

Issues Related to The Distribution Of Inheritance Mass In Various Legal Systems In World Countries

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Annotation. This article analyzes the peculiarities of the distribution of the mass of inheritance in various legal systems, as well as the general requirements for inheritance. Also, issues related to the order in which the inheritance should be formed, the application of the right to inheritance are described through the experience of advanced foreign countries.

Keywords: Roman-Germanic family of law, Anglo-Saxon family of law, Muslim family of law, legal system of Latin American states, legal system of Scandinavian peoples, Indian legal system, legal system of African countries, legal Customs and judicial precedents, *Erbrecht*, probate court, Kironavik “Dalilvurros”.

It is known that the right to inheritance regulates the fair distribution and legal distribution of property within the mass of inheritance to the heir(s), regardless of which family of rights belongs in the countries of the world.

Usually, the mass of inheritance is formalized by the transfer to the heirs on the basis of a will on the basis of the will of the heir, and after the death of the heir by the transfer of property and other material and material rights belonging to him to the heirs on a legal basis under the laws of each state. In legal systems in countries of the world, regardless of how the distribution of the mass of inheritance is distributed, it aims at the same content, that is, the fair and legal distribution of the content of the mass of inheritance among the heirs.

X.T.Odilgoriev analyzes the general description of modern law families, analyzing the Romano-Germanic law family as law families, the Anglo-Saxon law family, the Muslim law family, the legal system of Latin American States, the law system of the Scandinavian peoples, the Indian legal system, the legal system of African countries and other law families. The most interesting thing is that in the above-mentioned legal systems, the issue of inheritance, the distribution of which arises from the peculiarities of the state legal system.

For example, the states of the Roman-Germanic family of law are known as the states of the continental family of law. In countries that are part of this system, civil, criminal, labor, civil procedure, Criminal Procedure and other codes have been adopted, and the distribution of inheritance mass is distributed precisely in the way provided for by law and codexes.

The issues of the distribution of the inheritance mass are expressed in legal customs formed over many years in the states that are part of the Anglo-Saxon family of law, in contrast to the states of the Roman-Germanic legal system, as well as in judicial precedents formed by judges. More simply, with the support of legal Customs and judicial precedents, issues related to inheritance are resolved.

As a result of studying the distribution of inheritance mass on the example of Germany, the leader of the states of the Roman-German legal system, we came across such sources. “In Germany, the law of inheritance is called *Erbrecht*. If there is real estate or other valuable property in Germany, the absence of a Will would be a serious problem for inheritors. Under German law, if one of the spouses died without a Will, the other will not automatically inherit the property. According to the law, a group of Heirs is formed – *Erbengemeinschaft*, which also includes relatives of the deceased. This does not mean that part of the widow's or widow's house belongs to other people”¹.

This is how it is referred to in the references to the Roman-Germanic legal system through open internet sources. “There are two ways to inherit in the Federal Republic of Germany: by law and by Will. Relatives are divided into groups according to the “order” – *Ordnance*. When no Will is left, and there are many such cases, the law of succession comes into force. Legally, legitimate heirs include the spouse and relatives of the deceased”². In Germany, the distribution of the mass of inheritance is also divided into first,

¹ <https://www.tupa-germania.ru/zhizn/nasledstvo-v-germanii.html>

² <https://www.tupa-germania.ru/zhizn/nasledstvo-v-germanii.html>

second and third-degree relatives, as in the legal system of the Republic of Uzbekistan, in which the inheritance of the heir is left to the heirs in a legal manner.

In addition, when transferring the composition of the inheritance mass to the heirs, the place of permanent residence of the heir must be clear. In legal practice regarding inheritance, usually the office in charge of inheritance identifies the heirs or the beneficiaries of the inheritance and the information pertaining to their chassis. In Germany, the Will gives legal opportunity to the following aspects:

- Regardless of genetic kinship, there is a right to grant to any individual or legal entity by the inheritor;
- The inheritor can determine and leave the ratio of the mass of property belonging to him on the basis of his own will to the heirs who leave the composition of his property;
- The inheritor can determine the conditions for the acceptance of property so that the heir can accept the mass of the inheritance property. At the same time, relatives of the 1st, 2nd Degree with a master degree also have the right to challenge the will if, by law, they have more parts.

“From a legal point of view, there are two options for drawing up this document: a will written independently and in full hand, the last will clearly stated; a notarized will. The heir has the opportunity to renounce the inheritance within a six-week period from the moment he knows about the death. The term for those living outside Germany is six months. If during this period the court does not make a decision to refuse access to the inheritance, it is considered automatically accepted”³. A will written by an inheritor in the Republic of Uzbekistan can of course be valid hso bilable when approved by a notary or an authorized office. In Germany, as written above, the will of the bequest itself, which is concluded with an independent personal manuscript, can be the basis for the distribution of the inheritance in legal order.

