THE ECONOMIC FUNCTION AND PURPOSE OF SOVIET PERSONAL PROPERTY AND ITS LEGAL IMPLEMENTATION

K. MALFLIET
Senior Assistant, Catholic University of Leuven, Faculty of Law
Center for International and Foreign Law

It is remarkable that in the eleventh five-year plan (1981-1985) the raising of the living standard of the Soviet people is seen as being even more important than a steady growth in economic development. Investment is planned to grow rather slowly during this period and priority has been given to the food program and the program for the development of consumer goods in order to provide the population with food and products of light industry.\(^1\)

According to the USSR Constitution of 1977 the highest and ultimate aim of socialist production is (still) the satisfaction of material and cultural needs and the full development of each citizen. To reach that aim, production needs to be raised. Production can grow by increasing investment and/or by raising labor productivity. In Soviet economic history both ways of raising production have been applied, but the emphasis has been changed several times.

The major targets of the eleventh five-year plan make it very clear that, during the present period, it is thought to be politically preferable to slow down the growth of investment in order to emphasize the production of consumer goods. Can an increase in labor productivity be an alternative? It is doubtful. The excessive use of unmechanized labor (because of the low level of technology and mechanization) seems to be a major factor in the structural labor deficit in the Soviet Union. Almost half of the workers in industry, more than half of the workers in construction, and more than 70% of the workers in agriculture carry out unmechanized physical labor.\(^2\) Nevertheless, when Andropov highlighted the mounting problems of the Soviet economy, he emphasized the declining growth of labor productivity, the wasteful use of resources, and the problems in feeding the population.\(^3\)

Although moral incentives are used to raise labor productivity, there is, first of all, a strong belief in material incentives. However, when wages and salaries are used as a material incentive, the citizen must be able to buy what he needs with that income. The problem of the Soviet economy is that the satisfaction of the material and cultural needs of its citizens and the raising of production and productivity cannot be realized simultaneously. And when material incentives are used in order to raise labor productivity, one can ask whether the above-mentioned priority (an increase in production and produc-
tivity first and as a result of this the satisfaction of the material and cultural needs of citizens) can be realistic. To increase labor productivity, the Soviet economy has to make sure that Soviet citizens can buy what they need with their wages and salaries.

That is why it could be argued that through this vicious circle (a *petitio principii*) the economic reasoning underlying the concept of personal property is being robbed of its logical consistency. This paper will try to answer only one of the many questions that can be asked concerning this *petitio principii*: How does the right to personal property make material incentives work in Soviet society? Or, in other words, is the economic function of personal property translated in an adequate way by personal property law?

The “Classical” Theory Concerning Personal Property (Economic Category) and its Legal Implementation

*Labor is the Source*

Until the 1970s, Soviet legal writings showed a marked degree of unanimity concerning the economic function of personal property — at least insofar as the principles were concerned, because they were not always worked out very clearly. Most writers (already at that time) found it difficult to reconcile the theory concerning the economic function of personal property and, above all, its legal ramifications, with reality.

The principles, about which they all agreed, were the following. The source of all property is labor. The ownership of goods means the appropriation of a part of social production created by labor. In the Soviet Union, social production is based on socialist ownership of the means of production. The worker is not the direct owner of these means of production, but as a member of society he cannot be stopped from using these means of production. The worker, as a creator of the social product, has a right to a part of this social product. The laws of distribution of the social product define the extent of the right of a citizen to a part of the social product.

In defining the principles of division of the social product, Soviet political economy was inspired by a passage in the “Critique of the Gotha Program”. In this work Marx argued that the totality of the social product must be reduced by a series of social funds: the depreciation fund, the investment fund, the reserve fund, and the insurance fund. The remaining part of the social product could be used for consumer needs. The consumer fund is divided into three parts: the difference between these three parts lies in the guiding principles for according each of these three parts to the citizen. The first part is aimed at the satisfaction of collective needs such as schools, health services, and rest homes. The second part of the fund is to sustain invalids, old people, and mothers with many children. The benefits from the two first parts of the consumer fund are accorded to the people not as workers but as members of society. The services, provided under these two sub-