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SOI: 1.1/TAS DOI: 10.15863/TAS

International Scientific Journal

Theoretical & Applied Science

p-ISSN: 2308-4944 (print) **e-ISSN:** 2409-0085 (online)

Year: 2019 **Issue:** 09 **Volume:** 77

Published: 30.09.2019 **http://T-Science.org**

QR – Issue QR – Article

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HISTORICAL ASPECTS OF THE INSTITUTE OF NOTARY IN THE SOVIET PERIOD

Abstract: *This article reveals the development of the notary institution and the legislation on notarial activities in the Soviet period.*

Key words: *notary institution, notary public, history, development, notarial certification of transactions, state notary public.*

Language: *English*

Citation: Syrgakova, Z. A. (2019). Historical aspects of the institute of notary in the soviet period. *ISJ Theoretical & Applied Science, 09 (77),* 377-380.

Soi: http://s-o-i.org/1.1/TAS-09-77-68 ***Doi***: https://dx.doi.org/10.15863/TAS.2019.09.77.68

Scopus ASCC: *2308.*

Introduction

By the end of the XIX century there were four groups of bodies and officials in Russia who had the right to perform notarial acts: public (city) notaries; stock brokers and notaries, ship brokers; highly specialized brokers: shipping affairs, state commercial bank, private, servants and workers, guilds, craft administrations, Kronstadt Society of Free Sailors; magistrates, town halls, councils, customs officials, bailiffs, commercial verbal courts.

Candidates for the position of notaries were selected from among officials on the basis of a competition. After being appointed, they took the oath. It was forbidden to appoint illiterate people as notaries.

Formed by the first decade of the XX century, the notary institution, which was a fairly developed system of providing qualified legal assistance, was fundamentally changed as a result of the October Revolution of 1917 [1,22].

Immediately after its establishment, the Soviet government by Decree No. 1 as of November 24, 1917 abolished the old bourgeois-landowner state authorities, including the courts, institutes of judicial investigators, prosecutorial supervision, sworn and private advocates.

After the Revolution of 1917, Decree No. 1 on the court as of November 24, 1917 weakened the role of the notary, having practically abolished it. However, in the acts of the new government aimed at scrapping the old bureaucratic apparatus, the notary was first mentioned on March 23, 1918, when the CPC of Moscow and the Moscow province adopted a resolution that repealed the "current Regulation on the notarial part" and introduced a new Regulation on the municipalization of notaries. The notary received its further development in 1919 in a decree on court No. 2, in which it was emphasized that notarial acts are performed by notaries, and if they are absent, by persons replacing them. In 1919, the notary departments were replaced by notary desks. It was also proposed, as necessary, to establish notary desks - in the cities under the judicial and investigative divisions of the provincial departments of justice, and in counties - at local people's courts. Thus, the question of the need for a notary in the Soviet Republic was resolved nevertheless in favor of the existence of a notary public.

The notary's competence during this period included a narrow range of actions: certifying various circumstances, attesting to fidelity of copies of

documents, authenticity of signatures and a number of other actions of a similar nature.

After the Revolution of 1917, Decree No. 1 on the court as of November 24, 1917 weakened the role of the notary, having practically abolished it. However, in the acts of the new government aimed at scrapping the old bureaucratic apparatus, the notary was first mentioned on March 23, 1918, when the SNK of Moscow and the Moscow province adopted a resolution that repealed the "current Regulation on the notarial part" and introduced a new Regulation on the municipalization of notaries. The notary received its further development in 1919 in a decree on court No. 2, in which it was emphasized that notarial acts are performed by notaries, and if they are absent, by persons replacing them. In 1919, the notary departments were replaced by notary tables. It was also proposed, as necessary, to establish notary desks - in the cities under the judicial and investigative divisions of the provincial departments of justice, and in counties - at local people's courts. Thus, the question of the need for a notary public in the Soviet Republic was resolved nevertheless in favor of the existence of a notary public.

The notary's competence during this period included a narrow range of actions: certifying various circumstances, attesting to fidelity of copies of documents, authenticity of signatures and a number of other actions of a similar nature[3].

In particular, the decree of the Council of People's Commissars of the RSFSR as of 08.08.1921 "On the provision of the property of owners of demunicipalized buildings with the character of onerous alienation" provided for transactions on the alienation of buildings at their location in the provincial departments of justice or in county justice bureaus under pain of their invalidity. The Regulation of 30.09.1921 "On State Contracts and Deliveries" established the mandatory registration of contract or supply agreements made by state bodies with private individuals in provincial departments of justice or in county bureau of justice. The Presidium of the Moscow City Council on December 14, 1921 issued a decree "On the registration of acts and documents for all kinds of transactions", which stipulated that in case of a non-registration of a transaction between government bodies and private individuals, guilty officials are liable and private individuals are fined.

Thus, the notary should have become one of the state bodies whose duties included monitoring the legality of civil circulation, the legitimacy of the activities of private capitalist elements, and the observance of state interests.

