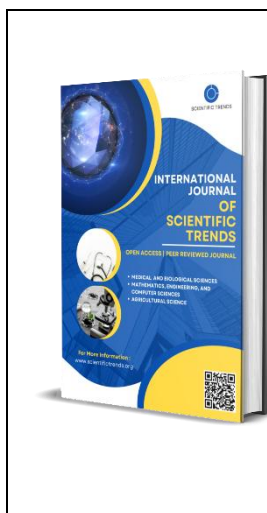


General Description of Methods for Protecting Inheritance Rights

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Abstract

The article provides a general overview of the methods for protecting inheritance rights as an essential component of the legal regulation of succession relations. It examines substantive and procedural legal remedies aimed at safeguarding the rights and legitimate interests of heirs, as well as the grounds for their application. Particular attention is paid to typical violations of inheritance rights, types of legal claims used in judicial practice, and challenges of law enforcement. The author emphasizes the importance of an effective system of inheritance rights protection for ensuring legal certainty and justice.

Keywords: Inheritance law, protection of inheritance rights, heir, decedent, remedies, judicial protection, property rights, civil law.

Introduction

The essence of the concept of "testamentary disposition" (or "bequeathing") lies in the fact that the relationship toward inheritance law—as the practical manifestation of the institution of inheritance—has been, and remains, an object of intense debate across different eras, among diverse peoples and social groups, as well as within various philosophical doctrines. These disputes have often taken extreme forms, leading to serious ideological confrontations.

Nevertheless, despite its complexity and inherent contradictions, the existence of inheritance law in almost all modern legal systems in one form or another indicates that a large part of the world's population considers bequeathing to be the most optimal and just method of determining the post-mortem fate of an individual's property.

To be sure, there are many in society who view the institution of inheritance as a manifestation of supreme social injustice, or even as the source of a significant portion of humanity's misfortunes. Influenced by such active individuals, political regimes have emerged throughout history that denied the right of inheritance to their citizens or subjects.

However, there is another peculiar category of individuals in society who passionately support the idea of transferring another's property to the state, not only after death but even during a person's lifetime. Yet, these same individuals are prepared to take an extremely harsh and uncompromising stance against anyone who obstructs the exercise of their own personal inheritance rights¹.

¹ Наследственное право: учебник для магистров / М.С.Абраменков, П.В.Чугунов; отв. ред. В.А.Белов. – М.: Издательство Юрайт, 2013. – 5 с.

In any life situation even indirectly related to someone's inheritance rights, protests, objections, righteous indignation, and reproaches of all kinds are primarily directed toward the lawyers who have undertaken the responsibility of handling the inheritance proceedings. These sentiments emanate from individuals who consider themselves sidelined, deprived of their due, or otherwise aggrieved. Generally, the legal profession is a constant source of dissatisfaction for someone: if a case is won, the opposing party views the lawyer with hostility; if a case is lost, the dissatisfaction may be expressed in an intense form even by one's own client.

In inheritance-related matters, this situation takes on an even more severe character. In particular, a scholar or lawyer who, while commenting on a judicial decision, expresses—even with caution—an opinion favoring the position of one of the parties can easily become the target of sharp criticism and accusations.

Such a tense and conflict-ridden environment, naturally, does not serve as a factor that encourages specialists to objectively and deeply study the theoretical and practical problems of inheritance law on a scientific basis. Often, the goal becomes limited to merely performing daily tasks, preserving professional reputation, psychological stability, personal freedom, and even life itself. The situation becomes even more complicated when the burden of scientific research is added. Despite its widespread nature and centuries-old history, the institution of inheritance law is remarkably rich in unresolved scientific problems. In particular, regarding the nature of inheritance law in the subjective sense—specifically the legal essence of the right to accept an inheritance—a single, widely recognized concept has yet to be formed.

In every country, the protection of human and civil rights and freedoms is recognized as a fundamental obligation of the state. To ensure the implementation of this principle, the state creates the necessary conditions for the realization of established human and civil rights and freedoms by forming various legal mechanisms.

By its very nature, the institution of inheritance encompasses the interests of every individual to a certain extent and serves as an indispensable legal instrument that ensures the continuous functioning and development of private property.

Inheritance procedures are an essential component of the mechanism for exercising legal rights, and their legal regulation must be carried out in strict accordance with the requirements of current legislation. It should be noted that the failure to provide procedural support, the violation, or the incomplete implementation of relevant legal relations significantly complicates the realization of inheritance rights; consequently, this can lead to the inefficiency of the entire inheritance process and even result in it being declared unlawful.

This conclusion is relevant not only to inheritance law but also to the country's entire legal system as a whole. Especially in conditions where social relations are becoming more complex due to the development of a market economy and the formation of new economic conditions, the issues of regulating inheritance-related legal relations are of paramount importance. This is because the matters of property transfer, the exercise of rights, and the protection of legitimate interests are directly interconnected in this field².

² Иноятова С.Ф. Происхождение защиты гражданских прав и её современное значение // O'zbekistonda fuqarolik qonunchiligining rivojlanish genezisi va istiqbollari: xalqaro ilmiy amaliy konferensiya materiallari to'plami. – T.: TDYU nashr., 2024. – 250–256-b.

