

COMPARATIVE ANALYSIS OF TERMS RELATED TO “WILLS” AND “TRUSTS” IN GEORGIAN AND ENGLISH LANGUAGES (ACCORDING TO “THE CIVIL CODE OF GEORGIA”, “COMMON LAW” AND THE LAW OF THE UNITED STATES OF AMERICA)

AR TESTAMENTU UN PILNVAROŠANU SAISTĪTO TERMINU SALĪDZINOŠĀ ANALĪZE GRUZĪNU UN ANĢĻU VALODĀ (SASKAŅĀ AR GRUZIJAS CIVILLIKUMU, ANGLOSAĶŠU TIESĪBĀM UN AMERIKAS SAVIENOTO VALSTU TIESĪBĀM)

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Abstract. Problems associated with the transference of the property acquired pressing urgency with the change of political life of Georgia (from Socialism to Capitalism). The drastic changes of Georgian political and economic systems cause the creation of new institutions. On-going processes influence the sphere of law and its terminology. The establishment of new legal institutions facilitates the emergence of the so-called “empty gaps” – the unnamed elements of the system of concepts. Therefore, it is of particular importance to formulate the system of basic terminological units and clarify their precise meaning. The given paper offers the comparative analysis of the terms related to “wills” and “trusts” in Georgian and English languages according to the data of the contemporary monuments of law. It shows the similarities and differences of Georgian and English terminological systems. Therefore, the necessity of the creation of new lexical units (in order to “fill” the so-called “empty gaps”) is singled out and revealed.

Keywords: Donation mortis causa, holographic will, inter vivos trust, intestate succession, testamentary trust, testate succession, trust.

Introduction

The transference of property acquires the greatest importance in today's world. Especially, in the countries which “undergo” a transitional period from Socialism to Capitalism. On-going changes in the economic system and the emergence of the new forms of ownership facilitate the establishment of new legal institutions. The given paper makes an attempt to compare the institutions of “testate succession” and “trust” of Capitalistic (the United Kingdom and the United States of America) and “almost” Capitalistic (Georgia) countries. The right of ownership and the peculiarities of its transference are discussed.

In the contemporary legal literature the right of ownership is regarded as the broadest real right. It allows its holder to exclusively determine the nature and use of the property and confers complete economic dominion over it. The legal capacity of the owner can be described through the use of the “triad” of legal powers: possession, use and disposal. Moreover:

- The power to possess is understood as the legal authority to have the property and keep it in one's household or enterprise.
- The power to use the property is a legal permission to exploit it for economic or other purposes by utilizing its useful qualities.
- The power to dispose of the property confers an authority to determine the fate of property by changing its holder, state or designation through alienation under a contract or transfer by inheritance.

Methodology and Results of Research

Inheritance plays an extremely important role in human societies. It is the practice of passing on property, titles, debts and obligations upon the death of an individual. The property is transferred through the laws of intestacy (if there are no legal documents concerning the disposition of the property) or it is bequeathed through a „will”. Therefore, a „will” (also termed „testament” or „testamentary instrument” (archaically)) can be defined as the most commonly used legal instrument for the distribution of the property of a deceased person: „In common law, a will or testament is a document by which a person (the testator) regulates the rights of others over his or her property or family after death ... In the strictest sense, a „will” is a general term, while „testament” applies only to dispositions of personal property (this distinction is seldom observed)” (9.).

According to the modern law, wills are created according to a proper format. They must be:

1. In writing;
2. Signed by the „testator” (the term “testator” denotes a person who creates a will. Another English term - “testatrix” was also used to denote a female creator of the will, but it is generally no longer in standard legal usage);
3. Witnessed by at least two „witnesses”.

In order for a will to be valid, the testator must be over eighteen when the will is made and of sound mind. The will must appoint one or more persons to carry out its terms. These persons are known as „executors”.

