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To the question of objects of inherited relation in the Republic of Kazakhstan

Inheritance law belongs to one of the most demanded in the practical respect sub-sectors of civil law and is known to all modern legal systems. The study of current problems of inheritance law in the Republic of Kazakhstan is of particular value, since inheritance preserves the inextricable link between generations and indirectly contributes to the stabilization and development of civil turnover. With the transition of Kazakhstan to the market economy, privatization, establishment of entrepreneurial activity freedom and other reforms, the range of objects of private property rights of individuals has broadened significantly which leads to an increase in the interest in Kazakhstani society in applying its forces and labor to generate income from generation to generation. The object of the hereditary legal relationship is inheritance (hereditary property, «hereditary mass»), passing to the heirs. Based on the analysis of the national legislation of the Republic of Kazakhstan the CIS countries and other countries different approaches to determining inheritance have been identified. When writing the article there were analyzed various points of different periods scholars' view - pre-revolutionary, Soviet and modern which are set out in textbooks, monographs, scientific articles, doctoral and candidate dissertations concerning such a concept as «inheritance», «hereditary property», «hereditary weight». It was concluded that unfortunately in our national legal doctrine there is obviously not enough work of the appropriate kind devoted to this problem, therefore, scientific research on this topic is relevant nowadays.

Keywords: inheritance law, objects of inheritance relationship, inheritance property, inheritance mass, inheritance, composition of inheritance.

Recognition of private property, entrepreneurial activity, transition to the market economy by modern Kazakhstan led to radical changes in all spheres of society and every citizen. Article 26 of the Republic of Kazakhstan Constitution recognizes the right of private property and the inadmissibility of its deprivation other than by a court decision for every person residing in the territory of the Republic of Kazakhstan regardless of his citizenship. Also it guarantees the right of inheritance [1]. Recognition for every person and citizen of the right to freely dispose of their labor and creativity, the right to engage in entrepreneurial and other economic activities entailed an increase in the sources of income. With the transition of Kazakhstan to the market economy, privatization, establishment of freedom of entrepreneurial activity and other reforms, the range of objects of private property rights of individuals has broadened significantly, which leads to an increase in the interest in Kazakhstani society in applying its forces and labor to generate income, from generation to generation.

The object of the hereditary legal relationship is inheritance (hereditary property, «hereditary mass»), passing to the heirs. If we turn to the legal definition of inheritance, contained in the civil codes of different countries, then we can distinguish three positions in the definition of inheritance:

1. Rights and duties. For example, according to Art. 1218 of the Civil Code (hereinafter referred to as CC) of Ukraine, the inheritance includes all rights and obligations that belonged to the testator at the time of opening the inheritance and did not cease due to his\her death [2], and according to 1113 Civil Code of Uzbekistan, the inheritance includes all rights and obligations, they belong to the testator at the time of the discovery of the inheritance, the existence of which does not cease with his\her death [3].

2. Property, property rights and obligations - Art. 1040 Civil Code of the Republic of Kazakhstan [4]; Art. 1112 Civil Code of the Russian Federation [5]; Art. 1328 Civil Code of Georgia [6]; Art. 1922 German civil code [7]; Art. 625 of the Civil Code of Quebec [8]; Art. 1 of the Law on the Succession of Israel [9]. For example, according to Art. 1112 of the Civil Code of Russian Federation, the inheritance includes belonging to the testator on the day of opening the inheritance, other property, including property rights and obligations [5].

3. The aggregate of movable and immovable property, as well as the transferred rights and duties, can be traced in art.382 of the Latvian Civil Code. «The inheritance is the totality, which includes all movable and immovable property as well as the rights and obligations to be transferred to others belonging to the deceased or declared deceased at the time of his\her actual or allegedly legal death.

In this case the deceased or declared dead is called the testator» [10]. Similarly, this position can be traced in Art. 724 of the Civil Code of France [11].

In the doctrine also there was no common understanding of the inheritance. D.I. Meyer, by inheritance, understood the aggregate of legal relations that passed to the heir [12; 409]. A similar position was occupied by G.F. Shershenevich who believed that all the relations of the former subject, which together make up the notion of property, are transferred to a new person not as a single entity but as something integral, single. Inheritance is a general continuity. It is simultaneously a transition of the whole complex and not just the sum of legal relations [13; 467]. However, legal relationship as a legal link between two entities with rights and (or) duties can not be transferred. It may cease or change with the participation of some entities, continuing to exist with the participation of other entities.

