Topic 6. General provisions of inheritance law

Topic 6 of 16 · Semester 1

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Chapter

Dear students, welcome to our next lecture in the “Family and Inheritance Law” module at Tashkent State University of Law. This Topic 6 is entitled “General Provisions of Inheritance Law”. Inheritance law is one of the most ancient and important institutions of civil law, determining the procedure for the transfer of a person's property rights and certain non-property personal rights to other persons upon their death. The significance of this topic lies in the fact that it ensures the inviolability of property, guarantees the material and spiritual connection between generations, and serves the social protection of family members. During our lecture, we shall examine the concept of inheritance law, its specific characteristics, and principles. We shall also analyse fundamental matters such as the grounds for succession, what is included in and excluded from the estate, the procedure for inheriting community property, and the time and place of opening of succession. At the end of the lecture, we shall examine the legal distinctions between the institutions of disqualification of unworthy heirs and disinheritance by will. This knowledge will provide a solid foundation for correctly and equitably resolving inheritance disputes in your future legal practice.

AT A GLANCE

- 24 hours — Simultaneous death (Persons who die within one calendar day do not inherit from one another (Civil Code, art. 1116))
- 2 — Grounds for succession (By operation of law and by will (Civil Code, art. 1112))
- 50 per cent — Share in common property (The surviving spouse's share is not included in the estate (Family Code and Civil Code, art. 1114))

6.1 Concept of inheritance law and grounds for succession

Inheritance law in the objective sense is the totality of legal rules governing the transfer of rights and obligations belonging to a person after their death to other persons. In the subjective sense, it denotes the right of a specific person to succeed to the property of the deceased. The most essential characteristic

of inheritance law is universal legal succession. This means that all rights and obligations of the deceased pass to the heirs simultaneously, as a single complex, without any modification. An heir cannot accept only the beneficial part of the estate (for instance, a house) and disclaim the obligations (for instance, a debt).

Under our legislation, succession is effected on two grounds: by will and by operation of law (Civil Code, art. 1112). In succession by will, the testator freely expresses their will and decides for themselves to whom to leave their property. Succession by operation of law, however, applies where there is no will, or where the will does not dispose of the entirety of the estate, as well as in other cases provided for by law. In other words, succession by operation of law has a subsidiary (supplementary) nature and operates only in the absence of a will.

Hypothetical example: Citizen Anvar has died. He made a will leaving all his property to his friend Botir. In this case, succession is carried out on the basis of the will, and Anvar's statutory heirs (provided they are not entitled to a reserved share) are not called to inherit. If Anvar had bequeathed only his car to Botir, all his remaining property (his house, bank deposit) would pass to his family members under the rules of succession by operation of law. Through this, the legislator has endeavoured to maintain a balance between the person's will and the interests of the family.

- Succession is effected by will and by operation of law (Civil Code, art. 1112).
- Succession by operation of law applies where there is no will or where it does not cover the entire estate (Civil Code, art. 1112).
- The rule of universal succession applies in inheritance law, meaning that rights and obligations transfer as an indivisible whole.

> **KEY INSIGHT**
> Universal legal succession guarantees that it is impossible to accept an estate in part or to avoid debt by taking only profitable property.

> **EXAM FOCUS**
> The sequence of the grounds for succession is asked in the examination: succession by operation of law always takes second place to succession by will (provided the will is valid).

6.2 Principles of inheritance law and the opening of succession

Inheritance law is founded upon a number of fundamental principles. The first is freedom of the testator's will. An individual may bequeath their property to any person and may disinherit statutory heirs. The second is the principle of protection of family members. Even though freedom of testation exists, the law protects minor or incapacitated children, the incapacitated spouse, and parents by establishing a “reserved share” for them. The third is equality of heirs. Statutory heirs of the same priority are entitled to equal shares in the estate.

The opening of succession is the legal fact that initiates inheritance relationships. Succession opens as a result of a citizen's death or their declaration as deceased by a court (Civil Code, art. 1116). The day of the deceased's death (and, where necessary, the exact moment), or, where they are declared deceased, the day on which the court decision enters into legal force, is deemed the time of the opening of succession. If

persons entitled to inherit one after the other die within one calendar day (24 hours), they are deemed to have died simultaneously. In this case, succession opens separately after each of them.

The last permanent place of residence of the deceased is recognised as the place of the opening of succession (Civil Code, art. 1117). If this place is unknown, the location of the immovable property belonging to them, or of its principal part, is deemed to be the place of the opening of succession.

Hypothetical example: Two brothers were involved in a road traffic accident. The elder brother died at 10:00, and the younger brother died at 23:00 on the same day in hospital. Because they died within one calendar day (Civil Code, art. 1116), they are legally deemed to have died simultaneously. The younger brother's heirs cannot inherit the elder brother's property, and the elder brother's heirs cannot inherit the younger brother's property; the estate of each passes to their own separate heirs.

- Succession opens as a result of a citizen's death or their declaration as deceased by a court (Civil Code, art. 1116).
- Persons who die within one calendar day are deemed to have died simultaneously, and succession opens separately after each of them (Civil Code, art. 1116).
- The place of the opening of succession is the last permanent place of residence of the deceased or the area where their immovable property is located (Civil Code, art. 1117).

> **COMMON PITFALL**
> Do not forget the one calendar day (24 hours) rule. If the father dies at 23:50 and the son dies at 00:10 on the following day, they are considered to have died on different calendar days, and the son is deemed to have survived to inherit from the father.

