

## ARTICLES

**MAGOMED GEZGIEV**Candidate of Legal Sciences, Vice-Rector  
for Security of the Ingush State University**THE GENESIS OF LEGAL REGULATION OF THE ENTERPRISE  
AS AN OBJECT OF HERITAGE LEGAL SUCCESSION**

DOI: 10.30729/2541-8823-2024-9-2-79-87

**Abstract.** *In this study, the author considers the origin and development of legal regulation in relation to enterprises in the context of heritage legal succession. The historical and modern approaches to the legal status of enterprises when transferring them into inheritance are analyzed, and the relevant normative legal acts and judicial practice are considered. The article investigates the reasons for the emergence of the enterprise as a specific legal institution in the period of society's development. It is proposed to divide it into the main stages of development in the conditions of historical formation of the domestic legal system. The author of the article also draws attention to the problems and trends in the modern legal regulation of heritage legal succession of enterprises. The influence of economic and social factors on the formation and development of legal norms is investigated, as well as possible ways to improve the existing legislation and practice in this sphere are considered. In the conclusion of the article, the author made conclusions based on the study of the history of the development of property complexes as an object of rights in the inheritance law of Russia. The study contributes to the development of the theory and practice of inheritance law, as well as can be used in the development of new normative acts or in solving specific legal issues related to the heritage legal succession of enterprises.*

**Keywords:** *enterprise, legal succession, object of heritage legal succession, inheritance law, institute of inheritance.*

Specialization of production and separation of labor led to the emergence of the enterprise as a separate legal institution during the development of society. In order to formulate the definition of property, it is necessary to refer to the historical

background. Thus, back in the Law of XII Tables, the term “familia pecuniae” appears and is literally defined as the number of livestock and slaves. The head of the family acted as a citizen — all property belonged to him<sup>1</sup>. As a result of the formation of the institute of property rights, various property for certain economic aims began to appear<sup>2</sup>.

The enterprise was created and developed in a family union. Initially, the family acted in the form of the most ancient organization of the economy, where products were made. Some quantity of these products was transferred to the market for further trade. Trade acted as the most important direction of economic activity. Accordingly, the most ancient enterprise is a part of the household subordinated to the family way of life of that time. According to some sources of chronicles, “torzhishche” — in other words, the market, occupied the most significant place in Kyiv. In addition, besides the torzhishche, there were less than ten other small, localized outlets where products produced by individual families were sold.

The family in Russia was a subject of private law, owning the exclusive right to property. In the IX–XII centuries in Russia, the peasant family had its own separate economy. This period is characterized by the fact that peasants were the key productive force of the state. In their use there were both tools of production and livestock. Peasants in this period had the right to use land, but the right of ownership was vested in the community. Thus, free land use and subsistence farming in Russia existed until the end of the XII century.

In the past, a family household was made up of several property objects, including a dwelling, the right to use a plot of land, property necessary for the household and animals. According to the Russkaia Pravda, a code of laws and rules in force at that time, only movable property could be inherited. Land was not an object of private property — accordingly, it could not be given to heirs<sup>3</sup>.

Having analyzed the norms of inheritance in Russia in the period of X–XII centuries, we can conclude that in the Russkaia Pravda was not yet fully reflected the principle of unity of the inheritance mass. Consequently, the category of “inheritance” included only material values — in particular, the will of the testator

<sup>1</sup> *Sinayskiy V.I.* Russkoe grazhdanskoe pravo. Vyp. II. Obyazatel'stvennoe, semeynoe i nasledstvennoe pravo [Russian civil law. Vol. II. Obligatory, family, and inheritance law]. Kiev, 1918. P. 154.

<sup>2</sup> *Meyer D.I.* Russkoe grazhdanskoe pravo. V 2 ch. Ch. 1. M., 1997 (po izd. 1902 g.) [Russian civil law. In 2 parts. P. 1. M., 1997 (according to the edition of 1902)]. P. 9; *Sinayskiy V.I.* Russkoe grazhdanskoe pravo. Vyp. II. Obyazatel'stvennoe, semeynoe i nasledstvennoe pravo [Russian civil law. Vol. II. Obligatory, family, and inheritance law]. Kiev, 1918. P. 246.

<sup>3</sup> *Shershenevich G.F.* Kurs torgovogo prava. T. 1. Vvedenie. Torgovye deyatel'i. 4-e izd. [A course in commercial law. V. 1. Introduction. Commercial persons. 4th ed.]. SPb., 1908. P. 154, p. 158; *Kasso L.* Preemstvo naslednika v obyazatel'stvakh nasledodatel'ya [The succession of an heir to the obligations of the testator]. Yuryev, 1895. P. 207.

was not reflected in this category. In addition, the status of trade enterprises was not legislated<sup>1</sup>.

