

## Implementation of the Law of Inheritance and Acceptance of Inheritance

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 guardianship

### Abstract

This article examines the implementation of inheritance law and the legal procedures governing the acceptance of inheritance in the Republic of Azerbaijan. As each legal system reflects national legal traditions and principles, inheritance law in Azerbaijan also possesses specific characteristics. The regulation of inheritance relations and the procedure for accepting inheritance are governed by the Civil Code of the Republic of Azerbaijan and represent one of the fundamental institutions of civil law (Movsumov & Jabbarli, 1998). Inheritance law ensures the transfer of a deceased person's property, rights, and obligations to heirs on the basis of either statutory provisions or a will.

In cases of statutory inheritance, heirs are identified according to a legally established order of priority, whereas in testamentary inheritance the expressed will of the testator is of decisive significance. The acceptance of inheritance constitutes a key legal stage reflecting the heir's intention to acquire inheritance rights and may be realized either through actual acceptance or by submitting a formal application to a notary. Under current legislation, inheritance must be accepted within a six-month period. Failure to observe this statutory time limit may lead to specific legal consequences. The proper and consistent application of inheritance law contributes to legal certainty, stability, and justice in civil circulation.

### Introduction

The fundamental importance of inheritance law lies in its role as a legal mechanism for the formation of new ownership rights. In essence, inheritance law represents one of the recognized

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means through which ownership is acquired. Through this legal mechanism, inherited property is transferred to a new owner—the heir. However, the acquisition of inheritance rights by an heir is possible only upon the fulfillment of certain legally established conditions.

The primary condition is the opening of the inheritance. As established, inheritance is opened upon the death of a natural person or on the basis of a court decision declaring a natural person deceased. The death of a natural person gives rise to inheritance legal relations, which, in turn, generate subjective inheritance rights. More specifically, individuals participating in these legal relations acquire a subjective right to inheritance. Only after exercising this right may a person become the lawful owner of inherited property. A person who has acquired such a subjective inheritance right is considered to have been called to inheritance. Being called to inheritance signifies that the individual belongs to a specific order of heirs or is included among the persons designated in a will. Such a person is regarded as a potential heir, that is, an individual entitled to acquire the inherited property.

Article 1244 of the Civil Code of the Republic of Azerbaijan provides that inheritance may be accepted by a legally capable person (Allahverdiyev, 2003). This provision implies that the person accepting the inheritance must possess full legal capacity, meaning that they have reached the legally established age, are mentally sound, and have not been deprived of legal capacity by a court decision. At the same time, this requirement does not exclude persons lacking legal capacity from being heirs. This issue will be examined in greater detail below.

Under current civil legislation, inheritance may be accepted in two forms: by submitting a personal application to a notary office or by actually taking possession of the inherited property and exercising ownership over it. In such circumstances, regardless of the manner or location in which the inherited property is used, the individual is deemed to have accepted the inheritance in its entirety. The time limit for accepting inheritance is determined by civil legislation and is regulated by Article 1246 of the Civil Code of the Republic of Azerbaijan (Allahverdiyev, 2007), which establishes that an heir may accept the inheritance within three months from the date on which they became aware or should have become aware that they were called to inheritance.

Furthermore, it should be noted that once six months have elapsed from the date of the opening of the inheritance, acceptance of the inheritance is not permitted under any circumstances (ILRA, 2004). For this reason, the legislation establishes a strict time limit, making the determination of the moment of the opening of inheritance particularly significant. The time and place of the opening of inheritance are defined by civil legislation. In this regard, Article 1145 of the Civil Code of the Republic of Azerbaijan specifies the circumstances under which inheritance is opened upon the death of a natural person or on the basis of a court decision declaring a person deceased (Asgarov, 2010).



