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Subjects of Inheritance Law in the Republic of Uzbekistan

Subjects of the Right of Succession in the Republic of Uzbekistan

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Abstract. *This article explores the legal status of individuals and entities involved in inheritance law in the Republic of Uzbekistan. It examines key aspects of determining the range of heirs, the eligibility to inherit, and the rights of a testator. Additionally, the study highlights specific legal nuances affecting inheritance rights and their protection.*

Key words: *right of succession, inheritance, legatee, heir, fetus, legal entity, state, legal protection of the heir.*

JEL Classification: K110

Introduction

Being an heir, as attractive as the word is, has its own rules and requirements for distribution and acceptance. Since human life is limited, the fate of the property acquired during the lifetime does not leave his heirs indifferent. Article 41 of the Constitution of the Republic of Uzbekistan stipulates that everyone can be an owner and his legal guarantee, and according to Article 182 of the Civil Code of the Republic of Uzbekistan, inheritance is considered one of the grounds for the creation of the right to property. Chapter V of the Civil Code of the Republic of Uzbekistan is devoted to the right of inheritance. Since the right of inheritance is related to inheritance, determining the structure of inheritance, the circle of heirs, and its correct distribution among the heirs gives a special authority to the notary and the courts.

The relevance of the topic, the many explanations and comments on heritage work mean that this issue is always in the spotlight. Although all aspects seem to be regulated in the law, problems arise in some life situations (new heir's claim to inheritance). Inheritance relationships require a high level of protection. After all, not only property, but also non-property rights are transferred to the heirs. The right of inheritance as a special branch of civil law is caused by the situation and signs.

The ties between generations, the transfer of inheritance from generation to generation depend not only on legal grounds, but also on customs and traditions, and on the human spirit. Therefore, it is important to clearly regulate the inheritance process.

The right of inheritance is a set of legal norms related to the direct acceptance or refusal to accept personal and non-property rights and obligations of a citizen in connection with his death.

There are different approaches to inheritance in the world. In the countries belonging to the continental legal system, there is a tendency to limit the right to acquire or renounce the inheritance to a certain period (Germany, Japan) or to apply it indefinitely (France), while in the Anglo-Saxon legal system, the acquisition of the inheritance is «pure property» after the obligations of the testator have been fully fulfilled under the control of the court. implementation in the form of acceptance of «property» (net estate) (England) and several stages of inheritance (opening of inheritance and probate, collection of inheritance assets, family support, separation of shares in household and common property, fulfillment of obligations of the decedent's debts, payment of taxes, distribution of inheritance) in order (USA) practice of possession was formed. Nevertheless, there are currently problems in finding acceptable legal solutions for inheritance, creating convenient legal mechanisms for the exercise of the right of heirs to inherit, and ensuring the rights of creditors in inheritance.

The succession of legal entities, particularly in the logistics sector, follows specific legal principles. If a logistics company undergoes reorganizations such as a merger, division, separation, or change in business activity (universal succession)—its rights and obligations transfer to the newly formed entity.

For example, when multiple logistics and transport forwarding companies merge, the newly established entity assumes all their rights and obligations. However, under national legislation, if a legal entity is dissolved, its rights and obligations do not transfer through succession.

A legal entity may be dissolved under the following circumstances:

1. By a decision of its founders or an authorized body, as outlined in the founding documents, or upon the expiration of its legal term.

2. If it operates without the required permit or license.

3. If it remains inactive for three years after being designated as dormant due to a lack of financial or economic activity.

4. By court order, with liquidation carried out by the founders or an authorized body specified in the founding documents.

Since the subjective structure of legal relations occupies a special place, their legal status should be clearly defined. Determining the range of participants in the inheritance, ensuring their participation is important in the correct interpretation of legal relations of inheritance. Determining the scope and status of sole heirs has always been a matter of debate.

According to Article 1118 of the Civil Law of the Republic of Uzbekistan, citizens who were alive at the time of the opening of the inheritance, as well as children of the testator who were pregnant during his lifetime and were born alive after the opening of the inheritance, can be heirs according to the will and the law. Legal entities formed at the time of opening of inheritance, as well as state and self-government bodies of citizens can be heirs under the will.

