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## WORLD EXPERIENCE IN THE NOTARY SECTOR AND MODERNIZATION OF THE NOTARY SECTOR IN UZBEKISTAN

**Abstract:** The article describes the notarial system in Uzbekistan. At the same time, world experience in this area is carefully analyzed. The importance of notary reform in the world is examined and its advantages for the Republic of Uzbekistan are compared. Conclusions are drawn on the role and importance of international experience in reforming the notarial sector.

**Key words:** Judicial system, notary office, citizen, strategy of action, law, international experience, international Latin notary union, lawyer.

**Language:** English

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### Introduction

In the process of reforming the judicial and legal system in the country, a number of amendments and additions were made to the Law "On Notary", which is in force in our country in order to prepare the public notary's reputation and personnel in accordance with international standards. In particular, the Notary Act of December 26, 1996 repudiated the old law of 1974 that a person with a secondary education could be appointed as a notary. Article 2 of the Law "On Notary in the Republic of Uzbekistan" provides that the notary in the Republic of Uzbekistan should have a notarial degree with not less than one year's internship at a notary public notary office and private practice. Upon submission, a citizen of the Republic of Uzbekistan with a license for notary activity is appointed"[1].

The Law "On Notary", adopted in our country on December 26, 1996, was once again reformed in order to train industry personnel in accordance with international standards.

On May 25, 2018 the President of the Republic of Uzbekistan Sh.Mirziyoev made a decision "On measures for further improvement of the notary system as a conflict prevention institution". The Strategy of actions on the five priority directions of development of the Republic of Uzbekistan for

2017-2021 noted that the Law "On Notary", adopted on December 26, 1996, does not meet the requirements of today, and it is necessary to improve the law.

In particular, according to the Law on Notary, adopted in our country on December 26, 1996, "Notary in the Republic of Uzbekistan, who has a higher legal education, passed the qualifying examination at the notary public office or private notary. a citizen of the Republic of Uzbekistan, who has a license for the right to engage in activity"[2].

The term of one-year internship specified in Article 2 of the Law of the Republic of Uzbekistan "On Notary" was changed to two years. In addition, the current legislation does not specify the age at which a person should be appointed as a notary. Based on the proposals made on the reform of the judicial system, it is envisaged in the law that a notary may be appointed at the age of 25 for the purpose of providing the industry with qualified and qualified staff.

A separate article about the notaries' swearing-in before carrying out their activities is included in the current Law "On Notary". increased its sense of responsibility for its legal consequences.

It should be noted that in non-CIS countries, the practice of taking oaths by notaries is also legal. In particular, Article 6 of the Ukrainian Notary Law[3]

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and Article 14 of the Russian Federation's "Notary Basics" are dedicated to the notary's oath[4].

In accordance with the Law of the Republic of Uzbekistan "On Notaries" notaries take the oath at a meeting of the Higher Qualification Commission under the Ministry of Justice of the Republic of Uzbekistan, which is reflected in Article 31 of the Law.

It should be noted here that in some Commonwealth countries, the internship term for a notary is set for a long period of time, for example, a 3-year term in Yakutia[5]. In Yakut, no case can serve as a basis for reducing the time limit, nor does it take into account the number of years of experience in the legal profession. Also in more than 60 countries that joined the International Latin Notary Alliance today (except Australia) China joined China in 2003, and the procedures for appointment and dismissal of notaries are different. In Germany, for example, notaries are simultaneously lawyers, and they perform both functions simultaneously[6]. We can see this unity in the case of America and Switzerland. The International Latin Notary Union was established in 1948, envisaging the appointment of full-time cadres for the notary's position.

For a notary position in Germany, a German citizen with a separate academic training, successfully graduated from the university (university), two or two and a half years internship in the court, prosecutor's office, and lawyer, and three years as a notary assistant Only individuals who meet all the necessary requirements may be employed by a notary[7]. To be appointed a notary, he must be between 30 and 35 years of age[8]. Notaries also take an oath before the court before commencing their work. This can be seen in the experiences of France and Spain[9].