It should also be emphasized that determining the composition of the inheritance estate is a matter of substantial legal importance. The inheritance estate comprises the totality of property rights and obligations belonging to the deceased up to the moment of death, as reflected in Article 1151 of the Civil Code of the Republic of Azerbaijan. With respect to the testamentary disposition of property that may be acquired in the future, it should be noted that the testator may include such property in a will, provided that the property is owned by the testator at the time the inheritance is opened (Behbudov et al., 2024).

In addition, regarding the question of whether rights and obligations of a personal nature may be transferred through inheritance, it should be noted that only property-related rights and obligations of the deceased are inheritable. Rights and obligations that, by law or contract, are valid exclusively during the lifetime of the creditor or debtor and terminate upon their death do not form part of the inheritance estate. Consequently, the heir neither acquires rights nor assumes obligations related to the personal rights of the deceased and bears no legal responsibility in this respect.

## Methodology

This study adopts a qualitative research design to explore how inheritance law is implemented in Azerbaijan and how inheritance is accepted in practice. The primary sources for analysis are the Civil Code of the Republic of Azerbaijan, official notarial materials, and court decisions, which together form the legal foundation for examining inheritance procedures (CCRA, 2016). In addition, secondary sources—including scholarly articles, books, and legal commentaries—are reviewed to identify doctrinal interpretations and the practical consequences of inheritance norms.

Data collection is carried out through a systematic review of statutory provisions, notarial procedures, and relevant case-law materials, allowing both the theoretical and applied dimensions of inheritance acceptance and refusal to be assessed. A comparative perspective is used to clarify distinctions between statutory inheritance and testamentary inheritance. The study also considers issues of legal capacity, guardianship, and the responsibilities imposed on heirs. The collected materials are then synthesized to reveal recurring patterns, practical challenges, and broader societal implications, ensuring a comprehensive understanding of legal rules and their real-life application.

## Results and Discussion

Civil legislation establishes a defined period for accepting inheritance (CL, 1999). Where the right to inherit arises because other heirs do not accept the inheritance, the remaining portion of the prescribed period is applied for acceptance. If the remaining time is less than six weeks, the term may be extended to the minimum period provided by law.

Current civil legislation also regulates circumstances in which the legally determined acceptance period may be extended. If a delay occurs for valid reasons, a court may restore and extend the



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relevant term. In addition, if after the expiration of the time limit all heirs who have accepted the inheritance do not object, the inheritance may be accepted without applying to the court.

Because acceptance of inheritance depends on the individual's will, it is regarded as a legal act. Through this act, the subjective inheritance right of the person called to inherit is realized. As a result, the heir acquires the rights that belonged to the testator during their lifetime and did not terminate before death. By accepting inheritance, the heir also becomes the principal participant in civil-law relations in which the testator previously took part. This is because such a person should be considered an actual heir. An actual heir, therefore, is a potential heir who has already accepted the inheritance. In contrast, a potential heir is merely called to inherit and has not yet acquired the inheritance.

Acceptance of inheritance is generally understood as an act by which a person directly called to inherit exercises the relevant rights and obtains the legal opportunity to acquire the inheritance (Huseynov et al., 2025). In practical terms, acceptance means that the heir expresses a clear intention to obtain the inherited property and agrees to act as the testator's successor. On this basis, the heir is recognized as the bearer of the testator's rights and obligations.

Importantly, acceptance of inheritance is not a legal duty but a right of the individual. Accordingly, a person may either accept the inheritance or refuse it. For this reason, this entitlement is often described as an optional right, as the individual may choose between two legal alternatives. The right to accept inheritance is therefore treated as a subjective civil right.

Since acceptance is based on the heir's free will, it is assessed as a voluntary act. It directly reflects the intention and desire of the heir to accept inheritance. For this reason, only a person with full legal capacity may accept inheritance (Huseynov, 2025). Persons lacking legal capacity may accept inheritance only with the participation of their guardians or lawful representatives.

One common example is submitting an application to a notary after the inheritance is opened, requesting acceptance of inheritance and the issuance of a certificate of inheritance. Such actions are regulated by law and must be performed without discrimination.

