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Reception of definitions of hereditary transmission and hereditary representation in modern legal systems

РЕЦЕПЦІЯ ПОНЯТЬ СПАДКОВОЇ ТРАНСМІСІЇ ТА СПАДКОВОГО ПРЕДСТАВЛЕННЯ В СУЧАСНІ ПРАВОВІ СИСТЕМИ

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Abstract

The article examines the problems of legal formation of the institution of hereditary transmission and hereditary representation. One of the most relevant topics in the study of modern jurisprudence is the problem of forming a single European legal space, the inclusion of national legal systems, the establishment of relationships between European integration and national law. The dialectical method and the analysis of theoretical developments of world scientists and general notarial practice show that a number of questions arise related to the correct distinction between the concept of hereditary transmission and hereditary representation. The purpose of this article is to determine the historical and legal nature of the institution of inheritance by hereditary transmission and the right of representation, to clarify the nature and features of application in practice, to refine concepts received from Roman private law and adaptation to international law. The main task of the study is to systematize and analyze the reform of the idea of origin and improvement

Анотація

В статті досліджуються проблеми правового становлення інституту спадкової трансмісії та спадкового представлення. Однією з найактуальніших тем дослідження сучасної юридичної науки є проблема формування єдиного європейського правового простору, включення в його межі національних правових систем, встановлення взаємозв'язків між європейським інтеграційним та національним правом. Діалектичний метод та аналіз теоретичних напрацювань світових науковців та загальної нотаріальної практики, свідчить, що виникає низка питань, пов'язаних з правильним розмежуванням поняття спадкової трансмісії та спадкового представлення. Метою цієї статті є визначення історичної та юридичної природи інституту спадкування за спадковою трансмісією та правом представлення, з'ясування сутності та особливостей застосування на практиці, доопрацювання рецепційованих з римського приватного права понять та адаптація під міжнародне законодавство. Основне завдання

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of the procedure for the transfer of inheritance rights, legal consolidation, as well as development and regression in modern conditions. The article considers the legal constructions that guarantee the transfer of the right to inherit from the deceased heirs who did not have time to inherit to their descendants. It is concluded that it is important to improve the legislative delimitation of the procedure of inheritance transfer by hereditary transmission and hereditary representation. It is noted that these contradictions can be eliminated or reduced by harmonizing the law, which provides for the use of not only international agreements but also other instruments of regulation in order to achieve a certain degree of uniformity of norms.

Keywords: inheritance, hereditary transmission, heir, testator, roman private law.

Introduction

Inheritance by the right of representation and hereditary transmission was already known in Roman law. Still, even though it was adopted to a certain degree by the latest civil law systems, it remains controversial both in the doctrine of civil law and in practical application. Over the last period, world civil law has been supplemented by research on individual (namely, general) issues of the institution of inheritance. At the same time, in Ukraine, there is still not a single fundamental research proving a comprehensive study of inheritance by transmission and by the right of representation. An analysis of theoretical studies, in which the consideration of this issue has begun, indicates that scientists have shown scientific interest in developing this topic at different times. This article aims to determine the historical and legal nature of the institution of inheritance by transmission and by the right of representation to clarify the essence and features of their application in practice. The study's main objective is to systematize and analyze the reform of the idea of the emergence of the term "inheritance by the right of representation" and "inheritance by transmission", their normative legal consolidation, and development and regression in modern conditions.

Methodological

дослідження полягає у систематизації й аналізі реформування ідеї виникнення та вдосконалення процедури переходу прав на спадщину, нормативно-правового закріплення, також розвиток та регресія в сучасних умовах. У статті розглядаються юридичні конструкції, що гарантують перехід права на прийняття спадщини від спадкоємців, які померли, та не встигли прийняти спадщину до їх нащадків. Робиться висновок про важливість вдосконалення законодавчого розмежування процедури переходу спадщини за спадковою трансмісією та спадковим представленням. Зазначено, що усунути чи зменшити ці суперечності можна шляхом гармонізації права, що передбачає використання не тільки міжнародних договорів, але й інших інструментів нормативної регламентації з метою досягнення певного ступеня одноманітності норм.

Ключові слова: спадщина, спадкова трансмісія, спадкоємець, спадкодавець, римське приватне право.

