

„The movement of legal effects against a background of the Regulation (EU) No 650/2012 of the European Parliament and of the Council – procedural law approach”

Abstract:

The movement of legal effects has a crucial function in European law, especially in matters concerning inheritance, as it supports one of the fundamental freedoms of the European Union – the free movement of persons. It is commonly pointed out that in the area of freedom, security and justice there is a “free movement of judgments”, which is one of the elements complementing the fundamental freedoms of the EU: the movement of goods, persons, services and capital. The free movement of judgments is also sometimes referred to as the “fifth” freedom of the EU. However, there are grounds to verify and ask the question whether the flow of effects in inheritance cases is really “free”?

For these reasons, the main research objective of the dissertation was to determine the scale and content of the free movement of legal effects regulated by the Regulation (EU) No 650/2012 of the European Parliament and of the Council. The results of the conducted analyses allowed to put forward the thesis that the flow of legal effects on the basis of this legal act is free, but to an insufficient degree. The Regulation (EU) No 650/2012 contains regulations that are incompatible with the level of development of social relations in the European Union, as well as with the level of integration of the Member States. The EU legislator aims to ensure that all areas of civil law are covered by the free flow of legal effects. However, the research conducted as part of the dissertation leads to the conclusion that currently some legal relationships do not participate in this flow at all, and some only participate in the circulation of legal effects with a limited scope as part of enhanced cooperation. In this context, we can therefore speak of the lack of flow of legal effects and the partial freedom of flow of such effects. On the other hand, with regard to those areas of civil law that have already been regulated by European law, significant differences appear precisely in the scope of the movement of legal effects, including, among others, the various legal instruments involved in it. The research conducted in the dissertation confirmed the thesis that the flow of legal effects under Regulation (EU) No. 650/2012 is not sufficiently free, which is an unsatisfactory state from the point of view of EU citizens.

A handwritten signature in black ink, appearing to read 'Maciej', followed by a vertical line and a period.