Inheritance Law and Compulsory Portion in the Territory of Republic of North Macedonia and the Changes that Should Be Made**

Considering the fact that the Republic of Northern Macedonia and its territories in the past have been under the legislative power of the Former Yugoslavia, to analyze the inheritance in general as well as the compulsory portion of the inheritance in particular we must go back in time because it is the Yugoslav legislature that has taken deep roots, which is still felt today in the Macedonian legislature. Thus, in the territory of the Republic of Northern Macedonia, after the Second World War in the field of inheritance, the first Federal Law on Inheritance of 1955 was applied, the rules of which were the basis for the adoption of later laws in the field of inheritance<sup>1</sup> (Federal Inheritance Law 1955; RFNJ). Thus from that time the legal inheritance in the strict sense of the word which includes the regular legal as well as the imperative inheritance (the necessary part of the inheritance) if analyzed in historical terms, we can see that it has undergone changes, namely this institute has been dynamic and in comparative connotation has been different from one state to another, as regards testamentary inheritance from this year (1955) to the present there has not been as

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<sup>1</sup> Federal Inheritance Law 1955; RFNJ (ФНРЈ Службен.весник 20/1955); 20/1955.

much dynamism and variability compared to the legal inheritance, with a few exceptions which we will mention in the following sentences<sup>1</sup> ( Markovic, 1972, pp.30-70, 100-150, 270, 287-410).

And then, with the enactment of the 1971 Constitutional Amendments, normative jurisdiction over substantive issues of inheritance law passed from Federal competences to the competence of republics and provinces<sup>2</sup> (Official Gazette of SFRY", no. 42/65 and 47/65). It turns out, then, that the Inheritance Law enacted in 1973 was based largely on inheritance rules from the 1955 federal law of Yugoslavia<sup>3</sup> (Official Gazette of SRM, p.998, 1973). The Law on Inheritance of 1973 was adopted and implemented until the independence of the Republic of Northern Macedonia. Thus, after the independence of the Republic of Northern Macedonia and after the adoption of the constitution in 1991<sup>4</sup> ( Constitution of Republic of North Macedonia, article 443) , five years later, the 1996 inheritance law was passed<sup>5</sup> ( Law of Inheritance of North Macedonia)

Even in this law, most of the rules of legal-inheritance nature are incorporated based on the inheritance law of 1973 and the federal law of 1955. One of the rules of a legal-hereditary nature that has been incorporated and borrowed from these previous laws is the aspect of the circle of blood heirs or those of marriage. However, in recent decades there have been major changes in marital and family relationships that inevitably affect inheritance as well, due to the close link that exists between the family and the law of inheritance<sup>6</sup> ( Kok, 2015, page 479-514; 2015 & Barlow, 2006,

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<sup>1</sup> Slavko Markovic - Inheritance Law - Faculty of Law - Nis - pp.30-70; 100-150; -270; 287-410, 1972.

<sup>2</sup> See: Decision on promulgation of the Constitutional Amendments (Official Gazette of the Socialist Federal Republic of Yugoslavia, Belgrade, No. 29, July 8, 1971, - Article 15 On the day this Law enters into force, the following federal laws shall cease to apply: 26) of the Law on Inheritance ("Official Gazette of SFRY", no. 42/65 and 47/65), except for the provisions of Articles 186 to 190 and the provisions relating to the procedure in inheritance matters.

<sup>3</sup> Decree on the Promulgation of the Law on Inheritance (The Law on Inheritance was promulgated and approved by the Assembly of the Socialist Republic of North Macedonia at the session of the Assembly of the Republic, held on 25 September 1973, and at the session of the Municipal Assembly, held on 25 September 1973, No. - 03-2316, Skopje - Official Gazette of SRM, p.998, 1973.

<sup>4</sup> Pursuant to Article 443 of the Constitution of the Republic of Macedonia, the Assembly of the Republic of Macedonia at its session held on November 17, 1991, adopted a DECISION DECLARING THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA - The Constitution of the Republic of Macedonia was adopted, which held on November 17, 1991.