Compiled approved general scientific and special methods of cognition, developed by legal and philosophical sciences, and, above all, general scientific methods. Among them is the dialectical method of cognition of legal reality, which made it possible to consider the essence of law inheritance in the area of personal (civil) rights, arising from the duty of the state to protect the family, motherhood, fatherhood and childhood. On the basis of this method, the advantages and shortcomings of various approaches to determining the legal nature of law inheritance, in particular as an element of private property law, guarantees of this right. When writing the article, we also used methods of formal logic: description, comparison, classification, analysis and synthesis, etc. For this study, the formal legal method. Promotes identifying and clarifying the meaning of the general categorical apparatus in the area under consideration, which is important for the constitutional understanding of concepts such as "the right of inheritance", "freedom of will", "Inheritance", "mandatory share", etc., and to clarify them interpretations in order to avoid ambiguous interpretations. The historical method made it possible to identify a sequence of approaches to understanding the content of the right of inheritance in a particular historical the period of development of the Ancient States. Achievement of the set goal the method of comparative jurisprudence also contributed. Based on it analyzed a significant array of

foreign legislation and international legal acts regulating public relations in the field of hereditary succession.

Literature Review

The following scientists pay attention to the issues of hereditary transmission and hereditary representation Hedlund, R. (2021), Zaika, Y., Oleksandr Ye. Kukhariev, Volodymyr L. Skrypnyk, Aliesia A. Mytnyk (2021), Dibarrart, M.J. (2020), Tarasyutina E. (2020), Creteau E., Rostovtseva, N. (2020), Zaika Y.O. (2020), Carrillo Pozo, L.F. (2018).

In Roman law, an inheritance could be passed on according to the rules of intestate or testate succession. The Roman law of succession presents people with an enormous display of legal ingenuity (Humfress (2017)). The first precedent for transmission was the *transmissio ex capite infantiae* case, when the inheritance was opened before the child reaches one year (later seven years), the father had the right to receive the inheritance for the child. If the infants died before the father had time to accept the inheritance, the father could arrange the inheritance for himself. Additionally, the Gnomon provides a better insight into the development of the Roman law of succession; this historical perspective has been lost in the Justinianic transmission of the Roman legal texts, but is of importance for the fiscal dimension of the law of succession, the different functions of the *fideicommissum familiae relictum*, the rules on incapacity contained in the *lex Iulia et Papia*, as well as for the legal status of both women and soldiers in matters of inheritance (Babusiaur (2018)). Notes, for the most part, the transmission occurred in favor of the heirs of the person who did not use his or her ability to inherit. Sometimes the transmission occurred in favor of the *paterfamilias*.

Under Theodosius II, the rule was that if the testator's descendants are intended as heirs in the will and these heirs die before the opening of the inheritance, then their own descending heirs could receive the inheritance on their behalf (De Figueiredo (2020)).

Finally, during the time of Justinian, the general rule on the personal nature of the right to inheritance was leveled. If the heir died without taking advantage of the opportunity to inherit, and not yet another year had passed from the moment the heir was notified of the opening of the inheritance, then the heirs could receive the inheritance (Baynes, (1926)). If the heir did not

know about the opening of the inheritance to him or her until the death, then the year was considered from the date of the death (Maas (1986)). In addition to the general transmission, the *transmissio ex capital in integrum restitutionis* and *transmissio ex jure patvio* were established. In the first case (*transmissio ex capite in integrum restitutionis*), if the heir could not receive the inheritance for a reason that gave ground to ask for *in integrum restitutio* in case of loss of the ability to receive the inheritance (for example, due to the absence of *rei publicae causa*), and then died without receiving the inheritance for this reason, the heirs could instead ask for *in integrum restitutio* and receive the inheritance upon themselves. The second case arose in the case of *transmissio ex jure patvio*, if the inheritance was opened to a subject under control and he refused to receive it against his father's will, then his *paterfamilias* could receive the inheritance.

An analysis of Roman private law sources asserts that prototypes of modern cases of the transfer of inheritance rights were born in the Roman Empire. As for the inheritance by representation, the term "inheritance by representation" was unknown in Roman law, but in cases of death of any of the heirs, the right to inherit passed on to his descendants in a direct descending line (children, grandchildren, great-grandchildren). These persons inherited by independent inheritance law, receiving that part of the inheritance that belonged to their ancestor (Hedlund (2021)).

In contrast to representation, the term transmission first appears in Roman private law (Aldunate (1905)).

Results and Discussion

It is formulated as *transmissio delationis* – the transfer of the right to receive the inheritance to the heirs of the person intended to receive the inheritance, but not having time to do this before death. The term itself was accepted by almost all legal systems of the world and has not undergone radical changes in the process of historical formation of law.