6.3 Composition of the estate: included and excluded rights

The composition of the estate is understood to mean the totality of all rights and obligations belonging to the deceased at the time of the opening of succession, which do not terminate upon their death (Civil Code, art. 1113). This includes property rights such as housing, motor vehicles, bank deposits, and royalties from copyright, as well as debt liabilities, loans, and other property obligations.

However, the legislation excludes from the estate rights and obligations that are inextricably linked to the person of the deceased. These include: rights of membership in commercial organisations (unless otherwise provided for by law or contract); the right to compensation for harm caused to life or health; rights and obligations arising from maintenance liabilities; the right to receive pensions, benefits, and other payments; and non-property personal rights not linked to property rights (Civil Code, art. 1113). Even though non-property personal rights (for example, the right of authorship, moral integrity, reputation) do not form part of the estate, the heirs have the right to protect them.

Hypothetical example: Citizen Sanjar has died. A bank loan of 50 million UZS and a maintenance debt of 10 million UZS owed to his former spouse were registered in his name. Sanjar's heirs undertake the obligation to repay the bank loan within the value of the inherited property, because this is an ordinary property liability. However, since the maintenance obligation is inextricably linked to Sanjar's person (Civil Code, art. 1113), the obligation to pay maintenance does not pass to the heirs and terminates upon his death. This rule protects heirs from obligations of the deceased that are of a strictly personal nature.

- The estate includes all rights and obligations that do not terminate upon death (Civil Code, art. 1113).
- Rights to maintenance, pensions, and compensation for harm caused to life do not form part of the estate (Civil Code, art. 1113).
- Non-property personal rights are not included in the estate, but may be protected by the heirs (Civil Code, art. 1113).

> **COMPARE**
> A property liability (for instance, a debt) passes to an heir, whereas a personal liability (for instance, maintenance or an obligation to write a work) does not.

> **CASE LINK**
> If the deceased was an author, their right to receive remuneration (a property right) forms part of the estate, but the right to be recognised as the author of the work (a non-property personal right) is not included in the estate, though it may be protected by the heirs.

6.4 Community property and rights to a land parcel

One of the most important points where the rules of inheritance law and family law intersect is the succession to the community property of spouses. Under the Family Code, property acquired during marriage constitutes the community property of the husband and wife, and their shares are recognised as equal. According to Article 1114 of the Civil Code, the death of a co-owner of joint property serves as the basis for determining their share in the right to the common property.

This means that upon the death of one spouse, the entire community property does not enter the estate. First, the surviving spouse's 50 per cent share is separated out. Succession opens only in respect of the deceased co-owner's share (the remaining 50 per cent). The surviving spouse both retains their own half share and is entitled to receive their share from the deceased person's portion as a statutory heir (alongside other heirs).

Furthermore, the inheritance of rights to a land parcel is of particular importance. Under Article 1115 of the Civil Code, succession to the right to a land parcel is governed by the rules of the Civil Code, unless otherwise provided by law.

Hypothetical example: A husband and wife bought a house during marriage. The husband died, leaving behind his wife and two children. Half (1/2) of the house constitutes the personal property of the wife and does not enter the estate mass. The remaining half (1/2), which was the husband's share, enters the estate and is divided equally among the three statutory heirs (the wife and the two children). Consequently, the wife acquires the majority share of the house. This rule reliably protects the property rights of the surviving spouse.

- The death of a participant in joint property serves as the basis for determining their share (Civil Code, art. 1114).
- Succession opens only in respect of the deceased person's share, not the entire common property (Civil Code, art. 1114).

• The right to a land parcel is inherited on general grounds, unless another procedure is prescribed by law (Civil Code, art. 1115).

> **COMPARE**
> Distinguish between matrimonial property and the composition of the estate: exactly half of the property acquired during marriage automatically belongs to the surviving spouse and does not enter the estate mass.

6.5 cope of heirs, disqualification and disinheritance

Citizens living at the time of the opening of succession, as well as children of the deceased conceived during their lifetime and born alive after the opening of succession, may be heirs (Civil Code, art. 1118). This rule prioritises the protection of the interests of the conceived child.

The legislation provides for the institution of disqualification of unworthy heirs (Civil Code, art. 1119). Under this rule, persons who have intentionally killed or attempted the life of the deceased or other heirs, or who have intentionally prevented the execution of the testator's last will, are entitled to inherit neither by will nor by operation of law. Furthermore, parents deprived of parental rights in respect of their children cannot inherit by operation of law from the property left by those children, nor can persons who have evaded maintenance obligations. The disqualification of an unworthy heir is effected exclusively through judicial proceedings.

In contrast, disinheritance by will (Civil Code, art. 1120) is an absolute right of the testator. The testator is entitled to disinherit one, several, or all statutory heirs without explaining the reason (without giving any justification).

Hypothetical example: Qosim intentionally burned his father's will because the property had been bequeathed to his younger brother. In this case, because Qosim obstructed the execution of the last will, he is declared an unworthy heir by the court and disqualified from inheritance (Civil Code, art. 1119). In another scenario, the father may simply write in his will: “I disinherit my son Qosim from all inheritance” (Civil Code, art. 1120). While the first scenario requires legal grounds and judicial intervention, the second scenario requires only the free will of the testator.

• Children born alive after the opening of succession may also be heirs (Civil Code, art. 1118).