<sup>5</sup> LAW ON INHERITANCE (Published in the Official Gazette of the Republic of North Macedonia, No. 47 of 12.09.1996); Law database - [www.pravdiko.mk](http://www.pravdiko.mk)

<sup>6</sup> Jan Kok – Cohabitation in Europe : a revenge of history, Journal : The History of the Family , Volume 20, 2015, ISSN 1081-602X; page 479-514; 2015 & Anne Barlow - Cohabiting relationships, money and property: The legal backdrop - Journal of Socio-Economics

pp- 502-518 & Grego, 2020, pp- 138-143 ) and therefore I think that finally, the law of inheritance of the Republic of Northern Macedonia should be rebuilt and modernized, especially in the field of incorporation of the extramarital partner as legal heir<sup>1</sup> ( Law of Inheritance of North Macedonia, article 4, 1996). Moreover, a major drawback of the existing Law on Inheritance is that it contains numerous legal gaps, i.e. there are issues that are not regulated and that create problems in practice, which leads to legal uncertainty in the field of inheritance. This legal uncertainty stems from the fact that numerous legal institutions in the Macedonian Law on Inheritance are not regulated at all, one of them being the inheritance contract<sup>2</sup> ( Inheritance Law of the Republic of Northern Macedonia, article 6, 1996)

Thus, I think that the Republic of Northern Macedonia should at least follow the contemporary trend of inheritance regulation that is being done by the states of the territory of the former Yugoslavia and in this case should incorporate the inheritance contract as a basis for inheritance. This legal basis for inheritance also exists in Bosnia and Herzegovina<sup>3</sup> ( Law of Inheritance of Bosnia and Herzegovina, article 5, 2014) as well as in the Republic of Serbia, where it is provided that such a contract could be concluded only between the spouses<sup>4</sup> (Civil Code of the Republic of Serbia, Chapter IV – Contracts in inheritance law, article 2776) . Thus, we can say that the law of inheritance of the Republic of Northern Macedonia from 1996, has not brought any major innovations compared to previous laws which were implemented in the territory of our state. This applies to inheritance in general as well as for the compulsory portion of the inheritance in particular. What is worth mentioning is the fact that, on the occasion of the adoption of the first civil code in our country, which must be adopted in the near future, radical changes and modern reforms must be made and will be made in the sphere of inheritance law.

Thus in the Republic of Northern Macedonia, the commission for preparation of the Civil Code prepared important reforms of the inheritance legislation regarding the introduction and detailed regulation of the inheritance contract, ensuring the legal right of inheritance of the child conceived after death, the introduction of the

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37(2):502-518, 2006 & Christandl Grego – Succession rights for cohabitants, - Edinburgh Law Review. Jan2020, Vol. 24 Issue 1, p138-143. nr./2020.

<sup>1</sup> Because, the extramarital partner in the Republic of Northern Macedonia is not presented as a legal heir in inheritance law; however, this right is granted to persons who have a blood relationship, which relationship arises due to the existence of an extramarital relationship between the testator and his heir. This is confirmed by Article 4 of the Law on Inheritance of the Republic of Northern Macedonia, 1996.

<sup>2</sup> Inheritance Law of the Republic of Northern Macedonia, 1996, Article 6.

<sup>3</sup> LAW ON INHERITANCE IN THE FEDERATION OF BOSNIA AND HERZEGOVINA - "Official Gazette of the Federation of Bosnia and Herzegovina", No. 80/14 of October 1, 2014, Article 5 (3) Inheritance rights are acquired under the provisions of this law, will or law.

<sup>4</sup> Government of the Republic of Serbia, Commission for the drawing up of the civil code, Civil Code of the Republic of Serbia, Chapter IV – Contracts in inheritance law, article 2776.

possibility for extramarital partners to present themselves as legal heirs, the change of the legal nature of the right to a compulsory portion of the inheritance and the provision for it to be obligatory, to introduce subjective criteria for the necessary heirs from the first hereditary order, to provide a three-year period for gift returns, to introduce a notarial will, to create a register of wills, to ensure the exclusive competence of notaries in the field of inheritance agreements and so on<sup>1</sup> ( Mickovic, 2018 ). Therefore, we can say that the Republic of Northern Macedonia, in a not too distant relative, will join the contemporary trend and the way of regulating the inheritance in general and the compulsory portion of inheritance in particular based on European civil codes as well as changes made in recent decades in neighboring states.

