

ABSTRACT

The article analyzes the current state of legal regulation of psychological support (support) of police officers, employees of the National Police of Ukraine and cadets (students) of higher education institutions with specific training conditions that train police officers (hereinafter – cadets). The urgency of this topic is determined by the fact that today the psychological support, including in terms of regulation, law enforcement needs to be improved. After all, there is a clear lack of awareness of both psychologists and their recipients about the peculiarities of practical psychological support of police activities to maintain mental (mental) health, which leads to stigma, formality at work, lack of proper practical psychological assistance. These factors cause the lack of a well-established system of prevention and correction of occupational deformities and mental disorders of police officers.

The activities of psychological support in the National Police of Ukraine are provided by a limited number of legal acts that define a set of organizational, methodological, educational, psychoprophylactic, measures aimed at maintaining physical and mental health, preventing the impact of hazardous factors of work and extracurricular activities, psychological readiness to act in unforeseen circumstances, prevention of professional deformities, emotional burnout, etc.

Keywords: *legal support, psychological support, psychological support of police officers, mental health, socio-psychological climate, preventive work, psychodiagnostics.*

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PECULIARITIES OF REGULATION OF INHERITANCE LEGAL RELATIONS UNDER THE CIVIL LEGISLATION OF UKRAINE AND EUROPEAN COUNTRIES

Олександра Нестерцова-Собакарь. ОСОБЛИВОСТІ РЕГУЛЮВАННЯ СПАДКОВИХ ПРАВОВІДНОСИН ЗА ЦИВІЛЬНИМ ЗАКОНОДАВСТВОМ УКРАЇНИ ТА ЄВРОПЕЙСЬКИХ КРАЇН. В статті досліджуються особливості регулювання спадкових правовідносин в Україні та окремих європейських країн. Здійснено компаративний аналіз норм спадкового законодавства окремих зарубіжних країн. Встановлено, що спадкові правовідносини в країнах континентальної Європи регулюються, як правило, нормами відповідних розділів цивільних кодексів, поряд з сімейними і майновими відносинами.

Держави континентальної Європи, поряд з принципом свободи волі заповідача, виходять з необхідності забезпечення інтересів сім'ї, закріплюючи нормами спадкового законодавства механізми забезпечення майнових прав родичів спадкодавця. Доведено також те, що романо-германська правова система розглядає спадкування як універсальне правонаступництво, тобто як заміну особи спадкодавця на особистість його спадкоємця, внаслідок чого до спадкоємця переходять всі права та обов'язки спадкодавця як єдине ціле.

Визначено, що міжнародне співтовариство регулює спадкові правовідносини тривалий час, що пов'язане з тривалістю розвитку наведених держав. Інститут даних правовідносин пройшов певні етапи, та не зважаючи на те, що кожна країна удосконалює та реалізує їх з деякими особливостями, базові принципи спадкування залишаються незмінними, адже інститут спадкових правовідносин є одним із ключових у системі цивільного законодавства. Наголошено на необхідності проведення досліджень у напрямі вдосконалення інституту спадкового договору, зокрема з'ясування змісту інституту спадкового договору неможливе без чіткого визначення прав та обов'язків сторін у ньому.

Ключові слова: *спадкове право, спадкові правовідносини, спадкування, заповіт, цивільне законодавство, зарубіжний досвід.*

Relevance of the study. With the development of foreign economic relations, European integration processes, cultural and trade cooperation between countries and individuals, freedom of movement of capital, intellectual property and labor, it became possible to acquire

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property abroad. In addition, with the growing number of marriages between citizens of different countries and migration processes, the importance of storage and transfer of property to relatives after death has increased. This necessitates the legislative consolidation of the mechanism for regulating inheritance relations at a decent level.