• Persons who have committed intentional attacks or obstructed the will are disqualified by the court as unworthy heirs (Civil Code, art. 1119).

• A testator may disinherit a statutory heir without explaining the reasons (Civil Code, art. 1120).

> **EXAM FOCUS**
> Disqualifying an unworthy heir (Civil Code, art. 1119) requires an objective offence and a court judgment. Disinheritance (Civil Code, art. 1120), on the other hand, is the subjective will of the testator and requires no reasons to be given.

> **CASE LINK**

> A person deprived of parental rights whose rights have not been restored cannot inherit by operation of law from their deceased child. This rule protects the interests of the child even after death.

KEY TAKEAWAYS

1. Inheritance law is founded upon universal legal succession, meaning that rights and obligations pass as a single indivisible whole.
2. Succession is effected by operation of law and by will; succession by operation of law has a subsidiary character.
3. Rights inextricably linked to the person of the deceased (maintenance, pensions) do not form part of the estate.
4. Persons who die within one calendar day (24 hours) are deemed to have died simultaneously and do not inherit from one another.
5. Only the deceased person's share of community property enters the estate mass.
6. A child conceived prior to the opening of succession and born alive is entitled to be an heir.
7. Disqualification of unworthy heirs is effected through judicial proceedings on statutory grounds.
8. The testator is entitled in their will to disinherit any statutory heir without stating any reasons.

Summary

In this lecture, the general provisions and fundamental principles of inheritance law were examined. Inheritance law ensures the transfer of a person's property and certain non-property personal rights and obligations to other persons upon their death on the basis of universal succession. Succession is effected by will and by operation of law. The estate includes all rights and obligations of the deceased that do not terminate upon their death, but rights inextricably linked to the person, such as maintenance and pensions, are excluded. During the lecture, the specific features of inheriting the community property of spouses were analysed, highlighting that the surviving spouse's share is separated from the estate mass. Furthermore, the time and place of the opening of succession, in particular the legal consequences of dying within one calendar day, were explained. Finally, the scope of heirs, the rights of the unborn child, the disqualification of unworthy heirs through court proceedings, and the distinctions between disinheritance by will and disqualification were elucidated.

KEY PRINCIPLES

1. Principle of universal legal succession
2. Principle of freedom of testation
3. Protection of family members and incapacitated persons
4. Principle of equality of heirs
5. Priority of the interests of the conceived child
6. Liability for unworthy conduct (disqualification)

> **KEY TERMS**

Succession · Universal succession · Succession by will · Succession by operation of law · Composition of the estate · Opening of succession · Place of the opening of succession · Community property · Unworthy heir · Disinheritance

EXAM CHECKLIST

- Can I explain what universal succession means in inheritance law?
- Do I know when succession by operation of law applies?
- Can I list the rights and obligations that do not form part of the estate?
- Do I understand the inheritance rule concerning persons who die within one calendar day?
- Can I calculate how much of the spouses' community property enters the estate?
- Do I know the difference between disqualifying an unworthy heir and disinheritance by will?

Cases (IRAC)

Case 1 · Spouses' Joint Property and Composition of the Estate

FACTS

Rustam and Nodira lived in a lawful marriage for 15 years. During the marriage, they purchased a three-room house in the city of Tashkent. The house was registered in Rustam's name. In addition, Rustam was the founder of a private enterprise and received regular income from it. Rustam died suddenly in a road traffic accident. Following his death, Sanjar, his son from his first marriage, came forward claiming an inheritance. Sanjar firmly asserted that because the house was registered entirely in Rustam's name, it must be included in the estate in full, and that the right of participation in the private enterprise should also pass to him. Nodira, on the other hand, argued that half of the house lawfully belonged to her, and only the remaining portion could be inherited. Furthermore, a dispute arose between them as to whether the right to claim compensation for harm caused to Rustam's life formed part of the estate.

ISSUE

Determination of what proportion of joint marital property acquired during marriage forms part of the estate, and whether rights intrinsically linked to the person pass by way of universal legal succession.

RULE

Pursuant to the Civil Code, art. 1114, the death of a co-owner of joint property constitutes grounds for determining his or her share in the right to the common property. An inheritance opens only in respect of the property corresponding to the deceased co-owner's share. Under the Family Code, property acquired by spouses during marriage is their joint property. In accordance with the Civil Code, art. 1113, all rights and obligations belonging to the testator at the time of the opening of the inheritance, which are not extinguished by his or her death, form part of the estate. However, rights intrinsically linked to the testator's person, in particular the right to claim compensation for harm caused to life or health, do not

form part of the estate. The right of participation in commercial organisations does not form part of the estate, unless otherwise provided by law or agreement.

ANALYSIS

1) Regarding the proportion of the house that forms part of the estate, Nodira's arguments are sound. Although the house was registered in Rustam's name, it is the joint property of the spouses because it was acquired during the marriage. Under the Civil Code, art. 1114, an inheritance opens only in respect of the deceased person's share. Pursuant to family legislation, spouses' shares are recognised as equal. Consequently, one-half of the house is Nodira's own property and does not form part of the estate. Only the remaining half-share belonging to Rustam is included in the estate and distributed amongst all statutory heirs. 2) In respect of the right of participation in the private enterprise, the rule in the Civil Code, art. 1113 applies. Under this rule, rights of membership and participation in commercial organisations possessing legal personality are assessed as rights intrinsically linked to the testator's person and do not form part of the estate, unless otherwise provided by law or the foundation agreement. If the enterprise's charter does not provide for succession, Sanjar cannot become a participant. 3) The right to claim compensation for harm caused to life is strictly included in the list of rights excluded from the estate under the Civil Code, art. 1113. As this right is directly linked to Rustam's person, it is extinguished upon his death and does not pass to the heirs.

