Legal Inheritance ranks according to the Law on Inheritance in Kosovo

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Abstract

The following paper aims to reveal the legal inheritance ranks according to the Law on Inheritance in Kosovo, its importance and impact expressed in a rule of law country such as Kosovo, especially the treatment in relation with recognitionand ranks of heirs at law in legal inheritance. Therefore, based on the these circumstances various question are derived such as what is the inheritance, who are heirs at law, why are they such and which is their inheritance rank, which are the orders of succession, when does one exclude another, when do we pass to the next, what is inherited and how and in how many parts is inherited, how is thetestator be inherited without heirs, who are the compulsory heirs, when do we apply assignment (cession), when they can (cannot) cede from the inheritance. For all this issues, through this paper, we have tried to, upon the basis of Law over the Inheritance in Kosovo; give a comprehensive response, with the effect to better knowing the Law institutions, presented to us as an important life journey after death of the heirs.

Keywords: Legal inheritance ranks, Law on the Inheritance in Kosovo, Heir at law, inheritance measure, testator, heir.

Introduction

In Kosovo[1],the inheritance is regulated by the Law over the Inheritance in Kosovo (*hereinafter: as the* LTK[2].The Inheritance is a transfer of the property of the testator (decedent-dead person) to heirs (one or more) according to the provisions set out in the law[3] or a will[4].The following relations are also known as **mortis causa** (in case of

[1] Seen historically, the inheritance law in Kosovo has been regulated by the Kanun. It was the Kanun of 'Lekë Dukagjinit.' (in order to go more deeply into law systems of Kosovo in the past, please check the without any definition Noel Malcolm, Kosovo, a short history). While, in the WWII post-war period until the end of the 1999 war, respectively until the moment of the implementation of the present LTK, there are in total 4 phases of the inhertitance system regulation in Kosovo. The fisrt phase (from 1945 until 1955); second phase (from 1955 until 1963); third phase (from 1963, hence as an approved law in 1974); and the fourth phase: (starts on 28 July 2004) when the Assambly of Kosovo, during the international administration, approves the Law No. 2004/26. Which has entered into force upon announcement by the PSSP, (check article 149, paragpraph 2 of the Law No. 2004/26), and it continues to be implemented ever since with some minor Amending and Supplementing actions.

[2] Law No. 2004/26, on Inheritance in Kosovo (LTK), Official Gazette 3/2006, publishing date 01.08.2006.

[3] In relation to legal inheritance, check article 9 of LTK.

[4] Group authors, *Introduction to Legal System in Kosovo*, Justice Academy 2019, p. 214.

the death of the property subject), in comparison to other civil juridical relations **inter vivos** (alive property subjects).[5]In this case the decedent visor is the dead person. Thus, as such are only **physical persons**[6], not juridical ones. While, ipso lege, heirs[7]are physical persons, the decedent's successors, or the ancestors of the testator. As a heir, it will be also considered a person conceived before the death of the decedent and born alive[8].A person will be considered to have been conceived at the time inheritance is opened if such person is born alive within 300 days after the death of the decedent[9].
As mentioned above, the grounds for succession shall be based on legal or testamentary succession. The last one is the object of the treatment of the following paper is on the ranks perspective, when it is implemented in case the when the decedent has not left a will, or left a will only for a part of his property, or when such will is fully or partly invalid[10].
Heirs at law according to LTK[11]are: Heirs at law are: the decedent's children, his adoptees, and their descendants, spouse, parents, siblings and their descendants, grandfather and grandmother and their descendants.
By law the decedent will be inherited also by his/her extramarital spouse that is as equal as marital spouse[12].Extramarital union[13]pursuant to the following Law can be considered living union of an unmarried woman and unmarried man, which lasted for e period of time and terminated with the death of decedent, conditioning that it has been completed the presumption[14]for the validity of the marriage[15].
These heirs, based on the principles of the equity are equal before the law on