### **Methodology**

In this paper are used *theoretical methods* to achieve the goals outlined in this paper. With their help, the domestic regulations will be analyzed, which regulates the inheritance procedure.

In the paper are used *the normative method*, as one of the most important methods, especially when it comes to analyzing court proceedings, i.e. the procedure initiated by notaries as trustees of the court, and especially when it is used to analyze our and foreign positive regulations.

An inevitable method, when it comes to research, is the *historical method*, which also has an important place in this paper, especially when it comes to analyzing and studying the inheritance procedure in the Republic of North Macedonia from ancient times until today, with the help of which are concluded what factors contributed to the introduction of a novelty such as the transfer of jurisdiction from national courts to the notaries as trustees of the court to decide in inheritance procedure.

Finally, *deduction and induction are two methods that are use*, which helped to reach out appropriate conclusions. Deduction method is used in order to reach accurate conclusions through analysis and study. So, through such a method from general findings are reached to concrete findings. In addition to the induction method, its analogue method, the induction method, also is used. With induction method the general conclusions are drawn from concrete findings.

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<sup>1</sup> Dejan Mickovic - "Contemporary tendencies in the inheritance legislation and the need for reforms of the Macedonian inheritance law in the Civil Code" & Angel Ristov - "The most important reforms in Book IV - Inheritance relations from the Draft Civil Code of the Republic of North Macedonia", - SCI.ENTIST "Civil Code of the Republic of North Macedonia: a factor for legal certainty and the rule of law" - the seminar "Civil Code and the reform of Macedonian inheritance law", organized by the Institute for Legal and Economic Research and Education "Juridika Prima"- Skopje, 2018.

## **The Role of Notaries in Inheritance Procedure in the Republic of North Macedonia**

"The overload of the courts with undisputed cases is enormous".<sup>1</sup> ( Јаневски, 2019, pp-30 ) This slows down the solving of these cases, as well as other disputed cases. Integration processes, in addition to reforms and other requirements, require changes in the judiciary, in particular, insist on faster solving of cases and to ensure faster legal protection of procedural subjects. This process started in 1996 with the adoption of the first Law on Notaries<sup>2</sup> (Law on notaries of North Macedonia, 2009) and as such continues today. Finally, the adoption of the new Law on non-contentious procedure<sup>3</sup> (Law on non-contentious procedure of North Macedonia, 2008) in 2008 enabled the transfer of powers from the court to the notaries known as "trustees of the court", who work and function in the region of the Basic Court ( Law on non-contentious procedure of Republic of North Macedonia, article 127-131).<sup>4</sup> Prior to the enactment of the 2008 LNP, the testator's estate was decided by a single judge from the Basic Court, regardless of whether or not there was a dispute between the parties, or who the heirs were, whether there were property disputes, which part of the inheritance is of the deceased or which parts belonging to the heirs.

Article 136 of the Law on Inheritance<sup>5</sup> ( Law of Inheritance of Republic of North Macedonia ) clearly stipulates that the supervision during the performance of the function of the notary public in deciding the entrusted case is done by the body that has entrusted the case to the notary public. During the inheritance procedure conducted by the notary public, the court may confiscate the inheritance case if it finds that he/she does not perform his/her function in a professional manner, in accordance with the Law or in accordance with the Code of Professional Ethics of notaries. In this case, the court will ask the notary public to return all documents and records related to the entrusted case. In cases when the notary public refuses to return such documents, "the court may fine the notary public" (paragraph 4, Article 138). Supervision of the work of the notary public is also performed after the completion of the inheritance procedure, ie the decision made by the notary public, where it is allowed to file an objection against that decision, which is decided by the court.