CONCLUSION

In conclusion, only one-half of the house acquired during the marriage forms part of Rustam's estate. The right of participation in the commercial organisation and the right to claim compensation for harm caused to life, being intrinsically linked to the person, do not pass to the heirs by universal legal succession unless specifically provided for by law or contract.

DISCUSSION QUESTIONS

1. What proportion of the house forms part of the estate?
2. Can the right of participation in a private enterprise be inherited?
3. Does the right to claim compensation for harm caused to life form part of the estate?

Civil Code of the Republic of Uzbekistan, Part Two (29.08.1996) — https://lex.uz/docs/180552

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Case 2 · Unworthy Heirs and Disinheritance by Will

FACTS

Citizen Anvar, having reached an advanced age, bequeathed all the property belonging to him in equal shares to his daughter Malika and his son Botir. However, Botir, wishing his father to die sooner so that he could obtain the inheritance, intentionally hid vital medicines that were to be administered to Anvar. This circumstance was discovered in time, and Anvar's life was saved. Thereafter, Anvar executed a new will, stating that he left all his property exclusively to his daughter Malika and disinherited Botir without providing any explanation. A year later, Anvar died. Botir applied to the court, declaring that his father

had no right to disinherit him without an explanation and claiming a reserved share on the ground that he was a statutory heir.

ISSUE

Determination of the grounds for disinheriting an heir without explanation within the scope of the principle of testamentary freedom, and for disqualifying an unworthy heir from inheritance as a result of intentional unlawful acts.

RULE

In accordance with the Civil Code, art. 1120, a testator is entitled to disinherit one, several, or all statutory heirs without giving reasons. This is a clear manifestation of the principle of freedom of the testator's will. Furthermore, under the Civil Code, art. 1119, persons who intentionally killed the testator or made an attempt on his or her life have no right to inherit either under a will or by operation of law. The rules disqualifying unworthy heirs from succession apply to all heirs, including those entitled to a reserved share. Grounds for disqualifying an unworthy heir are established by a court upon a claim brought by an interested person.

ANALYSIS

1) Anvar's disinheritance of Botir without explanation is entirely lawful. The Civil Code, art. 1120 guarantees the free expression of the testator's will. Pursuant to it, a citizen may bequeath his or her property to any person and exclude statutory heirs without explaining the reasons. Stating reasons is not required for revoking or altering a will either. 2) Botir's endangering of his father's life by withholding his medicine provides sufficient grounds under the Civil Code, art. 1119 to declare him an unworthy heir. Persons who make an attempt on the testator's life are not called to succession either by operation of law or under a will. Malika, as an interested person, may apply to the court to have Botir's actions established and demand his disqualification from the inheritance. 3) Botir's claim for a reserved share is entirely unfounded. Although the institution of a reserved share exists in legislation to protect family members, pursuant to the Civil Code, art. 1119, part six, the rules disqualifying unworthy heirs from inheritance apply fully to heirs entitled to a reserved share. In other words, a person declared unworthy is deprived of all inheritance rights, including the reserved share.

CONCLUSION

Thus, relying on testamentary freedom, a testator is entitled to disinherit any heir without explanation. Botir's intentional acts render him an unworthy heir, and he is entirely deprived of inheritance rights not only under the will, but also by operation of law, including any entitlement to a reserved share.

DISCUSSION QUESTIONS

1. Was Anvar entitled to disinherit Botir without giving reasons?
2. Do Botir's actions constitute grounds for declaring him an unworthy heir?
3. Is Botir entitled to claim a reserved share?

Civil Code of the Republic of Uzbekistan, Part Two (29.08.1996) — https://lex.uz/docs/180552

Case 3 · Time and Place of Opening of Inheritance and Commorientes

FACTS

Spouses Qodir and Umida lived and held permanent registration in Tashkent. They owned a large commercial centre located in Samarkand and a residential compound located in Bukhara. During summer holidays, they set out on a journey by car and were involved in a severe road traffic accident en route. Qodir died at the scene of the accident at 14:00. Umida was taken to hospital, but despite the medical assistance provided, she died on the same day at 22:30. Their only son, Jasur, was studying abroad. Upon his return, Jasur consulted a notary concerning where the inheritance should open and the order in which the inheritance should pass given that his parents had died on the same day.

ISSUE

Proper determination of the time and place of the opening of an inheritance and the procedure for calling heirs to succession where testators die within the same calendar day (commorientes).

RULE

Under the Civil Code, art. 1117, the testator's last permanent place of residence is the place of the opening of the inheritance. If this place is unknown, the place where the principal part of the immovable property is situated is taken. In accordance with the Civil Code, art. 1116, an inheritance opens upon a citizen's death. The date (and where necessary, the time) of the testator's death is considered the time of the opening of the inheritance. If persons entitled to inherit one after the other die within the same calendar day (twenty-four hours), they are deemed to have died simultaneously. In such an event, the inheritance opens separately after each of them, and the heirs of each of them are called to succession.