[5] Ibid.
[6] Check article 4 of LTK.
[7] Ibid 5 related to 7.
[8] Ibid 7.
[9] Ibid 7 (2).
[10] Ibid 9.
[11] Check article 11 parag. 1 of LTK.
[12] Check article 39 parag. 2 of the Law No. 2004/32 on Family in Kosovo (LFK), Official Gazette 4/2006, publishing date 01.09.2006. Amending and Supplementing the Law No. 06/ L-077, publishing date 17.01.2019.
[13] A factual relationship (out-of-marriage relationship) is the factual relationship between the husband and the wife who live in a couple, characterized by a joint life that represents a character of stability and continuation. Check article 39 parag. 1 of LFK. While it is considered that People are considered to live in a factual relationship (out-of-marriage relationship), if they: 1. are eligible to marry, but did not obtain a legal marriage; and 2. have cohabitated openly as a couple. (Check article 40 of LFK.).
[14] With the notion of "presumption" it is implied sth until is not proved the opposite.Respectivly, at the moment of formation of the union there was not any marriage ban: existing marriage, blood gender in the level banned by the law, adaptive gender, psychic deceases, inability to judge, except any ban has ceased to exist in the meantime. Check article 39, parag. 3 of the LFK. Also check Ham diPodvorica,Pengesatdhendalesatmartesore, the magazine "E drejta" No. 1/2005. Comparing to the substancial right, it is a bit unclear that as the Constitutional Court, in the civil case Rev.nr. 56/2012, dated 09.01.2014, in its summary comment of the case decision, it did not see as an obstacle for the merital union on extramarital union, in the case when the devision of property is requested. What do we understand by this? That mutatis mutandisjuridicial practice of this court, it can be used at the inheritance, in order not to serve as an obstacle the following existing fact?
[15] See article 11paragraph 2 of LTK.

inheritance.[16]All are equal before the law. Everyone enjoys the right to equal legal protection withoutdiscrimination.Heirs at law mentioned above, inherit the decedent according to the ranks set out by the LTK. LTK recognizes, in total, three (3)legal inheritance ranks, depending on in which rank is the closest heir, gains the right of succession and prior rank shall exclude persons of further ranks from inheritance[17].In absence of the following ranks, the right to succession without the leaving decedent belongs to the public authorities (municipality)[18].

By rank we imply the order or the rule according to which something is regulated, hence, it is inferred the continuation, in a certain way to conduct an action. Consequently, to call for inheritance particular heirs, etc[19].

On the other hand, the legal interest of the heirs called according to ranks is to become (gather) owners in the aliquot (alikuote) of the property of the decedent. While the following property consists of things and right belonging to individuals (*decedents*), which is also called object of the inheritance[20].The amount of Inheritance or **hereditas** is a set of things (*universitasjuris*) consisting of all the property inheritable rights, which are owned by **de cujuesi** at the moment of death[21].The amount of Inheritance consist of all property authorizations of the decedent, as well as all the actual rights over not belonging things, excluding personal servitudes, which cease to be at the moment of the death of the decedent[22].The amount of Inheritance also consist of the by mandatory archives, as well as by the mandatory debts (pasivat-liabilities), excluding debts ***intuitu personae***, which cease to be at the moment of the death of the decedent[23].

I. Determining the Inheritance Ranks according to LTK

I.I The first rank of inheritance

The decedent shall be inherited, prior to all others, by his children and spouse[24].The persons from the following paragraph of this Article shall inherit in equal shares[25].E.g. if the decedent after the death has left the spouse, as well as two (2) children, then they

[16] Inregard to being equal bofore the law, see article 24 of the Kosovo Constitution; EnverHasani& Ivan Cukalovic, Constitution of the Republic of Kosovo – Commentary, Publishing I, GIZ, Prishtinë, 2013, f. 85-87; Article 3 of LTK, the law No. 05/L-021 over the Protection against discrimination, Official Gazette 16/2015, date of publishing 26.06.2015; Article 1 of the Law No. 05/L-020 for Gender Balance,Official Gazette 16/2015, date of publishing 26.06.2015;while if needed in details for the following principle see the Inheritance Rights see without limit AlajdinAlishani, *Studimenga e drejta e detyrimeve III*, Prishtinë, 2008, f. 241-257.