### 2.1 The procedure of the notary public on inheritance case/procedure

The inheritance procedure, conducted by a notary public as a trustee of the court, always begins after the receipt of the case by the President of the Basic Court, within

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<sup>1</sup> Јаневски.А. *Потреба од растоварување на судовите од неспорни работи*, Нотариус, nr.12, pg. 30

<sup>2</sup> Law on notaries, "Official Gazette of Republic of Macedonia", nr. 55/07, nr. 86/2008, nr. 39/2009, nr. 135/11

<sup>3</sup> Law on non-contentious procedure, "Official Gazette of Republic of Macedonia", nr 9/2008

<sup>4</sup> Articles 127 – 131 from Law on non-contentious procedure of Republic of North Macedonia

<sup>5</sup> Article 136 - Law of Inheritance of Republic of North Macedonia

8 days from the day when the case is registered in the relevant court registers. The notary authorized and competent for conducting the procedure, after the submission of the case by the court, has the duty to check the death certificate and to determine whether the death certificate is complete or not. If the death certificate contains all the necessary data, the notary public will continue with the procedure. However, in many cases, to notaries are delivered incomplete death certificates, and in some cases only excerpts from the registry of the dead. In this case, the notary public can act in two ways: a) to complete or compile the death certificate himself, or b) to entrust the completion or compilation to the competent registrar.

The hearing for deciding for the inheritance of the deceased, is the central and most important part of the inheritance procedure, which is held immediately after the notary public, as a court trustee, undertakes all necessary procedural actions, which must be taken according to the Law on non-contentious procedure. Pursuant to Article 167 of the Law on non-contentious procedure, the notary public will "schedule a hearing"<sup>1</sup> ( Law on non-contentious procedure of North Macedonia, article 167 ) when he deems it necessary or when requested by one of the persons summoned to the inheritance (heirs, legatees, or third parties). All heirs invited and interested in the inheritance of the deceased person are invited to the hearing. "The hearing for the deciding of the inheritance property is conducted orally"<sup>2</sup> (Јаневски & Камилоска, 2020, pp-132 ) and as such is considered a central part of the whole procedure. All issues and problems related to the inheritance property of the deceased will be discussed at the hearing. Such are considered issues related to the number of heirs, the size and value of the inheritance parts, as well as many other important issues for the procedure.

The hearing always begins with an "invitation" (Law on non-contentious procedure of North Macedonia, article 167 )<sup>3</sup>. The invitation is delivered to all persons who in one way or another have an interest in discussing the deceased legacy. According to the Law on contentious procedure<sup>4</sup> (Law on contentious procedure of North Macedonia ) and Law non-contentious procedure, the invitation should contain all the data about the deceased person and the heirs, such as: name, surname, address of residence. In addition, the summons also contains data on the address of the notary public's office, as a court trustee, as well as the date and time of the hearing.

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<sup>1</sup> Article 167 from Law on non-contentious procedure

<sup>2</sup> Јаневски.А, Зороска - Камилоска. Т, pg. 132

<sup>3</sup> Article 167, pg. 2 from Law on non-contentious procedure

<sup>4</sup> Law on contentious procedure, "Official Gazette of Republic of Macedonia", nr. 79/05, 110/08, 83/09, 116/10

The Notary Public shall also inform the participants in the procedure that they are obliged to submit to him all the legal acts that the testator had at his disposal before his death ( Law on non-contentious procedure of North Macedonia).<sup>1</sup>

The notary public in the invitation for hearing will inform the participants about their right to be able to give a statement regarding the acceptance or to give up from the inheritance part until the end of the procedure (Law on non-contentious procedure of North Macedonia, article 167 ).<sup>2</sup>

After the invitations for participation in the hearing for discussion for the inheritance have been sent, and after the notary public has taken the statements from the heirs for their acceptance as heirs, the next step of the notary public in the hearing is to determine the heirs and their inheritance parts on the basis of a law or a will, if the deceased left any. So, at the hearing, the heirs, legatees and other persons who have some interest from the testator will be informed about their rights and obligations arising from their inherited parts. If there are no disputes between the subjects during the inheritance procedure, the notary public will complete the procedure with a final decision. But in practice it often happens that a dispute arises. In this case, the notary public is obliged to stop the procedure and to advise the subjects to start a litigation procedure before the competent court.