In the Islamic Encyclopedia, inheritance (irs, virasa, virs, tarika, turas) is defined as the transfer of property, rights, and obligations to another person upon the owner's death. At least two-thirds of the estate is distributed among the heirs, while up to one-third may be allocated by will.

Heirs are classified into three categories:

a) First-degree relatives – parents, spouses, and children.

b) Second-degree relatives – grandparents, siblings, and grandchildren.

c) Third-degree relatives – uncles, aunts, and cousins.

Blood relatives and step-relatives have equal inheritance rights, and adopted children are considered equivalent to biological heirs.

Deceased citizens, stateless peron, foreign citizens, as well as citizens who have been declared deceased by a court can be executors. If one of the heirs dies prematurely, that is, within one day, it is considered to have died simultaneously. The inheritance is opened after each of them, and the heirs of each of them are called to the succession (Article 1116 of the Civil Law of the Republic of Uzbekistan). Legal entities cannot be heirs. Only when they are reorganized or merged, their property, rights and obligations are transferred to the newly formed legal entity (Article 50 of the Civil Law of the Republic of Uzbekistan). However, as recipients of inheritance, legal entities stand among citizens.

The composition of the heirs is as follows:

citizens - those who were conceived during the life of the testator and then born alive, among the above. In Roman law, they were called «nasciturus» (lat. nasciturus fetus in the mother’s womb). The scope of legal capacity of citizens does not affect the acceptance of inheritance. According to Article 60 of the Family Code of

the Republic of Uzbekistan, a child born to a woman after the conclusion of marriage or within three hundred days after the end of the marriage due to the death of her husband, separation from marriage or the marriage being declared invalid is considered a child born in marriage.

If a child is born within 300 days after the end of the marriage, and the woman entered into a new marriage during this period, the child is considered born in a new marriage. In such cases, the ex-husband or his parents have the right to dispute the parentage of the child. The recognition of an unborn baby as an heir in the law of succession is a special aspect of legal relations of succession. Because legal protection from birth (if born alive, of course) is guaranteed by law. In short, the existence of a citizen, that is, his material existence, does not play an important role in the creation or continuation of certain rights.

The existence of legal capacity should not be confused with the legal protection of the rights and interests of a person. Protection of legal rights and interests is provided regardless of whether a person is materially present (deceased or not yet born). Similar norms are noted in the legislation of Sweden, Belgium, Hungary, the Netherlands, and Romania. Under German law, an unborn baby (fetus) born before the opening of the inheritance is recognized as born at the time of the opening of the inheritance (Article 1923 of the German Civil Code). These citizens are considered to be equal to citizens who are born and have legal capacity.

Recently, the issue of inheritance of babies born as a result of In vitro fertilization (conception after the death of the testator) has also been discussed in some articles. The law has come to a definite stop in this matter, that is, those who were conceived during the testator's lifetime, and who were born alive after his death, can be heirs. The succession section of the French Civil Code (Chapter 2) defines the requirements for becoming an heir. According to Article 725, the heir must be alive at the time of the inheritance, and the existence of the fetus at the time of the testator's death, and the birth of the child are required.

According to Article 28 of the Civil Code of the Republic of Uzbekistan, a person who has reached the age of 16, but who is a minor working on the basis of an employment contract or his parents, adoptive parents.

According to Article 16 of the Republic of Uzbekistan Family Code, when there are good reasons, in special cases (pregnancy, birth of a child, declaration of full legal capacity of a minor (emancipation), at the request of those wishing to enter into marriage, the mayor of the district, city in the place where the state registration of marriage is carried out, the marriage age is at most one can reduce it by a year. When the age of marriage is set at 18, they can get married at the age of 17 for valid reasons. Therefore, they also have full legal capacity. Even if the wife (husband) after the deceased husband (wife) had another registered marriage, she In the event that the marriage is declared invalid, persons in such a marriage are not considered heirs after each other's death. If a person who considers himself to be dependent on the testator applies for a certificate, the fact of being dependent on the testator is confirmed by a court document. Mandatory inheritance the relinquishment of the share must be unconditional. It is not allowed to give up the compulsory share in favor of other persons.