Modern law makes distinction between official and unofficial wills. Therefore, English language differentiates the following terms denoting different types of a will: a „notarial will”, a „holographic will”, a „joint will”, a

„mutual will”, a „mirror will” and a „nuncupative will” (the so-called „oral will”).

„Notarial wills” are usually executed by a testator in the presence of two witnesses and a notary public.

„Holographic wills” are entirely handwritten and signed by the testator. Normally, a „holographic will” must be signed by witnesses attesting to the validity of the testator's signature and intent, but in many jurisdictions, „unwitnessed holographic wills” are treated as valid if they meet minimal requirements in order to be probated. For example:

- In the United Kingdom „unwitnessed holographic wills” are valid in Scotland, but not in England and Wales or Northern Ireland (8.,72).
- In the United States such wills are accepted in around 19 out of 50 states (7.).

Jurisdictions that do not themselves recognize „unwitnessed holographic wills” may nonetheless accept them under a „foreign wills act” if drafted in another jurisdiction in which it could be valid. Under the Louisiana Civil Code, such a will is known as „olographic” (5.).

„Holographic wills” are often created in emergency situations, such as when the testator is alone, trapped and near death. Jurisdictions that do not generally recognize „unwitnessed holographic wills” can grant exceptions to members of the armed services who are involved in armed conflicts and sailors at sea, though in both cases the validity of “holographic will” expires at a certain time after it is drafted.

A will is usually executed by one person, but the creation of a will by two or more persons is also permitted. For example:

A „joint will” is “a single document executed by more than one person (typically husband and wife), making which has effect in relation to each signatory's property on his or her death (unless he or she revokes (cancels) the will during his or her lifetime). A joint will is a single document with a separate distribution of property by each signatory and is treated as such on admission to probate” (4.). „Joint wills” must be differentiated from „mutual wills”.

„Mutual wills” are “any two (or more) wills which are mutually binding, such that following the first death the survivor is constrained in his or her ability to dispose of his or her property by the agreement he or she made with the deceased” (4.).

In spite of different definitions, “joint wills” and “mutual wills” are closely related terms used to describe two types of the testamentary writing that may be created by a married couple to ensure that their property is

disposed of identically. „Mutual wills” may also be „mirror wills”. „Mirror wills” are two separate, identical documents.

According to the above mentioned, wills are usually in a written form and according to a proper format. But a minority of U.S. states permit „nuncupative wills” („oral wills”) under certain circumstances. Generally, a „nuncupative will” is defined as “a verbal will that must have two witnesses and can only deal with the distribution of personal property” (6.). Under most statutes, such wills can only be made during a person’s “last sickness”, must be witnessed by at least three persons and reduced to writing by the witnesses within a specified amount of time after the testator’s death. A few U.S. states permit „nuncupative wills” made by military personnel in active service and it is common practice for oral wills to be permitted to such military personnel in Commonwealth countries.

A lot is written about the conception of the freedom of disposition by a will. In fact, complete freedom is the exception rather than the rule, because Civil law systems often put some restrictions on the possibilities of disposal. The same can be said about English courts. Under the 1975 Inheritance Act, courts have some powers to modify the will if it is unfair to a spouse, a child or other dependents. According to American law a deceased person's surviving spouse, children and parents are entitled to receive a portion of a decedent's estate, regardless of any testamentary dispositions or competing claims. The portions are called allowances. The allowance may be limited for a fixed period (18 months under the “Uniform Probate Code” - a comprehensive statute that unifies, clarifies and modernizes the laws governing the affairs of decedents and their estates in 18 states of USA) or may continue until decree of distribution is entered. This support, together with probate homesteads (the so-called „homestead allowance”) and personal-property allowances (for example, the so-called “exempt property” – the personal property that a surviving spouse is automatically entitled to receive from the decedent’s estate) is in addition to whatever interests pass by the will or by intestate succession.

The problem of the freedom of disposition by a will is familiar to “The Civil Code of Georgia”. Like many other jurisdictions, Georgian law differentiates two ways of devolution of the property („Intestate Succession” and „Testate Succession”) after an individual's death.