Heirs who have dual or even triple citizenship face difficulties in exercising the right to inherit if the legislation of the states belongs to different legal systems. Conflicting rules of inheritance law are enshrined either in the relevant laws, in particular under the title «On Private International Law», or in the chapters of the main acts of civil law. The Law of Ukraine «On the National Program for Adaptation of the Legislation of Ukraine to the Legislation of the European Union» of March 18, 2004, no. 1629-IV provides for bringing national legislation to the best world standards, primarily European, but not recklessly. To do this, it is necessary to establish the experience of settling these legal relations and identify the feasibility of its implementation in national legislation [1, pp. 148-152].

Hereditary legal relations are quite conservative and difficult to change, which explains the small amount of international unification of inheritance rules. Epistemologically hereditary relations are realized taking into account customs, traditions, religious dogmas, moral criteria, which are determined by national traditions and features of a state. These features of hereditary legal relations on the one hand are a guarantee of their stability, and on the other – cause serious problems in inheritance with a foreign element. All these issues need some attention both in terms of their theoretical scientific awareness and adequate legal regulation based on the study of European best practices and the introduction of its best trends in Ukraine.

Recent publications review. This topic is part of the scientific interests and works of many Ukrainian and foreign scientists, in particular: S. Blagovisnyy, O. Ioffe, T. Kovalenko, O. Nelina, K. Pobedonostseva, O. Pidopryhora, V. Serebrovsky, E. Sukhanova, E. Ryabokon, Ye. Fursa, Yu. Zaika, O. Kharitonova and others. However, the works of scientists are usually devoted to the development of hereditary relations in the first decade of the XXI century. Therefore, today, civil law, and hereditary in particular, need to be updated in connection with the development of public relations, and thus the study of trends in its formation and development in different countries for further implementation of its best practices in civil law of Ukraine.

The research paper's objective is to analyze the institution of inheritance law under the laws of Ukraine and individual European countries, to establish best European practices in order to use it in today's Ukrainian realities.

Discussion. The study of legal issues of inheritance is due to the growing importance of private property rights and the order of its inheritance in a market economy, the need to develop a legal mechanism that could properly protect the rights and interests of citizens [1].

The rules governing the conditions and procedure of inheritance are contained in the Civil Code of Ukraine, which entered into force on January the 1st, 2004, the rules of which significantly affected the central institution of civil law – property rights and, accordingly, the institution of inheritance. The norms of the sixth book of the Civil Code of Ukraine «Inheritance law» are clearly systematized in seven chapters: «General provisions on inheritance», «Inheritance by will», «Inheritance by law», «Exercise of the right to inherit», «Execution of a will», «Registration of the right to inheritance», «Inheritance agreement».

The Constitution of Ukraine provides for the right of private property of citizens. Inheritance law provides the family of the deceased the opportunity to preserve and use his property. Inheritance law gives every citizen the opportunity to dispose of their property in case of death, determining in the will his fate. Therefore, it is directly aimed at protecting the interests of citizens. At the same time, inheritance law protects the interests of the deceased's family members (especially minors and disabled family members).

Legal guarantees for the exercise of inheritance rights are provided by the rules governing inheritance, which are set out in the Civil Code of Ukraine, the Law of Ukraine «On Notaries», the Family Code of Ukraine, other laws and regulations.

Heirs, both by law and by will, acquire the right to inherit regardless of their desire, already by virtue of one event – the death of the testator. The essence of this right is that the heir is given the opportunity to both accept the inheritance and refuse it. The actual exercise of subjective rights is possible only if there are legal guarantees for their implementation. Legislative consolidation of certain limits on the exercise of subjective civil rights is one of the forms of ensuring the interests of the individual.

Currently, inheritance law is one of the most complex and scientifically interesting

institute of civil law, which expresses not only the political, economic and social aspects of society, but also family and marital relations. Hereditary legal relations are significantly influenced by the standard of living of the population and such features of humanity as tradition, humanity, justice, rationality, etc.

A significant array of fundamental issues of legal regulation of inheritance obligations has not been properly addressed in rule-making practice and coverage in theoretical research, due to the lack of studied doctrinal principles of regulation of inheritance agreements. These circumstances do not allow to determine the proper place of these transactions in the civil law system, to identify criteria and clearly distinguish them from related legal institutions, to establish the nature of the relationship with related legal structures, which does not contribute to the stability of their legal regulation [2].