Radical changes in Russia took place at the end of the XI century, namely in the period of feudal fragmentation. This period was characterized primarily by the development of craftsmanship, agriculture, and the growth of large cities. Families produced the simplest products for home use and resale — furniture, dishes, clothes and other products<sup>2</sup>. The process of social labor classification led to the need to isolate domestic crafts into a separate category — handicraft production. Craftsmen not only provided for the needs of their families by producing handmade goods, but also benefited from it by reselling or exchanging the manufactured products.

Studying the development of Russian law in the field of inheritance from the X to the XIV century, we can conclude that the legislation in this area developed in two main directions. The first direction consisted in preserving traditions and the family way of life in the system of inheritance, the second direction was to expand the circle of heirs.

In accordance with the statements specified in the Commercial Statute and the Appendix to Article 1238 of the Civil Code, it may be noted that upon the death of the owner of a factory, plant, manufacture or shop, all of the above property was transferred directly to the heirs of the deceased. In addition, in cases where the heirs continued to carry on the business activities of the testator, they received the right to possess the property complex. For this purpose, it was required to pay a certain statutory amount of tax. It is important to note that, in addition to the property, the heirs in this case inherited the debts of the owner of the enterprise, if any. As to debts, it should also be noted that they were paid not only from the inherited property complex — often heirs were forced to pay debts from their personal property. There were also cases when creditors had doubts about the hereditary rights of the owner, then the creditors could request an inventory of the enterprise and conduct a complete sealing, as a result of which the commercial property was sealed from the personal property of the heirs.

At the beginning of the XVIII century, the state actively interfered in economic processes and supported private entrepreneurship. At the same time, often treasury enterprises (as a rule, recognized as unprofitable) were transferred into private hands. The authorities assumed responsibility for the costs of training workers, supplied equipment to the enterprises, gave preferential loans, as well as free land for the

---

<sup>1</sup> Alekseev Yu. G. Pskovskaya sudnaya gramota i ee vremya. Razvitie feodalnykh otnosheniy na Rusi v XIV–XV vv. [Pskov judgment charter and its time. Development of feudal relations in Russia in the XIV–XV centuries]. L.: Lenizdat, 1980. P. 110.

<sup>2</sup> Sergeevich V. Lektsii i issledovaniya po drevney istorii russkogo prava [Lectures and studies on the ancient history of Russian law]. SPb., 1899. P. 406, p. 407, p. 415.

construction of factories and plants. The first manufactories in Russia appeared in the XVII century, but only from the XVIII century. Manufactures began to develop rapidly, and their quantitative specific weight began to exceed craft production.

During the same period, enterprises began to take over not only individuals, but also entire settlements — villages. One of the key privileges for such enterprises is the right to forced labor of peasants living in the newly formed territories of the enterprises. Since 1721, according to the Decree of Peter the First, enterprises have the right to buy serf peasants and, moreover, to assign them to the enterprise. As a result of this process, peasants are “united” with the enterprise, i.e., from the moment of acquisition of peasants to the enterprise they become impossible to buy or sell.

By the end of the second half of the XVIII century, socio-economic reforms in Russia became more and more aimed at tightening serfdom and strengthening class distinctions. The right of inheritance of acquired property was not restricted by law, but patrimonial property was subject to the principle of saving within the family of the testator. Only in 1832–1833 the legislation began to be systematized and modified, which later became the basis for the Code of Laws of the Russian Empire, which was in force until 1917.

When studying legal documents and precedents of judicial practice of the XVII–XVIII centuries, it is clearly seen that inheritance property was not limited only to immovable and movable property. It also included debts that the testator had at the time of his death, such as the right to claim on mortgages and bills of sale.

The rapid upsurge of industry in Russia falls on the end of XIX – beginning of XX century. The reforms of Alexander the Second in 1861 have a significant impact on the formation of this process. From this period of time, railroads begin to be actively built, and, thanks to the development of freight transportation, domestic goods begin to reach foreign markets. In addition, the internal trade of the country is actively developing, which leads to the need to search for and implement new approaches to the legal regulation of not only civil, but also inheritance relations, the object of which were also enterprises.

The inheritance law in the mentioned period provided for key points worth paying attention to. The freedom to bequeath property was not limited only to relatives, so it could be bequeathed to outsiders as well. Restrictions on real estate inheritance applied only to patrimonial property, which could not be bequeathed. However, well-purchased real estate could be bequeathed to any heirs without restriction.