One of the current problems is the uncertainty of the statute of limitations in the law of inheritance. Failure to accept the inheritance on time leads to an increase in the number of heirs, and later not only an «unfair» distribution of the inheritance among relatives, but also the cause of disagreements. We will discuss this situation in detail in our further studies.

Another important aspect, we can see in Article 1118 of the Civil Code of the Russian Federation that the spouses can make a joint will for common joint property. In this article, the spouses can leave joint property by will, the procedures for drawing up a will, making changes to it, and canceling it. Article 1120 of the Civil Law of the Republic of Uzbekistan stipulates that a will can be made only by one person. In our opinion, the advantage of this is that if both spouses die at the same time (due to an accident), the fate of the remaining inheritance is decided in advance. If one of the two dies first, legal actions such as separation and distribution of the share are not performed. Only time will tell how effective such a norm will be in practice.

As for the concept of an unworthy heir, the heir is deprived of the right to inherit as a result of being recognized as an unworthy heir in the cases defined by the law, as well as in the cases specified in the will, as a result of the exclusion of the heirs from the inheritance. According to Article 1119 of the Civil Law of the Republic of

Uzbekistan, those who intentionally killed or attempted to kill the testator or one of the likely heirs, do not have the right to inherit either by will or by law. Except for persons who made a will after the testator's life was attempted. If the legatee dies as a result of the negligent acts of the legatee, the legatee is not disqualified and has the right to be called to the succession.

In the Commentary to the Civil Code of the Republic of Uzbekistan, Article 1119 is interpreted as follows: firstly, those who have committed illegal actions against the testator and any of the heirs (for example, the crime of killing them) or prevented the testator from implementing his last will in the will (for example, changing the will or forced to renounce inheritance in favor of an unworthy heir) includes citizens. In the last case, such illegal actions should be considered as the reason for finding the heir or other persons in succession unworthy or the reason for increasing the inheritance share to him or other persons. Thus, it does not matter whose interests the heir acted in committing the wrongful act, he is considered unfit in any case.

Illegal actions directed against the testator and any of the heirs must be committed only intentionally. If the legatee dies as a result of the negligent acts of the legatee, the legatee is not disqualified and has the right to be called to the succession. An attempt to commit an offense is a ground for disqualification of the heir, as is the offense itself. In any case, in order to find a person an unworthy heir, the fact of committing a crime must be determined by a court decision. After that, unworthy heirs cannot be called to the succession either by law or by will. Despite the self-justifying severity of this norm, the law left an opportunity to rehabilitate the unworthy heir and restore his property rights. As a result of the freedom of testament, the solution of this issue is left to the discretion of the testator. If the testator bequeaths his property to a person even after it has been established that his behavior is illegal and his actions are malicious, such a person can be called to inherit.

Parents who have been deprived of parental rights can also be considered as unfit heirs. Parents who have been deprived of their parental rights in accordance with the commented article and whose rights have not been restored before the day of inheritance cannot be heirs to their children's property according to the law. However, as a result of the principle of freedom of will, such parents can inherit their children's property by will.

In addition, at the request of the interested parties, the court may disqualify citizens who willfully refuse to fulfill the obligations imposed by law on providing for the heir, from the inheritance by law (not by will). For example, the Family Code of the Republic of Uzbekistan imposes such obligations on parents in relation to their children who are minors, as well as adults, but who are unable to work and need help. In turn, working-age children are obliged to provide for their incapacitated, needy parents. If they refuse to fulfill these obligations, they may be declared unworthy heirs by a court decision and at the same time be deprived of the right to inherit.

If a citizen took possession of any property from the inheritance before he was declared an unworthy heir, he will have to return all that he acquired without reason. At the same time, the property must be returned in kind, exactly the items received and the property rights to them in this form. In cases where it is not possible to return the property in kind, the real value of the property owner must be compensated. In addition to the return of the property, the unworthy heir must also compensate for the income that he has taken or should take from this property.