„Intestate Succession”- „the transfer of the property of the deceased to the persons indicated in the law – is valid if the testator has not left a will, or the will concerns only a share of the estate, or the will is declared void in full or partially” (1.,307). Intestate successors are divided according to five orders. An order of a successor depends on the descendant’s relations with the decedent.

„Testate succession” – the transfer of the property of the deceased to persons indicated in the will – is valid if the deceased person left a will. According to article 1344 of “The Civil Code of Georgia”:

“A natural person may leave his/her estate or its part by a will in the event of his/her death to one or several persons from either the circle of successors or outside persons” (1.,309).

According to Georgian law wills are created according to a proper format. They must be in writing. A written will may be in a notarial form (the so-called „notarized will”) or without it:

„A notarial form requires a will to be prepared and signed by the testator and attested by a notary and where a notary is not available the above mentioned function shall be executed by a local self-government body” (1.,311).

Generally, wills are prepared by testators, but in certain cases: “It is permitted that a will in words of the testator be written down by a notary in the presence of two witnesses. The usage of generally accepted technical means while writing down a will is permitted. A will written down by a notary in words of the testator shall be read by the testator and signed by him/her in the presence of a notary and a witness” (1.,311).

„Notarized wills” (or official wills) differ from unofficial or „holographic” wills. „Holographic wills” (handwritten wills) are made personally by the testator. The creation of a will through a representative is not permitted. The category of handwritten wills consists of „domestic wills” and „closed wills”. „Domestic wills” are made in the testator’s hand writing and signed by him (her). In case of a „closed will”: „At request of the testator witnesses shall confirm the will so that they do not know the content of the will (closed will). In this case the witnesses should be present at the signing of the will. In confirming a closed will the witnesses shall indicate that the will was made personally by the testator and that they did not become aware of the content of the will” (1.,313).

A will is usually executed by one person. The creation of a will by two or more persons jointly is not permitted. Only spouses may make a reciprocal will on joint legacy, which may be revoked by one of the spouses but still during lifetime of both of them. Such a will is called a „joint will”.

Like Georgian and American legal systems, “The Civil Law of Latvia” differentiates official and unofficial wills. Therefore, public and private forms of wills are singled out. According to Article 433, “public wills” (or “notarized wills”) are prepared at the notarial office, at the orphan’s court or in the Consulate of Latvia (if the testator is abroad). It is created in presence of the testator and two witnesses.

“Private wills” can be prepared orally or in a written form. “The Civil Code of Latvia” recognizes “witnessed” and “unwitnessed” forms of “private

wills". Hence, oral declarations are made only in cases of emergency and have limited duration. Moreover, "oral wills" are usually regarded as "privileged wills".

According to the above mentioned, a natural person may leave his (her) estate or its part by a will in the event of his (her) death. Another way of transferring the property is the creation of a „donatio mortis causa” established by Roman law and still in effect in England and Wales. A „donatio mortis causa” („gift on the occasion of death”) is „a gift made during the life of the donor which is conditional upon, and takes effect upon, death (in the United States, it is often referred to as a gift causa mortis)” (3.). In 1896 Lord Russell laid down the three main requirements for its validity:

- „1. The gift must have been made in contemplation of, though not necessarily expectation, death;
2. the subject matter of the gift must have been delivered to the donee; and
3. the gift must have been made under such circumstances as to show that the property is to revert to the donor if the donor should recover” (3.).

However, the contemplation of death is the main requirement for the creation of „donationes mortis causa”. They are usually made in reference to a particular illness, but the principle applies equally to other cases such as the embarking of a hazardous journey or the contemplation of active service in war. The gift is valid even if the death comes from a different cause to that contemplated by its creator. The main essence of a „donatio mortis causa” is a delivery of the property to the donee with the intention of parting with the „dominion” over it, but the donor's recovery causes the automatic revocation of the gift.