The study of the information described by the volost courts on peasant inheritance disputes proves that labor and economic relations, rather than kinship ties, were decisive factors in determining the right of inheritance. In the peasant class, property related to economic activity was transferred according to custom, and land inheritance was limited and controlled by the community. However, personal

labor was of great importance in inheritance legal relations. The rule was established that heirs inherited all debts of the testator, regardless of the size of the inheritance. The liability of heirs for the debts of the testator acquired unlimited character.

In 1917, Russia experienced rapid changes in the political and economic environment, in which state interests were more prioritized over private interests. This led to the beginning of the period of war communism and nationalization of all spheres of the economy, as well as to significant changes in inheritance law.

In the process of building a socialist society, the concept of inheritance was based on the fact that the means of production were nationalized. As a result, only personal property could be inherited. In this case, the property, the value of which was less than 10 thousand rubles, was transferred to the disposal of the surviving spouse or his (her) next of kin. The above rule acted primarily as a measure of social security, and was further legislated in the Civil Code of the RSFSR. The transition to a new economic policy served as an impetus for further reform of legislation on inheritance<sup>1</sup>.

The economic recovery after the revolution in Russia led to the revival of enterprises and legal norms that gave individuals the right to open their own commercial and industrial enterprises.

After studying the legislation of the period of Soviet power, we can conclude that the regulation of inheritance legal relations was based on the Decrees of the All-Russian Central Executive Committee of April 27, 1918 "On the abolition of inheritance" and August 20, 1918 "On the abolition of the right of private ownership of real estate in cities". In 1922, a restriction on inheritance of property was established in the amount of not more than ten thousand rubles, after taking into account the debts of the testator, with the adoption of the Civil Code of the RSFSR. This method of restricting the rights of inheritance of property was new and was not found in the legislation of Western Europe. It was explained by the desire to satisfy the interests of the state.

In Russia in the second half of the XX century, there was a two-tier system of legislation: all-union and republican. At that time, civilists proposed a new concept of inherited property and rejected the notion of the institution of inheritance as a means of destroying private property. They argued that inheritance, as the main institution of inheritance law, was aimed at strengthening personal property and preserving family and kinship ties. Inheritance law was stable and reflected the dependence of the objects of hereditary succession on the legislator's approach to the regulation of property rights.

---

<sup>1</sup> Antimonov B.S., Grave K.A. Sovetskoe nasledstvennoe pravo [The Soviet Inheritance Law]. M.: Gosyurizdat, 1955. P. 264; Melnikova M.P. Nasledovanie po zakonu v Rossii ot svoda zakonov do grazhdanskogo kodeksa RSFSR 1964 goda (istoriko-teoreticheskiy aspekt): avtoref... diss. kand. jurid. nauk [Inheritance by law in Russia from the Code of Laws to the Civil Code of the RSFSR of 1964 (historical and theoretical aspect): abstract of dissertation of Candidate of Legal Sciences]. Stavropol., 2001. P. 7.

In 1964, rules were established for inheritance of various categories of property, including household items, collective farm property, cash deposits, and inherited debts of the testator. The Civil Code of the RSFSR confirmed the unity of inheritance and the universality of legal succession. As a result, the legislation on inheritance in Russia from the middle of the XX century to the beginning of the XXI century was stable and reflected the section of the Civil Code of the RSFSR of 1964 on inheritance<sup>1</sup>.

The study of the history of the development of property complexes as an object of rights in the inheritance law of Russia allows us to draw conclusions that:

1. The conditions for the development of the institution of enterprise began to appear in the early times of social development, when the family was the main form of economic organization. It produced products that went to the market, and trade was an important sphere of economic activity.

2. Household handicrafts, which emerged as a result of the division of social labor, became the prototypes of modern enterprises. Artisans not only produced goods for their families, but also sold or traded the surplus. As artisans moved into the cities, they began to establish separate economic enterprises, spinning off from their family trades. This process was the starting point in the development of enterprises as an object of hereditary legal relations<sup>2</sup>.

It should be concluded that already before the formation of the Old Russian state there were economic entities in society, and the regulation of their status was reflected in the Old Russian law. The socio-economic prerequisites of the enterprise as an object of legal regulation were and actively developed.

3. In the IX–XII centuries, peasant families had their own separate farms, which had tools of production and livestock. Peasants were the main productive force in Russia, and the household of a family was a complex, including a house, land allotment, livestock and manufactured goods<sup>3</sup>. The rules of inheritance, defined in Old Russian law of X–XII centuries, were enshrined in the Russkaia Pravda. Inheritance could include only material values, and the will of the testator was limited. Trade enterprises had no legislative status<sup>4</sup>.