ANALYSIS

1) Regarding the place of the opening of the inheritance, the Civil Code, art. 1117 establishes a clear rule. Despite Qodir and Umida owning substantial immovable property in Samarkand and Bukhara, their last permanent place of residence was Tashkent. Under the law, the location of immovable property is taken into account only when the last place of residence is unknown. Therefore, the inheritance proceedings must open in Tashkent. 2) When analysing the time of death of Qodir and Umida, Qodir died at 14:00 and Umida at 22:30. Although they died at different times, pursuant to the Civil Code, art. 1116, their deaths occurred within the same calendar day. Therefore, they are legally recognised as having died simultaneously (commorientes). 3) The legal consequence of being deemed to have died simultaneously is that they do not inherit from one another. That is, Qodir's estate does not pass to Umida, nor does Umida's estate pass to Qodir. The inheritance opens independently after each of them. Their son Jasur, as their sole statutory heir, is called to inherit separately in respect of both his father's and his mother's property. This rule ensures the equitable and prompt distribution of property amongst heirs.

CONCLUSION

> In summary, Tashkent, as the testators' last permanent place of residence, is the place of the opening of the inheritance. Because the spouses died within the same calendar day, they are deemed to have died simultaneously and do not inherit from each other. The inheritance opens separately after each of them, passing to their sole heir, Jasur.

DISCUSSION QUESTIONS

1. Where is the place of the opening of the inheritance deemed to be in this scenario?
2. Are Qodir and Umida considered to have died simultaneously?
3. How is the time of opening of an inheritance determined and how is succession effected?

Civil Code of the Republic of Uzbekistan, Part Two (29.08.1996) — https://lex.uz/docs/180552

Quiz

MULTIPLE CHOICE

1. Rustam died intestate. His property was distributed amongst his relatives. Which basis of succession was applied in this case?

- A. By operation of law
- B. Under a will
- C. Under a contract
- D. Under a court judgment

> **CORRECT: A**
> In accordance with the Civil Code, art. 1112, succession is effected under a will and by operation of law. Succession by operation of law operates where no will exists or where the will does not dispose of the whole estate. Because Rustam left no will, his property passes to heirs by operation of law.

2. Alisher received maintenance from his former spouse due to his disability. He also owned a car and a house. Following his death, his son seeks to continue receiving the maintenance, as well as claiming the house and the car. Which of these does not form part of the estate?

- A. Only the car
- B. Only the house
- C. All property rights form part of the estate
- D. Rights arising from maintenance obligations

> **CORRECT: D**
> Pursuant to the Civil Code, art. 1113, rights and obligations intrinsically linked to the testator's person, including rights and obligations arising from maintenance obligations, do not form part of the estate. The car and the house, however, are ordinary property rights and form part of the estate.

3. Erkin and Malika purchased a house using joint funds during their marriage. Erkin died. Erkin's son from his first marriage claims half of the entire house as an inheritance. How does the inheritance open in respect of this house?

- A. The entire house forms part of the estate and is divided equally.
- B. The inheritance opens only in respect of Erkin's share in the joint property.
- C. The house remains entirely with the wife, Malika, and does not enter into the estate.
- D. The house escheats to state ownership.

> **CORRECT: B**
> Under the Civil Code, art. 1114, the death of a co-owner of joint property provides the basis for determining his or her share. The inheritance opens only in respect of the deceased co-owner's share (ordinarily one equal half). According to the Family Code, property of spouses is joint property; the remaining half remains the wife's own property.

4. Botir and his son Jasur were involved in a road traffic accident. Botir died on the same day at 10:00, and Jasur died at 23:30. How does the inheritance open in respect of their property?

- A. Jasur inherits from Botir because he died later.
- B. Botir's property escheats entirely to the state.
- C. They are deemed to have died simultaneously and do not inherit from one another.
- D. Only Jasur's heirs receive the property of both.

> **CORRECT: C**
> In accordance with the Civil Code, art. 1116, if persons entitled to inherit one after the other die within the same calendar day (twenty-four hours), they are deemed to have died simultaneously. The inheritance opens separately after each of them, and they do not inherit from one another.

5. Davron resided permanently in Samarkand. He owned a large factory in Tashkent and a car in Bukhara. Following his death, where is the place of opening of the inheritance deemed to be?

- A. In Tashkent (where the factory is situated)
- B. In Samarkand (his last permanent place of residence)
- C. In Bukhara (where the car is situated)
- D. Where his heirs reside

> **CORRECT: B**
> According to the Civil Code, art. 1117, the testator's last permanent place of residence is the place of the opening of the inheritance. If this place is unknown, the location of the immovable property is taken into account. Since Davron's last place of residence was known, the inheritance opens in Samarkand.

6. When Salim died, his wife was pregnant. Two months later, she gave birth to a living son. Can this baby be an heir to Salim's property?

- A. No, because the child was not born at the time the inheritance opened.

- B. He may only be an heir if there is a will.
- C. No, only children of full age may be heirs.
- D. Yes, children conceived during the testator's lifetime and born alive after the opening of the inheritance may be heirs.

> **CORRECT: D**
> Pursuant to the Civil Code, art. 1118, citizens alive at the time of the opening of the inheritance, as well as children conceived during the testator's lifetime and born alive after the opening of the inheritance, may be heirs under a will and by operation of law. The priority of the child's interests is ensured.