Therefore, „donationes mortis causa” can be referred to as one of the rare exceptions to the general rule of public policy in common law countries. According to this rule a disposition upon an individual's death must be done under his (her) will (or a document incorporated by reference into a will) that always complies with statutory requirements.

The third way of transferring the property is creation of a “trust” under Trust Law, which regulates the process of delivery.

The “trust” is characterized as an institution of Anglo-American law. Generally, it is irreplaceable in the cases “when the real owner of the property must be substituted by the nominal (trusted) owner for carrying out civil relationships” (2.,416).

A „trust” is usually described as an arrangement whereby property is managed by one person for the benefit of another. The concept of “trust” finds its origins in English Common law dating from the Middle Ages. It

derived from a system employed in that era known as “uses” (or “use of land”). The “uses” was implemented to solve the problem of property ownership faced by landowners who left England to fight in the Crusades. They needed someone to run estates during their absence for paying and receiving feudal dues. Therefore, the ownership passed to the owners’ friends on the understanding that it would be conveyed back on their return.

Nowadays, the “use” mechanism is reflected in the modern Trust Law. A “trust” can be described as a fiduciary relationship in which property is managed by one person (or persons, or organizations) for the benefit of another. It is created by a settler (in the United States the “settler” is also called the “trustor”, “grantor”, “donor” or “creator”), who entrusts his or her property to people of his choice (the so-called “trustees”). The “trustees” hold legal title to the trust property, but they are obliged to hold it for the benefit of one or more individuals or organizations (the so-called “beneficiaries”). Therefore, a trust can be described as a fiduciary relationship in which rights to the property are divided between a trustee, who holds a legal title and a beneficiary, who holds equitable titles.

Typically, a modern trust is created by one of the following methods:

1. a written trust document (“trust deed” or “trust instrument”);
2. the will of a decedent (“testamentary trust” or “will trust”);
3. an oral declaration;
4. a court order.

Regardless of the means of creation, a trust requires three main certainties:

- The first of them is the intention of the settler to create the trust.
- The second field that must be established is the property subject to the trust. “Trust property” can be any form of the ownership (any form of specific property: real or personal, tangible or intangible). In those cases when some portions of an individual's estate are to be placed in trust, exact details must be given regarding the nature of the assets to be included and their sum.
- The third certainty is the identification of beneficiaries. In the majority of cases the settlers clearly define the persons who will benefit from their trusts. However, in the case of “discretionary trusts”, the settlers are obliged to describe a „clear class” of beneficiaries, while only the trustees have the power to decide who benefits.

According to the above mentioned methods of creation, a modern trust is usually established through a written legal document, which specifies how the trust’s capital and income are to be held, managed and distributed. A „trust instrument” is usually created by the settler and signed by both the

settler and the trustee. It is mainly created for achieving the following objectives:

- „1. Administer family wealth for investment purposes (“Family Trust”);
2. Provide for the needs of a limited group of individuals under strict conditions which are imposed for the protection of the group (“Protective Trust”);”
3. Fulfill a charitable purpose (“Charitable Trust”). The charitable purposes mostly include:
 - a) The relief of poverty;
 - b) The advancement of education;
 - c) The advancement of religion;
 - d) The promotion of health;
 - e) Governmental or municipal purposes and accomplishment of something which is beneficial to the community.

The ownership can be entrusted during the testator’s lifetime or after his death. The owner who is living at the time the trust is established creates an “inter vivos trust”. A trust which is created in the testator’s will is called a “testamentary trust” (or a “will trust”). Wills can become effective only upon death. Therefore, “testamentary trusts” are generally established at or following the date of the testator’s death. They can be useful in providing financial support to minors - beneficiaries who are not yet of an age at which they could manage assets mentioned in the will. Furthermore, „testamentary trusts” ensure that the assets are safeguarded until such a time as the intended minors are capable of dealing with them on their own. It means, that an „inter vivos trust” provides the testator and the others (other beneficiaries) through life, while a “testamentary trust” provides only others post mortem.

