

## SUMMARY

**Key Words:** inheritance, testament, notary, extraordinary circumstances, testamentary refusal, mandatory share

**Subject matter:** rules of law governing the mechanism of inheritance bequest.

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**The relevance of the research topic** Analysis of the legislation allows us to conclude that, despite the detailed elaboration of the order of inheritance under the will, it is not without flaws. The legislator managed to translate not all new ideas into clear and understandable legal constructions. Civil law clearly regulated the issue of inheritance, but many people try to dispose of their movable and immovable property during their lifetime. All that is required for this action is the personal will and capacity of the person who wants to leave a will, and the rest will be clarified and compiled by the notary. Officially certified document provides undoubted advantages to the parties. However, there are a number of nuances and pitfalls that can be encountered both before and after the death of the testator, which determines the relevance of the research topic.

**The purpose of the work:** analysis of theoretical and practical problems of the legal regulation of inheritance legal relations under the will and the development of scientific and practical recommendations for the improvement of legislation in this area

**Objective:** to consider the main provisions on the types and order of making a will in the historical and theoretical aspect; to characterize the genesis of legislation on the types and procedure for making a will; to analyze the general rules about the form and order of making a will at the present stage; to offer a legal description of certain types of will (notarially certified will; testament equated to notarially certified; closed will; testament in extraordinary circumstances); identify problems associated with the implementation of the will; to identify prospects for improving the legislation of the Russian Federation in the field of inheritance under the will.

**The theoretical and practical significance of the research** that the conclusions and statements contained in it can be applied in teaching the course of civil law and in the process of legislative work.

### **Results of the study:**

1. A will is a personal order of a citizen about the fate of his property in the event of his death in the form prescribed by law.
2. A distinctive feature of a will, as compared with inheritance by law, is its freedom. Freedom of the will, that is, the right of the testator at his own discretion to dispose of the property belonging to him in cases of death, transferring it to any person, developed in modern law and order under the influence of two contradictory tendencies. The will allows you to freely dispose of your property in case of death. It is necessary to take into account the interests of family members and immediate relatives of the deceased. That is, on the one hand, a will is a manifestation of the freedom of property, and on the other hand, it requires the protection of the property interests of the testator's relatives. Thus, freedom of the will, only conditional concept.
3. In Russia, a mechanism for restricting the freedom of a will is the establishment of an obligatory share.
4. A will is one of the few transactions in civil law for which a notarial form has been established. The legal regulation of a will, equating to a notary, has changed significantly: the legislator clarified some procedural issues of the making of such wills.
5. In contrast to the previously existing legislation, the Civil Code of the Russian Federation provides for the possibility of making closed wills, which makes it possible to ensure the secrecy of the will.
6. The novelty of the Russian legislation is a will made in extraordinary circumstances. Special

requirements are placed on the drawing up of a will in extraordinary circumstances: 1) first of all, there must be such circumstances in which a citizen cannot make a notarial or equivalent testament to him; 2) the testator must be sane and of solid memory; 3) the will must be written by him personally in the presence of two witnesses; 4) from a handwritten written and signed document it should be followed that it is a question of a will.

7. The joint testament of spouses, on the contrary, is worth considering the most thoroughly, since it provides the testator with numerous opportunities to choose the most suitable option for his succession. That is why the introduction of the institution of a joint will into the legislation of the Russian Federation would strengthen the principle of freedom of the will and would contribute to a more accurate reflection of the last will of the testator.

8. In the Russian legal system, a fairly effective mechanism has been created to regulate inheritance relations, including in the area of inheritance under a will.

9. There are many problems in law enforcement practice, which necessitates a more thorough and comprehensive analysis of the institution of inheritance in the bequest in order to develop a more effective mechanism for legal regulation of these relations, including on the basis of studying the positive foreign experience in the regulation of inheritance in the will.

#### **Recommendations:**

1. It is necessary to make changes in paragraph 2 of Art. 1118 of the Civil Code of the Russian Federation for the purpose of enabling persons aged 14 to 18 years to draw up a will in respect of property that they are allowed to dispose of by law.

2. It is necessary to provide notaries with the right of access to the databases of medical institutions in order to establish the fact of the legal capacity of persons who applied to it for the purpose of drawing up a will, as well as to decisions of judicial bodies on depriving or limiting the legal capacity of applicants.

3. The procedure for the use of video fixation in certifying testaments should be mandatory, which will protect not only the will of the testator, but also the interests of the heirs concerned, as well as the reputation of the notary.

4. It is necessary to allow persons suffering from physical disorders, as well as illiterate persons, to draw up a will in the form of audio and video recordings, since they are not able to make it in writing without assistance. This requirement is most consistent with the principle of freedom of the will.

5. Amendments should be made to paragraph 1 of Article.1129 of the Civil Code of the Russian Federation and to allow persons in emergency situations to make a will using various means of transmitting information, regardless of the presence of witnesses, by virtue of the situation in which the citizen is.

6. It is necessary to revise the mechanism of the mandatory share - it should be provided for its differentiation taking into account the degree of kinship and the state of life of the dependent, his further employment.

7. It is necessary to introduce the institutions of a joint will and hereditary contract, which would expand the possibilities of the testator to dispose of property in case of death. The mechanisms for their regulation, which are being proposed by the legislators at the present time, require substantial revision, taking into account the study of existing Russian law and law enforcement practice.