Notes, for the most part, the transmission occurred in favor of the heirs of the person who did not use his or her ability to inherit. Sometimes the transmission occurred in favor of the *paterfamilias*. In legal science, freedom of will is understood as the inalienable right of any citizen to designate a list of persons who, according to his will, will receive property after

the death of the testator (Borshcheniuk, Semerianova, Filatova, & Karpovich. (2019)).

Special rules of inheritance are established in cases when the heir intended to receive the inheritance, both by law and by will, dies, not having time to exercise the right to accept the inheritance. In this case, it concerns the transfer of an unfulfilled right to inherit. For the application of these rules, two circumstances matter: the deadline for accepting the inheritance has not expired and the heir intended to receive the inheritance has not submitted an application for acceptance or rejection of the inheritance within the established time limit or has not performed any actions indicating the acceptance of the inheritance. (Zaika, Kukhariev, Skrypnyk, & Mytnyk (2021)). There are cases very similar to transmission, but, they are fundamentally different: 1) if the heir, within the period established for the acceptance of the inheritance, managed to accept the inheritance, then the accepted inheritance is included in his own inherited property and passes to his heirs according to general rules; 2) it is not about the transfer of the right to accept the inheritance in the case when the heir did not express his will to accept the inheritance but died after the expiration of the established period. In this case, even before the death, the person lost the right to accept the inheritance, and it is not advisable to raise the issue of extending the time limit for accepting the inheritance by the heirs. It has also been recognized that the effects of said disposition acts are, in reality, uncertain, since in the partition of the inheritance it is possible that the heir who alienated his quota is not awarded, ultimately, the singular asset to which he referred his hereditary quota at the time of disposing of it, but, on the contrary, it is awarded to another community member or to a third party (Dibarrat (2020)).

The transfer of the right to accept inheritance is defined by the term “transmission”. This term is officially used in the current legislation, namely in Part 1 of Article 1276 of the Civil Code of Ukraine: if the heir by will or by law died after the opening of the inheritance and did not have time to accept it, the right to accept the share of the inheritance, except for the right to accept the obligatory share in the inheritance, passes on to the heirs (inheritance transmission) (Civil Code of Ukraine (2003)).

According to Part 1 of Article 1276 of the Civil Code of Ukraine, inheritance transmission is the transfer of the right to accept the inheritance, when the heir intended to receive the inheritance

by will or by law died after the opening of the inheritance, not having had time to accept it within the period established by law (Civil Code of Ukraine (2003)). In this case, the right to accept the inheritance that belonged to the deceased after the opening of the inheritance to the heir is transferred by transmission to his or her heirs by will or to heirs by law. At the same time, the right to accept the inheritance by transmission is not included in the inheritance, which opened after the death of the heir who did not have time to accept the inheritance, and is an independent subjective civil right. This follows primarily from the fact that the legislator imperatively enshrines the rule according to which the right of the heir to accept part of the inheritance as a compulsory share does not pass on to his or her heirs. The right to a compulsory share in the inheritance is a personal property right that cannot be transferred to other persons for any reason, including through transmission.

As for the definition of transmission, we consider it apt and reflecting the essence of the phenomenon itself. The concept of transmission is borrowed from the Latin word *transmissio*, which means the transmission, forwarding of something. It provides for the possibility for heirs to acquire the rights of transmissars, i.e., they transfer the right to become heirs (legal successors) after the death of the primary testator, as well as the right to inherit the transmitent. The deceased heir in these relations is referred to as the “transmitent”, and the heir, to whom the right to accept the inheritance passes, is called the “transmissar”.

The first step is to determine the circle of people who are intended to inherit by transmission, only the heir who has accepted the inheritance is the legal successor of the rights and obligations that can be inherited (Zaika, Kukhariev, Skrypnyk, & Mytnyk (2021)). We do not agree with this statement regarding transmission, because in European countries, if the heir by will or by law died after the opening of the inheritance and did not have time to accept it, the right to accept the share due to him or her passes to the heirs.

The heirs are not subjects of these relations. Therefore, at the time of death, legal competence and legal capacity are lost. However, the legal nature of these exceptions, according to supporters of the concept of universality of hereditary legal succession, does not allow to attribute the succession of separate rights of the deceased to the hereditary legal succession, considering them not as hereditary, but as other

legal relationships – legally binding (Kostruba (2019)).

