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## PECULIARITIES OF THE CIVIL-LAW STATUS OF THE SUBSOIL USE RIGHT UNDER THE LEGISLATION OF THE REPUBLIC OF ARMENIA

### ԸՆԴԵՐՔՕԳՏԱԳՈՐԾՄԱՆ ԻՐԱՎՈՒՆՔԻ ՔԱՂԱՔԱՑԻԱԻՐԱՎԱԿԱՆ ԿԱՐԳԱՎԻՃԱԿԻ ԱՌԱՆՁՆԱՀԱՏԿՈՒԹՅՈՒՆՆԵՐԸ ՀՀ ՕՐԵՆՍԴՐՈՒԹՅԱՄԲ

### ОСОБЕННОСТИ ГРАЖДАНСКО-ПРАВОВОГО СТАТУСА ПРАВА НЕДРОПОЛЬЗОВАНИЯ ПО ЗАКОНОДАТЕЛЬСТВУ РЕСПУБЛИКИ АРМЕНИЯ

#### Introduction

Compared with objects that exist in ordinary civil-law relations, the **objects of civil rights in the sphere of subsoil use** display a number of distinctive features (e.g., **constraints on the dispositive method** of regulating their legal regime; **restrictions on the civil circulation** of most such objects, etc.).

In this regard, the study and analysis of a particular object of civil rights in subsoil use—namely, the **right to subsoil use**—is of special interest.

An examination of the current legislation permits the conclusion that the **grounds for transferring the right to subsoil use are severely limited**, alongside other legislative gaps in

the regulation of this institution. Such a narrowing of the transfer regime **impedes the right's becoming an active object of economic circulation**<sup>1</sup>.

Despite these issues in the civil-law regime of the right to subsoil use, its legal framework **has not been comprehensively examined** in the domestic literature.

Within this study, our aim is to conduct a **comprehensive analysis of the specific features of the civil-law regime** of the right to subsoil use under Armenian legislation.

## Research

The right to subsoil use is one of the key objects of civil rights in the field of subsoil use, since only through the granting of such a right does the state exercise its exclusive ownership powers over subsoil plots (Article 11 of the RA Subsoil Code (hereinafter, “the Code”)<sup>2</sup>).

Granting the right of subsoil use by the state to legal entities implies a temporary transfer of the state's powers of possession and use over the relevant subsoil plot to the subsoil user, for the purposes defined by the Code (geological exploration, extraction of mineral resources) and under rules unilaterally established and supervised by the state. At the same time, Article 11(2) of the Code establishes the principle of inalienability of subsoil plots, thereby excluding the state's authority to dispose of such plots in any manner other than through subsoil use.

By granting legal entities the right to subsoil use over subsoil plots that are the exclusive property of the state, the state simultaneously establishes **exhaustive, mandatory rules—under state supervision—governing the possession, disposal, and use of that right by the subsoil user**. It follows that the subsoil user's right of subsoil use over a given plot is **derivative of the state's exclusive ownership of the subsoil**<sup>3</sup>.

Under RA legislation, the **civil circulation of the right to subsoil use** is permitted solely in two instances: 1) the transfer of the right through legal succession (Articles 22–23 of the Code), and 2) the mortgage of the right (Articles 28–29 of the Code). At the same time, Article 20(2) of the Code establishes the **principle of indivisibility of the right to subsoil use**, providing that such a right may belong to only one legal entity. Accordingly, under Armenian law, the right to subsoil use constitutes an **object of limited civil circulation**.

In the event of a transfer of the right to subsoil use, as well as in cases of compulsory alienation of a mortgaged right to subsoil use, the right is conveyed to a new subsoil user. In other words, there is a change in one of the parties to the subsoil use legal relationship.

It should be noted that, whether subject to state supervision or not and in accordance with the legislation of the respective country, the **transfer of the right to subsoil use to a third party (“the transferability of title”)** or the possibility of **mortgaging such a right (“the mortgageability of title”)** is encouraged in international guidelines<sup>4</sup> and provided for under the legislation of many

<sup>1</sup> See: *AUA Center for Responsible Mining*. “Preliminary Study: For the Republic of Armenia's 2018 Extractive Industries Transparency Initiative (EITI) Report.” 15 March 2018, p. 18.

