

them the same content in both systems of law. In Roman and Ukrainian law, inheritance under the law was built on the basis of consanguinity, with no limitation on the degrees of kinship. Relatives with the right of inheritance were called for inheritance consistently, by blood order, and not together.

As in Roman law, in Ukrainian legislation, the immediate relatives of the testator, belonging to the first stage, have the right to an obligatory share. But in the Ukrainian legislation there is one more condition – minors, adult disabled children of the testator, incapable widow (widower) and his disabled parents.

In conclusion, despite some differences, all the main provisions of the succession law of Ukraine are based on Roman law. This applies to the opening of the will, acceptance of inheritance, inheritance by law and testament, mandatory share.

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Kovalchuk Katerina,

*Student of the 1st course of the Faculty of Interational Legal Relations
of the National University «Odessa Law Academy»
Research advisor: PhD, associate professor Nekit K.G.*

INHERITANCE IN ROMAN PRIVATE LAW AND MODERN CIVIL LAW OF UKRAINE

Learning foreign and own legislation is impossible without knowledge of Roman civil law, its reception and adoption. Inheritance law has evolved over many centuries, shaping certain laws and principles, which influenced the formation of the modern legal system. It is an integral attribute of class society where there is private ownership.

Relevance of the research of the study of the category of «inheritance» is due, first of all, to the exact definition of the circle of subjects of the inheritance relationship. In addition, the legal status of heirs within this relationship is

determined by their ability to inheritance. Hereditary rights of every person concerning the interests of many people, remaining in the center of attention of society and the state.

Roman inheritance law in the process of its development acquired rice, which were consistent with the nature of Roman ownership and family. Strengthening of individual private property as its release from the remnants of family caused development of the freedom of the will and testamentary dispositions. [1]

Some scientists suggest that inheritance by law arose earlier than inheritance by will. However, for today we can see manifestation of the last much more. In classical law its meaning has become so strong, that has become the dominant form of inheritance.

During the historical formation of hereditary law, four stages can be traced: inheritance law for jus civile, pretorc law or bonorum possessio, imperial legislation to Justinian and the reform of Emperor Justinian. The last significantly influenced the formation of inheritance law as we can see it today (its original sources).

In the period of the Laws of 12 Tables arose the concept of blood affinity, according to which citizens have no right to inherit. Over time, right of pretoria gives the opportunity to acquire the inheritance of blood relatives. But the highest reaches of inheritance law was by Imperial legislation to Justinian. At this stage, there was consolidation of the basic principles of the pretorial system of inheritance.

The reception of the Roman idea of giving the right to inherit certain categories of people was reflected in the modern civil law of Europe. For example, the French legislator establishes that every person can make orders by means of a will or by appointment of an heir, or by setting legates or under every other name that expresses his will (Article 967 FGK). In Germany, the wife is entitled to make a joint testament, and the French law forbids both common and mutual testament (Article 968 of the FGK). The laws of the Federal Republic of Germany and Switzerland provide the possibility of making inheritance agreements, but in France, they are only permitted as an exception in some cases, in particular between the spouses. In Hungary, it is permitted to conclude inheritance and death treaties (§ 655-659), as well as treaties relating to the expected inheritance. [2]

The first mention of inheritance on Ukrainian lands appears in written sources of the IX-XII centuries. The Collection of Law «Russian truth» devotes several articles to inheritance law. Transition of the property of the deceased was carried out on the basis of customs, which have developed for centuries, preserving the ethnic traditions of the people who settled the territory of Ukraine.

Gradually the custom of inheritance was assigned by the rules, written testaments and transfer assets to family members by blood relationship, without

transferring it to third parties. «Russian truth» establishes rules of inheritance by social status. If the smerth died and he had no sons, then the legacy passed to the prince. Unmarried daughters stand out individual share of parental property at the discretion of the prince, married – had nothing.

When the boyar or his official died, the legacy, in the absence of their sons, passed to the daughters. The children of the husband from the slave did not receive the inheritance, but they received the freedom together with the mother. As a rule, the custom of the time of Kievan Rus man and woman (married) did not inherit one after another. They had the right to use the property that belonged to them personally and the property of the family. [3]

In Roman law, the testamentary took such a significant place in the family and property «life» of the Romans, so in the Roman legal tradition formed a kind of cult of the testament. Testamentary ability (*testamenti factio*) was an important element of the general civilian legal capacity of the Romans. It was meant, that not all individuals had the right to arrange for their property, and not all could accept the inheritance by testament. There were certain forms of testamentary ability: active, passive and limited.

To persons, who were deprived of active testability, Roman law attributed boys younger than 14 years, crazy people with *capitus deminutio media*, people with physical disabilities, if such defects prevented the person from expressing their will orally or in writing. For a long time, and women were deprived *testamenti factio activa*. Only the abolition of the custody of them girls under the age of 12 were not entitled to make a will. Persons, who did not have the right to be successors, (did not have *testamentifacio passiva*) according to Roman law were: *persona incerta*, convicted offenders, exiles, widow, who violated her mourning year, people from *capitus deminutio media* and others. [4] It should be noted, that since the testament in favor *persona incerta* was invalid in so far *testamentifacio passiva* for a long time did not have postumas and legal entities. Since the classical period, such appointment has become possible for *nasciturus-postumus*, as well as for municipalities and corporations.

Due to the fact, that from the person in whose favor the property is claimed, certain ability is required at the time of the opening of the inheritance, then the existence of this person is more necessary. Today, we can see some similarities in the Civil Code of Ukraine. For example, the heir may not exist at the time of the making of the testament, but he must be born alive after the discovery of the inheritance or be conceived at the time of the discovery of the inheritance. [5] Thus, from the moment of birth and till the moment of death all physical persons can be successors. Gender, age, nationality, etc. do not matter. Persons in detention also acquire the law of

inheritance. From the above law there are exceptions established by Art. 1224 of the Civil Code of Ukraine, due to which we can speak about the presence or absence of testability of an individual.

To summarize, I want to note that the Roman private law significantly influenced the formation of the legal system of many foreign countries, including the formation of our own Ukrainian legislation. Inheritance law is one of the most important institutes in any developed society, so the study of its original principles is important for countries, which are interested in raising the level of legal awareness of citizens.

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Kniaziuk Kristina,

*Student of the 1st course of the Faculty of Interational Legal Relations
of the National University «Odessa Law Academy»*

Research advisor: PhD, associate professor Nekit K.G.

ROMAN CRIMINAL LAW AND CRIMINAL LAW OF UKRAINE

At the present time, Ukraine is making a lot of efforts to comply with the requirements of today – to be a strong and civilized country. For this purpose, new criminal law reforms are being introduced. For the implementation of these reforms in life it is vital to take into account the experience of the past. By studying and