7. Qodir intentionally killed his wealthy father in order to obtain his inheritance sooner, and was found guilty by a court sentence. Can Qodir inherit his father's property?

- A. Yes, if he is the only child.
- B. Yes, as a statutory heir.
- C. No, as an unworthy heir he has no right to inherit.
- D. Yes, but he only receives the reserved share.

> **CORRECT: C**
> Under the Civil Code, art. 1119, persons who have intentionally killed the testator or made an attempt on his or her life have no right to inherit either under a will or by operation of law. Qodir is deemed an unworthy heir and is completely disqualified from the inheritance.

8. Murod has three sons. In his will, he left all his property to a friend and disinherited his eldest son without giving any reason. Is this will valid?

- A. Yes, the testator is entitled to disinherit statutory heirs without providing an explanation.
- B. No, disinheriting children is prohibited.
- C. No, he must without fail state the reason.
- D. Yes, but only with the permission of the court.

> **CORRECT: A**
> Pursuant to the Civil Code, art. 1120, a testator is entitled to disinherit one, several, or all statutory heirs without giving reasons. Murod may freely exercise his will and is not required to provide a reason.

9. Otabek's father was deprived of his parental rights during Otabek's childhood, and those rights were never restored. Otabek died at the age of 25 leaving behind a large business. Can his father be a statutory heir?

- A. Yes, parents are always heirs of the first order.
- B. No, parents deprived of parental rights and not restored in those rights have no right to succeed to the property left by those children.
- C. Yes, provided there are no other heirs.
- D. Yes, but he only receives half of the business.

CORRECT: B
Under the Civil Code, art. 1119, parents who were deprived of parental rights in respect of their children and were not restored in those rights at the time of the opening of the inheritance have no right to succeed to the property left by those children. This rule protects the interests of children.

10. Nodira bequeathed her flat to her daughter, but included the following condition in the will: "Upon my daughter's death, she must leave this flat to her son." Is this condition valid?

- A. Yes, the testator may impose any condition.
- B. Yes, provided the daughter agrees to this in writing.
- C. No, the testator has no right to instruct an heir on how to dispose of bequeathed property in the event of the heir's death.
- D. No, because a flat can only be bequeathed to the state.

CORRECT: C
Pursuant to the Civil Code, art. 1120, a testator is not entitled to impose on persons appointed as heirs in a will an obligation to dispose of the property bequeathed to them in a specific manner in the event of their subsequent death.

11. The author Anvar died. He held copyright in his works (the economic rights) and the right of authorship (a moral right). What do his heirs inherit?

- A. Both economic and moral rights form part of the estate in full.
- B. Only economic rights; moral rights do not enter into the estate, but may be exercised and protected by the heirs.
- C. Neither enters into the estate; the works become public property.
- D. They inherit only the moral rights.

CORRECT: B
Under the Civil Code, art. 1113, moral rights not linked to property rights do not form part of the estate. However, moral rights and other non-material assets belonging to the testator may be exercised and protected by the heirs.

12. Sobir plans to buy a new car next month. Today, he drew up a will leaving "the car I will purchase next month" to his younger brother. Sobir bought the car and died one year later. Is this will valid?

- A. No, the property must belong to him at the time the will is drawn up.
- B. No, such a will is valid only with the consent of a notary.
- C. Yes, but only if the statutory heirs agree.
- D. Yes, the testator is entitled to make a will containing a disposition regarding property not belonging to him at the time the will is made.

CORRECT: D

In accordance with the Civil Code, art. 1120, a testator is entitled to execute a will containing a disposition regarding property that does not belong to him or her at the time the will is made. If such property comes to belong to the testator by the time the inheritance opens, the disposition is valid.

13. Dilshod executed a will in 2020 leaving all his property to his son. In 2022, he changed his mind and wrote a new will leaving all his property to his daughter without giving any explanation. Is the new will valid?

- A. No, reasons must be given for the revocation of the first will.
- B. Yes, the testator is free to alter a will at any time after its execution and is not required to state the reasons.
- C. No, a will may only be altered through a court.
- D. Yes, but the written consent of his son is required.

CORRECT: B

Under the Civil Code, art. 1120, a testator is free to revoke or alter a will at any time after its execution, without being obliged to indicate the reasons for such revocation or alteration. His testamentary will is free.

14. The obligation to maintain the elderly and ailing aunt Fotima was imposed on her son Vali by a court. Vali deliberately evaded this obligation. Upon aunt Fotima's death, can Vali be a statutory heir to her house?

- A. Yes, he is a statutory heir of the first order.
- B. Yes, because he did not commit intentional murder.
- C. No, adult children who evade their statutory maintenance obligations have no right to succeed by operation of law.
- D. Yes, but he only receives a reserved share of the house.

CORRECT: C

Pursuant to the Civil Code, art. 1119, adult children who have evaded their statutory maintenance obligations towards the testator have no right to succeed by operation of law. This circumstance is established by a court.

OPEN QUESTIONS

15. Does the right to a land parcel granted for conducting a dehqon farm form part of the estate, and what are the specific features of inheriting it?