K.P. Pobedonostsev under the inheritance recognized property with all rights and duties, «some unity in which the cash and debts (activa and passiva) merge into one legal entity (universum jus), passing not to a random invader but to known predetermined persons - heirs» [14; 484].

The Civil Code of KazSSR did not contain the legal notion of inheritance although the content of many norms dealt with property. There was also no formal definition of property. According to V.I. Serebrovsky property of a citizen is a collection of his\her real values that belong to him\her, including various material objects (things); may also include rights of claim. But property can not include debts and property can not consist of only debts [15; 55].

The Civil Code of the Republic of Kazakhstan directly establishes that the inheritance includes the property belonging to the testator as well as rights and duties the existence of which does not cease with his\her death. The inheritance may also include the rights necessary for registration of the property rights of the testator which were not registered during his\her life including the right to register them (Article 1040 of the Civil Code of the Republic of Kazakhstan) [4].

Paragraph 2 of the Art. 115 under the general concept of property combines property benefits and rights which include: things, money, including foreign currency, financial instruments, works, services, objectified results of creative intellectual activity, trade names, trademarks and other means of individualizing products, property rights and other property. The legal regime of things or property rights (claims) applies accordingly to money and rights (claims) under a monetary obligation (the rights of a demand for payment of money) [16].

The contributions of spouses, acquired during the marriage, are their common joint property. When allocating the share of the testator to the common joint property contributions made to the surviving spouse should be considered [17].

Nevertheless in the literature on the concept of «inheritance» and at the present time there is no unity: some authors under the inheritance understand rights and obligations while others proceed from its legal definition.

It should be agreed with V.I. Sinaiskiy, who believed that our civil laws had adopted a view of inheritance mainly as a way of acquiring property. The concept of inheritance like the inheritance itself is not exhausted by the notion of the acquisition of property [18; 547].

Any citizen is a subject of corporeal and obligatory legal relations and consequently the possessor of real and obligatory subjective rights and legal obligations. The fundamental proprietary right is the right of ownership which allows the owner at his discretion to own, use and dispose of his property. In case of death of the owner, the deceased's property right passes to his heirs, therefore the Civil Code considers inheritance as one of the grounds for acquiring property rights (clause 2 of the Article 235 of the Civil Code) [16]. Authors who understand the inheritance as a set of rights and obligations rightly proceed from the fact that the law calls inheritance the basis for the emergence of property rights rather than property, things. However, inheritance has always been aimed at ensuring the transfer to the heirs of not only property rights but also various things like objects of material world, money, securities, property rights belonging to the potential testator, considering that the deceased person is eliminated not only from the legal but also from the legal, economic and social relations. Therefore, heirs replace the deceased and in public property relations, exercising dominance over inherited property, ensure the preservation of the inheritance from the moment of opening the inheritance. It is important for them that all things, material goods belonging to a possible testator on the right of ownership, whatever they are, they should be transferred to them as a single whole. Everyone therefore works, acquires, and stores his\her property in order to satisfy not only his\her needs but also to leave them behind to his loved ones. Therefore, the inheritance includes not only the right of ownership of a particular property but also the property itself. There can be no other because «Property» without the right to

it «loses any meaning, the basis of its existence» [19; 9]. But the right of ownership without an object of property - property, also loses «any meaning and basis of its existence». Therefore, the inheritance includes not only the right of ownership but also the property that belonged to the citizen before his death.

We are impressed by the definition made by K.M. Ilyasova and E.B. Babyikova who under inheritance or hereditary property, proposes to understand the property belonging to the testator as well as rights and duties, the existence of which does not cease with his\her death and on the conditions of universal legal succession pass to his\her heirs [20; 300].

Currently, the list of objects of civil rights is much broader than the composition of the inheritance. Objects of civil rights include things, including cash and documentary securities, other property, including non-cash funds, uncertificated securities, property rights; results of works and services; protected results of intellectual activity and equated to them means of individualization (intellectual property); intangible goods (Article 115 of the Civil Code of the Republic of Kazakhstan) [16]. But the inheritance also includes most of the obligatory rights and obligations and some personal rights of the authors of intellectual property. All these objects, except intangible benefits, are part of the inheritance. Paragraph 3 of the Art. 115 Civil Code of the Republic of Kazakhstan

The personal non-property benefits and rights include: life, health, personal dignity, honor, good name, business reputation, privacy, personal and family secrets, the right to a name, the right to authorship, the right to inviolability of the work and other intangible benefits and rights [16].