## 2.2 Decision for declaring the heirs

After holding the hearing and after taking the statements of the heirs, the notary public is obliged to complete such a procedure with a decision, i.e. to decide for the inheritance rights. With this decision, the notary public finally determines the heirs of the deceased, who have the right to inherit his property (Article 177). The decision for inheritance has a declarative nature, because with it the heirs are only declared as heirs of the deceased. The final decision for inheritance should be submitted immediately to the Public Revenue Office, because the Law governing these taxes stipulates that the tax liability for payment of inheritance tax arises at the moment of the validity of the decision for inheritance. When it comes to concluding a gift agreement, the tax liability arises at the time of concluding the same agreement (Article 15 of the LPT). The Law on Property Taxes<sup>3</sup> ( Law on Property Taxes, 2004 )

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<sup>1</sup> The notary public, in accordance with Article 167 of the Law on non-contentious procedure, in the invitation for hearing is obliged to point out to the heirs that if the testator left a testament, to submit it in writing, i.e. to submit the document in which the oral testament is registered or to inform witnesses about the oral testament.

<sup>2</sup> The notary public is obliged to inform each participant in the procedure that for each of their absence from the hearing, as well as for each of their refusal to give a statement, he will decide on their right and the property of the deceased, based on the data owns at that moment. Art.167 from Law on non-contentious procedure.

<sup>3</sup> Law on Property Taxes, "Official Gazette of Republic of Macedonia", nr. 61/2004

also provides relief when it comes to paying inheritance or gift tax ( Law on Property Taxes, 2004, article 17) .<sup>1</sup>

The data (content) of the inheritance decision are precisely defined by the Law of non-contentious procedure (Law on non-contentious procedure of Republic of North Macedonia, article 177) .<sup>2</sup>

At the beginning the decision contains data about the deceased, such as: name and surname, father's name (for married women maiden name), profession, date and place of birth, citizenship and social security number. In addition, the inheritance decision contains data that are necessary to determine the size of the inheritance part. Such data are considered the data on the real estate rights, which the notary public can provide from the cadaster books, as well as the data on the real estate. Then, in the decision, the data on the heirs take an important place, who with the validity of this decision will be the bearers of the rights and obligations that were previously on the deceased person. Data of the heirs are: name, surname, father's name (women maiden name), place of residence and their social security number. In addition to the identification data of the heirs, the inheritance decision will include all data related to the size (value) of the inheritance, the base of inheritance (law - will), as well as the heir-deceased relationship (spouse, parent, child, adopted children, etc.).

The decision for inheritance also contains data regarding the inheritance rights of the heirs (whether the right of the heir is postponed until the fulfillment of a condition, which condition depends on a termination condition (order), or is limited by the right of usufruct or some other law). Thus, this section will indicate the ways and conditions for exercising the rights of heirs. Finally, the decision will also include the data referring to the legatees and third parties to whom the legacy, usufruct or some other right from the inheritance belonged, which indicates exactly that right (Art. 177, para. 5 of the Law on non-contentious procedure). Such data are: name, surname, ID number, place of residence and their profession.

At the hearing for deciding about the inheritance property and rights, the heirs may reach or propose an agreement on the division and the manner of division of the inheritance. This agreement will be accepted by the notary public only if it is not contrary to the rules of the Law on non-contentious procedure, which regulate this

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<sup>1</sup> Inheritance tax and gift tax is not paid by the heir, i.e. the recipient of the gift from the first inherited order, the heir, i.e. the recipient of the gift from the second inherited order, i.e. the received apartment as a gift, i.e. family residential building if he lived with the testator, i.e. the gift giver in a joint household at least one year before the death of the testator, i.e. at the moment of receiving the gift, provided that he and his family members do not have another apartment, i.e. a residential building, the second heir inherits, i.e. receives agricultural land if his agriculture is a basic activity and who lived with the testator, i.e. the giver of the gift in a joint household at least one year before the death of the testator, i.e. the giver of the gift, Article 17, Law on Property Taxes, Official Gazette of the Republic of Macedonia, no. 61, 2004 .