In Austria, a candidate for a notary position is an Austrian citizen with a higher legal education and a notary degree, and must have 7 years of professional experience[9]. In Belgium, a person who has a law degree is required to have a law degree, to study at the university for 5 years, and another 5 years to become a notary, get a notary's diploma, and then serve a notary for 3 years[11]. Appoints a king for a notary's position.

To be a notary in the Netherlands, to be a notary, then three years of additional internship and additional notary courses within the same period, after which the person has served as a notary 15 years after graduation is possible. The Queen gives her the right to carry out notary activity[12].

To be a notary in Greece, a person is a lawyer with a higher education and has worked in a lawyer's office for a year and a half. After that, the person who nominated the notary will participate in the contest. The winner of the competition at the Ministry of Justice may be nominated as a notary[13].

In Spain, a person with a higher education is required to take a separate exam in all fields of law in

order to engage in notary activity[14]. The notary's diploma will be handed over to the winner of the competition personally by the King of Spain. The position of notary public in France is transferred to the heirs, and this is the case in Italy and Greece[15].

In our country, the notary occupies a special place in the system of administrative bodies in protecting the rights and lawful interests of individuals and legal entities.

In the Republic of Uzbekistan, the notary is recognized as a legal institution called to ensure the protection of the rights and legitimate interests of individuals and legal entities by notaries, notary actions and legal and technical actions directly related to them[16].

As a result of legal reforms during the years of independence, private notaries were established. As it turned out, from 1997 to 2008, 237 notaries were engaged in private practice in our country[17].

The notaries shall communicate directly with the citizens themselves during the performance of the notary, and determine the purpose of notarization. The notary actions to be carried out by a notary shall be carried out only if it is not contrary to the law, that is, without conflict and without prejudice to the interests of other persons. In this way, the notary offices will protect the legitimate interests of individuals and legal entities, and will prevent any potential conflicts of interest. Based on the activities of the notary bodies, the notary's mission is to ensure that the rights and legal interests of individuals and legal entities are protected by notary actions envisaged by law and other legal norms. The notary office is an office for interested persons, and according to the law the requirements and wishes of physical and legal persons applying for notary actions are established by law. The notary shall be explained to the persons entering into civil relations and their consequences. Under the current laws, notaries are assigned an important task, which requires a high level of professionalism, diligence and tact.

It is noteworthy that private notaries have been established in the Republic of Kazakhstan as well. The notary Chamber of the Republic of Kazakhstan participated in the 2001 international seminar of the Latin Notary Union in Athens. As of June 30, 2003, there were 143 public notaries and 1007 private notaries operating in the Republic of Kazakhstan. In 2007, the number of private notaries in Kazakhstan was 1341[18].

The Russian Federation "Bases of Notary" was adopted in 1993, according to which the notary offices are created on the basis of the Latin notary public and private practice. Accordingly, each notary act is carried out on behalf of the state, guaranteed by law and covered by the notary's actions, which are notarized by law.

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As of 2002, nine out of ten notaries in Russia are private notaries, accounting for 90% of all notaries operating in Russia[19].

On June 1, 1993, Latvia passed the Notary Law. According to this law, no public notary offices are available in Latvia and are engaged in private practice. In Latvia, notaries function only on a Latin notary basis[20].

Lithuania's Law On Notary was adopted on September 15, 1992. Under this law, no state notary offices were established. Notary offices were established in the country, engaged in private practice exclusively on the basis of Latin notary[21].

According to the Moldovan Law on Notaries, two types of state notary offices and private notary offices are preserved. At the same time, it should be noted that notaries engaged in private practice may join the notary's chamber, established by the Law on Public Associations[22].

In order to study the history of the adoption and development of the Law "On Notary" in our country, we have conducted a comparative analysis of the activities of private notaries operating in the CIS and foreign countries. It follows that the notary's chambers are legally authorized internationally. In particular, the Chamber of Notaries was established in Paris on March 16, 1803, and on March 16, 2003, the notary Chamber in Paris celebrated its 200th anniversary. The activities of the notary association are well-established in Germany[23] and France[24]. The notary chambers are legal entities based on the system of self-government. The role of the notary chambers in society is great and we think that the chamber has a role in the selection of lawyers who are experienced in the notary's position and who have professional skills. World experience in this day also confirms our opinion.