<sup>2</sup> The Code on the Subsoil of the Republic of Armenia: Adopted on 28 November 2011. Entered into force on 1 January 2012. Official Gazette of the Republic of Armenia, 2011.12.21/69(872) Art. 1661.

<sup>3</sup> See: *Tretyakova E.* “Legal Status of a Subsoil User as a Special Participant in Entrepreneurial Activity.” *Energy Policy* no. 3 (181), 2023: 76–88. [https://doi.org/10.46920/2409-5516\\_2023\\_3181\\_76](https://doi.org/10.46920/2409-5516_2023_3181_76), p. 79. <https://cyberleninka.ru/article/n/pravovoy-status-polzovatelya-nedr-kak-osobopo-uchastnika-predprinimatelskoy-deyatelnosti> (Accessed: 05.02.2025).

<sup>4</sup> See: *Centre for Sustainability in Mining and Industry (CSMI), The School of Mining Engineering*, University of the Witwatersrand, Good Practice Note. Granting Mineral Rights, p. 5. <https://edge.edx.org/asset> (Accessed: 04.08.2025).

foreign jurisdictions<sup>5</sup>. The principal differences among these jurisdictions lie in the **scope and specific features of the norms permitting the civil circulation of subsoil use rights**<sup>6</sup>.

Under Armenian law, the **transfer of the right to subsoil use requires the existence of a complex set of legal facts**. Articles 22–23 of the Code make it clear that, in addition to meeting other requirements for the transfer of this right, such a transfer to third parties may occur **only with the consent of the Authorized Body and exclusively through legal succession**—that is, in cases of reorganization of the legal entity holding the subsoil use right (merger, consolidation, division, separation, or reformation).

However, the Code does not address a key procedural issue: whether, in the course of transferring the right to subsoil use, the permit and contract of the previous subsoil user are to be re-executed with the new user, or whether a new contract on identical terms must be concluded and a new permit issued. In this respect, the legislative framework governing the procedure for transferring the right to subsoil use **requires further clarification**.

The Code likewise does not specify the **legal consequences** that arise if a subsoil user violates the requirements applicable to the transfer of the right to subsoil use—for example, by concluding a transfer transaction without the consent of the Authorized Body or in any other manner that contravenes the procedure established in Articles 22–23 of the Code. If one attempts to answer this question by reference to the **Civil Code of the Republic of Armenia**<sup>7</sup>, it would follow that any transaction aimed at transferring the right to subsoil use without the required consent of the Authorized Body is **invalid (in this case, a disputable transaction)** under Article 305 of the Civil Code as a transaction that does not comply with the requirements of the law, given that Armenian legislation does not provide for such transactions to be treated as **null and void**. Notably, in the previous version of Article 22 of the Subsoil Code it was explicitly stipulated that **all transactions or actions directed toward the transfer of the right to subsoil use were null and void**<sup>8</sup>:

As regards the “**other consequences of violation**” contemplated by Article 305 of the Civil Code of the Republic of Armenia, it should again be noted that **no direct consequences are prescribed** for the transfer of the right to subsoil use without the consent of the Authorized Body.

However, it is reasonable to conclude that in such a case the Authorized Body is legally empowered—**pursuant to points 1 and 2 of Article 30(2) of the Subsoil Code (failure to fulfill obligations or conditions established by the Code and by the right to subsoil use)**—to issue a **written warning to the subsoil user**, and, if the violation is not remedied, to **terminate the right to subsoil use in accordance with the procedure established by the Code**.

It is noteworthy that, in the case of **mortgaging the right to subsoil use**, the legislator has adopted a clearly differentiated approach. The Subsoil Code expressly provides for the **nullity of a mortgage agreement** concluded or amended without the consent of the Authorized Body (Article 28(2.1)), as well as for the nullity of a mortgage agreement containing terms that contradict the requirements of Article 29 (Article 29(6)). Furthermore, **violation of the conditions of a mortgage of the right to subsoil use entails termination of that right** pursuant to Article 30(5) (6) of the Code.