The third method of creation of a trust is an oral declaration. Therefore, an „oral trust” is established. It is usually defined as an agreement formed between a grantor and a trustee without the use of a written instrument. However, a major problem with „oral trusts” is that they are very difficult to prove. Nowadays, a lot of estate planning lawyers insist on a written document to assure that the needs of the settler are fully set forth and his (her) intentions can be clearly established. Therefore, the trusts of personal property can be created orally, while the trusts of real property must be in writing in order to establish „clear and convincing evidence”.

The institution of “trust” can be found in Georgian law. Articles 724-729 of “The Civil Code of Georgia” present the essence of “trust” and parties participating in trust relationships: a “trustor” and a “trustee”. The property is entrusted by the “trustor” only during his (her) lifetime. Therefore, a “trust contract” is created. Under this contract:”the principle (trustor)

transfers the property to the trustee, who accepts and manages the property in compliance with the principle's interests" (1.,185). Moreover, the specificity of the institution of "trust" presents the right of ownership in a "split" form: "some rights of the owner – the management and the disposition of the property – belong to one person (trustee), while other rights – receiving income and profit from the exploitation of the property – belong to another (trustor)" (2.,417). The motive of a „trust contract“ can be the owner's wish to delegate the authority of management ("to get rid of" the load of management) in order to profit from the exploitation of the property. In any case, the property must be entrusted in accordance with the trustor's interest. This interest may imply making profit, increasing and maintaining the property and etc.

An object of any type of trust relationship is the "trust property". It is usually presented by any sort of property: "non-material property" or "intangible property" and "things". A "thing" may be "movable" or "immovable", while "non-material property" unites all those requirements and rights "which may be passed from one person to another or are intended for yielding a material profit to their owner, or entitling him (her) to demand anything from others" (1.,49). The ownership is managed by the trustee at risk and expense of the "trustor". In terms with third persons a trustee enjoys the owner's rights. He (she) is even entitled to make any kind of deal. However, the trustee has no legal rights to sell the property unless the agreement between the parties provides otherwise.

Therefore, the institution of "trust" which is presented in "The Civil Code of Georgia" has specific features similar to Anglo-American "trust". The main difference lies in the fact, that trust relationships are created only during the trustor's lifetime (it means that Georgian law is not familiar with the concept of "testamentary trust") and are carried out in behalf of the "trustor". Accordingly, the concept of "trustor" is identified with the concept of "beneficiary".

Conclusions and proposals

All the above-mentioned can be summarized in the following way:

1. A „will“ (also termed „testament“) is the most commonly used legal instrument by which a person (the testator) regulates the rights of others over his or her property after death. "The Civil Code of Georgia" recognizes only a written form of a "will" (Georgian legal system recognizes only „clear and convincing evidence“), while American legal system makes distinction between written and oral wills. The legislations of both countries differentiate official ("notarized will") and unofficial ("holographic will") wills. Moreover, the concept of the "witnessed holographic

will” “approaches” the concept of the “closed will”, whereas “unwitnessed holographic wills” can be identified with “domestic wills”. Hence, there are no terms denoting “mutual wills” and “mirror wills” in Georgian terminological system.

2. A “trust deed” (or a “trust instrument”) is a written legal document, which specifies how the trust’s capital and income are to be held, managed and distributed. “The Civil Code of Georgia” recognizes only a written form of a “trust” (Georgian legal system recognizes only „clear and convincing evidence”), while American legal system makes distinction between written and oral trusts created for achieving several objectives. Therefore, English language differentiates following terms used to denote different types of a “trust”: an “inter vivos trust”, a “testamentary trust” (or a “will trust”), a “family trust”, a “protective trust”, a “charitable trust” and etc. Hence, these concepts are not found in Georgian law.
3. The comparative analysis of terms related to “wills” and “trusts” showed the similarities and differences of Georgian and English terminologies of law. The existence of the differences can be explained by the fact, that the United Kingdom and the United States of America are developed capitalistic countries, whereas Georgia is “on its way” from Socialism to Capitalism. It means, that “The Civil Code of Georgia” is based on the legal system of the former USSR, which was not familiar with some Capitalistic institutions (for example, the institution of “trust”). Nowadays, the drastic changes of Georgian political and economic systems cause the creation of new institutions. On-going changes influence Georgian terminology of law. “Empty gaps” – the unnamed elements of the system of concepts appear and the necessity of the creation of new lexical units emerges.

