

Issues Of Improving The Notary System

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Abstract: As a result of reforms aimed at improving the notary system in the Republic of Uzbekistan, the process of providing notarial services to citizens is being simplified. This article analyzes issues related to reforming the notary system in our country, including the digitalization of the system based on ensuring the rule of law, guarantees of notary independence, personnel training and the provision of notarial services that comply with international standards. Drawing on the experience of foreign countries and the scientific opinions of scholars, specific proposals have been developed to address certain shortcomings in practice and legislation.

Keywords: Notary, digitalization, private practice notary, personnel training, independence, international standards, legislation, digital notary.

Introduction: Today, the notary system is a legal activity aimed at documenting, protecting, and ensuring legal certainty of the rights and legitimate interests of citizens and legal entities, wherein notarial acts are performed by state and private notaries in accordance with legislation. The notary system encompasses a wide range of legal services, including legal confirmation of property, personal, and family rights, validation of transactions, formalization of inheritance, certification of powers of attorney, authentication of copies, and is considered an important institution that ensures the reliability of civil transactions. R.Qodirov emphasizes that "Notary is a legal activity carried out by the state or authorized persons on a legal basis, through which legal relations between individuals are reliably confirmed, and documents acquire legal force"[1].

Furthermore, the term "Notary" is derived from the Latin word "notarius" which means "scribe" or "letter writer". The history of the notary system in the Republic of Uzbekistan dates back to ancient times. In periods when cases were handled based on Sharia law and customary norms, there were no specialized individuals performing notarial acts. However, disputes or complaints were addressed by appealing to judge (Islamic judges), who resolved these matters with their participation. Judge also essentially performed notarial acts[2].

The notary system is an important institution in ensuring the rights and freedoms of citizens and in the implementation of regulatory legal acts. In particular, paragraph 68 of the New Uzbekistan Development Strategy program, designed for 2022-2026, defines "systematization and unification of all legislative documents related to the notarial institute into a single law, further digitalization of Notarial activities and introduction of modern information technologies, and establishment of the provision of public services by notarial bodies in a simplified manner". In addition, paragraph 77 of the "Uzbekistan – 2030" strategy provides for the transfer of 300 public services to the private sector, in particular, the expansion of the activities of notaries, which are guided by the practice of a private notary. At the same time, there are such pressing issues as digitization of notarial actions, training of personnel, ensuring the independence of Notarial bodies and the formation of domestic policies that comply with international standards.

It is well known that one of the main functions of notaries is to formalize and provide legal protection for important documents of citizens and legal entities, such as contracts, guardianship, and inheritance. The notary system is considered a specialized legal institution that guarantees the legality and authenticity of documents in civil legal relations, as well as legally safeguarding the free will of the parties[3].

Today, notarial activities are viewed not only as a means of formalizing legal transactions but also as an essential tool for protecting the legal interests of citizens and legal entities[4]. The notary system in the Republic of Uzbekistan has been developing rapidly since independence; however, certain shortcomings and organizational issues in the existing legislation reduce the system's effectiveness. While notaries performed 4,428,081 notarial acts in 2021, this figure increased to 5,393,775 in 2022[5]. In 2024, over 74,000 notarial acts were conducted remotely. Currently, there are approximately 1,200 notaries, of whom 900 also carry out notarial activities remotely. This corresponds to a ratio of 1 notary per 31,600 citizens.

After independence, the notary system was formed and developed on a legal basis. The activities of the notary are regulated by the Law of the Republic of Uzbekistan "On Notary" as well as Presidential decrees and government resolutions. This law defines the legal basis of notarial activity, regulates the powers of notaries, the procedure for certifying documents, and other issues. According to it, the main functions of the notary are indicated, including the certification of contracts, the formalization of guardianship, and matters of inheritance.

The notary system is an important element of the state legal order, and its activity ensures legal stability and trust in society. This system also serves to prevent conflicts arising between citizens. The Law of the Republic of Uzbekistan "On Notary" defines the legal basis of notarial activity and Article 1 of this Law states that the main goal of the notary system is "to protect the legal interests of citizens and legal entities and to guarantee the legality of documents"[6].

In this regard, S.Ismoilov noted that the notary system is a legal protection mechanism aimed at legally reinforcing the rights of individuals and safeguarding their legitimate interests[7].

According to T. Sultanova, one of the distinctive features of notary offices, which sets them apart from other administrative bodies, is the resolution of non-contentious matters. Notaries, while performing notarial acts, directly meet and communicate with citizens to determine the purpose of their visit to the notary office.

The activities of notary offices and notaries are carried out under the supervision of the Ministry of Justice of the Republic of Uzbekistan in the manner prescribed by law. Notaries operate independently but are held accountable within the framework of the law.

The implementation of electronic services in the notary system in recent years has contributed to increasing its efficiency. The launch of the E-notarius.uz website and

the establishment of electronic notary services have accelerated the document processing and become one of the important steps in combating corruption. Notably, in the first quarter of 2025 over two million notarial acts were performed with 1,291,105 notarial actions carried out in Tashkent city alone during a one-year period[8].