Inheritance should guarantee the stability of not only property but also legal relationships to which a possible testator was a participant and therefore there must be a succession of rights and obligations. Pre-revolutionary civilians used the term «succession» [18; 546, 14; 238, 21; 484, 13; 471], in the Soviet literature both this terms and «succession» were recognized [15; 64], in the Civil Code of the RK it is a question of «succession» (Article 344, Article 1038) [16; 4]. As B.B Cherepakhin noted the term «succession» can be interpreted in two senses: a) continuity only in rights; b) the continuity provided by the norms of law by which one can understand the transition from one person to another not only of rights but also of duties [22; 310].

The grounds for the creditor's change in the obligation under Art. 344 CC RK are: 1) as a result of universal succession in the rights of the creditor; 2) by a court decision on the transfer of creditor's rights to another person when the possibility of such transfer is provided for by legislative acts; 3) due to the performance of the obligation by its guarantor, guarantor or pledger who is not a debtor under this obligation; 4) upon subrogation to the insurer of the rights of the creditor to the debtor responsible for the occurrence of the insured event; 5) in other cases provided for by legislative acts [16]. The current version of the Civil Code of the Republic of Kazakhstan also provides for the transfer of debt (Article 348 of the Civil Code of the Republic of Kazakhstan) [16]. The above provisions of the law confirm the provision that in the composition of the inheritance besides the things, money, other property the corresponding rights and duties are included except for the rights inherent in the person of the testator. In particular, the rights and duties inherent in the person of the testator are not the part of the inheritance: 1) the rights of membership in organizations that are legal entities unless otherwise stipulated by legislative acts or the contract; 2) the right to compensation for harm caused to life or health; 3) rights and obligations arising from maintenance obligations; 4) rights to pension payments, benefits and other payments on the basis of labor legislation of the Republic of Kazakhstan and laws of the Republic of Kazakhstan in the field of social security; 5) personal non-property rights that are not related to property rights except for cases established by legislative acts (clause 2, article 1040 of the Civil Code of the Republic of Kazakhstan) [4].

At present on the right of private property citizens can own any movable and immovable property in unlimited quantity, money, securities, rights and duties that satisfy not only the needs of the owner and his\her family members but used in entrepreneurial activities. In the event of the death of the owner all the things, money, securities and other property that belong to him are included in the inheritance, regardless of the place of his location.

In the literature the opinion was expressed that the heirs can not claim the sharing of the joint property of the spouses [23; 3] and therefore the share of the deceased person should not be included in the inheritance in the joint property of the spouses. The fallacy of such an opinion is obvious since it does not correspond to the current family and civil legislation.

In the Russian literature an opinion is expressed on the need to include unauthorized buildings in the composition of the inheritance [24]. With this opinion one can be disagreed because the general rule on the transfer of ownership is contained in paragraph 2 of Art. 235 of the Civil Code of the Republic of Kazakh-

stan [16]. To determine the fate of unauthorized construction art. 244 CC which contains the concept of unauthorized construction and unequivocally determines that a person does not acquire ownership rights to it, therefore, he/she does not have the right to dispose of it [16]. Only after the legalization of the unauthorized construction can be a part of the inheritance. If the unauthorized construction cannot be legalized then the inheritance may include only those materials (things) from which it is erected.

A potential testator can be a participant of both a shared and shared joint property. In the first case the share of the inheritance belongs to the right of common shared ownership (Article 235 of the Civil Code of the Republic of Kazakhstan) [16] and in the second case, its share is established which is included in the inheritance but the inheritance is opened to the share of the deceased participant in the general property and if it is impossible to divide the property in kind - in relation to the value of the share (clause 1, Article 1041 of the Civil Code of the Republic of Kazakhstan) [4]. A participant in common joint property also has the right to bequeath his/her share in common property which will be determined after his/her death (clause 2, article 1041 of the Civil Code of the Republic of Kazakhstan) [4]. Since the majority of adult citizens are married the share of the deceased spouse which belongs to him/her in the right of marital property is most often part of the inheritance.

Because according to Art. 1040 Civil Code of the Republic of Kazakhstan in the composition of the inheritance also includes the rights of existence of which does not cease with his/her death, respectively, according to Art. 195 Civil Code of the Republic of Kazakhstan for Property Rights, along with the right to property include: 1) the right of land use; 2) the right of economic management; 3) the right of operational management; 3-1) the right of limited targeted use of foreign real estate (servitude); 4) other proprietary rights (for example: easement, the right to use subsoil, the right to temporarily use the land plot that is privately owned, pledge) provided for by the Civil Code of the Republic of Kazakhstan or other legislative acts [4; 16].