Inheritance legal relations manifest as a legal form that facilitates the transfer of rights and obligations from the testator to the heir. They encompass not only the exercise of rights arising from the moment the inheritance opens but also their protection. Although the protection of rights in the field of inheritance is inextricably linked to the right of protection in a general sense, the specific nature of this civil law institution requires a profound and detailed analysis, particularly regarding the determination of methods of protection.

Every participant in civil legal relations possesses the opportunity to protect their rights; this right can be exercised by applying to a court or other authorized bodies, as well as in the form of self-defense. The right to judicial protection is a constituent element of the right of protection as a broader legal category. The foundation and most crucial guarantee of the right of protection are expressed in constitutional norms, which ensure every individual's right to appeal to the court in the event of a violation of their rights or freedoms, as well as when obstacles to their realization arise³.

In national legislation, the problem of realizing and protecting inheritance rights and legitimate interests assumes a distinct and fundamental significance under contemporary conditions. At the same time, general constitutional norms manifest in a logical and functional interconnection with substantive legal rules (specifically, Article 11 of the Civil Code) as well as procedural norms.

The comprehensive scope of the legal powers belonging to the heir necessitates providing both the heir and other subjects of inheritance legal relations with legal remedies. Protection in the field of inheritance is multifaceted: the powers of a subject of inheritance law vary in terms of content and legal nature, some of which are organizational in character. Concurrently, every power within the framework of inheritance legal relations is equipped with the possibility of protection. Therefore, the institution of protection holds particular importance within inheritance legal relations. It is possible to speak of protection in inheritance legal relations only from the moment these relations arise—that is, after the legal fact associated with the opening of the inheritance has occurred⁴. From the moment the inheritance opens, heirs, as subjects of inheritance legal relations and holders of the respective subjective rights, acquire the right to protect their rights, which is exercised within the framework of inheritance legal relations.

As an object of protection, when a right is violated, unrecognized, or contested, it manifests as a property or non-property right, as well as a legitimate interest that is not contrary to the general principles of civil legislation [4]. Methods of protection refer to substantive legal measures established by law aimed at restoring or recognizing violated or contested rights, as well as providing for an impact on the property or non-property sphere of the infringer.

The heir, as the subject of the right to protection, independently determines their conduct in the process of exercising this right; that is, they possess the prerogative to choose the method of legal protection.

In the process of selecting a specific method of protection, it is necessary to consider the list of protection methods established by legislation, particularly the rules provided in Article 11 of the

³ Беспалов Ю. Ф., Беспалова А. Ю. Дела о наследовании: некоторые спорные вопросы правоприменения. – М.: Проспект, 2015. – 668 с.

⁴ Yuldashev J.I. Vorislik va oila huquqi. Darslik. yuridik fanlar doktori, professor O. Oqyulovning umumiy tahriri ostida. – T.: TDYUI nashriyoti, 2024. – 40 b.

Civil Code. Certainly, when determining a method of protection, one should rely on the list specified in the relevant article; however, this rule is not imperative in nature, meaning it does not imply that a person is restricted solely to the methods listed therein. Otherwise, this would lead to an artificial narrowing of the subject's right to protection, a situation that is legally impermissible. There is a fairly wide range of protection methods in inheritance legal relations, which is explained by various factors. At the same time, the issue of the stages of existence and development of inheritance legal relations remains controversial in scientific literature, both past and present. In particular, Z.Sh. Shamukhammedova and some other prominent civil law scholars distinguish two stages in inheritance legal relations: the stage prior to the acceptance of the inheritance and the stage after the acceptance of the inheritance⁵.

Furthermore, it is worth emphasizing that the type of succession—whether testate (by will) or intestate (by law)—plays a decisive role in distinguishing the various methods of protection.

It can be noted that the rights of heirs who have accepted an inheritance possess a proprietary nature (in rem) in their content, being similar in some respects to the right of possession, yet not fully coinciding with the right of ownership. In cases where the heir's right to the inheritance is violated, contested, or unrecognized, it undoubtedly requires legal protection. However, the fact that the legislator has not clearly and explicitly defined the methods for protecting this specific right creates certain difficulties in practice. Analyzing the concepts of the method and form of protecting civil rights, S.F. Inoyatova evaluates the method of protection as a category of substantive (regulative) law. In her view, the form of protection refers to the law-established activities of authorized bodies aimed at safeguarding rights; that is, such activity encompasses determining factual circumstances, applying legal norms, designating the appropriate method of protection, and rendering a decision⁶.

In conclusion, by synthesizing the points discussed above, it should be emphasized that the relevance of issues regarding methods of protecting rights is primarily stems from the lack of sufficient clarity and systematic consistency in current legislative norms within the field of inheritance law. The Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 5, dated July 20, 2011, "On the Application of Legislation on Inheritance Law by the Courts," provided clarity on a number of issues concerning the specifics of applying certain methods for the protection of inheritance rights.

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⁵ Ўзбекистон Республикасининг фуқаролик кодексига шарх: Илмий шарҳлар. Т 3. /Ўзбекистон Республикаси Адлия вазирлиги. – Тошкент: Vaktria press, 2013. – 553 б (67-боб муаллифи – З.Ш.Шамухаммедова).

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