[17] See article 11 parag. 4 of LTK.

[18] Ibid 21.

19 See Valentina Kondili, *E DrejtaCivile – II, Pjesa e Posaçme*, Geer, 2008, f. 216.

[20] Ibid 2.

[21] Ivo Puhan, *E DrejtaRomake,* Entii Teksteve dhe i Mjeteve Mësimore i Krahinës Socialiste Autonome të Kosovës, Prishtinë, 1980, f. 407.

[22] Ibid.

[23] Ibid; Grupautorësh, *op.cit*, f. 214; BashkimSelmani&BekimRexhepi, *E DrejtaFamiljaredheTrashëgimore (Romake) – Ndikimiisajnëshoqërinëbashkëkohoreshqiptare*, Ferizaj, 2014, f. 387.

[24] See article 12 paragraph 1 of LTK.

[25] Ibid 12 (2).

inherit 1/3. Therefore, this equal inheritance between the heirs of this rank, results to be in such as they are entitled to inherit from the decedent.

If, depending on life circumstances (*natural events*) one child of the decedent has not survived the opening of the inheritance, instead of him/her, enters the children, grandsons and granddaughters of the decedent over the base of ***the Right to representation***[26].The same people, depending on the number, obtain their aliquot (alikuote) part from the property of the parent, who, of where alive shall inherit the property of the decedent. E.g. if there are two (2) grandsons, then the inheritance of their parents part shall realize with 1/6. Because of, the 1/3 shall belong to their parents if they were alive, now it is multiplied by 2 (*successors*).

In this context, the institution of ***the Right to representation***in Inheritance Rightlasts until there are survivors of the heirs who have not survived opening of the inheritance.

For example: if one of these grandsons cannot survive the opening of the inheritance, hence, instead of him, enter children (*herein*: grandchildren of the decedent), who inherit in the part of their heirs), but with another division. E.g. if there are two of the granddaughter of the nephew (grandson), the same ones from the part of aliquot (alikuote) form 1/6to inherit with 1/12.

I.I.I Equality in Inheritance of the heir's child

The status to inherit, equally with the biologic children belongs to the adopted children as well. The adoption as an institution of the inheritance right, especially of the Law on Family, implies the artificial report created between the adopter and the adoptee over the base of decision of the competent public body. Therefore, the adoption is e legal relation established between the child and people or parents who are not his/her biological parents.[27] In this context, at the moment of the establishment of the following relation between the adopter and the adoptee, rights and liabilities are produced, among which one of them is the right of the adoptee to inherit the adopter, or vice versa. To the adoptee, the following right derives from the article 11 paragraph 1, 3, 4 article 22, related to the article 12 paragraph 1 and 2 of the LTK, where it is enabled to them the entrance to the first rank of inheritance to inherit equally with other heirs of the this rank, except when an adoptee and his successors shall not inherit the adopter, if the adopter has submitted a request for ceasing the adoption, and after his death it is verified if the request had (legal) basis[28].

Equal rights to inherit the decedent are entitled to the extramarital children, as well[29], when the fatherhood is regularly known or verified by a court or competent

[26] If one of the children died before the decedent, his place is taken by the decedent's grandchildren from the deceased child, but if specific circumstances foreseen by this law do not provide for these grandchildren, then the great-grandchildren will inherit without any limits. See article 13 paragraph 1 of LTK. While persons from paragraph (1) of this Article inherit in equal parts (paragraph 2 of the article 13 of the LTK.).