The notary chamber, established in France on March 16, 1803, is a public organization with the development of the system of self-government of notaries:

The Supreme Notary Council of France;  
Regional Notaries Council;

Established the Notary Chamber Department.

All of the above structures are made up of a notary association in France. Of these structures, the notarial chamber is the leader. The powers of this chamber include the prevention of potential conflicts, the consideration of complaints about the notary's actions, the organization of free consultations to assist applicants, and the publication of their journals to cover the activities of the notaries[25]. According to the Notary Code in Greece, notaries can join the notary public. The notary chambers are created to improve and strengthen the activities of notary offices, oversee the selection of mental personnel for a notary, collectively handle individual complaints about the notary, cooperate with other notary chambers around the world, and provide social protection for retired

notaries. to develop a specific program for the implementation of the program[26].

The system of self-government in Poland is developed tariuslar Chamber of active work. In addition to notary chambers in Poland, the National Council of Notaries based on the system of self-government was established. The National Council of Notaries includes the Notary Chambers, with more than a dozen notary chambers in Poland. Complaints against the notary, disciplinary proceedings of notary chambers are considered and settled by the courts of first instance, which is known as the court of first instance[27]. The Supreme Disciplinary Court is also established under the notary's chamber, which is referred to as the courts of the second instance[28].

In Estonia, the notaries are united into a notary chamber, and the notary chamber also has the right to develop guidelines and recommendations for notary actions[29].

Article 41 of the Notary Act of Spain, adopted on May 28, 1962, states that all notary offices operating in that state must be incorporated into a notary association, and that all notaries are members of the chamber. The law is reflected in the fact that the House is headed by the Khunta (Council of the Chamber) and has its own charter and leadership. The clerk is authorized to bring the notaries to disciplinary action, which is a fine, and the Ministry of Justice may impose a criminal case on such a notary after the fine[30].

Changes have been made to the Law on Notary, which has been introduced in the country since independence. Accordingly, we see a rise in demand for notary applicants. That is, by law, a notary can be a citizen of the Republic of Uzbekistan not younger than twenty-five years with higher legal education and at least three years of work experience in a legal profession, including at least one year internship in a notary office. The law envisages that persons who have worked as a judge for at least five years or who have worked for at least three years in a notary's office or at least three years in a notary's role in overseeing and overseeing that activity are required by law. The following shall also not be notaries: a person who is recognized as disabled or incapable; a person whose conviction for an intentional crime has not been expunged or has not been expunged; The law establishes that persons whose powers as a notary, lawyer, investigator, inquiry officer, prosecutor, judge or other law enforcement officer are not a notary for committing acts incompatible with their professional activities[31].

During the years of independence, radical changes have been made in notary activity. The activity of private notaries was ceased on May 15, 2010[32].

In conclusion, in order to stabilize the economy during the transition to market relations thanks to independence, to improve the legal regulation of

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social and economic relations, a number of laws were adopted, which led to the expansion of notary activity during the years of independence.

Historical documents show that the latest amendments and additions to the Notary Law and the

Law, adopted by the Oliy Majlis on December 26, 1996 and entered into force on March 1, 1997, have been the normative document regulating all aspects of notary activity during the years of independence.