The conditions for the transfer of the right of inheritance are: 1) the opening of the inheritance; 2) the death of the person intended to receive the inheritance (Tarasyutina (2020)). Death, obviously, should be equated with the recognition of a person as missing.

During the transfer of inheritance rights, two persons appear: the heir who died after the opening of the inheritance, who did not have time to exercise his or her rights to accept the inheritance or refuse it, and his or her own heir. Biologically, the embryo is not considered a human life, and current case law would deem the embryo to be, at most, potential and not actual life (Estrada. (2020)).

The transfer by inheritance of the right of inheritance does not require the person to whom the right of inheritance is transferred to know that the inheritance has been opened (Viarengo (2016)).

There is a general rule: a transmissar who has accepted the inheritance by transmission is responsible within the value of this inherited property only for the debts of the testator to whom this property belonged, and are not answerable with this property for the debts of the heir who did not have time to accept the inheritance, from whom the right to accept the inheritance passed to him or her. In our opinion, this statement is absolutely correct and corresponds to the realities of life, protecting the rights of the transmissar.

After the death of the transmitent, the inheritance can also be opened. In this situation, it is about two inheritances: the inheritance opened after the death of the primary testator, and the inheritance opened after the death of the transmitent. The heir of the transmitent has the right to accept the inheritance by transmission (as a transmissar) and to accept the inheritance opened after the death of the transmitent. These are two independent rights that can be exercised independently of each other. The heirs of the deceased transmitent may accept the inheritance by transmission and refuse his or her inheritance, or, conversely, may accept the inheritance after the death of the transmitent and refuse to accept the inheritance by transmission, they may accept both inheritances or refuse to accept both inheritances. The commorientes are individuals, entitled to inherit, reciprocally, to each other and considered to have died at the same moment,

from the inheritance's point of view. The commorientes do not inherit reciprocally. (Creteau, & Rostovtseva. (2020).

Moreover, the number of heirs who can be intended to inherit by transmission, on the one hand, and immediately after the death of the transmitent, on the other, do not always coincide.

The fact is that in the case of transmission, heirs are called in the form of a general rule by law. Only if all the property is bequeathed by the transmitent, the right to accept the inheritance by transmission also passes to the heirs by will. Therefore, if the transmitent has disposed of only part of his or her property, the heirs by will are not called to inherit by transmission.

Acceptance of inheritance by transmission is carried out in the same ways as acceptance of the main inheritance (Guliyev (2017)). Since there are two independent inheritances, two independent acts are necessary to accept them. Therefore, the submission of an application for acceptance of inherited property belonging to the transmitent, or its actual acceptance, cannot be considered as acceptance of inheritance by transmission. Independent actions must be taken regarding the acceptance of this inheritance: an application has been submitted or the primary testator's inheritance has actually been accepted. At the same time, an application for acceptance of each of the inheritances or one application for acceptance of both inheritances can be submitted independently.

The current legislation defines the mode of transfer of the right to accept the inheritance. It is established that this right is not part of the transmissar's inheritance. This means that in the event of the death of a transmissar who did not have time to exercise the right to accept the inheritance, this right cannot pass to his or her heirs. In this case, if there are other transmissars, the share of the deceased transmissars in the right to accept the inheritance will pass to them, and in the absence of other transmissars – to the heirs intended to inherit together with the transmitent after the death of the main heir.

The right to accept the inheritance by transmission does not arise if another heir is assigned to the heir who died before accepting the inheritance within the established time limit, i.e. a potential transmitent. In this case, priority is given to the additionally assigned heir. In this regard, it should be recalled that the additional assignment of the heir, i.e., the appointment of another heir in case the main heir

cannot inherit for any reason, is one of the orders that the testator has the right to make. At the same time, the law provides an exhaustive list of conditions, in case of which the additionally assigned heir is called to inherit. These conditions include the death of the heir who did not have time to accept the inheritance. Thus, if a list of heirs is formulated in a general way in the will, i.e., the grounds for the disappearance of the intended heir are not specified, then as a result of the disappearance of the main heir, for any reason, the additionally assigned heir will be called to receive the inheritance; if the death of the heir who did not have time to accept the inheritance is the ground in the will, the same consequences occur. However, if the additional assignment is established for any other specific case (recognition as unworthy, death before the opening of the inheritance, etc.), the transfer of the right to accept the inheritance by transmission will occur.