[27] Barbara, 2005, chapter 3, p. 53, cited by HaxhiGashi& Abdulla Aliu&AdemVokshi, *KomentariiLigjittëFamiljes,* First publishing, GIZ, Prishtinë, page. 370.

[28] See the article 25 of the LTK.

[29] The following case was changed structuraly in the post-classic Roman law, in this context, the inborn children in extramarital union were considered legit and they had rights to inheritance, right to seek as alimony from their fathers for their living. See BedriBahtiri, *AspektetNacionaledheNdërkombëtaretëRegjimitPasurorM artesortëBashkëshortëve*, Prishtinë, 2018, f. 43.

body order[30].

I.I.II Inheritance by the Non-marital relation

As stated above, according to law the decedent is inherited by the non-marital spouse, who is equalized with to the marital spouse. The Non-marital spouse to inherit the decedent, except the conditions requested in relation of non-existence of marital bans and prohibitions, also it is requested to fulfill some other special conditions foreseen by article 4 of the Law No. 06/L-008 on Amending and Supplementing of the Law No. 2004/26 on Inheritance in Kosovo and the article 28 paragraph 1, point/letter b) of the LTK. The following are:

a) Non – marital spouse[31]with the decedent up to the moment of death has lasted for at least five (5) years, or children born from this relation, for at least three (3) years, and;
b) At the moment of the decedent's death, neither of the cohabiters was legally married to a third person, or if the decedent was legally married to a third person, he had filed a petition for divorce or annulment of his marriage, and after his death such petition was found to have merit.

I.II The second rank of Inheritance

In the inheritance law, the second inheritance rank according to LTK, it is implemented when the first rank cannot be exercised.This rank consists, of the spouse and parents (*father and mother*)of the decedent[32].The parents of the decedent inherit half of the property in equal shares, while the other half of the property is inherited by the spouse of the decedent[33].If there is no surviving spouse, the parents of the decedent shall inherit the entire property in equal shares[34].There is a contesting issue when both parents of the decedenthave not survived the opening of the inheritance, hence, when parents of the decedent died before him. To the following dilemma, article 14 paragraph 4 of the LTK has offered a solution, while emphasizing that the spouse inherits all the property. However, article 15, paragraph 2 of the LTK, and raise a completely different parallel offered by previous provisions. The provision states: "If both parents of the decedent have died before him, the part of hereditary property that would have belonged to each of them if they had survived the decedent shall be inherited by their respective descendants in the manner set out under paragraph 1 of this Article."While the paragraph 1 of the article 15 of the LTK presents the case "In case one of the decedent's parents died before him, the part of hereditary property that would have belonged to him if he had survived the decedent, shall be inherited by his children (the decedent's brothers and sisters), his grandchildren, and great–grandchildren, and further descendants, according to the provisions of this Law regarding inheritance by the decedent's children and other."

Consequently, as stated above, we appreciate the fact that, despite the provision of the article 14 paragraph 4 of the LTK, which incites open conflict with article 15,

[30] Ibid 22.

[31] Here, seemingly there is an editing failure, though ther should have been "non-marital relation" not non-marital spouse.

[32] See the article 14 paragraph 1 of the LTK.

[33] Ibid 14 (2).

[34] Ibid 14 (3).

paragraph 2 of the LTK, according to our opinion, in case of such a conflict between each – other, as *lexspeciales,* the latest shall apply.
Meanwhile the paragraph 3 of the article 15 of the LTK sanctions cases of the inheritance when heirs are from different decedents. This is sanctioned in the following way: "At all times, the decedent's siblings related to him through his father only, shall inherit equal shares of the father's hereditary share, and siblings related to him through his mother only shall inherit equal parts of the mother's hereditary share; and siblings related to the decedent through the same mother and father shall inherit the father's hereditary share in equal parts with the siblings from the father's side, and the mother's hereditary share with the siblings from the mother's side."[35]