<sup>5</sup> See: *Ibid*, p. 64, 91, 204.

<sup>6</sup> See: *Tretyakova E.*, the cited work, p. 82-85.

<sup>7</sup> Civil Code of the Republic of Armenia: Adopted on 5 May 1998. Entered into force on 1 January 1999. Official Gazette of the Republic of Armenia 1998.08.10/17(50).

<sup>8</sup> See: Article 22 of the Code has been set out in a new version (see Law HO-143-N of May 25, 2022).

The **nullity of transactions transferring the right to subsoil use without the consent of the Authorized Body or in breach of statutory conditions** is likewise envisaged under the legislation of Kazakhstan<sup>9</sup>. In addition, in some jurisdictions, **violation of the procedure for transferring the right to subsoil use constitutes grounds for termination of that right** (e.g., Russia<sup>10</sup> and Kyrgyzstan<sup>11</sup>) or for its **suspension** (e.g., Tajikistan<sup>12</sup>).

*In summary, we consider that the **differentiated legal consequences** prescribed by the Subsoil Code for violations of the rules governing the transfer and the mortgage of the right to subsoil use are **unjustified and lack any legal basis**, since in both cases the subsoil user is exercising the **power of disposition** over that right.*

*Accordingly, we propose that **Article 22 of the RA Subsoil Code be amended** to provide that any transaction for the transfer of the right to subsoil use concluded in violation of the conditions set by the Code (including without the consent of the Authorized Body) **shall be null and void**.*

*In addition, we recommend that **Article 30 of the Code be supplemented** to stipulate that the conclusion of transactions for the transfer of the right to subsoil use in breach of the prescribed procedure constitutes a **ground for the Authorized Body to issue a warning to the subsoil user**.*

The next issue concerning the transfer of the right to subsoil use relates to the **alienation of the property complex necessary for exercising that right**—a matter left entirely outside the regulatory scope of the Code. As a result, even where the procedure established by the Code is observed, the transfer of the right to a new subsoil user may be regarded as the **disposal of a non-marketable asset**, since without the alienation of the objects connected with it, the right cannot serve its intended purpose for the acquirer. The exercise of the right to subsoil use can attain **high liquidity only if** the law provides for the possibility of alienating the right **together with its related objects as a single property complex**<sup>13</sup>.

In this regard, a noteworthy approach found in the theoretical literature holds that, within the sphere of subsoil use, **the enterprise (i.e., the subsoil user's property complex)** constitutes a distinct object of civil rights<sup>14</sup>. It should be noted that the **Civil Code of the Republic of Armenia does not recognize the enterprise as a separate object of civil rights**. Nevertheless, the importance of selling a business as a **single property complex** is emphasized in the **Concept Paper on Bankruptcy Law Reform**<sup>15</sup>.

In various jurisdictions, the definition of an **enterprise** as a distinct object of civil rights ultimately aims to recognize **the entire property complex used for entrepreneurial activity**—including all types of assets (buildings, structures, equipment, tools, rights to land parcels, etc.)—

<sup>9</sup> See: Code of the Republic of Kazakhstan of December 27, 2017, No. 125-VI ZRK “About Subsoil and Subsurface Use” (as amended on 21.05.2024), Article 44 (4) 1. <https://online.zakon.kz/Document/> (Accessed: 06.03.2025).

<sup>10</sup> See: Law of the Russian Federation “On Subsoil” of 21 February 1992 No. 2395-1 (as amended on 7 June 2025), Article 20. <https://www.consultant.ru/> (Accessed: 05.08.2025).

<sup>11</sup> <https://gratanet.com/publications/gils-mining-kyrgyzstan?region=mongolia> (Accessed: 04.08.2025).

<sup>12</sup> See: *EITI Tajikistan*. Report on the Transparency of the Licensing Process in the Extractive Industries of the Republic of Tajikistan. Extractive Industries Transparency Initiative (EITI), 2021, p. 33. <https://pbo.eiti.tj/.pdf> (Accessed: 02.08.2025).