According to V. Nikolsky, the introduction of this type of inheritance as inheritance through an inheritance contract is due to the peoples of German origin [3, p. 107]. Thus, today, French law recognizes inheritance under an inheritance agreement, but the parties to such an agreement are spouses, and the subject of such an agreement may be both property rights and property rights to property covered by the legal share regime. French law defines a contract of inheritance almost as a contract of gift. Instead, Austrian law defines the inheritance contract as an act establishing the right of inheritance, according to the provisions of this Regulation, the subject of the inheritance contract may be a thing or a certain amount of money transferred to another party free of charge, such agreements are concluded between spouses or ones who are going to get married [4, p. 355].

The German Civil Code defines the following types of inheritance agreements: positive and negative. According to a positive inheritance agreement, the testator gives the person the right to inherit, i.e. appoints an heir, and the subject of this type of agreement may also be a legate – a testamentary disclaimer. Under a positive inheritance agreement, the property is not alienated in favor of the other party to the agreement, and the counterparty is called upon to inherit after the death of the testator. The inheritance contract differs from the will in that the testator may not unilaterally cancel the call to inherit the counterparty under the contract without his consent. Under a negative inheritance agreement, German law provides for the waiver of inheritance both by law and by right of lawful or compulsory share. German law recognizes both targeted renunciation of inheritance and unaddressed [4, p. 356].

The interests of the heir who concluded an inheritance agreement with the testator are protected by the law of Ukraine. According to paragraph 1 of Art. 1302 of the Civil Code of Ukraine under the inheritance agreement, one party (acquirer) undertakes to comply with the orders of the other party (alienator) and in case of his death acquires ownership of the alienator's property [5]. Despite the fact that the national legislator is careful in naming the parties to this agreement, it is clear that the term «purchaser» means a potential heir, and the alienator is the testator.

According to Art. 1304 of the Civil Code of Ukraine inheritance agreement is concluded in writing and is subject to notarization. According to paragraph 1 of Art. 1307 of the Civil Code of Ukraine on the property specified in the inheritance contract, the notary, such a contract, certified, imposes a ban on alienation.

It turns out that the property to which the acquirer will have rights after the death of the alienator must be directly defined in the contract, and therefore it seems impossible for the hereditary contract wording, traditional for wills: «All my property, which on the day of my death will be in my possession, whatever it is and wherever it is». Thus, the alienator, having concluded an inheritance agreement under the law of Ukraine, remains only the owner and user of a particular property, voluntarily depriving himself of the right to dispose of them, including making a will for the property specified in the inheritance agreement.

Legislation on inheritance in foreign countries includes rules governing public relations regarding the transfer of rights and responsibilities of the deceased to others.

In modern inheritance law in Western and Eastern Europe, the attitude of Roman jurists to the inheritance of one of the surviving spouses of the testator has been preserved: for example, first of all blood relatives are called as heirs, and secondly – the testator's husband or wife. Such a system of inheritance exists in Hungary, and provides for the possibility of inheritance for the husband or wife of the testator in the presence of a registered marriage and the absence of children, grandchildren and great-grandchildren of the testator [6, p. 228].

The states of continental Europe, along with the principle of free will of the testator, proceed from the need to ensure the interests of the family, enshrining the rules of inheritance

law mechanisms to ensure the property rights of relatives of the testator.

The Romano-Germanic legal system considers inheritance as a universal succession, i.e. as a replacement of the testator's identity with the identity of his heir, as a result of which all rights and obligations of the testator pass to the heir as a whole.