I.II.IThe inheritance from a parent who died without any descendants
It is surprising that how did the Kosovar lawmaker in the article 16 of the LTK, sanctions the way of the transfer of the inheritance from the parent to the descendant, when in fact it does not exist! The said provision deals with the following issue in this way:
,,If one of the decedent's parents has died before decedent, and did not leave any other descendants, the part of hereditary property that would have belonged to him, if he had survived the decedent, shall be inherited by the other parent, and if this other parent has also died before the decedent, his descendants shall inherit what both parents would have inherited in accordance with article 15 of this Law."
Accordingly, how it is possible to be inherited by the other parent from the side of the descendant, while if they existed before they shall initially inherit the parent, who in the absence of the descendants inherits the other spouse, here the other parent of the descendant!? Being more precise, if one parent of the decedent has no descendants, then how the other can have?
As it can be stated, this provision is a bit unclear in the view of defining the descendants. The Kosovar lawmaker in the mentioned provision has stated the application of *analogiaiuris* of the article 15 of the LTK. Nevertheless, the said provision is cited in general without any actual paragraph, which disables the specification of who can be the descendant of the dead parents of the decedent/devisor. If the article 15 paragraph 1 of the LTK shall be applied, it contradicts the provision which guides us.Similarly, as well as with the paragraph 2 of the article 15 of the LTK.
Nonetheless, according to our view, we think that the actual provision which corresponds closely to the fourth, fifth and sixth sentence of the article 16 of the LTK, is the paragraph 3 of the article 15 of the LTK, where according to that provision are the children (brothers and sisters) his grandchildren, and great–grandchildren from the other parents.
It is worth mentioning that, in comparison from the article 16 of the LTK, as emphasized above that it contains a dose of uncertainty, when the situation is different with the article 16 of the Fifth Book – Inheritance, of the Project Civil Code of Kosovo[36], where it is determined who are the descendants and the way on how it is inherited.

[35] Ibid 15 (3).
[36] The last version of the Project Civl Code of Kosvo, can be found at the linkhttps://md.rks-gov.net/desk/inc/media/89AFEE64-B2C2-4B74-B15C-CCE8C3EC76E7.pdf

Finally, the following provision shall be understood as a circumstance that impacts on the finding of the second rank of the inheritance, *a contrario*in an inability to find them, the same shall be considered exhausted and be transferred to the third ranks of inheritance.

I.III The third rank of inheritance

In case when the decedent has not left any descendants, spouse[37],parents and his parents have not left any other descendants he/she shall be inherited by his/her grandfathers and grandmothers[38]. Half of the hereditary property shall be inherited by the grandparents on father's side, and the other half by the grandparents on mother's side.[39]

The grandparents of the same lineage shall inherit in equal shares. If one of the ascendants of the same line has died before the decedent, the hereditary share that would have belonged to him if he had survived the decedent shall be inherited by his children according to the provisions for inheritance by the decedent's children[40]. While, according to the article 19, paragraph 3 of the LTK, depending on the circumstances is left to be implied the application of articles 14, 15, and 16 of the LTK.If the grandparents of the same lineage have died before the decedent and have not left descendants, the part of the hereditary property that would have belonged to them if they had survived the decedent shall be inherited by the grandparents of the other lineage, as per article 19 of this law[41].When both grandmother and grandfather of the other family tree have died before the decedent and have not left any descendant, then the right to inherit the hereditary property is passed to public authorities (municipality).