<sup>13</sup> See: *Markosyan, T.; Markosyan, M.* “Problems of Termination and Alienation of the Right to Subsoil Use in the Context of Bankruptcy Institute”. *Judicial Power* 3-4 (261-262), 2021, p. 123.

<sup>14</sup> See: *Levochko, V. V.* An Enterprise As An Object Of Civil Rights In Subsoil Use: Challenges And Perspectives. *Actual Problems of Russian Law* 7 (92), July 2018, DOI: 10.17803/1994-1471.2018.92.7.108-116, pp. 108–116.

<sup>15</sup> See: Concept Paper on Bankruptcy Law Reform, point 429, <https://www.e-draft.am/projects/6701> (Accessed: 01.08.2025).

as a **single object of civil rights** (e.g., Russia<sup>16</sup>, Kazakhstan<sup>17</sup>).

The legal construct of the **enterprise** enables the consolidation of heterogeneous property rights for the purpose of ensuring their efficient civil circulation, thereby, to some extent, addressing the problem of the subsoil plot and the assets inextricably connected with it being subjected to **divergent legal destinies**<sup>18</sup>.

As noted, the RA Subsoil Code is not framed on the logic of recognizing the objects connected with the right to subsoil use as a **single property complex** at the legislative level, nor of allowing their circulation as a **single object of civil rights**. Armenian legislation regulates only the **state's oversight** of the classic transactions of **transfer** and **mortgage** of the right to subsoil use (but not of the objects associated with that right). In this regard, it is noteworthy that **Article 17.1 of the Russian Federation's Law "On Subsoil"** establishes an **imperative requirement** that, upon the transfer of the right to subsoil use, the property necessary to carry out the activities specified in the subsoil use permit must also be transferred.

In our view, the RA Subsoil Code should likewise **define the scope of the objects connected with the right to subsoil use** ("the property complex") and establish **legal norms regulating their transfer together with the right to subsoil use**—in the cases provided by the Code and with the consent of the Authorized Body—as a **single object of civil rights**. Otherwise, **transferring the right to subsoil use without the related assets** may, in practice, render that right a **non-marketable property right**.

*Proceeding from the foregoing, we propose that: 1) the RA Subsoil Code defines the scope of objects necessary for the exercise of the right to subsoil use (e.g., buildings, structures, equipment, etc.); and 2) the Code establishes legal norms governing the disposition of these objects together with the right to subsoil use as a single property complex—whether by transfer or by mortgage—subject to the consent of the Authorized Body.*

The next legislative gap concerning the transfer of the right to subsoil use—also identified by the Extractive Industries Transparency Initiative (EITI) Armenia—relates to the **alienation of shares and participatory interests in companies holding subsoil use rights**. The state currently lacks **any legal mechanism** to monitor or control such transactions<sup>19</sup>.

In the absence of state oversight over such transactions, a **de facto transfer of the right to subsoil use** can occur, for example, through changes in a legal entity's participants or shareholders<sup>20</sup>, thereby **circumventing the rules on transferring subsoil use rights** set forth in Articles 22–23 of the RA Subsoil Code.

In this context, it is noteworthy that the Law of the Republic of Kazakhstan "On Subsoil and Subsoil Use"<sup>21</sup> provides, in Chapter 5, that **any participation interest in a subsoil user company**

<sup>16</sup> See: Civil Code of the Russian Federation (Part One), Federal Law No. 51-FZ of 30 November 1994 (as amended on 8 August 2024, with changes of 31 October 2024), Article 132. Available at: Consultant Plus (in Russian), <https://www.consultant.ru> (Accessed: 03.08.2025).

<sup>17</sup> See: Civil Code of the Republic of Kazakhstan (General Part), No. 268-XIII, adopted on December 27, 1994, Article 119, <http://jafbase.fr/docAsie/Kazakhstan/code%20civil.pdf> (Accessed: 02.08.2025).

<sup>18</sup> See: *Levochko*, cited work, p. 108.

<sup>19</sup> See: Extractive Industries Transparency Initiative (EITI) Armenia Report (2016–2017). 2018. Ernst & Young CJSC, p. 98. [https://eiti.org/sites/default/files/attachments/armenian\\_2016-2017](https://eiti.org/sites/default/files/attachments/armenian_2016-2017) (Accessed: 10.02.2025).