Hereditary legal relations in the countries of continental Europe are regulated, as a rule, by norms of the corresponding sections of civil codes, along with family and property relations. The main laws on the inheritance of European continental states are:

in Bulgaria, the Law on Inheritance of January 29, 1949 (in force since 1950, 1985, 1992);

in Hungary, a section of the Civil Code of the Republic of Hungary of 1959 (ed. 1977);

in Germany – the German Civil Code of 1896, Book V «Inheritance Law»;

in Spain – the Civil Code of Spain 1889, title III of book III; as well as the Inheritance Act 11/1981 of 13 May 1981;

in Italy – the Civil Code of Italy 1942 (book two);

in Poland – the Civil Code of the Republic of Poland 1964;

in Romania – the Civil Code of Romania of 1865;

in France – the Civil Code of 1804, two titles of Book III of the French Civil Code «On the various ways in which property is acquired»: Title I «On Inheritance» and Title II «On the gift of life and will». Inheritance by law is considered separately from inheritance by will, which is governed closely by lifetime gifts. This is due to the presence in the law of general rules governing the procedure for free acquisition of property;

in the Czech Republic – the Civil Code of 1963 (ed. 1992);

in Switzerland – Book III of the Swiss Civil Code. Regulation of a number of issues, in particular, related to the making of a will. The Code refers to the competence of the cantons;

in Yugoslavia – in accordance with the legislation of the republics in its composition: the Law on Inheritance of the Republic of Serbia of 1974 (as amended in 1979), the Law «On Inheritance of the Republic of Montenegro in 1975» (as amended in 1978), the Law «On Inheritance of 1965» (with add. 1 978) Croatia.

When regulating inheritance relations, the provisions of regulations in force along with the Civil Code are also applied. In Hungary, for example, the Marriage, Family and Guardianship Act 1974 (as amended) and the Notaries Act 1991; Order of the Minister of Justice 1984 «On notaries and certain types of notarial proceedings». In Poland, such an accompanying normative act is the Law «On Notaries» of 1951 [6, pp. 230-231].

In Bulgaria, whose legislation includes in the circle of heirs at law all relatives in the direct line and up to the sixth degree of kinship in the lateral line, the husband inherits together with the turn of heirs, which is called for inheritance.

In accordance with Art. 931 of the Civil Code of Poland, a man is called to inherit in the first place with children. In the presence of children, a man inherits at least 1/4 of the hereditary mass. In the absence of descending relatives of the testator, the testator's husband, parents, brothers and sisters inherit. The husband inherits all the property if there are no descendants, parents, brothers and sisters and their descendants. And only if there are no descendants of the testator and the wife, the parents, brothers, sisters and their descendants are called to inherit. However, a man is not always equal in scope of his rights to other heirs.

Thus, French law, previously classifying a man as heirs under the law of last resort, as a result of which he was called upon to inherit only in the absence of blood relatives (including lateral to 12th degree), was changed as a result of laws of March 26, 1957 and January 3, 1972, which gave him more opportunities to inherit. However, in France, the surviving husband in most cases receives not the right of ownership, but only a usufruct for part of the inherited property, the size of which varies depending on the category of heirs [7, p. 48].

Significant changes affected the status of subjects of hereditary succession. Thus, the rights of adopted and illegitimate children were fully equated with the inheritance rights of legal children (law of July 11, 1966 in France; law of July 2, 1977 in Germany; law of June 30, 1972 in Switzerland).

The adoption by the European Council of the Convention on the Adoption of Children (April 24, 1967) and the Convention on the Legal Status of Extramarital Children (September 15, 1975) necessitated a revision of a number of provisions of inheritance law concerning the rights of illegitimate and adopted children.

As a result, children born out of wedlock, previously almost completely deprived of recognition of their inheritance rights, were generally equated in rights with children born out

of wedlock. The legislation provides only for the need for recognition of an illegitimate child by the father, in the absence of recognition of the origin of the child can be established in court. Now, if this condition is met, both the offspring after the parents and the parents after such children are full heirs (the law of January 3, 1972 in France; the law of August 19, 1969 in Germany; the law of September 15, 1975 in Switzerland).

