

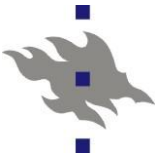


Dispatch by an Estate Distributor as Dispute Settlement

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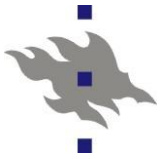
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Introduction

- n The heirs can freely agree upon the way in which they wish to distribute the estate of a decedent.
- n If the heirs can not agree on the estate distribution it is dispatched by an estate distributor appointed by the court.
- n Any of the heirs can submit an application and demand that the court appoints an estate distributor.



Code of Inheritance

Chapter 23 — Distribution of an estate

Section 3 (1153/1995)

(1) The shareholders may distribute the estate in any way they agree. However, if a shareholder is without legal capacity or otherwise represented by a guardian in the distribution of the estate, the provisions in section 34(1)(9) of the Guardianship Act shall be observed.

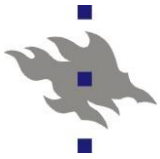
(2) If the share of a shareholder has been distrained or if a shareholder so demands, the distribution shall be carried out by an estate distributor.



- n The estate distributor is usually an advocate or another lawyer specialising in family and inheritance law.

- n The estate distributor has the power to make decisions in individual issues related to estate distribution and thereby decide on the outcome of the distribution.
 - n The dispatch procedure can thus be considered the court of first instance in disputes over an inheritance.

- n If an heir is not satisfied with the distribution, he/she can object to the distribution by bringing a suit in a district court.



Why do we have that kind of specific dispute settlement procedure for estate distribution?

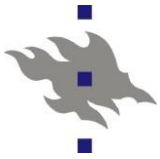
= Why has estate distribution not been left for the courts to decide upon?

n Reason: problems encountered in the old system.

n At the time of Code of Inheritance from 1734 disputes over an inheritance were decided by the courts.

n Disputes often became long and complicated.

n The courts could not determine the final distribution with a single decision but heirs had to turn to the court several times.



The characteristics of the estate distribution (compared to the ordinary dispute)

- 1.** The parties do not have a single, clear claim, but each heir demands that the estate should be distributed according to law
 - n Estate distribution is therefore a more complex and broader case than many civil disputes.
- 2.** In an estate distribution there are often more than two parties involved.
- 3.** There are often more legal decision alternatives in an estate distribution than in a typical civil dispute.

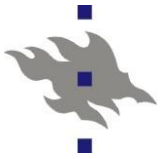


- The characteristics of the estate distribution

4. For the heirs, it is important that the distribution is as purposeful as possible from their point of view.

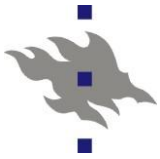
5. Parties to an estate distribution are typically laymen.

n In practice, it would be difficult for them to act on their own in an ordinary civil suit process.



Agreements in the dispatch by a distributor.

- n It would be desirable if the heirs could reach agreement on the contents of the distribution.
 - n The distribution would then often become more purposeful.
- n The idea behind the Code of Inheritance was that it would offer estate distributors better opportunities to promote conciliation than courts.
- n In practice, it is quite common that at least some type of agreement is reached in the dispatch by a distributor.



The subject needs more research

- n In Finland, matters concerning the dispatch by a distributor have received attention mainly in family- and inheritance law – far less in procedural law.

- n It would be desirable, that the dispatch by a distributor would also arouse more interest among researchers of procedural law in the future.

- n The subject would also require more empirical research.
 - n An interesting research topic: how effective the dispatch by a estate distributor really is from the point of view of the access to justice?