<sup>20</sup> See: *Ibid.*

<sup>21</sup> See: Code of the Republic of Kazakhstan of December 27, 2017, No. 125-VI ZRK "About Subsoil and Subsurface Use" (as amended on 21.05.2024).

(shares or equity interests) is treated as an **object connected with the right to subsoil use**, and that **the transfer of such interests requires the consent of the Authorized Body**. Moreover, Article 109 of the same law stipulates that the **alienation of the right to subsoil use and of the objects connected therewith** shall be carried out **through public auctions**, participation in which is limited to those legal entities that have obtained **prior consent from the Authorized Body** to take part.

*In sum, we consider that the Code should **require the Authorized Body's prior consent** for transactions involving the transfer of **shares or participatory interests** in a legal entity holding subsoil use rights **where such a transaction results in the concentration of a majority of voting rights in a single person**.*

Finally, the Code permits the transfer of the right to subsoil use **exclusively by way of legal succession**, i.e., through the **reorganization of the legal-entity subsoil user**.

A survey of foreign practice indicates that the **grounds for transferring the right to subsoil use** may include the **bankruptcy (insolvency) of the subsoil-user legal entity** or **intra-group transfers from a parent company to a subsidiary** (e.g., the Russian Federation<sup>22</sup>). The right to subsoil use may also be made the object of a **usufruct or a servitude** (e.g., Chile<sup>23</sup>). Moreover, in some jurisdictions the legislation **does not set out an exhaustive list** of the cases or types of transactions by which this right may be transferred (e.g., Kazakhstan<sup>24</sup>).

In our view, by limiting the possibility of transferring the right to subsoil use **solely on the ground of reorganization of the subsoil-user legal entity**, the legislator has failed to account for other situations that create a **practical necessity** for concluding transactions to transfer this right. We substantiate this point with the example of the **legal trajectory of the subsoil use right held by a subsoil user declared bankrupt**.

Thus, the Code adopts an approach under which a subsoil user in insolvency proceedings is, in almost all cases, **not released from its subsoil-use obligations** (Article 9(6) of the Code). Consequently, **non-performance of those obligations during the insolvency proceedings results in the termination of the right to subsoil use**<sup>25</sup>.

At the same time, Armenian law-application practice has evolved in a diametrically opposite direction regarding the feasibility of performance by a subsoil user declared bankrupt. In particular, in Administrative Case No. VD/10905/05/19, by a decision of 09.06.2023<sup>26</sup>, the Court of Cassation offered an interpretation that **contradicts** the regulation set out in Article 9(6) of the Code with respect to non-performance by a subsoil user in insolvency proceedings. Specifically, the Court treated the very fact of the subsoil user's being declared bankrupt as a circumstance that **renders performance of the subsoil user's obligations impossible** and **precludes the subsoil user's liability**—namely, the **termination of the right to subsoil use**.

In our view, both the Code's approach and that of the Court of Cassation to the performance of obligations by a subsoil user declared bankrupt are problematic. On the one hand, during insolvency

<sup>22</sup> See: Law of the Russian Federation “On Subsoil” of 21 February 1992 No. 2395-1 (as amended on 7 June 2025), Article 17.1 (8).

<sup>23</sup> See: *Tretyakova E.*, the cited work, p. 84.

<sup>24</sup> See: Civil Code of the Republic of Kazakhstan (General Part), No. 268-XIII, adopted on December 27, 1994, Article 40.

<sup>25</sup> See: the Decision of the Administrative Court of the Republic of Armenia of 3 October 2023 in Administrative Case No. VD/1756/05/21.

<sup>26</sup> See: the Decision of the Administrative Court of the Republic of Armenia of 9 June 2023 in Administrative Case No. VD/10905/05/19.

proceedings the moratorium means the subsoil user cannot perform its obligations without a court order; on the other hand, the user must continuously fulfill obligations aimed at ensuring public safety and environmental protection (Article 5 of the Code), whose non-performance would impair the public interest.