<sup>1</sup> Barshchevskiy M. Yu. *Nasledstvennoe pravo* [The inheritance law]. M.: Belye alvy, 2005. P. 47.

<sup>2</sup> Pobedonostsev K. P. *Kurs grazhdanskogo prava. Pervaya chast: Votchinnnye prava* [A course in civil law. Part one: allodial rights]. M., 2002. P. 112.

<sup>3</sup> Isaev I. A. *Grazhdanskoe, brachno-semeynoe i nasledstvennoe pravo / Razvitie russkogo prava vtoroy poloviny XVII–XVIII vekov* [Civil, marriage, family and inheritance law / Development of Russian law of the second half of the XVII–XVIII centuries]. M., 1992. P. 141.

<sup>4</sup> Garaevskaya I. A. *Ekonomicheskoe razvitie Kievskoy Rusi v IX–XII vekakh, Severnoy Rusi, Moskovskogo knyazhestva v XII–XIV vekakh / Istoriya ekonomicheskogo razvitiya Rossii* [The economic development of Kievan Rus in the IX–XII centuries, Northern Rus, Moscow principality in the XII–XIV centuries / History of economic development of Russia] / Pod red. A. K. Shurkalina. M., 2000. P. 9; Novitskiy I. B., Pereterskiy I. S. *Rimskoe chastnoe pravo* [Private Roman law] / Pod red. I. B. Novitskogo i I. S. Pereterskogo. M., 1997. 560 p.

4. From the XII to XIV centuries inheritance legislation developed in two directions: the saving of customs and family beginning in inheritance, as well as expanding the circle of heirs, changing the composition of inherited property and recognizing the universality of inheritance law.

5. In 1649, the Council Code was adopted, which was the main source of law until the XVIII century. The composition of inheritance included not only movable and immovable property, but also the debts of the testator, such as the right to claim on mortgages and bills of sale. Enterprises could be the object of inheritance.

6. The fourth stage is associated with the development of legislation in the second half of the XVIII – early XX centuries. During this period, contractual relations became more complicated, the circle of heirs expanded, civil turnover intensified. In Russia of the early XX century there was a rapid industrial growth, profit became the main aim of economic activity, and rights and obligations became the object of legal transactions. Enterprises included factories, plants, stores, goods, tools and exclusive rights to trademark. In addition, during this interval the rule of inheritance of all debts of the testator, regardless of the size of the inheritance asset, was formed, and the liability of heirs for the debts of the testator acquired an unlimited character.

7. In the fifth period of development of the institute of inheritance, there were cardinal changes. First, these changes are directly related to the events of 1917. At this time, state interests became dominant in economic relations, and private interests were suppressed<sup>1</sup>. There were also significant changes in the inheritance law. For example, on April 27, 1918, the All-Russian Central Executive Committee of the RSFSR adopted the Decree “On the abolition of inheritance”, which led to the complete nationalization of all spheres of the economy under the policy of war communism. This led to significant changes in the institution of inheritance of enterprises<sup>2</sup>.

## References

*Alekseev Yu. G.* Pskovskaya sudnaya gramota i ee vremya. Razvitie feodalnykh otnosheniy na Rusi v XIV–XV vv. [Pskov judgment charter and its time. Development

<sup>1</sup> *Serebrovskiy V. I.* Istoriya razvitiya sovetskogo nasledstvennogo prava [The history of the development of Soviet inheritance law] // *Voprosy svetskogo grazhdanskogo prava* [Issues of Soviet civil law]. M.–L., 1945. P. 161.

<sup>2</sup> *Genkin D. M., Novitskiy I. B., Rabinovich I. V.* Istoriya sovetskogo grazhdanskogo prava [History of the Soviet Civil Law]. M., 1949. 765 p.; *Gorokhova Yu. A.* Predpriyatie kak imushchestvennyy kompleks i osobennosti ego nasledovaniya [Enterprise as a property complex and peculiarities of its inheritance] // “Tsennosti i interesy sovremennogo obshchestva” Mezhdunarodnaya nauchno-prakticheskaya konferentsiya [“Values and interests of modern society” International Scientific and Practical Conference]. 2014. P. 26; *Sergeevich V.* Lektsii i issledovaniya po drevney istorii russkogo prava [Lectures and studies on the ancient history of Russian law]. SPb., 1899. P. 94.



of feudal relations in Russia in the XIV–XV centuries]. L.: Lenizdat, 1980. 340 p. (In Russian)

*Antimonov B. S., Grave K. A.* Sovetskoe nasledstvennoe pravo [The Soviet Inheritance Law]. M.: Gosyurizdat, 1955. 264 p. (In Russian)

