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**DEVELOPMENT OF CIVIL LAW  
IN THE CONDITIONS OF SOCIAL MODERNIZATION OF RUSSIA  
IN THE SECOND HALF OF THE XIX - BEGINNING  
OF THE XX CENTURIES**

Speciality 5.1.1. – Theoretical and historical legal sciences

**ANNOTATION**

dissertation for a scientific degree  
candidate of legal sciences

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**The relevance of the dissertation research.** Social transformations of a systemic nature are always accompanied by deep social transformations that are reflected in the entire sphere of legal relations. For the majority of people who find themselves in a situation where over several decades there have been drastic changes in their usual living conditions, the legal protection of their immediate material interests, provided by civil law, is of paramount importance. Therefore, the flexible response of the state authorities to changes in social relations affecting issues of property, inheritance, obligations and contracts is of particular importance. The most important tool for such a response in the hands of the state is civil legislation, in the transformation of which, in a situation of continuous socio-economic changes, finding the optimal balance between legal innovations and legal continuity plays a key role.

The practical solution of this complex problem occupied one of the central places in the legal policy of the Russian state in the second half of the XIX – early XX centuries, when under the influence of the reforms of Alexander II in Russian society, according to estimates that have become widespread in modern social science, processes of systemic modernization unfolded.

The state authorities carried out significant transformations in the legal system of the Russian Empire, which also affected civil law. But a feature of legislative transformations in this branch of law has become their internal inconsistency. Faced with a choice of possible ways of transformation - partial reform of the current legislation or its fundamental change - the authorities first preferred the first of them, and then tried to implement both options for transforming civil law at the same time.

The World War and the revolution of 1917 interrupted this process of transformation of civil law, as well as law in general, thus leaving open the question of the effectiveness of both implemented options.

Therefore, the study of the controversial historical experience of the transformation of civil law in Russia in the era of social modernization in the second half of the XIX – early XX centuries. is of current scientific interest not only for historical and legal science, but to a certain extent for modern theory of law and

legislative practice. This is explained by the fact that the identification in the course of such a study of the strengths and weaknesses of sectoral legislative changes that took place in the past will contribute to a deeper understanding of the patterns and features of such processes that inevitably develop in the context of a systemic transformation of social relations, regardless of the specific time and the specific country that finds itself in a similar situation.

**The purpose of the dissertation research** – identification of patterns and features of the transformation of civil legislation in the context of the systemic transformation of Russian society in 1861 – 1914.

**Research tasks:**

- to determine the general direction and characteristic features of the transformational social processes in Russia in 1861 – 1914 and their impact on civil law relations in society;

- to establish the social and legal prerequisites for the formation of two directions of government reform of civil legislation;

- to determine the features of the implementation of the course for the partial transformation of the current civil law;

- to carry out a historical-statistical and regulatory-legal comparative analysis of the Civil Codes of 1857, 1900 and 1914;

- to establish the general direction and features of the development of the draft Civil Code;

- to conduct a system-structural and regulatory-legal comparative analysis of the draft Civil Code of 1905 and the Code of Civil Laws of 1914.

**Methods and methodology used in the research** is based on the application of general scientific and particular scientific (especially inherent in legal science) methods. The general scientific methods were, first of all, the methods of consistency, objectivity, chronological and historical-legal, dialectical methods. Within the framework of special private scientific methods, one should single out the comparative legal (comparative) method, the structural-functional method, the method of historical and statistical analysis, and the legal-dogmatic method.



**The object of the dissertation research** civil law relations in Russian society in the second half of the XIX – early XX centuries.

**The subject of the study** – current and projected civil legislation of the Russian Empire in 1861 – 1914.

**The theoretical and practical significance of the research.** Identification on the example of Russian civil law 1861 – 1914 regularities and features of the transformation of civil legislation in the conditions of systemic social transformations of society contributes to the development of modern theoretical ideas of legal science about the originality of transitional processes in legislation in the conditions of systemic social transformations of society. A promising area of comparative legal research that contributes to such development can be the study of the patterns and features of the reform of civil legislation in 1861 – 1914 and the current stage of development of civil legislation in the Russian Federation.

The dissertation materials can be used in the training courses of legal specialties on the history of law and the state, the theory of law, in special courses on civil law topics.

**The scientific novelty of the dissertation research.**

It has been established that the objective reasons for the transition of state power to the transformation of civil legislation were the processes of social transformation of society, expressed in intra-estate differentiation and the formation of new social groups that demanded the development of market economic relations, the corresponding transformation of civil law relations and its legislative registration.

It is proved that the use by the Russian authorities of two different ways of transforming civil legislation was a natural result of the combined impact of two factors: the uneven dynamics of the social transformation of Russian society, which had an objective character, and the contradictory subjective reaction of various factions of the government bureaucracy to the changes that took place in everyday civil law relations in Russian society.

Identified as a result of a historical, statistical and legal comparative analysis of the Codes of Civil Laws of 1857, 1900 and 1914 the main features of the partial transformation of civil legislation: ensuring legal continuity (preserving the content of the main part of the articles unchanged and the intra-industry structure practically unchanged) and fragmented updating of the legal framework (exclusions, cancellations and replacements of some articles, amendments to the content of other articles, inclusion of new additional articles).

As a result of a system-structural and regulatory-legal comparative analysis of the draft Civil Code of 1905 and the Code of Civil Laws of 1914, the main features of the systemic transformation of civil legislation were identified: simultaneous qualitative updating of the intra-branch structure (inclusion of a new part containing general provisions of civil law, systematization of sub-branch structures by redistributing institutions of law between and within sub-sectors and creating new institutions of law) and the legal framework (increasing the number of articles due to new norms of civil law, including borrowings from foreign laws).

