

ANNA KUZNETSOVA

Cadet of the Department of Investigator education of the V. V. Lukyanov Orel Law Institute of the Ministry of Internal Affairs of Russia

SERGEY MELNIK

Candidate of Legal Sciences, Associate Professor, Professor of the Department of Civil law disciplines of the V. V. Lukyanov Orel Law Institute of the Ministry of Internal Affairs of Russia

THE PROBLEM OF REGULATION OF DIGITAL INHERITANCE IN CIVIL LAW

DOI: 10.30729/2541-8823-2023-8-2-77-80

Abstract. *The article aims to consider the main problems of inheritance of objects related to digital rights within the framework of the legislation of the Russian Federation, caused by the changes affecting all spheres of society in the process of digitalization and informatization of the modern world, which has been taking place over the past decades. In a situation where there are no clear legal norms regulating the inheritance of digital assets, problems arise with access to personal data of the deceased, management of electronic communications and preservation of the very digital heritage of a particular person. This not only impacts the privacy of citizens, but also has important implications for business and academic research, especially where the digital inheritance includes scientific data. The development of clear and steadily working legal mechanisms for the inheritance of digital rights is a crucial challenge for modern societies seeking to ensure respect for each individual's personal space and digital assets in the face of constant digital transformation. The absence of a legally regulated process of transferring digital rights from one person — the testator — to another person — the heir — creates contradictions and causes certain problems in the law, which can only be eliminated by introducing a legally regulated procedure for this process.*

Keywords: *inheritance, digital rights, property, legislation, civil law.*

The issues arising in the framework of inheritance still play a key role due to the fact that everyone is inevitably faced with the inheritance procedure. The process of digitalization, which has been taking place in society for several decades, is affecting more and more spheres of public life, including the legislative sphere. In the context of this phenomenon, it is worth mentioning the emergence of a separate institute of civil law — the institute of digital rights. Relatively recently, the Civil Code of the Russian Federation has introduced Article 141.1. “Digital Rights”.

In accordance with the legislative definition of the term, digital rights are obligatory and other rights named as such in the law, the content, and conditions for the exercise of which are determined in accordance with the rules of the information system that meets the characteristics established by law¹. Considering this term and determining some peculiarities of its application, it is worth disclosing the meaning of this norm. Digital rights are the rights of a person to access, use and create digital works, as well as access and use of electronic devices, communication networks, in particular the Internet, including accounts on social networks. In essence, these are extended universal human rights in relation to the needs of a society based on the informatization of life. In this context, the problem of regulating the grounds and procedure for inheriting digital rights in Russia is of particular importance. Almost every person has an account not only on social networks, but also on a particular digital device. But what consequences await an account in social networks or on a device of a person who has died?

Some social networks, including the social network VKontakte, allow an account to be given the status of “Profile of a deceased person”, after providing a death certificate of the account owner. Social network Facebook has pushed the boundaries by allowing a person, while still alive, to appoint an “account keeper” who will manage the profile owner’s page after death. Accounts on digital devices also have the feature of “inheritance”. So, for example, Apple software allows you to give permission to a particular person to his Apple ID in the event of death. In a Google account, there is a “just in case” section, where the account owner will no longer be able to take any action with the profile after his death.

In our opinion, it is necessary to point out that in Russia there is no legislative regulation of the inheritance of digital rights, we believe that this is a huge omission on the part of the standard-setting bodies. Pointing to the presence of social networks, media, and Internet space in human life almost constantly, it seems reasonable to legislate the grounds and procedure of inheritance of digital rights specifically within the framework of the use of accounts in social networks.

¹ *Matyukhin S. V.* GK RF. Grazhdanskiy kodeks Chasti 1, 2, 3 i 4 po sost. na 05.11.21 s tablitsей izmeneniy i s putevoditelem po sudebnoy praktike [Civil Code of the Russian Federation. Civil Code Parts 1, 2, 3 and 4 as of 05.11.21 with a table of amendments and a guide to court practice] / *Matyukhin S. V., Romanovskiy V. A.* — Iz-vo: Prospekt — 2023. — 1347 p.

Inheritance is the transfer of property and non-property rights from a deceased person to his heirs. Modern Russian inheritance law is based on the principles of universal legal succession — the transfer to the heir of the entire inheritance mass in an unchanged form as a whole and at the same moment. But what to do in the situation if the right to a digital object of civil law is not needed by the heir, or, obtaining it in the framework of inheritance is expensive for the person?¹

In this context, certain adjustments should be made in order to fully understand the essence of this problem. In our opinion, the possibility of transferring rights by law should be absent, individuals should themselves take care of obtaining digital rights by heirs in case of their death. The reasons are that some people may simply be unwilling to transfer their social media account to their relatives in order to keep their online activities confidential. According to our opinion, by transferring their digital rights to a social media account, a person should be assured of non-disclosure of further personal information after their death, therefore, it seems reasonable to allow digital rights to be inherited only in the form of a person's will.

However, we believe that the transfer of digital rights after the death of a person to his heirs should be legislated, but it should be narrowed to certain limits, specifying: to limit the possibility of the method of transfer of rights.

References

Matyukhin S. V. GK RF. Grazhdanskiy kodeks Chasti 1, 2, 3 i 4 po sost. na 05.11.21 s tablitsy izmeneniy i s putevoditelem po sudebnoy praktike [Civil Code of the Russian Federation. Civil Code Parts 1, 2, 3 and 4 as of 05.11.21 with a table of amendments and a guide to court practice] / Matyukhin S. V., Romanovskiy V. A. — Iz-vo: Prospekt — 2023. — 1347 p. (In Russian)

Aryanova T. Kakoe budushchee zhdet tsifrovye aktivy [What is the future of digital assets] // IHODL.COM: [Electronic resource]. — URL: <https://ru.ihodl.com/analytics/2018-09-24/kakoe-budushee-zhdet-bitkoin-i-cifrovye-aktivy/> (date of address: 24.09.2018).

Information about the authors

Anna Kuznetsova (Orel, Russia) — Cadet of the Department of Investigator education of the V.V. Lukyanov Orel Law Institute of the Ministry of Internal Affairs of Russia (2 Ignatova St., Orel, Orel region, 302025, Russia; e-mail: annakuznetsova11042004@gmail.com).

¹ *Aryanova T.* Kakoe budushchee zhdet tsifrovye aktivy [What is the future of digital assets] // IHODL.COM: [Electronic resource]. — URL: <https://ru.ihodl.com/analytics/2018-09-24/kakoe-budushee-zhdet-bitkoin-i-cifrovye-aktivy/> (date of address: 24.09.2018).

Sergey Melnik (Orel, Russia) — Candidate of Legal Sciences, Associate Professor, Professor of the Department of Civil law disciplines of the V. V. Lukyanov Orel Law Institute of the Ministry of Internal Affairs of Russia (2 Ignatova St., Orel, Orel region, 302025, Russia; e-mail: m809sv@yandex.ru).

Recommended citation

Kuznetsova A. A., Melnik S. V. The problem of regulation of digital inheritance in civil law. *Kazan University Law Review*. 2023; 2 (8): 77–80. DOI: 10.30729/2541-8823-2023-8-2-77-80.