We consider that, to secure the continuous performance of these obligations in the situation described, an effective solution would be to amend the RA Subsoil Code to allow the transfer of the right to subsoil use of a subsoil user declared bankrupt by a final court judgment.

*In conclusion, we propose amending **Article 22 of the Subsoil Code** to provide that the right to subsoil use may be **transferred to another legal-entity subsoil user upon the entry into legal force of a judgment declaring the current subsoil user bankrupt**, while preserving the statutory requirement to obtain the **consent of the Authorized Body**. This would make it possible to **ensure the continuous performance** of subsoil-use obligations by the new subsoil user, including those **safeguarding the public interest**.*

Turning to the **mortgage of the right to subsoil use**, note that under Article 256(1), paragraph 2 of the Civil Code of the Republic of Armenia, the legal relations concerning the mortgage of this right are governed by the **RA Subsoil Code**. Articles 28–29 of the Code set out in detail the procedure for mortgaging the right to subsoil use. These provisions make clear that the right to subsoil use may be the object of a mortgage **within the framework of a purpose-specific (earmarked) loan agreement**, provided that the funds disbursed under such an agreement are used to fulfill obligations arising from the right to subsoil use.

In addition, Article 29 prescribes that the **realization (enforcement) of a mortgaged right to subsoil use** shall occur **exclusively through public auctions**, which in turn implies that, where this right is mortgaged, the **extrajudicial foreclosure procedure** provided for in Article 249 of the Civil Code **is inapplicable**<sup>27</sup>:

## Conclusion

Summarizing the research devoted to the civil-law status of subsoil use rights under the legislation of the Republic of Armenia, we have drawn a number of conclusions, the most significant of which can be formulated as follows:

1. Transactions for the transfer of subsoil use rights that are concluded in violation of the requirements set forth in Articles 22–23 of the RA Subsoil Code are **invalid (disputable) transactions** under Article 305 of the Civil Code of the Republic of Armenia, since the current legislative framework does not provide for the nullity of such transactions as a legal consequence of non-compliance with the RA Subsoil Code.

Given that points 1-2 of part 2 of Article 30 of the Subsoil Code set out, in general terms, that a subsoil user’s failure to comply with obligations established by the Code or with the conditions of the subsoil use right constitutes grounds for issuing a warning, it is proposed that, where transactions for the transfer of a subsoil use right are concluded in contravention of the requirements of the Subsoil Code, the issuance of a written warning to the subsoil user by the authorized body under Article 30 of the Code be treated as *“other consequences of violation”* within the meaning of Article 305 of the Civil Code.

<sup>27</sup> See: AUA Center for Responsible Mining. “Preliminary Study: For the Republic of Armenia’s 2018 Extractive Industries Transparency Initiative (EITI) Report.” 15 March 2018, p. 18.

2. Considering that the RA Subsoil Code provides for the nullity of a mortgage agreement concluded in violation of the statutory requirements for mortgaging a subsoil use right (Article 28(2.1), Article 29(6)) and stipulates termination of the subsoil use right as a legal consequence of breaching the conditions of such a mortgage (Article 30(5)(6)), we believe it is not justified for the Code to prescribe **different legal consequences** for violations of the rules governing the transfer and the mortgage of a subsoil use right, since in both cases the subsoil user is exercising the same power of disposition over that right.

Based on the above, it is proposed to amend Article 22 of the RA Subsoil Code to provide that any transaction for the transfer of subsoil use rights concluded in violation of the conditions set forth in Articles 22–23 of the Code (including without the consent of the competent authority) shall be **null and void**. In addition, it is proposed to expressly include in Article 30 of the Code that the conclusion of such transfer transactions in breach of the statutory procedure constitutes grounds for the competent authority to issue a formal warning to the subsoil user.

3. It is proposed to (1) define in the RA Subsoil Code the scope of objects related to the exercise of subsoil use rights (such as buildings, structures, equipment, and similar assets), and (2) establish legal provisions governing their disposal—whether by transfer or mortgage—together with the subsoil use right as a single property complex, subject to the consent of the competent authority.

4. It is proposed to include in the RA Subsoil Code legal provisions requiring the prior consent of the competent authority for transactions involving the transfer of shares or participatory interests of a legal entity holding subsoil use rights, in cases where such a transaction results in the concentration of a majority of votes of that legal entity’s participants or shareholders in the hands of a single person.