Whether inheritance is acquired depends solely on the heir's will, and legislation does not impose compulsory rules against a person's wishes. However, in certain cases, legal acts related to acceptance must be carried out within established time limits. For this reason, knowledge of the applicable rules and conditions is essential, and disputes are resolved through judicial procedures. Under current legislation, the procedures and timeframes are clearly regulated and implemented by the competent authorities in the jurisdiction where the inheritance is opened. Applications are received and forwarded for execution. At the same time, acquiring ownership over part of the inheritance estate or actually exercising control over it is also treated as acceptance of inheritance.



Practice demonstrates that misunderstandings may arise when inheritance concerns property jointly acquired by spouses during marriage. Many heirs mistakenly believe that all property acquired during marriage automatically forms the inheritance. In fact, when property is divided, the surviving spouse is entitled to a certificate of ownership confirming their share in the jointly acquired property. As a rule, this certificate is issued for half of the total jointly owned property.

Refusal to accept inheritance is also exercised at the discretion of heirs. In general, refusal is formalized through an official application submitted to the notary office in the jurisdiction where the inheritance is opened.

Both acceptance and refusal require verification of the authenticity of the applicant's signature—either at another notary office or by officials empowered by law—after which the documents are sent to the notary office at the place where the inheritance is opened. Regardless of when the application is received by any notary office, the date on which the signature is authenticated is treated as the date of acceptance or the date of refusal.

Heirs may refuse inheritance only when such decisions serve the interests of the individual and the state. By court decision, persons outside the circle of heirs may be recognized as unworthy heirs. The time limit for refusing inheritance is established in the Civil Code as three months, meaning that refusal may be made within this period. In addition, heirs may refuse the inheritance within six months after accepting it. The legal framework also regulates both the refusal of inheritance that reaches a person and the subsequent legal actions connected with such refusal.

Special rules apply to heirs who are not engaged in agriculture in relation to the acceptance or refusal of agricultural land, equipment, tools, and livestock. The law prohibits heirs from withdrawing applications submitted to the notary office regarding acceptance or refusal of inheritance in these matters. These rules aim to protect citizens' property rights, and heirs bear responsibility for violations committed in this sphere.

These principles are reinforced by Article 553 of the Civil Code. Under this article, an heir who has accepted inheritance is liable for the debts of the deceased within the limits of the actual value of the property transferred to them.

For persons who have reached the age of 14 but have not yet obtained full legal capacity, inheritance may be accepted on their behalf by parents, guardians, adoptive parents, or other lawful representatives (Sukhanov, 1996). For individuals aged 14 to 18, acceptance is carried out with their written consent.

Children under the age of 7 accept inheritance exclusively through their lawful representatives, as they are not considered legally capable. They may acquire heir status both by law and by will. For instance, if a grandfather bequeaths his house to a 6-year-old grandchild, the child's legal representatives accept the inheritance on the child's behalf.



In society, inheritance is regarded as an essential social value that performs a public-benefit function and serves a specific purpose. It is also recognized as a key institution fulfilling a material support function, providing financial support to the deceased's relatives, family members, and close associates.

## Conclusion

The analysis of inheritance law and inheritance acceptance in Azerbaijan demonstrates its central role in regulating property transfer and safeguarding citizens' rights. Inheritance law ensures that the property, rights, and obligations of a deceased person are transferred to heirs through statutory succession or testamentary arrangements. The legal framework establishes structured procedures for accepting or refusing inheritance, including time limits, legal-capacity requirements, and the involvement of guardians and lawful representatives for minors and persons lacking capacity. By regulating procedures through notarial bodies and courts, the law reduces disputes and protects both heirs and the inheritance estate. Inheritance also performs significant social functions by providing material support to relatives and helping preserve family property. Overall, understanding the rights, responsibilities, and procedural rules connected with inheritance enables heirs to exercise their rights effectively, strengthens fairness, and contributes to stable property relations in Azerbaijani society.

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