*Barshchevskiy M. Yu.* Nasledstvennoe pravo [The inheritance law]. M.: Belye alvy, 2005. 203 p. (In Russian)

*Garaevskaya I. A.* Ekonomicheskoe razvitie Kievskoy Rusi v IX–XII vekakh, Severnoy Rusi, Moskovskogo knyazhestva v XII–XIV vekakh / Istoriya ekonomicheskogo razvitiya Rossii [The economic development of Kievan Rus in the IX–XII centuries, Northern Rus, Moscow principality in the XII–XIV centuries / History of economic development of Russia] / Pod red. A. K. Shurkalina. M., 2000. 208 p. (In Russian)

*Genkin D. M., Novitskiy I. B., Rabinovich I. V.* Istoriya sovetskogo grazhdanskogo prava [History of the Soviet Civil Law]. M., 1949. 765 p. (In Russian)

*Gorokhova Yu. A.* Predpriyatie kak imushchestvennyy kompleks i osobennosti ego nasledovaniya [Enterprise as a property complex and peculiarities of its inheritance] // “Tsennosti i interesy sovremennogo obshchestva” Mezhdunarodnaya nauchno-prakticheskaya konferentsiya [“Values and interests of modern society” International Scientific and Practical Conference]. 2014. Pp. 25–28. (In Russian)

*Isaev I. A.* Grazhdanskoe, brachno-semeynoe i nasledstvennoe pravo / Razvitie russkogo prava vtoroy poloviny XVII–XVIII vekov [Civil, marriage, family and inheritance law / Development of Russian law of the second half of the XVII–XVIII centuries]. M., 1992. Pp. 137–151. (In Russian)

*Kasso L.* Preemstvo naslednika v obyazatelstvakh nasledodatelya [The succession of an heir to the obligations of the testator]. Yuryev, 1895. 305 p. (In Russian)

*Melnikova M. P.* Nasledovanie po zakonu v Rossii ot svoda zakonov do grazhdanskogo kodeksa RSFSR 1964 goda (istoriko-teoreticheskiy aspekt): avtoref. ... diss. kand. yurid. nauk [Inheritance by law in Russia from the Code of Laws to the Civil Code of the RSFSR of 1964 (historical and theoretical aspect): abstract of dissertation of Candidate of Legal Sciences]. Stavropol., 2001. 22 p. (In Russian)

*Meyer D. I.* Russkoe grazhdanskoe pravo. V 2 ch. Ch. 1. M., 1997 (po izd. 1902 g.) [Russian civil law. In 2 parts. P. 1. M., 1997 (according to the edition of 1902).]. 290 p. (In Russian)

*Novitskiy I. B., Pereterskiy I. S.* Rimskoe chastnoe pravo [Private Roman law] / Pod red. I. B. Novitskogo i I. S. Pereterskogo. M., 1997. 560 p. (In Russian)

*Pobedonostsev K. P.* Kurs grazhdanskogo prava. Pervaya chast: Votchinnye prava [A course in civil law. Part one: allodial rights]. M., 2002. 542 p. (In Russian)

*Serebrovskiy V. I.* Istoriya razvitiya sovetskogo nasledstvennogo prava [The history of the development of Soviet inheritance law] // Voprosy svetskogo grazhdanskogo prava [Issues of Soviet civil law]. M.–L., 1945. Pp. 156–171. (In Russian)



*Sergeevich V.* Lektsii i issledovaniya po drevney istorii russkogo prava [Lectures and studies on the ancient history of Russian law]. SPb., 1899. 481 p. (In Russian)

*Shershenevich G. F.* Kurs torgovogo prava. T. 1. Vvedenie. Torgovye deyateli. 4-e izd. [A course in commercial law. V. 1. Introduction. Commercial persons. 4th ed.]. SPb., 1908. 397 p. (In Russian)

*Sinayskiy V. I.* Russkoe grazhdanskoe pravo. Vyp. II. Obyazatelstvennoe, semeynoe i nasledstvennoe pravo [Russian civil law. Vol. II. Obligatory, family, and inheritance law]. Kiev, 1918. 460 p. (In Russian)

### **Information about the author**

**Magomed Gezgiev (Magas, Russia)** — Candidate of Legal Sciences, Vice-Rector for Security of the Ingush State University (7 I. B. Zyazikov Ave., Magas, 386001, Russia; e-mail: maggez@mail.ru).

### **Recommended citation**

*Gezgiev M. A.* The genesis of legal regulation of the enterprise as an object of heritage legal succession. *Kazan University Law Review*. 2024; 2 (9): 79–87. DOI: 10.30729/2541-8823-2024-9-2-79-87.