MODEL ANSWER

Pursuant to the Civil Code, art. 1115, inheritance of the right to a land parcel is regulated by the provisions of the Civil Code unless otherwise provided by law. Under the principle of universal legal succession, property rights belonging to the testator pass to the heirs. However, a distinction is drawn between ownership rights and rights of use in respect of land parcels. If a land parcel has been granted on the basis of a right of lifetime inheritable possession, this right forms part of the estate. Although the principle

of equality of heirs applies in such cases, if dividing the land parcel in kind would cause damage to agricultural purposes, special rules under the legislation apply. By way of an alternative approach, it should be noted that if one of the heirs expresses no desire to continue running the dehqon farm, he or she may claim monetary compensation from the other heirs corresponding to his or her share. The primary focus is placed on maintaining the designated agricultural use of the land. Furthermore, if the land parcel was held under a leasehold right, that leasehold right may also pass to the heirs, provided the lease agreement does not stipulate otherwise. In this instance, succession is effected either by operation of law or under a will.

16. How is the inheritance right of a child born after the testator's death, but conceived during the testator's lifetime, protected, and what is the procedure for distributing the estate in this situation?

MODEL ANSWER

In accordance with the Civil Code, art. 1118, citizens alive at the time of the opening of the inheritance, as well as children conceived during the testator's lifetime and born alive after the opening of the inheritance, may be heirs under a will and by operation of law. This rule is a clear expression of the priority of the child's interests and the principle of protecting family members. Legal analysis reveals that although a nasciturus (foetus) does not possess full legal capacity, the law safeguards its prospective rights. If the testator's wife is pregnant at the time of his death, the distribution of the estate must be suspended until the birth of the child. An alternative scenario is that if the child is stillborn, it is not deemed an heir, and the estate is distributed among the remaining heirs. However, if the child is born alive, even if it survives for only a few minutes before dying, it is recognised as an heir, and the share accruing to it then passes to its own heirs. In this process, supervision by the guardianship and trusteeship authority is of great importance, as they ensure that the prospective child's property interests are not infringed by other heirs.

17. It is established that moral rights belonging to the testator do not form part of the estate. How, then, may the heirs protect these rights?

MODEL ANSWER

Pursuant to the Civil Code, art. 1113, moral rights not linked to property rights do not form part of the estate. This is because such rights are inextricably linked to the person and cannot constitute an object of universal legal succession. However, part three of that same article establishes that moral rights and other non-material assets belonging to the testator may be exercised and protected by the heirs. The essence of this rule is that whilst rights such as authorship of a work, the right to a name, or personal reputation do not pass to an heir as property, the heir acquires the standing to protect the deceased's memory and rights. For example, if someone attempts to usurp a deceased author's work, an heir may apply to a court to enforce the inviolability of authorship. As an alternative consideration, it must be noted that unlike moral rights, economic rights derived from copyright (receiving royalties, licensing the use of the work) enter directly into the estate and pass to the heirs. Through this mechanism, the law balances both the testator's personal inviolability and the economic interests of his or her family members.

Glossary

LAW OF SUCCESSION
The aggregate of legal norms governing the transfer of property rights and obligations belonging to a citizen following his or her death to other persons (heirs) by way of universal legal succession in accordance with the procedure established by legislation.

Example: Upon Anvar's death, all his property and debts passed to his children on the basis of the rules of the law of succession.

Related: Composition of the estate, Will

COMPOSITION OF THE ESTATE
The totality of all rights and obligations belonging to the testator at the time of the opening of the inheritance that are not extinguished by his or her death. This encompasses property rights, but excludes rights intrinsically linked to the person.

Example: The deceased's house and bank deposit were included in the composition of the estate, but his obligation to pay maintenance was not included.

Related: Law of succession, Joint marital property

OPENING OF THE INHERITANCE
The commencement of inheritance relations and the arising of rights and obligations in the heirs as a consequence of a citizen's death or his or her declaration as deceased by a court.

Example: An inheritance is deemed to open in respect of a citizen's property on the very day of his or her death.

Related: Place of opening of the inheritance, Heirs

PLACE OF OPENING OF THE INHERITANCE
The testator's last permanent place of residence; if this is unknown, the place where immovable property belonging to him or her, or the principal part thereof, is situated is recognised as the place of opening of the inheritance.

Example: Because the deceased's last permanent residence was in Tashkent, the succession proceedings were opened by a notary in that exact location.

Related: Opening of the inheritance

WILL
A citizen's personal, voluntary declaration of intention executed in person to dispose of property belonging to him or her, or the rights in respect of such property, in the event of death.

Example: The father drew up a will through a notary in order to bequeath the car belonging to him to his son.

Related: Law of succession, Reserved share

SUCCESSION BY OPERATION OF LAW
The procedure for transferring property to heirs in equal shares according to the order of priority established by law where no will exists or where the will does not dispose of the whole estate.

Example: Because the deceased left no will, his property was distributed equally between his wife and children on the basis of succession by operation of law.

Related: Heirs, Will

UNWORTHY HEIRS
Persons who have intentionally killed the testator, made an attempt on his or her life, or intentionally obstructed the realisation of the testator's last will, and who are consequently deprived of the right to inherit by operation of law and under a will.

Example: By a court judgment, the son who made an attempt on his father's life was declared an unworthy heir and disqualified from the inheritance.

Related: Disinheritance

JOINT MARITAL PROPERTY
Property acquired by spouses during marriage, wherein the death of one spouse serves as grounds for determining his or her share in that property and including it in the composition of the estate.

Example: Following the husband's death, half of the house acquired during marriage was allocated as the wife's share, whilst the remaining half was included in the composition of the estate.