The right to accept inheritance by transmission is exercised by heirs on a general basis, with one exception. Since the right to accept inheritance passes to the heirs of the transmitent after the heir's death, who was previously called for the inheritance, the remaining period during which this right can be exercised will always be less than the six months established by law. However, if the remaining period is less than three months, it is automatically extended to three months (Zaika (2020)). Failure to exercise the right to accept inheritance by transmission is equivalent to non-acceptance of inheritance by the heir whose right has been transmitted.

A court may restore the term if the court recognizes that the reasons for missing the term were valid, if the heir applied to the court no later than six months from the date when the reasons for missing the term disappeared. As for missing the deadline for accepting the inheritance by inheritance transmission, the law does not mention the second possibility of accepting the inheritance after the expiration of the term: provided that all other heirs who have accepted the inheritance agree to this, i.e., in an undisputed manner. We believe that the absence of an indication in this regard in the law does not exclude the application of general rules governing the acceptance of inheritance after the expiration of the established period. There is no reason not to admit the inclusion of the person who missed the deadline to the circle of heirs who have accepted the inheritance if other heirs agreed. However, it should be borne in mind that the circle of heirs, with whose knowledge the heir who missed the deadline can accept the

inheritance, should be determined taking into account the peculiarities of transmission.

Thus, if the right to accept inheritance has passed to several transmissars, then all of them must express their consent in writing. For example, the son of the deceased testator died without having time to accept the inheritance, and the right to accept the inheritance passed to his wife and two sons, one of whom missed the deadline for accepting the inheritance. For the inclusion of the person who missed the deadline in the circle of heirs, the consent of his mother and brother is required. If the right to accept the inheritance passes to one heir who has missed the deadline, the consent to accept the inheritance may be given by heirs who are called to inherit together with the transmitent after the death of the main heir. The certificate of inheritance rights is issued within the period calculated from the date of death.

Sometimes in the legal literature, with reference to the need not to confuse the transfer of inheritance rights by representation, an analysis of the features of each of these grounds for inheritance is provided. However, the difference between the two institutions is obvious. The heir who has not accepted the inheritance dies after opening it. Having acquired the inheritance right, he transfers it to his or her heirs. On the contrary, the right of representation occurs when the eventual heir dies before the death of the testator. He or she cannot receive the inheritance and does not transfer any insurance rights to his or her heirs since they did not acquire them. His or her heirs are only called to receive the inheritance instead of him, but completely independently and directly.

Transmission should be clearly distinguished from inheritance by representation. First, if inheritance by representation arises only in the case of inheritance by law, then transmission occurs in the case of inheritance by will.

Second, inheritance by representation occurs only when the heir dies before the inheritance is opened. Transmission occurs when the heir called to receive the inheritance dies after the opening of the inheritance but before its acceptance.

Third, in the case of inheritance by representation, the inherited share of the deceased heir is transferred to persons specifically determined by law – the grandchildren, nephews, or grandfather and grandmother of the testator. In the case of

inheritance transmission, the right to accept the share that the deceased should have received is transferred to his or her heirs.

According to Article 1062 of the Civil Code of the Republic of Belarus, the share of an heir who died before the opening of the inheritance passes to his or her descendants by representation and is distributed in equal shares. The heirs of an ascending relative will not inherit if he or she was recognized as an unworthy heir under (Civil Code of the Republic of Belarus (1998)).

These articles of the Civil Code of the Republic of Belarus actually repeat each other in terms of the definition of the concept, subjects, conditions, and order of inheritance by transmission and representation.

The capitalist countries of continental Europe have a model of building inheritance relations similar to the Ukrainian one, differing only under the influence of some national traditions. The inheritance law of capitalist countries unites the division of all heirs into four stages:

- descending relatives (children, grandchildren, great-grandchildren);
- parents, siblings;
- incomplete siblings;
- and other relatives.

The transfer of the right to inheritance by transmission is not mentioned in the German Civil Code (German Civil Code (2013)). We are referring to the term itself. The legal successors of the deceased are given a period to exercise their rights by submitting an appropriate application. Transmission is used in the case of inheritance by will. The German scientist, revealing the concept of “freedom of testament”, points out that freedom of testament gives the right to the testator without specifying a reason to deviate from the legal order of inheritance – this is the core of inheritance law.

According to Section 2024 of the German Civil Code, if the property was bequeathed to several heirs in such a way that the heirs were eliminated by law and one of the heirs lost the opportunity to inherit, his or her share passes to the shares of other heirs (German Civil Code (2013)). The descendants do not have any succession.