Researchers who carried out a comparative legal analysis of heritage institutions of Russia and Germany m.L.Lebedeva, I.A.This is how the lukashevs come to the conclusion. “In German and Russian law, inheritance law reflects the classical approaches of the continental system of law. Studying the issues of inheritance law in Germany, the legal nature of inheritance law in Russia, ways of elimination, difficulties with inheritance activities and this will help to better understand the institution. The right to inheritance is the most important legal institution in the field of protecting the rights and freedoms of Man and citizen”⁴. At the end of our methods of synthesis and analysis, which amalgam increased on the issue of inheritance, it became known from our studies that a large part of the legal mechanisms of the German Russian Heritage Institute are similar to each other. Sources of inheritance law in Germany include:

- Law in Germany (Zakon V Germanii (§2260 BGB)).
- The probate court at the last place of residence of the testator (Nachlassgericht) is responsible for the approval of the will (§73fgg) (Otvetsvennim za oglashenie zavetshaniya yavlyaetsya Sud po Delam nasledstva (Nachlassgericht), po mestu poslednego proživaniya zavetshatelya (§73fgg)). In Germany, the reading of the will differs from some of the Anglo-American law system in that it does not require the participation of heirs in person.

Against the background of the formation and development of the ownership class in Uzbekistan after independence, there was also a need for radical change in the issue of inheritance. “At the same time as the generation of the owner class, there was a need to legally regulate the transfer of existing property from generation to generation. In connection with this, the need arose to legally regulate the transfer of private property from generation to generation, and in the V-section of the Civil Code of the Republic of Uzbekistan, introduced from March 1, 1997, the norms of the law on the transfer of all property of the owner after the death of the owner to his heirs were strengthened”⁵.

In addition in the case of inheritance transmission, in the decision of the plenum of the Supreme Court of the Republic of Uzbekistan “on the application of legislation on inheritance law by the courts” in the Order of inheritance transmission, succession is carried out in cases where the heir (transmitter) called to the succession by Will or law dies after the opening of the inheritance, but before In such cases, the right to

³ <https://www.tupa-germania.ru/zhizn/nasledstvo-v-germanii.html>

⁴ Lebedeva M.L., Lukashev I.A. Institut nasledovaniya Germanii i Rossii: komparativnyi analiz // Vestnik Mariyskogo gosudarstvennogo universiteta. Series "Historicheskie nauki. Juridical science». 2015. №1. URL: <https://cyberleninka.ru/article/n/institut-nasledovaniya-germanii-i-rossii-komparativnyy-analiz>

⁵ <https://kun.uz/kr/news/2018/03/23/meros-mulkni-nizosiz-kandaj-bulis-mumkin#>

accept the inheritance that must touch it passes to his heirs under the law, and to his heirs (transmissaries) under the will, if all hereditary property is bequeathed”⁶. The legal framework described above confirms how important Mero-related relationships are.

The states of the Muslim family of law differ from other families of law in their absolutely ancient roots and repeatability. “Sharia consists of two parts – religious, i.e. rules of belief (Creed) and law (Fiqh). Fiqh, the Muslim right, is divided into two parts: the first (circulation) regulates social relations between Muslims, and the second, (prayer), determines the obligation of a Muslim to God. How these two parts are defined and studied by legal schools constitutes the subject of Legal Sciences in a similar way”⁷. In Muslim law, the distribution of inheritance is mainly regulated by the Qur'an Karim, Hadisi Sharif, Ummah and Qiyas and other norms. In particular, musannif Afzal Abror describes some of his views and comments on the issue of inheritance. “There are three conditions in inheritance: 1. Death of the inheritor. 2. The life of the heir after the death of the heir. 3. It is clear who the inheritor is in relation to the inheritor, and the lineage is Ta'yin. (“Dalilulvurros” Cyrillic). There are three reasons for inheritance, they are: 1. Lineage (kinship). 2. Marriage. 3. Valo < BR > (judicial kinship)”⁸. Afzal Abror the main focus is on the terms of the inheritance issue, the causes of inheritance and others regarding the inheritance of fiqhiy issues scientifically substantiated on the basis of Islamic law and brought into the form of a brochure.

The Quran Karim and Hadisi Sharif, the main source of Islamic law, cover general issues and some private aspects of the inheritance issue. “The Sharia rules, in particular the Qur'an, also covered matters of inheritance, according to which all deceased relatives were called not together, but to inherit, respectively, taking into account the remoteness of their kinship to the deceased. The children of the deceased and his offspring were considered the closest relatives, and only when their parents died, the grandchildren were considered heirs to their grandfather's property. Parents are called to inherit their child's property only if the deceased has no children”⁹. It is only argued by the West that Islamic law can cause conflict, when the distribution of the mass of inheritance is distributed, it is noted that the distribution of inheritance to the male sex is in the amount of one whole person, and the share of inheritance to a person of the female sex is distributed in half a share of one whole share. However, in this matter, it is explained that the reason for such a distribution of the share of inheritance of scientists who studied Islam on a scientific and religious basis is such a distribution due to the fate of the material supply of the parent in his later life, the funeral rites of the parent and other aspects.