Finally, it’s worth mentioning, that today’s world undergoes the process of “globalization” which causes the integration of legal systems of different countries. The legislations of the countries will influence one another and will facilitate the final improvement of terminological sphere.

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Kopsavilkums

Mūsdienu pasaulē īpašuma nodošanai ir ārkārtīgi liela nozīme, jo īpaši tajās valstīs, kurās ir pārejas periods no sociālisma uz kapitālismu. Šajā pētījumā ir mēģināts salīdzināt testamentārās mantošanas institūtu un pilnvarošanu esošajās kapitālistiskajās valstīs (Lielbritānijā un Amerikas Savienotajās Valstīs) un topošajās kapitālistiskajās valstīs (Gruzijā), akcentējot īpašuma tiesības un to nodošanu.

Tiesības uz īpašumu ir visplašākās reālās tiesības. Tās ļauj īpašniekam noteikt īpašuma izmantošanas veidu un raksturu, kā arī nodrošina pilnīgu ekonomisku valdījumu pār to. Īpašnieka rīcībspēju var aprakstīt, izmantojot tiesisko pilnvaru triādi: valdījumu, izmantošanu un nodošanu. Īpašuma nodošanu var veikt, izmantojot testamentāro mantošanu, *donatio mortis causa* un pilnvarošanas institūciju.

Testamentārā mantošana – mirušās personas īpašuma nodošana personām, kuras minētas testamentā – ir likumīga, ja mirusī persona atstājusi testamentu. Tādēļ dokuments par īpašuma nodošanu pēc indivīda nāves tiek saukts par testamentu (pazīstams arī ar nosaukumu pēdējā griba vai testamentārais nodibinājums (arhaisks termins)). Parasti tiek izšķirti oficiālie un neoficiālie testamenti, līdz ar to testamentu veidi atšķiras atkarībā no dažādu valstu jurisdikcijām.

Vēl viens īpašuma nodošanas veids ir *donatio mortis causa*, ko iedibināja romiešu tiesībās un kurš joprojām ir spēkā Anglijā un Velsā. *Donatio mortis causa* (vai dāvana nāves gadījumā) ir dāvinājums, ko dāvinātājs veic dzīves laikā, bet kurš stājas spēkā pēc nāves. Galvenā *donatio mortis causa* būtība ir īpašuma nodošana dāvanas saņēmējam ar nolūku šķirties no valdījuma pār to, bet dāvinātāja atveseļošanās automātiski nozīmē dāvinājuma atsaukšanu.

Trešais īpašuma nodošanas veids ir pilnvarošana atbilstoši pilnvarošanas likumam, kurš nosaka īpašuma nodošanas procesu. Pilnvarošanas institūts parasti ir neaizvietoājams gadījumos, kad nekustamā īpašuma īpašnieku ir jāaizstāj ar ieceltu (pilnvarotu) personu, lai tas realizētu civilās attiecības. Pilnvarošanu var raksturot kā uzticības personas attiecības, kurās īpašumu pārvalda viena persona (personas vai organizācijas) kāda cita labā. To veic persona, kam ir tiesības rīkoties ar savu īpašumu (ASV to sauc par pilnvarotāju, pilnvaras devēju, dāvinātāju vai pilnvaras sastādītāju) un kas uztic savu īpašumu cilvēkiem pēc savas izvēles (tā sauktajām pilnvarotajām personām). Pilnvarnieki patur īpašumtiesības uz pilnvaroto īpašumu, bet to pienākums ir turēt tās par labu vienai vai vairākām personām, vai organizācijām (t.s. labuma guvējiem). Parasti, pilnvaras klasificē kā juridiskos dokumentus par personas īpašumu pārvaldišanu pēc šīs personas nāves vai tās dzīves laikā. Līdz ar to pilnvaru veidi atšķiras atkarībā no dažādu valstu jurisdikcijām.