In addition to real rights the inheritance includes mandatory property rights that meet certain requirements. First, they belonged to a potential testator at the time of the opening of the inheritance. Secondly, they are not connected with his personality, and therefore can be alienated. Thirdly, their passage is not prohibited by law.

The quality of alienability is shared by most property rights and obligations of a mandatory nature. These are all rights and obligations of purchase and sale and barter, permanent rents with the participation of an individual. The inheritance includes the obligation of the donor to donate some thing to transfer the right of claim or to release from the obligation, unless otherwise provided by the gift contract. But the right of the donee is not included in the composition of the inheritance to whom the gift is promised (paragraph 3 of Article 506 of the Civil Code) [4].

As related to the person the rights of the recipient of life annuity or life-long maintenance with dependents cannot be included in the composition of the inheritance (Article 530 of the Civil Code of the Republic of Kazakhstan) [4].

The inheritance includes the rights and obligations of the landlord and employer. The rights and obligations of the landlord - a citizen who is an employer of immovable property. His/her rights and obligations under the contract for the hiring of this property pass to the heir, unless legislative acts or the agreement provides otherwise. The lender has no right to refuse such heir in entering into the contract for the remaining term of its operation except for cases when the conclusion of the contract was due to the personal qualities of the employer (Article 559 of the Civil Code of the Republic of Kazakhstan) [4]. At the same time the new owner becomes a renter on the terms of a previously concluded hiring contract.

The death of the borrowing citizen terminates the contract of gratuitous use of property (loan agreement) (Article 615 of the Civil Code of the Republic of Kazakhstan), the heirs of the loan recipient are obliged to return to the lender that thing that was the subject of the loan agreement. The death of the lender does not stop this obligation, his/her rights and duties are part of the inheritance (Article 614 of the Civil Code of the Republic of Kazakhstan) [4].

The death of a contractor citizen terminates the contractor's obligation as related to his personality and generates the duty of his heirs to transfer the result of the work to the customer (if work on the order was carried out) documentation and materials transferred by the customer to the contractor. The rights and obligations of the deceased customer are included in the inheritance. If the citizen was the executor of services then his death gives rise to the same legal consequences.

Some peculiarities are inherent in the transfer of the insured amount under a personal insurance contract in case of death of the insured person. So, in case of death of the insured person who is not an insured the

contract is subject to termination but if the death of the insured person is the insurance event stipulated in the insurance contract this contract is executed on the terms provided for by it. In the case of the death of the insured person who is not the insured in relation to which the property insurance contract was concluded the rights and obligations of the insured with the consent of the insured pass to the heirs of that property and those property rights of the insured that were the object of insurance. However, if the policyholder does not agree to replace the deceased insured person or the heirs of the insured person do not agree to accept his rights and obligations arising from the insurance contract this agreement is subject to termination (clause 8, article 815 of the Civil Code of the Republic of Kazakhstan) [4].

The death of the principal or the agent terminates the contract of assignment (Article 852 of the Civil Code of the Republic of Kazakhstan) [4]. In the event of the death of the principal, his\her heirs are required to notify the attorney about the termination of the contract, pay the remuneration due to the attorney and incur expenses incurred while executing the assignment. If an attorney dies then his\her heirs must return the power of attorney to the trustee and also transfer the trustee's property.

Some peculiarities are also inherent in the commission's contract in the case of the death of the commission agent the contract terminates (clause 2, Article 879 of the Civil Code of the Republic of Kazakhstan), in the event of the death of the citizen's committent, the commission agent is obliged to continue the execution of the assignment given to him\her until the heirs or representatives of the committent proper instructions will be received (clause 2, article 879 of the Civil Code of the Republic of Kazakhstan) [4].

The contract of trust management of property, along with the general grounds for the termination of obligations is terminated by the death of a citizen - the trustee and the liquidation of a legal person - the trustee and in the event of the death of the physical person-founder the trusted property enters the hereditary mass (paragraphs 1, 4, article 891 The Civil Code of the Republic of Kazakhstan).