<sup>2</sup> Article 177 from Law on non-contentious procedure of Republic of North Macedonia

procedure. There are a number of cases where such agreements are contrary to this Law. Such cases are when the agreement is reached as a result of violence, threat or similar. When it is determined that the agreement between the participants is in accordance with the Law on non-contentious procedure, the notary public will enter such an agreement in the decision for inheritance (Law on non-contentious procedure of Republic of North Macedonia, article 177) .<sup>1</sup> The notary public is obliged to hand over in writing the decision for inheritance, with which it is decided about the inheritance rights, to all heirs and other persons who have submitted to the notary public a request for exercising some right from the inheritance property of the deceased. The notary public is also obliged to send the decision on inheritance to the participants and to give them legal advice on their right to file an appeal within 8 days.

## **Conclusion**

The profession of notary in the Republic of North Macedonia has existed for 25 years. The notary public dates back to 1998, when the first notaries public who performed the public service were elected on the systematic basis of the Law on Notary Public Affairs of 1996, which regulated for the first time the basic competencies of the notary public as an independent, sovereign and public service. The first notaries public in the Republic of North Macedonia started working on June 15, 1998, and soon after, the Notary Chamber of the Republic of North Macedonia and its bodies were established in the same year. The Notary Chamber of the Republic of North Macedonia takes care of the legal operation of notaries, conscientious and responsible performance of the notary service, preservation of reputation and honor of notaries, protects their rights and interests, decides on their rights, obligations and responsibilities. And when it comes to the subject about inheritance, notaries in our country have some roles. According to the legal framework of the Law on Inheritance of the Republic of North Macedonia, the testator can express his last will to a notary public as a court trustee. The legal system of the Republic of North Macedonia does not provide for the existence of a special type of will in the form of a notary will. According to the Law on Notary, notaries public can compose a will in the form of a notary act according to the provisions that apply to compiling a court will contained in the Law on Inheritance. And when it comes to inheritance procedure, the hearing for deciding for the inheritance of the deceased, is the central and most important part of the inheritance procedure, which is held immediately after the notary public as a court trustee, undertakes all necessary procedural actions, which must be taken according to the Law on non-contentious procedure.

After holding the hearing and after taking the statements of the heirs, the notary public is obliged to complete such a procedure with a decision, i.e. to decide for the inheritance rights. With this decision, the notary public finally determines the heirs of the deceased, who have the right to inherit his property. The decision for inheritance has a declarative nature, because with it the heirs are only declared as

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<sup>1</sup> Ibid

heirs of the deceased. The final decision for inheritance should be submitted immediately to the Public Revenue Office, because the Law governing these taxes stipulates that the tax liability for payment of inheritance tax arises at the moment of the validity of the decision for inheritance. The notary public is obliged to hand over in writing the decision for inheritance, with which it is decided about the inheritance rights, to all heirs and other persons who have submitted to the notary public a request for exercising some right from the inheritance property of the deceased. The notary public is also obliged to send the decision on inheritance to the participants and to give them legal advice on their right to file an appeal within 8 days.

So as a recommendations we think that even that notaries in our legal system play a huge role when it comes to inheritance in general and inheritance procedure as well, still we think that some changes should be made. Unlike the Law on Inheritance of the Republic of North Macedonia, which as *lex generalis* does not recognize the notary will, in comparative law the form of the notary will is widely accepted. The notary will is accepted in: Italian law, French law, Spanish law, German law, Russian law, Chinese law, Japanese law, Turkish law. Which means, we think that we need to have further studies in this topic and to make some research when it comes to the notary will which is accepted in majority of countries in Europe. And when those studies will be made we share our thinking that, we need to incorporate those forms of notary will into our legal rules.

According to the solutions of comparative law, the notary will is present in many countries, and given the current competencies of notaries in the field of inheritance, we believe that it is necessary in the future reform of inheritance law to provide a notary will as a separate type of will within the Law on Inheritance of our country.

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