1. **Inheritance by public authorities (Municipality)**

LTK does not recognize as a rank of inheritance, hence aiming that the hereditary inheritance not to be left without an owner, the following way of inheritance is sanctioned, which exists always when decedent has not any legal heirs or a will[42].If the decedent does not leave an heir, the succession shall be assumed by the municipality where the decedent had his last residence or abode[43].If such residence or abode was outside Kosovo, then the municipality where the decedent last had residence or abode in Kosovo, shall assume the decedent's succession, and if he never had such residence or abode in Kosovo, the inheritance shall be assumed by Kosovo[44].When the municipality, respectively Kosovo, gains the right to inheritance, their position is the same as to those legal heirs of the decedent, on exception that they cannot abdicate from the right to inheritance[45].Henceforth, not only it becomes carrierof the

[37] Not finding any implementation, even the article 17 of the LTK.
[38] This is how the third ranks of inheritance starts according to the article 18, paragraph 2 of the LTK.
[39] Ibid.
[40] Ibid 19 (3).
[41] Ibid 20.
[42] Ibid 21 (1).
[43] Ibid.
[44] Ibid 21 (2).
[45] Ibid 10; HamdiPodvorica, *E DrejtaTrashëgimore*, Prishtinë, 2010, f. 61.

property rights but also is liable to creditors of the decedent[46].
The municipality is announced heir according to the provisions mentioned above, upon the court consumes the article 127 of the LTK, it is not known whether there are heirs or not, the court shall by an announcement summon the persons claiming the right of inheritance to appear before the court within their term of one year from the day of the day of the announcement of the notification in the 'Official Gazette of Kosovo'. If one year has passed after the day of the announcement, and no heir has appeared, the inheritance shall be entrusted to the competent municipality[47].The following decision is of a constitutive nature[48]; hence the municipality does not take part in the ranks of inheritance.

2. **Compulsory heirs**

Every heir at law, it must belong the inheritance part which is compulsory foreseen in the imperative legal provisions, even in the cases against the will of the decedent[49]. Correspondingly, person who have the right to hereditary property are called **compulsory heir**, whereas the part of the hereditary property they are entitled to is called **compulsory share**[50].
Compulsory heirs are: the decedent's descendants, adoptees, their descendants, his or parents, and spouse[51].Decedent's grandparents, and siblings, are compulsory heirs only if they suffer from permanent and total disability to work and lack the means for living[52].The following heirs are compulsory heirs when they are called for inheritance according to their rank[53].In the following aspect, while the descendant of the decedent, parents and his/her spouse, are not conditioned with a subjective criteria of the gaining of the share as a compulsory heir, in the contrary, there is a different situation at grandparents, sisters and brothers of the decedent.Those persons in order to be compulsory heirs shall have disability to work and lack the means for living. *A contrario*, it shall not matter, if the compulsory share is violated, when it comes to their rank, and there is nothing to inherit.
With **compulsory share**[54]means the property which the heir at law, according to the ranks for inheritance, have right to inherit from the decedent, while the decedent cannot dispose the same[55].This part (*compulsory share*) for the descendants and of the spouse is half, and the compulsory share of other compulsory heirs is one-third, of

[46] VSL sklepCst 519/2014, Višjesodišče v Ljubljani, Gospodarskioddelek, datum 18.11.2014.
[47] HamdiPodvorica, *op.cit*, f. 61.
[48] VSL sklep I Cp 2668/2010, Višjesodišče v Ljubljani, Civilnioddelek, datum 20.10.2010.
[49] Oliver, A. Antic, Naslednopravo, NIP "GlasD.o.o", Beograd, 2004, f. 50, cituarngaHamdiPodvorica, *op.cit*, f. 63.
[50] Ibid.
[51] See article 30 paragraph 2 of the LTK.
[52] Ibid 30 (2).
[53] Ibid 30 (3).
[54] Contesting among doctrine developers is the fact that "compulsory share" does it contains the real inheritance right or an assumption (request). See group authors, *FjalorJuridik*, Akademia e Drejtësisë, 2019, f. 107-108; Abdulla Aliu&RrustemQehaja, *E DrejtaTrashëgimore* (Ligjeratatëautorizuara), Prishtinë, 2007, f. 81-82.
[55] Ibid 31 (1).

the share the compulsory heir would have obtained as heir at law according to the provisions on inheritance by rank[56].In cases when the decedent disposes with this share which is presented as a compulsory share of the heirs at law, then the latest have the right to request within the term of three years – whether it is the decrease of the disposal with the will from the announcement of the testament, and the returning of gifts within three years from the decedent's death, respectively from the day the decision on the declaration of death or the decision confirming his suspected death became final and absolute[57].