The principle of universal legal succession applies: both the rights and obligations of the testator pass to the heirs.

Having studied the internal rules of law on inheritance in European states, it can be stated

that the law of foreign states regulates inheritance relations in different ways (Pfeiffer (2016)). Thus, the grounds, the principles of inheritance by transmission are somewhat different. These contradictions are the cause of the emergence and development of conflicts in private international law. It is possible to eliminate these contradictions and inconsistencies through the harmonization of law, which provides for the use of international treaties and other instruments of regulation to achieve a certain level of uniformity (Lerdo De Tejada (2019)). However, whatever the real convergence of the inheritance law of states, no matter how identical the norms of inheritance would be, the conflicting issues of inheritance by inheritance transmission and inheritance representation in private international law remain.

These contradictions can be eliminated or reduced by harmonizing law, which provides for the use of international treaties and other regulatory instruments to achieve a certain degree of uniformity. However, whatever the real convergence of the inheritance law of European states, no matter how identical the norms of inheritance would be, the conflicting issues of inheritance by inheritance transmission and inheritance representation in private international law remain. This institution of inheritance law is quite complex and problematic in notarial practice.

One of the most relevant research topics of modern legal science is the problem of forming a single European legal space, including national legal systems within its borders and establishing interrelations between international, European integration, and national law.

The formation of a common system of legislation of the European Union, namely in terms of regulating inheritance – legal relations, features of inheritance by transmission and representation, is associated with a range of problems, primarily historically determined (Carrillo (2018)). Traditionally, inheritance law is considered a national branch.

Inheritance law is a universal system of legal constructions borrowed from Roman law. Roman civil law became the basis of modern civilization worldwide – in some legal systems to a greater extent, in others less. By accepting this law, Europe built its civilization on its foundations (Sarvarian (2016)). Analysis of the historical development of inheritance law shows that it has always occupied one of the dominant places in private international law. An essential

feature of regulating these relations is that the norms of inheritance law do not contain a direct answer, a direct instruction on how to resolve the case (Deinger, Jin, Nagarajan, Xia. (2019)). These rules only indicate which legislation should be applied (Viglione (2018)).

Conclusions

Discussions around the definition of the subject of international inheritance law boil down to the fact that the authors understand different things under this subject. Thus, some scholars define the subject of international inheritance law, an independent branch of law, as relations with a foreign element governed by international law. In contrast, others believe that the subject of this law is the legal norms governing civil relations with a foreign element.

In the international scientific literature, the range of norms that make up international inheritance law is ambiguously determined, which is explained by different approaches to its nature and essence. Usually, the norms of international inheritance law include conflict of laws, special material norms, and norms of international civil procedure. The doctrine of international inheritance law attempts to justify the application of foreign law on the territory of the state. We argued that the legal system of the state attaches importance to the norms of a foreign legal system because legal norms are considered attached to the objects of the material world, in this regard, the law of a certain state should provide legal regulation of relations, depending on what objects of the material world they are attached to.

At the present stage of the development of hereditary legal relations, a significant place in civil law is occupied by the concepts of transmission and hereditary representation, which originated in ancient times of the formation and development of law as a branch of science. The issue of the fate of the private property of a deceased person is relevant for the harmonious existence of society. Unfortunately, all that we have, be it rights or responsibilities, we leave as a memory of ourselves for our descendants. Analyzing all the provisions of inheritance law as a separate institution of civil law, we dwell on the analysis of current legislation and trends in the development of inheritance law with the possibility of simultaneously harmonizing this process with improving the quality of notarial procedure and legislation on notaries. Therefore, the process of improving legislation should be distinguished not only by a quick reaction to changes in social

relations but also by the external and internal arrangements of norms. The main attention is focused on the links between the norms of substantive and procedural legislation. This area of research provides an opportunity to thoroughly analyze both the theoretical provisions of inheritance law and the process of inheritance. The inheritance process cannot be free from the objective criterion of perfection of civil proceedings. When considering cases in court, the imperfection of modern legislation and the theory of inheritance law is revealed. Thus, court cases in which the subject of consideration is inheritance by hereditary transmission and the right of representation is an object for scientists to analyze the perfection of the relevant legislation or its compliance with real public relations.

Therefore, the process of improving legislation should be distinguished not only by a quick reaction to changes in social relations but also by the external and internal arrangements of norms.

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