

Author: Michał Wojewoda

Title: Transkrypcja aktu urodzenia dziecka, które zostało uznane za granicą / Transcription of the birth certificate relating to a child whose paternity was acknowledged abroad

Source: Kwartalnik Prawa Prywatnego („Quarterly of Private Law”)

Year: 2017, vol. XXVI, number 2, pages: 337-361

Keywords: civil status, transcription of civil status documents

Discipline: Law (Private Law)

Language: Polish

Document type: Article

Publication order reference: University of Łódź, Faculty of Law and Administration

Abstract:

The Polish Law on Civil Status Acts dated November 28, 2014 provides for the possibility of transcription of civil status documents issued abroad to the Polish register (Art. 104 ff). The article is devoted to the analysis of potential obstacles to the transcription of a foreign birth certificate in situations when paternity of the child was established abroad further to a voluntary acknowledgment of paternity.

The author argues that the transcription procedures are based on the underlying assumption that foreign civil status documents should be trusted. Consequently, the substantive review of a birth certificate issued in another country is very limited. The main ground for refusing transcription is the *ordre public* clause which is applicable only in exceptional situation.

In the final part of the article a critical analysis is offered with regard to Art. 105 section 3 of the 2014 Act whereby the Polish legislator has authorized the transcription of a foreign birth certificate concerning a child born in wedlock, where – according to the document – the father is not the husband despite the fact that no denial of husband’s paternity took place. According to the author, in all cases when Polish law is applicable with regard to child’s parentage, such transcription creates a dangerous situation, in which the official civil status register provides data that are in stark conflict with the Polish family law and the legally accepted presumption “*Pater est quem nuptio demonstrant*”. It is argued that the transcription should take place only after the formal denial of husband’s paternity is effected.