3. **Change (increase) of the inheritance (property) as a result of cession or renouncement**

In the inheritance right it is known also the transfer of the property from one heir to the other. This way of transfer is known as a statement on the renouncement of inheritance at the certain heir[58]; in comparison to the **renouncement from the inheritance,** which can be partial or conditioned, as well as in profit of the certain heir[59].

These heirs who inherit the other share of the heirs on the basis of the statement on the renouncement can change the number of fractions as well. E.g. if one of the heirs of the first rank of legal inheritance decides that, to renounce his part to the other heir, then this heir inherits from 1/3 to 2/3. Otherwise, this increase results to be applied even at other legal ranks when implemented. In comparison to this, the **renouncement from the inheritance**[60], it is considered as of not having heirs**,** except if expressly has announced that the renouncement is done on his behalf only. In this case the representation is applied[61].When the heir has not renounced form the inheritance on his/her behalf, then increase in share is applied. Hereditary share increase for the heir does not mean as the renouncement, though the non-existence of the heir as a result of the renouncement from the inheritance, enables the increase in hereditary share of all the other heirs[62]. E.g. if three heirs are entitled to inherit the decedent with 1/3, while one of them results not to inherit due to renouncement from the inheritance, then his/her share remains "vacant" and is inherited by other two heirs, so together with this share and their share forming 1/2.

3.1 **One who is not entitled to renounce to inheritance**

Article 132, paragraph 1 of the LTK, sanctions the case when the heir is not able to renounce to inheritance. It states that: "*An heir, who made dispositions on the*

[56] Ibid 31 (2).
[57] Ibid 46.
[58] Ibid 133 (2).
[59] Ibid; NertilaSulçe, *Aspects of Legal Inheritance according to the Albanian and International Legislation*, Tiranë, 2017, p. 47.
[60] In regard to **the renouncement from the inheritance** see LTK, article 30. On the contrary, the renouncement from the inheritance is considered as an **unpaid testamentary disposition** according to article 262 paragraphs 4 of the Law Nr. 04/L-077 on Liabilities Relations (LMD), official Gazette 16/2012, publishing date 19.06.2012. While according to article 33 of the LTK, the following renouncement (unpaid testamentary disposition) from the inheritance is considered a gift.
[61] In regard to the right to representation see page 4 of this paper.
[62] In details see HamdiPodvorica, *op.cit*, f. 53-55.

entire inheritance, or on parts thereof, shall not be able to renounce to such inheritance". To be fair, the following provision is unclear. Because of, while the article 130 of the LTK, enables such a thing to the heir, the following special norm it disables. Furthermore, it is unclear the part of testamentary dispositions. While knowing that testamentary disposition is the highest prerogative which the owner has over the thing individually set, the question arises on how the heir is able to dispose with the hereditary property yet without opening of the hearing to inheritance and without the heir being announced?!Accordingly, how is it possible to dispose the hereditary property when it is not yet known as an heir? Simply, the right to testamentary disposition (*iusabutendi*) as one of the most important prerogatives of the property, in this case for the inheritance, it is created once becomes the heir. Conversely, in this direction, we still do not have such a thing. Perhaps this provision is expressed in the view of protection of the buyers, from the selling done by the heirs without being heirs yet, when it is known that the issues of inheritance in Kosovo are unresolved generation after generation, hence, in this context, the following claim remains only an assumption.

Surprisingly, an identical adjustment is foreseen also with the Project Civil Code of Kosovo![63]According to our opinion, this provision, in the near future, it would be good if we have a clear interpretation, being from the doctrine developers who take over the issuance of the Commentaries or the competent bodies who soon shall approve this Code.