The conclusion about the potential prospects for the Russian system of law of the systemic transformation of civil legislation in the form of the draft Civil Code of 1905 and the achievement of the highest level of development of legislative practice and civil thought in Russia within the chronological limits of 1861 – 1914 is substantiated. and in the context of the general incompleteness of the processes of social modernization of Russian society.

**The novelty of the dissertation is substantiated by the provisions submitted for defense.**

1. Decisive influence on the evolution of civil legislation in the Russian Empire in the period 1861 – 1914 provided the processes of social transformation of society within the framework of general modernization changes in the Russian socio-economic and political system. Intra-estate differentiation and the formation of new social class groups as the main content of social transformation had as their immediate consequence multidirectional changes in the material situation of a significant part of the Russian population and corresponding changes in their civil



law relations. All this created objective reasons for the transition of state power to an active policy of reforming civil legislation.

2. The unevenness and relative slowness of the social differentiation of society in the 1860 – 1870, the conservatism of the government bureaucracy and the traditional inertia-routine nature of the legislative process initially placed at the center of state policy in the field of civil law the course towards a partial transformation of the current legislation without changing its intra-branch structural organization within the framework of the Code of Civil Laws.

3. The acceleration of social changes by the beginning of the 1880-s, the negative impact on the activities of the reformed judiciary of gaps and shortcomings in the current civil legislation, the formation of a consolidated opinion of the professional legal community on the need for its fundamental change, the recognition by a part of the highest bureaucracy of the inhibitory influence of the current civil legislation on the economy and judicial practice created the necessary conditions for the supreme power to make a decision to develop a draft Civil Code as a way to implement a systemic transformation of Russian civil law.

4. During 1882 – 1914 as a result of the simultaneous parallel implementation of both options for the transformation of civil law, a natural formation took place within the framework of the government legislative apparatus of two systems of civil legislation: the current Code of Civil Laws (in the editions of 1900 and 1914) and the draft Civil Code of 1905, which was considered by the authorities as new legislation intended to completely replace the Code.

5. The historical-statistical and normative-legal comparative analysis of the Codes of Civil Laws of 1900 and 1857, 1914 and 1900, carried out in the dissertation made it possible to identify the main features and results of a partial transformation of civil legislation. These features were predetermined by the legislator's course to achieve a compromise between legal continuity and legal novelty and were expressed in: a) maintaining the intra-branch structure of civil law practically unchanged, b) numerical predominance in the Codes of 1900 and 1914 articles with legal content that has not changed compared to previous editions; c) a fragmented

update of the legal framework of institutions of law, achieved through the exclusion, cancellation and replacement of obsolete or no longer legally relevant articles; changes in the legal content of articles, inclusion of additional articles with new legal content. As a result, in the Code of Civil Laws of 1914, there was a partial adaptation of the institutions of law in all sub-sectors of family, property, inheritance and obligation law to the changed conditions for the functioning of civil law relations in society, but intra-branch and institutional disproportionality, gaps, causality and obsolescence of the legal framework were preserved and partly increased.

6. The system-structural and regulatory-legal comparative analysis of the draft Civil Code of 1905 and the Code of Civil Laws of 1914 carried out in the dissertation made it possible to identify the main features and results of the systemic transformation of civil legislation. The orientation of the Drafting Commission, which developed the draft, to fill in the gaps and shortcomings of the current civil legislation through its simultaneous structural and regulatory updating led to the following features of the draft Civil Code: a) increasing the level of systematization of sub-sectors and institutions by introducing general provisions of civil law and general provisions of family, patrimonial, inheritance, law of obligations and key institutions in their composition (marriage, property, possession, inheritance by law, obligation, etc.); b) synchronization in all sub-sectors of structural and regulatory legal transformations, including the redistribution between them and within them of individual institutions of law and the inclusion of new institutions of law; c) a significant expansion and updating of the regulatory framework of all intra-industry divisions, including through the creative reception of norms from foreign legislative sources. As a result, the draft Civil Code of 1905 was a new system of Russian civil legislation, which had a new structural organization and, on the whole, a legal framework consistent with it.

7. The study of two ways of transforming civil legislation carried out in the dissertation as the basis for transforming civil law relations in Russian society proves that the draft Civil Code of 1905 implemented a successful experience of systemic transformation of civil legislation. The project of 1905, which did not become law



due to objective external circumstances created by the world war and the revolution of 1917, in the chronological framework of 1861-1914 and taking into account the incompleteness by the time of its creation of the processes of social modernization of Russia, it deserves a scientific historical and legal assessment as the highest level of development of civil legislation, achieved by Russian pre-revolutionary legislative practice and civilistic thought.

**Approbation of the results of the dissertation research.** On the topic of the dissertation research, 7 scientific papers were published, including 5 publications in scientific journals reviewed by the Higher Attestation Commission under the Ministry of Education and Science of the Russian Federation.

The main theoretical and practical aspects of the study were discussed following the results of the dissertator's reports at the International Scientific and Practical Conference "State, Politics, Society: Challenges and Strategic Development Priorities. Change Management: A Mosaic of Scenarios in Conditions of Turbulence" (Yekaterinburg, 2019), All-Russian Scientific and Practical Conference "Law in the Modern World: Achieving Metasecurity as an Attribute of the State v. 2020" (Yekaterinburg, 2020), the All-Russian Scientific and Practical Conference "Law in the Modern World: Building a Legal Ecosystem in the Post-Pandemic World" (Yekaterinburg, 2022).

The topic of the dissertation research corresponds to the passport of the scientific specialty 5.1.1. – Theoretical and historical legal sciences.