In the article 726 of the French Civil Code lists ineligible heirs, according to which those who have attempted or killed the life of the testator and who have been convicted of the crime, who have criminally charged the testator and if it is found to be defamation, the adult heir will have information about the person who took the life of the deceased person. they will be deprived of their inheritance if they do not notify the relevant authorities.

Further, Article 728 states that failure to report cannot be applied to the murderer's descendants, blood relatives, spouse, brothers, sisters, uncles and aunts and nephews.

According to Article 77 of the Constitution of the Republic of Uzbekistan, parents and their substitutes are obliged to take care of their children until they reach adulthood, their upbringing, education, healthy, full and all-round development. As a logical continuation of this article, in Article 80 of the Constitution, adult working children are obliged to take care of their parents. This constitutional provision is contained in Article 108 of the Family Code of the Republic of Uzbekistan , adult children who are unable to work and need help have the right

to demand alimony for their maintenance from their parents, if they are absent, from their relatives and other persons specified in this Code.

Article 109 states that adult, able-bodied children are obliged to support and take care of their parents who are unable to work and need help. The fact that their parents are under the care of state and non-state institutions does not exempt adult working children from the obligation to take care of their parents and provide them with financial support. Based on these rules, parents who have not fulfilled their obligations are grounds for disinheriting children, that is, including them among unworthy heirs. However, according to the third part of Article 1119 of the Civil Code, they cannot be heirs only by law. According to the will, they can become heirs. Other heirs can also sue to have the court order an «unfair» distribution, that is, to exclude undeserving heirs from the inheritance. I think that this situation is correct not only from the point of view of the law, but also from the point of view of morals and conscience.

If a citizen took possession of any property from the inheritance before he was declared an unworthy heir, he will have to return all that he acquired without reason. At the same time, the property must be returned in kind, i.e., exactly the items received and the property rights to them in this form. In cases where it is not possible to return the property in kind, the owner of the property must compensate the real value. In addition to the return of the property, the unworthy heir must also compensate for the income that he has taken or should take from this property.

Legal entities - in accordance with Article 1118 of the Family Code of the Republic of Uzbekistan, legal entities formed at the time of inheritance may become heirs under the will. We will be able to see legal entities as executors of the will. Article 75 of the Family Code of the Republic of Uzbekistan stipulates that public fund use inherited property for the purposes specified in the charter. Typically, a testator leaves property to public foundations for charitable purposes. In accordance with Article 1131 of the Federal Constitution of Uzbekistan, a person who is not considered an heir (executor of a will) may be entrusted with the execution of a will. Although more emphasis is placed on the natural person in the law of succession, legal entities can also be heirs, and at the same time act as trustees until the inheritance is distributed to the heirs in accordance with Article 850 of the Civil Law of the Republic of Uzbekistan. At the same time, he appears as both an heir and a trustee. Therefore, it would be appropriate to clarify the rights and obligations of legal entities as heirs.

State and self-governing bodies - Article 1118 states that state and self-governing bodies of citizens can also be heirs under a will. Also, in Article 1157 of this code, if none of the heirs have the right to inherit according to the law or according to the will, or if all of them have renounced the inheritance, the inherited property is deemed to be unclaimed. As a result, upon the application of the local government body or citizen’s self-governance body in the place where the inheritance was opened, it will be declared as ownerless after three years from the day of the opening of the inheritance based on the decision of the court. Inherited property, if the costs associated with its protection and management exceed its value, is deemed to be ownerless before the expiration of the specified period. Ownerless property becomes the property of the self-governing body of the citizens of the place where it is located, and if it is abandoned, it becomes the property of the state.

Thus, civil law determines that the state has the right to inherit as a participant in legal relations of succession. However, the legal status of the state is not the same as the legal status of other heirs. The state, as an heir, cannot refuse the inheritance, but has no choice but to accept the unclaimed property or the property that is disappearing.

Conclusion

However, there are no clear instructions in the law regarding whether or not foreign states and legal entities can be heirs. In conclusion, heirs should first consider what their legal and testamentary rights are when leaving and receiving an inheritance.

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