Conclusions

The following paper was aiming to reveal the legal inheritance ranks according to the Law on Inheritance in Kosovo. The treatment of the legal inheritance ranks is not an untouched study sphere, hence, not in this context and in this critical aspect done to some provisions of the ranks and institutions of the inheritance right. Though, except the legal inheritance ranks, institution mentioned in the end of this paper, when applied in practice by the court, they are mistakenly applied, while not knowing their real meaning due to the overlapping in provisions. Thus, while seeing the nature of this issue, we decided to reach them through the following study of legal inheritance ranks. Upon the realized research, to present the right meaning to the inheritance ranks, also to other institutions of the inheritance right, that in practice, we find its implementation in a large mass, but not in a clear way due to the causes presented above.

References

a. Literature

1. Abdulla Aliu&RrustemQehaja, Inheritance Rights (Authorized Lectures), Prishtinë, 2007.
2. AlajdinAlishani, Studies over the Liability Rights III, Prishtinë, 2008.
3. BashkimSelmani&BekimRexhepi, Inheritance and Famliy Right/Law (Roman) – Its impact in Albanian contemporary society, Ferizaj, 2014.
4. BedriBahtiri, National and International Aspects of Marital Property Regime of the Spouses,

[63] See article 133 paragraphs 1, Book Five – Inheritance, the Project Civil Code of Kosovo.

Prishtinë, 2018.
5. Group of authors,Law Dictionary,Law Academy, 2019.
6. Group of authors, Introduction to Legal System in Kosovo, Law Academy, 2019.
7. EnverHasani& Ivan Cukalovic, Constitution of the Republic of Kosovo– Commentary,PublishingI, GIZ, Prishtinë, 2013.
8. HamdiPodvorica, Merital bans and prohibitions, Magazine "Law" No. 1/2005.
9. HamdiPodvorica, Iheritance Right, Prishtinë, 2010.
10. HaxhiGashi& AbdullaAliu&AdemVokshi, Commentary over the Family Law, First publishing, GIZ, Prishtinë.
11. Ivo Puhan, Roman law,Office of Texts and Educational Means of the Autonomus Socialist Province of Kosovo, Prishtinë, 1980.
12. NertilaSulçe, Aspects of legal inheritance according to Albanian and International Legislation, Tiranë, 2017.
13. Noel Malcolm, Kosovo, a short history.
14. Valentina Kondili, Civil Rights – II, Special Edition, Geer, 2008.

b. Legal framework

1. Constitution of the Republic of Kosovoentered into force on 15th of June 2008.
2. Law No.2004/26 on Inheritance in Kosovo, Official Gazette 3/2006, publishing date 01.08.2006.
3. Law No.06/L-008 on Amending and Supplementing of the Law No. 2004/26 on Inheritance in Kosovo.
4. Law No. 2004/32 on Family in Kosovo, Official Gazette 4/2006, publishing date01.09.2006.
5. Law No.05/L-021 on Protection to Discrimination, Official Gazette 16/2015, publishing date26.06.2015.
6. Law No.05/L-020 on Gender Balance, Official Gazette 16/2015, publishing date26.06.2015.
7. Law No. 04/L-077 Liabilities relation, Official Gazette 16/2012, publishing date19.06.2012.
8. Project Civil Code of Kosovo, Final Version, available at link: https://md.rks-gov.net/desk/inc/media/89AFEE64-B2C2-4B74-B15C-CCE8C3EC76E7.pdf

c. Court decisions

1. Rev. No. 56/2012, date 09.01.2014, of the Supreme Court of Kosovo.
2. VSL sklepCst 519/2014, Višjesodišče v Ljubljani, Gospodarskioddelek, datum 18.11.2014.
3. VSL sklep I Cp 2668/2010, Višjesodišče v Ljubljani, Civilnioddelek, datum 20.10.2010.