A large part relies on the opinion of scholars who have studied Muslim law scientifically and religiously, the issues related to the distribution of the inheritance mass of the Quran Karim “Surah Niso”¹⁰ we can conclude that it is written in some verses of. In Muslim law, when it comes to inheritance, “a Will approved by a notary is known as Al-Heiry. All rights and interests related to inheritance must be covered in it”¹¹.

Latin American states consider their legal systems close to the Roman-Germanic legal system. Because many Latin American countries have codes similar to those of Europe. Legal norms and judicial precedents do not apply in these states. The role of customary law as a source of Latin American law is changing from state to state. For example, changes in the field of law in the states of Argentina, Uruguay are the basis of our opinion. However, in almost all countries it is an auxiliary source of law.

The legislation of Latin American countries on probate in accordance with the decree of Turlarin azhratadi:

- 1) holographic, that is. the will (testamentoológrafo);
- 2) notarized (testamento por acto público);

⁶ <https://lex.uz/docs/2414320>; Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan, No. 05 dated 20.07.2011

⁷ Kh.T. Odilgariyev. Theory of state and law. Textbook. - Tashkent. "Adolat", 2018. P 401.

⁸ <https://madrasa.uz/books/islomda-meros-va-uning-taqsimoti.pdf>; Author: Afzal Abror. Inheritance and its distribution in Islam. Tashkent 2015.

⁹ <https://kun.uz/kr/news/2018/03/23/meros-mulkni-nizosiz-kandaj-bulis-mumkin#>

¹⁰ <https://hidoyat.uz/37338>; "Hidayat" magazine, 2020, issue 3

¹¹ Ahmed Khidirovich Ramazanov, Asiyat Khabibovna Alieva Nekotorye osobennosti regulirovaniya nasledstvennyx otnosheniy v musulmanskoy pravovoy sisteme // Zakon i pravo. 2019. No. 3. URL: <https://cyberleninka.ru/article/n/nekotorye-osobennosti-regulirovaniya-nasledstvennyh-otnosheniy-v-musulmanskoy-pravovoy-sisteme>.

3) Mystery (testamento cerrado).

In the case of the inheritance of Latin American States, the Will must comply with national legislation. A free and voluntary will must be left, as in other systems of law of the inheritor. "The legislation of Latin American States also defines other types of wills. If a person is in an area of military action, in a state of siege or on a warship or in a hospital, he has the right to draw up a Will, and he can be signed by a military man or a doctor. In conclusion, the study of the basic provisions of the will in the law of some countries of Russia and Latin America should indicate the main conclusions"¹². In some Latin American countries, the mechanisms used in inheritance practice are also used by different names in other legal systems.

The monograph "actual problems of inheritance law in foreign countries", prepared by a team of authors, analyzes the fundamentals of inheritance law and issues related to the distribution of the mass of inheritance, distribution and provides such information. "All people face inheritance. This area of social relations has a whole complex of various differences and features, and therefore is regulated in detail by the norms of the law. As American lawyer William Maxwell Evarts said, disposing of the mass of inheritance is necessary to you with respect for your property for the rest of your life"¹³.

The Scandinavian law system is mainly followed by the states of Sweden, Norway, Denmark and Finland. Roman law is a less common system of Scandinavian law compared to another system of law. While the Scandinavian states have long looked at the system of law, they did not have such norms as the code or civil law even in the Middle Ages. On clear grounds, the answer is that we can say that the system of Scandinavian law is not codified. The practice of making the most of the mixed legal systems is observed in the states that are part of this family of law. For example, in the states of Norway, Sweden and Denmark, the role of the source of law as a judicial practice is great. From the direct Roman-Germanic law of these states comes from the approach to common law. The legal system of the states of this region is socially, culturally united to each other. The fact that one of the states of the Scandinavian system of law, under Swedish law, was given the opportunity to freely reach a conclusion on the issue of inheritance by means of sanctions, is explained in many sources. "The laws of Sweden are known as the rubber law. Because the judicial system of this state is given freedom to choose sanctions. In addition to the rule of law, the courts rely on "reasonableness", "fairness" and other concepts in the preparation of their decisions"¹⁴.

As a result of studying the issue of the mass of inheritance and the peculiarities of its distribution in various systems of law, we came to the conclusions in it:

First of all, in practice in the distribution of inheritance mass in the states of the Scandinavian law system, it is recognized by legal scholars that there is a "rubber" will of laws in legal proceedings, which, with the support of the principles of "reasonableness", "fairness" in these states, judges can determine on a free basis the work of distribution.

Secondly, in the Roman-German states, the distribution of inheritance mass is regulated by the norms of civil or family law, while in some states, for example, in the United States, the "uniform heritage code" (Uniform Probate Code USA), an act and other norms dedicated to special inheritance are adopted, and legal relations regarding inheritance are regulated.

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