On October 4, 1922, the last "pre-union" normative legal act on notaries was adopted - the Regulation on State Notaries, which completed the creation of a notary system after 1917 as independent state institutions [4].

The Regulation on the State Notary Office of the RSFSR provided for the establishment of state notary offices in all cities of the Russian Federation, as well as in the most significant rural areas. In areas where notaries were not established, the exercise of notarial functions, with the exception of the commission of acts and the certification of treaties, was entrusted to lay judges.

Notary offices were headed by notaries appointed by the presidiums of provincial Soviets of people's judges from among persons enjoying electoral rights and having passed special tests under the program approved by the People's Commissariat of Justice.

The labor of notaries was paid by the state. It also exercised control: supervision of the activities of the notaries and general methodological guidance were assigned to the People's Commissariat of the RSFSR. The operational management and control over the activities of notaries was carried out by the Presidiums of the provincial Soviets of people's judges [5].

The People's Commissariat approved a network of notary offices. Presidiums of provincial councils of people's judges were required to periodically check the activities of notaries, accept and verify reports and summaries. In addition, they examined complaints about notarial acts or refusal to perform them.

So, the notary moves to the exclusive 15 competence of the state, leaves private practice in order to return again after several decades. However, with the formation of the USSR on notary, there was a Resolution of the Central Executive Committee of the USSR and the Council of People's Commissars of the USSR "on the basic principles of organizing notaries", adopted on May 14, 1926. This decision was enacted by the Decree of the CEC of the USSR and CPC USSR on the enactment of the Decree of the CEC and CPC USSR "On the basic principles of the organization of notary public", i.e. August 26, 1926, at the same time the legislative act was supplemented. The CEC and the Council of People's Commissars of the USSR, by their resolution, set out Article 18 of the Decree of the CEC of the USSR as of October 29, 1924 "On the Basics of the Judicial System of the Union of Soviet Socialist Republics and Union Republics" as follows: "For notarization of transactions and other notarial acts, other notary offices are established, which are administered and their respective courts and operating under their direct control and supervision [6, 251]. According to the Decree of 1926, "the maintenance of state notarial bodies, including the remuneration of notaries and other employees of these bodies, shall be carried out at the expense of fees for notarial acts. Fees for notarial acts are special funds of the People's Commissariats of Justice of the subject republics for the maintenance of state notarial bodies of these republics. The policy and leadership of the state notary public was developed and maintained by the Ministry

of Justice of the USSR and, accordingly, the Ministry of Justice of the Kyrgyz SSR. Citizens of the USSR who had a higher legal education, in some cases did not have a higher legal education, but provided that they had worked for at least three years as a lawyer, were appointed notaries. Notaries were not entitled to engage in any other activities, except for scientific and teaching. Elective positions could no longer be occupied. State notaries - non-profit institutions were maintained at the expense of the republican budget according to the estimates of the Ministry of Justice of the Kyrgyz SSR. Notarial acts could be performed by both state notaries and executive committees of the Soviets of Workers' Deputies. In 1936, the Kyrgyz SSR was formed, since it was a union state, legislative acts did not have an independent character and only reproduced the provisions of union laws, and this went on for almost forty years. Economic and political processes, systematization and codification of legislation necessitated the development and adoption of a new all-Union act on state notaries. The sixth session of the Supreme Soviet of the USSR of the VIII convocation on July 19, 1973 adopted the Law of the USSR "On State Notaries". The law contained three groups of norms: peremptory, which without change were included in republican laws; imposing an obligation on the Union republics to resolve certain issues when issuing a republican law; granting the right to the Union republics, depending on their discretion, to resolve certain issues not resolved in the Law of the USSR [7].

A positive point, in the opinion of Lesnitskaya, was that the Law not only regulated the activities of notaries, but also determined the competence of other bodies performing notarial acts, as well as individual officials certifying wills and powers of attorney, which were equated with notarized documents [8, 5-6].

Republican laws developed the provisions of the Union Law, detailing the procedure for each notarial act. In the RSFSR, the Law "On State Notaries" was adopted on August 2, 1974.

In 1974, the legislation of the Kyrgyz SSR on notaries was substantially updated. On the basis of the Law of the USSR Union "On State Notaries" dated July 19, 1973, the Law of the Kyrgyz SSR was adopted on June 25, 1974: Notarial acts could be performed by both state notaries and executive committees of the Soviets of Workers' Deputies. In connection with the transition to market economic relations, the diversity of forms of ownership, the development of entrepreneurship, and access to economic spaces, the need arose to reform notaries. The Law of the Kyrgyz SSR of 1974 [9] was in force until May 30, 1998, with the adoption of the current Law of the Kyrgyz Republic "On Notaries" No. 70 [10]. Notarial acts today are performed by notaries or authorized officials. The choice to which notary (public, private, public or authorized official) to apply the citizen makes himself, except when the question relates to the range of issues that only the public notary is dealing with.

At present, state notaries perform 21 notarial acts, they often make various civil transactions, implied as actions of citizens and legal entities directed to establish, amend or terminate civil rights and obligations[11].

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