There are special rules for transaction of rights and duties under a comprehensive entrepreneurial license contract. So, in the case of the death of a licensor-citizen his\her rights and obligations under a comprehensive entrepreneurial license contract pass to the heir, provided that the heir is registered or within six months from the date of opening the inheritance is registered in as an entrepreneur, otherwise the contract is terminated. Management of the licensed complex in the period prior to the acceptance by the heir of the relevant rights and obligations or prior to the registration of the heir as an entrepreneur is carried out by a trustee appointed by a notary in accordance with the established procedure. In case of death of the licensee the heir enters into the contract in the part of rights and obligations relating to the transferred exclusive right (Article 909 of the Civil Code of the Republic of Kazakhstan).

The possessor could own property and personal non-property rights if he was the author of the result of intellectual activity (Article 963 of the Civil Code of the Republic of Kazakhstan) [4].

Exclusive rights to the object of intellectual property pass in the order of universal succession by inheritance (Article 965 of the Civil Code of the Republic of Kazakhstan). According to the Art. 964 of the Civil Code of the Republic of Kazakhstan the exclusive right to the result of intellectual creative activity or a means of individualization is recognized the property right of their owner to use the object of intellectual property in any way at their discretion [4].

In the Russian literature there is an opinion that it is expedient to include the obligation to pay alimony to the estate and accordingly the recovery on maintenance obligations can be turned over to the inheritance both for the purpose of paying off the debts that have arisen and to ensure payment of current payments [25; 411].

We believe that the obligation to pay alimony cannot be part of the inheritance not only because it is expressly prohibited under Art. 3, Art. 1040 Civil Code of the Republic of Kazakhstan but also because the recipient of alimony always inherits the obligatory share (item 1 of Article 1069 of the Civil Code of the Republic of Kazakhstan) [4].

All that an heir entitled to such a share receives from the inheritance under the will and (or) by law including the value of the property consisting of items of ordinary household furnishings and use and the value of the established in favor of such heir of the testamentary refusal (clause 2, article 1069 of the Civil Code of the Republic of Kazakhstan) [4].

According to the Code of the Republic of Kazakhstan «On Marriage (Matrimony) and Family» (hereafter MF of the RK) the right to receive alimony is:

1. Disabled adult children in need of assistance of able-bodied parents (clause 1 of article 143 of the MF of the RK).
2. To demand the provision of alimony in court from a former spouse who has the necessary means to do so:

a) the former spouse during pregnancy and until reaching the total child of three years of age (clause 148 of the MF of the RK);

b) a needy former spouse who cares for the common disabled child before reaching the age of eighteen years and also if the disabled child is identified as an eighteen-year-old disabled person under the I-II disability category (clause 2, article 148 of the MF of the RK) ;

c) a disabled former needy spouse who became disabled before the dissolution of marriage (marriage) (clause 3, article 148 of the RK CBS).

3. Minor brothers and sisters in need of help from their able-bodied relatives of adult brothers and sisters who have the means necessary for this (Article 151 of the MF of the RK).

4. Minors needing help grandchildren from their grandparents who have the necessary means (Article 152 of the MF of the RK).

5. The disabled grandfather and grandmother in need of help from their able-bodied adult grandchildren who possess the necessary means (Article 153 of the MF of the RK).

6. Disabled persons in need who actually raised and kept underage children from their able-bodied pupils who reached the age of majority (Article 154 of the MF of the RK).

7. Disabled and stepmother who are unable to work, who need help, who brought up and kept their stepchildren or stepdaughters from able-bodied stepchildren or stepdaughters who have the necessary means (Article 155 of the MF of the RK) [26].

A person has a complex of personal non-property rights that individualize his personality (in name, personal image, honor, dignity, business reputation, place of residence); (for life, health, sexual inviolability), as well as the right to inviolability of personal life (privacy of a secret, the secret of correspondence, negotiations, medical and other secrets) (Article 115 of the Civil Code of the Republic of Kazakhstan) [16] . These rights are inalienable and non-transferable and therefore do not inherit. Personal non-property rights and other non-material goods belonging to the testator may be carried out and protected by heirs (art. 1040, art. 1040 of the Civil Code of the Republic of Kazakhstan) [4].

The inheritance may include the rights or obligations of certain organizational legal relations. For example, it is the duty of the assignee to enter into the main contract if the possible testator after concluding a preliminary contract for the sale of some property or a contract of shared construction of a residential or non-residential premises, has died without having had the time to conclude a basic contract.