Related: Separate property of spouses, Composition of the estate

SEPARATE PROPERTY OF SPOUSES
Property belonging to either spouse prior to marriage, as well as property received by either of them during marriage by gift, inheritance, or through other gratuitous transactions.

Example: The flat purchased by the woman prior to marriage is her separate property and does not enter into her husband's estate.

Related: Joint marital property

HEIRS
Citizens alive at the time of the opening of the inheritance, children conceived during the testator's lifetime and born alive after the opening of the inheritance, legal persons, and the state.

Example: The infant born after the opening of the inheritance was also included amongst the statutory heirs.

Related: Succession by operation of law, Will

Timeline

Development of Inheritance Law Legislation

> **1996 · ADOPTION OF THE CIVIL CODE**
> The Civil Code of the Republic of Uzbekistan was adopted, with Part V comprehensively regulating the law of succession, the composition of the estate, and the scope of heirs.

Significance: The modern statutory framework of inheritance law and the principles of universal succession were established.

> **1998 · ADOPTION OF THE FAMILY CODE**
> The Family Code was adopted, clarifying the concepts of community property and separate property of spouses. This is of crucial importance in determining the composition of the estate.

Significance: The property rights of family members and their shares in inheritance were guaranteed.

> **2021 · AMENDMENTS REGARDING THE COMPOSITION OF THE ESTATE**
> Under the wording of Law No. ZRU-683 of 21 April 2021, it was stipulated that the right to receive pensions, allowances, and other payments under labour and social security legislation does not enter the composition of the estate.

Significance: The rule on the non-transferability of rights directly attached to the person was refined.

> **2022 · INHERITANCE OF RIGHTS TO A LAND PARCEL**
> Pursuant to the wording of Law No. ZRU-775 of 6 June 2022, it was reinforced that succession to the right to a land parcel is governed by the rules of the Civil Code.

Significance: A clear civil-law mechanism for succession in land relations was established.

> **2023 · THE CONSTITUTION IN THE NEW WORDING**
> The Constitution of the Republic of Uzbekistan in the new wording was adopted, reaffirming at the supreme level that the inviolability of property and the right of inheritance are guaranteed by the state.

Significance: The constitutional guarantees of inheritance rights were further strengthened.

Mind map

General Provisions of the Law of Succession

- Bases of succession: Legal bases determining how an inheritance devolves (Civil Code, art. 1112).
- — Under a will: Voluntary declaration of the testator's intention (Civil Code, art. 1120).
- — — Drawn up in person: Execution through a representative is prohibited.
- — — Testamentary freedom: May leave property to any person or disinherit them.
- — By operation of law: Devolves in statutory order of priority where there is no will.
- — — Order of priority: Called depending on the degree of kinship.
- — — In equal shares: Heirs of the same priority take equal shares.
- Composition of the estate: Rights included in and excluded from the estate (Civil Code, art. 1113).
- — Included rights: Property rights and obligations not extinguished by death.
- — — Material assets: Dwellings, money, motor vehicles, and other property.
- — — Obligations: The deceased's debt liabilities also pass.
- — Excluded rights: Rights inextricably linked to the person.
- — — Maintenance obligation: Right to receive or pay maintenance does not pass.
- — — Compensation for harm: Compensation for harm caused to life or health does not pass.
- — — Moral rights: Non-property rights such as authorship do not enter.
- — Spousal property: Share in joint property (Civil Code, art. 1114).
- — — Severance of share: The half-share of the surviving spouse is separated.
- Opening of the inheritance: Time and place of opening of inheritance (Civil Code, arts. 1116, 1117).
- — Time of opening: Day of death or day a court judgment takes legal effect.
- — — Date of death: The precise day on which the citizen died.
- — — Date of court judgment: When declared deceased by a court.
- — Place of opening: Last place of residence or location of property.
- — — Last place of residence: Address of permanent registration.
- — — Location of property: Location of immovable property if residence is unknown.
- Circle of heirs: Entities entitled to inherit (Civil Code, art. 1118).
- — Living citizens: Persons alive when the inheritance opened.
- — Persons conceived: Children born alive become heirs.
- — Legal persons: May inherit under a will.
- Disinheritance: Grounds for disqualification from inheritance (Civil Code, arts. 1119, 1120).
- — Unworthy heirs: Persons disqualified by law and court proceedings.
- — — Intentional killers: Those who made attempts on the testator's life.
- — — Obstructors: Those who hindered execution of the last will.

- — — Deprived parents: Those stripped of parental rights.
- — By will: Right to disinherit without explanation.
- — — Disinheritance without reason: The testator is not obliged to give reasons.

Walkthrough and diagram

Process of Opening of the Inheritance and Determination of Heirs

RELATIONSHIPS IN THIS DIAGRAM

- Death of citizen 'Constitutes grounds 'Opening of inheritance
- Opening of inheritance 'Determined 'Place of opening
- Opening of inheritance 'Formed 'Composition of estate
- Composition of estate 'Distributed 'Bases of succession
- Bases of succession 'If will exists 'Under a will
- Bases of succession 'If no will 'By operation of law
- Under a will 'Called 'Determination of heirs
- By operation of law 'Called 'Determination of heirs
- Determination of heirs 'If doubt arises 'Disqualification of unworthy heirs
- Disqualification of unworthy heirs 'Examined by 'Judicial procedure
- Determination of heirs 'Obtains certificate 'Formalisation of inheritance
- Judicial procedure 'Transmits judgment 'Formalisation of inheritance

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