Among other laws that have changed the regulation of certain issues of inheritance, we can note: the French law of December 31, 1976, which provided for a different regime of common inheritance; the law of Germany of August 28, 1969 deals with a number of issues of testamentary dispositions, and the law of Germany of June 14, 1976 on the reform of marriage and family law, which changed, in particular, some provisions related to the right of heirs to a mandatory share [7, p. 48].

The legislation of European states knows two grounds for inheritance: by will and by law. Inheritance by will has priority over inheritance by law, as it more fully complies with the principle of free disposal of property by its owner. The principle of freedom of testamentary dispositions is fundamental in the legal regulation of inheritance grounds. Restrictions of this principle are connected only with fixing by the legislation of institute of the obligatory share in interests requiring the increased protection of the persons connected with the testator by relations of close kinship. Inheritance by law is applied only in the absence of a will or its invalidation. In addition, inheritance by law takes place if the will is made in respect of only part of the inherited property.

As in Ukraine, in the states of the continental legal system the will is considered as a unilateral agreement that has legal consequences after the death of the testator. The testator has the right to make a new will, cancel or change the previous one before his death. The contents of the will are the orders of the testator on the fate of the property belonging to him.

In France, the heirs at law from the moment of the testator's death automatically become the owners of the inherited property without a special decision of the courts. From this moment, the creditors of the testator have the right to make claims against them. French law gives the heir the opportunity to refuse the inheritance, but such a refusal is not provided (Article 784 FGC). The right to refuse is exercised through a formal application registered in the court office, which can be made within the maximum statute of limitations (30 years). The heir is considered to be the successor of the person of the deceased, as a result of which he must be liable for the debts of the latter without restrictions, even outside the assets of the hereditary property. However, under certain conditions, the possibility of limiting the liability of heirs is allowed. In France, the heir may limit his liability for the debts of the testator by accepting the inheritance, subject to a description of the property (Article 802 FGC). In this case, it corresponds within the asset of the hereditary mass (Article 802 FGC). In Germany, the limitation of the heir's liability can be achieved by establishing the so-called inheritance management or by opening a competition.

Conclusions. Thus, it can be concluded from the above that the international community has been regulating inheritance relations for a long time, which is related to the duration of development of these states. The institute of these legal relations has passed certain stages, and despite the fact that each country improves and implements them with some features, the basic principles of inheritance remain unchanged, because the institute of hereditary legal relations is one of the key in the system of civil law.

Today, it is appropriate to emphasize the need for research to improve the institution of the inheritance agreement, in particular to clarify the content of the institution of the inheritance agreement is impossible without a clear definition of the rights and obligations of the parties. Unfortunately, the current Central Committee of Ukraine does not pay enough attention to this aspect. Meanwhile, it would be desirable to determine at least those that most fully reflect the specifics of the contract: the relationship of inheritance. If we take into account the concept of hereditary succession under the contract, then among the possible rights of the counterparties could be established: the right to deviate from certain conditions of the transaction, if the parties have agreed and reflected this in the contract; the right of the parties to appoint themselves heirs one after another; the alienator's right to establish an easement on his property; the right to perform a certain obligation of a property or non-property nature in favor of third parties, etc. The issue of clear regulation of the grounds for termination of the inheritance agreement also remains open. It would be appropriate to expand the range of grounds for termination of the contract, because Art. 1308 of the Civil Code of Ukraine provides for the possibility of its termination only in court.

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ABSTRACT

The article examines the features of the regulation of hereditary legal relations in Ukraine and some European countries. The comparative analysis of norms of the hereditary legislation of separate foreign countries is carried out. It is established that hereditary legal relations in the countries of continental Europe are regulated, as a rule, by norms of the corresponding sections of civil codes, along with family and property relations.

It has been determined that the international community has been regulating inheritance relations for a long time, which is connected with the duration of the development of these states. The institute of these legal relations has passed certain stages, and despite the fact that each country improves and implements them with some features, the basic principles of inheritance remain unchanged, because the institute of hereditary legal relations is one of the key in the system of civil law.

Keywords: inheritance law, inheritance legal relations, inheritance, will, civil law, foreign experience.