5. To ensure the continued fulfillment of the obligations of an insolvent subsoil user, it is necessary to amend Article 22 of the Subsoil Code to provide that, upon the court decision declaring the subsoil user insolvent entering into legal force, the subsoil use right may be transferred to another legal entity, while preserving the statutory requirement to obtain the consent of the competent authority.

**Annotation.** In this article, the specific features of the civil-law status of the subsoil-use right, as an object of civil rights, are examined.

In light of domestic and foreign legislative frameworks, the institution governing the transfer of the subsoil-use right is subjected to a comprehensive study and analysis, and the gaps and problem areas in the national regulation of that institution are identified.

As a result of the conducted analysis, the author, *among other things*, proposes to clarify at the legislative level the civil-law consequences of violating the requirements applicable to transactions involving the transfer of subsoil-use rights; to introduce provisions in the legislation governing the alienation of the subsoil-use right as a single property complex; and to establish, within the Subsoil Code of the Republic of Armenia, mechanisms for the state-supervised disposal (alienation) of shares and participatory interests of subsoil users in cases prescribed by law.

**Ամփոփագիր:** Սույն հոդվածում քննարկման առարկա են դարձել ընդերքօգտագործման իրավունքի՝ որպես քաղաքացիական իրավունքների օբյեկտի քաղաքացիաիրավական կարգավիճակի առանձնահատկությունները:

Հոդվածում ներպետական և արտասահմանյան օրենսդրական կարգավորումների լույսի ներքո համալիր ուսումնասիրվել և վերլուծվել է ընդերքօգտագործման իրավունքի փոխանցման ինստիտուտը, վեր

են հանվել ներպետական օրենսդրությամբ ընդերքօգտագործման իրավունքի փոխանցման ինստիտուտը կարգավորող օրենսդրության բացերը և հիմնախնդիրները:

Կատարված վերլուծության արդյունքում հեղինակը, ի թիվս այլնի, առաջարկել է օրենսդրական մակարդակով հստակեցնել ընդերքօգտագործման իրավունքի փոխանցման գործարքներին ներկայացվող պահանջները խախտելու քաղաքացիաիրավական հետևանքները, օրենսդրությամբ սահմանել ընդերքօգտագործման իրավունքը որպես մեկ գույքային համալիր օտարելու վերաբերյալ դրույթներ, ինչպես նաև ՀՀ ընդերքի մասին օրենսգրքում նախատեսվել օրենքով նախատեսված դեպքերում ընդերքօգտագործողի բաժնետոմսերի, բաժնեմասերի՝ պետության վերահսկողությամբ օտարման կառուցակարգեր:

**Аннотация.** В статье рассматриваются особенности гражданско-правового статуса права недропользования как объекта гражданских прав. На основе анализа национального и зарубежного законодательства комплексно исследуется институт передачи права недропользования, выявляются пробелы и проблемные аспекты правового регулирования данного института в Республике Армения.

По результатам проведённого исследования автор, в частности, предлагает на законодательном уровне уточнить гражданско-правовые последствия нарушения требований, предъявляемых к сделкам по передаче права недропользования; закрепить положения об отчуждении права недропользования как единого имущественного комплекса; а также предусмотреть в Кодексе о недрах Республики Армения механизмы отчуждения акций и долей недропользователя под государственным контролем в случаях, установленных законом.

**Keywords:** *object of civil rights in the field of subsoil use, subsoil use right, transfer of subsoil use right, mortgage of subsoil use right, bankruptcy, enterprise.*

**Բանալի բառեր** – ընդերքօգտագործման ոլորտում քաղաքացիական իրավունքների օբյեկտ, ընդերքօգտագործման իրավունք, ընդերքօգտագործման իրավունքի փոխանցում, ընդերքօգտագործման իրավունքի գրավ, սնանկություն, ձեռնարկություն:

**Ключевые слова:** *объект гражданских прав в сфере недропользования, право недропользования, передача права недропользования, залог права недропользования, банкротство, предприятие.*

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