In the literature, the question of including in the inheritance of debts was discussed. Under current legislation, the inheritance includes duties (clause 1, article 1040 of the Civil Code of the Republic of Kazakhstan) [4]. Duties are very different, including on the payment of all kinds of monetary funds applied to the defendant in connection with non-performance or improper performance of duties. In accordance with the Art. 1081 of the Civil Code of the RK heirs are responsible for the debts of the testator [4].

Thus, the object of the hereditary legal relationship is inheritance (hereditary property, hereditary mass). The inheritance includes any property (movable, immovable) that belonged to a possible testator on the day of his death, property rights and obligations, with the exception of those connected with the person.

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А.Ә. Нүкішева

Қазақстан Республикасында мұрагерлік құқықтық қатынастың объектілері мәселесі туралы

Мұрагерлік құқық қазіргі құқық жүйелеріне белгілі азаматтық құқықтың тәжірибелік тұрғыдан үлкен сұранысқа ие саласына жағады. Қазақстан Республикасындағы мұрагерлік құқықтың өзекті мәселелерін зерттеу ерекше маңызға ие болуда. Себебі мұрагерлік ұрпақтардың арасындағы үзілмейтін байланысты сақтап, азаматтық айналымның тұрақтануы мен дамуына жанама әсер етеді. Қазақстанның нарықтық экономика мен жекешелендіруге өтуіне, кәсіпкерлік қызмет еркіндігінің белгіленуіне және өзге де реформаларға байланысты жеке тұлғалардың жеке меншік құқығы нысандары едәуір көбейді. Бұл қазақстандық қоғамда ұрпақтан ұрпаққа беруге болатын мүлікті алуға, табысты табуға бағытталған еңбек пен күшті жұмсауға қызығушылықты арттыруда. Мұрагерлік құқықтық қатынастың объектісі болып мұрагерлерге өтетін мұра (мұрагерлік мүлік, «мұрагерлік масса») табылады. Қазақстан Республикасы мен ТМД елдерінің, басқа елдердің ұлттық заңнамасына жүргізілген талдаудың негізінде мұраны анықтауға қатысты түрлі тұжырымдар анықталған. Мақаланы жазу барысында түрлі кезеңдердің, яғни революцияға дейінгі, кеңес және қазіргі заман ғалымдарының оқулықтарда, монографияларда, ғылыми мақалаларда, докторлық және кандидаттық диссертацияларда «мұра», «мұрагерлік мүлік», «мұрагерлік масса» ұғымдарына қатысты түрлі көзқарастарына талдау жасалып, зерттелді. Біздің ұлттық құқықтық доктринада аталған мәселеге арналған тиісті жұмыстардың аз екендігі жөнінде қорытынды жасалды. Осы себептен осы тақырыпқа арналған зерттеулер өзекті болып табылады.

Кілт сөздер: мұрагерлік құқық, мұрагерлік құқықтық қатынастың объектілері, мұрагерлік мүлік, мұрагерлік масса, мұра, мұраның құрамы, мұрагерлік.

А.А. Нукушева

К вопросу об объектах наследственного правоотношения в Республике Казахстан

Наследственное право относится к одним из наиболее востребованных в практическом отношении подотраслей гражданского права и известно всем современным правовым системам. Исследование актуальных проблем наследственного права в Республике Казахстан приобретает особую ценность, поскольку наследование сохраняет неразрывную связь между поколениями и опосредованно способствует стабилизации и развитию гражданского оборота. С переходом Казахстана к рыночной экономике, приватизации, с установлением свободы предпринимательской деятельности и иных реформ существенно расширился круг объектов права частной собственности физических лиц, что ведет к возрастанию в казахстанском обществе заинтересованности в приложении своих сил и труда для получения доходов, приобретения имущества, которое можно передать от поколения к поколению. Объектом наследственного правоотношения является наследство (наследственное имущество, «наследственная масса»), переходящее к наследникам. На основе анализа национального законодательства Республики Казахстан, стран СНГ и других стран выявлены различные подходы определения наследства. При написании статьи были исследованы и проанализированы точки зрения учёных разного периода — дореволюционного, советского и современного, которые изложены в учебниках, монографиях, научных статьях, докторских и кандидатских диссертациях относительно таких понятий, как «наследственное», «наследственное имущество», «наследственная масса». Был сделан вывод, что, к сожалению, в нашей национальной правовой доктрине явно недостаточно работ соответствующего вида, посвящённых этой проблеме, поэтому научные исследования по этой теме актуальны.

Ключевые слова: наследственное право, объекты наследственного правоотношения, наследственное имущество, наследственная масса, наследство, состав наследства.

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