## References:

- (1997). Law of the Republic of Uzbekistan "On Notaries". *Bulletin of the Oliy Majlis of the Republic of Uzbekistan*.
- (2017). *Scientific-methodical booklet on the study of the State Program on implementation of the "Strategy of Action" on the five priority directions of development of the Republic of Uzbekistan in the "Year of Dialogue with the people and human interests" in 2017-2021*. (p.180-183). Tashkent.
- (1993). *Ukraine Notary Law*. Kiev, September 2, No. 3425-X11.
- (1993). Osnovy zakonodatel'stva Rossiyskoy Federatsii o notariate. Prinyaty Verkhovnym Sovetom Rossiyskoy Federatsii 11 fevralya 1993g. *VVS, №10, st.357*.
- (1993). Yakutskoe Vedomosti, №11, pp.1-9.
- Khille, B., & Ayzenraykh, D. (1993). *Perekhod ot gosudarstvennoy formy notarial'nykh kontor GFR k forme svobodnykh notarial'nykh kontor*. Sovremennye notariat. Struktury i zadachi.g. (p.351). Kel'n.
- (1999). Notarial'nyy Vestnik. Moskva Izd. Yurist. *Yuridicheskaya praktika, №5*, p.6.
- (1998). Ditrikh Kleppi, notarius Reynskoy notarial'noy palaty "Notariat v Germanii". *Zh. Notarial'nyy Vestnik. – Moskava. Izd. Yurist, №10*, p.47.
- Selyanin, A. V. (2005). *Notariat*. (p.32). Moscow.
- (1999). Notarial'nyy vestnik. Moscow: Izdatel'stvo-Yurist, №5, pp.43-44.
- (1999). Notarial'nyy vestnik. Zh. Moscow: №5, p.45.
- (1999). Notarial'nyy vestnik. Zh. Moscow: №5, p.47.
- (1999). Notarial'nyy vestnik. Zh. Moscow: №5, p.43.
- (1999). Notarial'nyy vestnik. Zh. Moscow: №5, p.43.
- (1999). Notarial'nyy vestnik. Zh. Moscow: №5, p.50.
- (1997). Ўzbekiston Respublikasi Oliy Mazhlisining Akhborotnomasi, yil №2, 42-modda.
- (n.d.). Ўzbekiston Respublikasi Adliya vazirligi statistik b'limidan olingan ma'lumotnoma asosida ezildi.
- (2007). Novosti Notariata Respubliki Kazakhstan Zh. Perepechatka s sayta Respublikanskoy notarial'noy palaty Kazakhstana, (pp.34-35). <http://notariat.kz>
- (2000). Notariat v Rossiyskoy Federatsii 2002. Sayt rossiyskogokogo notariata www.notary. Sm. takzhe "Notarial'nyy vestnik", pp.2-5.
- (2000). Notarial'nyy vestnik, Notariat Litvy. 2002 g. Sayt litviyskogo notariata www.notary.lv Sm. takzhe "Notarial'nyy vestnik", p.52.
- (2005). Notarial'nyy vestnik, Notariat Litvy. 2002 g. Sayt litviyskogo notariata www.notary.lv Sm. takzhe "Notarial'nyy vestnik", p.52.
- (2002). Notariat Moldavii 2002g. Sayt Moldavii "Real'nyy golos" www.notary. Sm. takzhe "Notarial'nyy vestnik", p.66.
- (1993). "Notarial'naya palata" Gans-Yorg Assenmakher. Sovremennye notariat. Struktury i zadachi .g Kel'n, pp.191-199.
- (1998). Organizatsiya i samoupravlenie notariusov. *Zh. Notarial'niy vestnik*. Moscow: №11, pp.3-13.
- (n.d.). O strukture notariata Frantsii Piepu Zh-F. *Zh. Ukaz.soch.* p.20.
- (2007). Notariat Gretsii. *Zh. Notarial'nyy vestnik, Moscow, № 5*, p.17.
- (2007). Notariat Pol'shii. *Zh. Notarial'nyy vestnik, Moscow, № 4*, p.22.
- (2007). Notariat Pol'shii. *Zh. Notarial'nyy vestnik, Moscow, № 2*, p.22.
- (2005). Notariat Estonii. *Zh. Notarial'nyy vestnik, Moscow, № 6*, p.7.
- (2005). Notariat Ispanii sm. *Zh. "Notarial'nyy vestnik", № 4*, pp.4-5.
- (2018). Article 2 in edition of the Law of the Republic of Uzbekistan. October 11, 2018. No. TRU-497 - National Database of legislation, from 03/10/2018, 03/18/497 / 2044
- (2010). Ukaz Prezidenta Respubliki Uzbekistan ot 05.05.2010g. NUP – 4216 «O merakh po dal'neyshemu sovershenstvovaniyu instituta notariata v Respublike Uzbekistan.