Salīdzinošā testamentārās mantošanas un pilnvaru nodibinājumu analīze Gruzijas, Lielbritānijas un ASV likumdošanā atklāja šādas īpatnības:

- Testaments (saukts arī par pēdējo gribu) ir visbiežāk lietotais juridiskais dokuments, ar kuru persona (testators) nosaka citu tiesības pār savu īpašumu pēc nāves. Gruzijas Civillikums atzīst tikai rakstveida testamentu (Gruzijas tiesību sistēma atzīst tikai skaidrus un pārliecinošus pierādījumus), bet Amerikas tiesību sistēmā izšķir rakstisku un mutisku testamentu. Abu valstu tiesību aktos tiek diferencēti oficiālie (notariāli apstiprinātie) un neoficiālie (hologrāfiskie) testamenti. Turklāt jēdziens 'hologrāfiskais testaments liecinieku klātbūtnē' līdzinās jēdzienam par slēgtu testamentu, bet jēdziens 'hologrāfiskais testaments bez liecinieku klātbūtnes' (likumīgs Skotijā un 19 no 50 ASV štatiem) var tikt uzskatīts par mājas testamentu. Līdz ar to Gruzijas terminoloģijas sistēmā nav termina, kas apzīmētu savstarpējo testamentu un identisko testamentu.
- Pilnvara (vai pilnvarošanas dokuments) ir juridisks rakstisks dokuments, kas nosaka, kādā veidā jāpārvalda un jāsadala pilnvarotais kapitāls un ienākumi. Gruzijas Civillikums atzīst tikai rakstveida pilnvaru (Gruzijas tiesību sistēma atzīst tikai skaidrus un pārliecinošus pierādījumus), bet Amerikas tiesību sistēmā izšķir rakstisku un mutisku pilnvaru, lai sasniegtu vairākus mērķus, tādēļ, angļu valodā izšķir šādus terminus, lai apzīmētu dažāda veida pilnvaras: inter vivos pilnvara, testamentārā pilnvara (vai pēdējās gribas pilnvara), ģimenes pilnvara, aizsardzības pilnvara, labdarības pilnvara u.c. Līdz ar to šie jēdzieni nav atrodamā Gruzijas tiesību aktos.
- Ar testamentu un pilnvarām saistīto terminu salīdzinošā analīze parādīja līdzības un atšķirības Gruzijas un Lielbritānijas tiesību aktu terminoloģijā. Šo atšķirību pastāvēšanu var izskaidrot ar to, ka Lielbritānija un Amerikas Savienotās Valstis ir attīstītas kapitālistiskas valstis, bet Gruzija ir ceļā no sociālisma uz kapitālismu. Tas nozīmē, ka Gruzijas Civillikums ir balstīts uz bijušās PSRS tiesību sistēmu, kurā nepastāvēja tādi kapitālistiski institūti kā, piemēram, pilnvara. Mūsdienās krasās pārmaiņas Gruzijas politiskajā un ekonomiskajā sistēmā rada jaunus institūtus. Notiekošās pārmaiņas ietekmē arī Gruzijas tieslietu terminoloģiju. Pieaug „tukšumu” – nenosauktu jēdzienu sistēmas elementu skaits un palielinās nepieciešamība ieviest jaunas leksikas vienības.

Visbeidzot ir vērts pieminēt, ka mūsdienu pasaulē notiek globalizācijas process, kas integrē dažādu valstu tiesību sistēmas. Valstu likumdošanas ietekmē cita citu, un šis savstarpējās ietekmes process veicina terminoloģijas pilnveidi.