Despite the significant development of Uzbekistan's notary system in recent years, there are still some shortcomings and issues within the system. Effectively addressing these problems is necessary for further improvement of the system and enhancement of the quality of services provided to citizens.

In this regard, although the legislation in the field of notary is generally strong, some norms are interpreted ambiguously in practice. For example, due to the fact that some articles of the Law "On Notary" are insufficient for a clear indication of the powers and responsibilities of notaries, disputes arise about the quality and legality of notarial acts[9]. As a result of the development of digital technologies, the introduction of electronic services in the field of notary services is becoming widespread on a global scale. However, the insufficient development of the regulatory framework of the electronic notary services system in the Republic of Uzbekistan, the further development of automation of processes in this area and ensuring the security of electronic document management is one of the pressing issues of today.

It is established that a service will be provided that allows obtaining a copy of the documents available in the departmental notary archive, certified by an electronic signature, by sending an electronic application through the Single Portal of Interactive Public Services of the Republic of Uzbekistan. However, security and personal data protection standards for electronic notary services are not clearly defined. For example, Article 32 of the Law of the Republic of Uzbekistan "On Notary" stipulates that notaries and other officials performing notarial acts are obliged to establish the identity of persons applying for the performance of notarial acts, and the identity of the person applying for the performance of a notarial act must be established on the basis of a passport or identification ID-card, or other documents that exclude any doubts about their identity[10].

In the author's opinion, for the provision of electronic notarial services, it is necessary to establish specific obligations or requirements for security and personal data protection standards.

It is proposed to introduce a new norm into the Law of the Republic of Uzbekistan "On Notary" in the following wording: Obligations to protect personal data when

performing electronic notarial acts:

State bodies and notaries involved in the comprehensive automation of the processes of collecting and processing information about notarial activities and performing notarial acts are obliged to implement the necessary technical and organizational measures to ensure the confidentiality, integrity, and availability of personal data.

In the event of cases of unlawful modification, loss, or dissemination of personal data, such cases are immediately reported to the relevant state bodies.

Responsibility for actions resulting from the violation of these obligations is determined by the current legislation of the Republic of Uzbekistan.

Legal status of notaries in the Republic of Uzbekistan, restrictions and powers in their activities In accordance with Article 81 of the Law "On Notary" the legal status of a notary as a private practice entity is determined. Although it is not a legal entity, it exercises the following rights on its own behalf:

- opening a notary office;
- opening bank and other accounts;
- hiring and dismissal of employees;
- taking on civil-legal obligations;
- participation in court proceedings;
- ownership of property.

Upon liquidation of a notary office, the remaining property is transferred to the notary without taxation. This norm protects a private notary from the excessive tax burden in the subsequent stage of his business activity. The notary independently appoints and dismisses employees of his office in consultation with the justice authorities, which ensures their legal and legal autonomy within the organization. In practice, notaries engaged in private practice will have more personal initiative and the opportunity to provide innovative services than the state notary. They offer notarial services in accordance with market requirements and independently determine pricing policy. A notary engaged in private practice is required to have compulsory civil liability insurance, which protects consumer rights.

Comparative analysis with foreign experience shows that in France, notaries engaged in private practice provide professional legal services, exercise state powers, and have the status of a legal entity.

According to current legislation, private notaries can only perform notarial acts clearly specified by law. They independently, on a paid basis, provide a limited range of services, such as legal consulting, mediation, or preparation of draft legal documents. In the author's

opinion, it is necessary to expand the scope of services provided by private notaries, for example, to grant them the right to provide legal advice in all areas of law, prepare drafts of legal documents, and provide intermediary services. Therefore, the introduction of the above-mentioned amendments to Article 81 of the Law allows notaries to:

- ② improvement of the quality of legal services;
- ② reduction of the number of appeals to the court;
- ② increasing legal literacy;
- ② bringing the notary institution closer to the population.

Notarial activity is an integral part of the civil law system in many countries. The notary system, formed on the basis of the historical, social, and legal traditions of each state, has its own peculiarities and creates broad opportunities for effective study and improvement for Uzbekistan.

For the development and modernization of the notary system, it is important to take into account the norms of international law and international standards. Today, the international regulatory framework of notarial activity is based on international legal documents developed by the UN, the International Federation of Notaries (Fédération Internationale du Notariat - F.I.N.), the European Union and other organizations.

In particular, although the UN has not developed special documents covering notarial activities, the organization encourages the protection of human rights and the fairness and comprehensiveness of its services[11].

An international organization related to the international regulation of the notary institution is the International Union of Notaries, established on October 2, 1948, and currently has 92 member states. The main goal of the organization is to promote and apply the basic principles of the notarial system of civil law and the principles of notarial deontology, to cooperate in the study of law in the field of notarial activity and to harmonize national legislation at the international level[12]. In the coming years, the organization is working on the adoption of the "International Notary Code". Although Uzbekistan is not a member of this organization, efforts are being made to cooperate with this organization.

Also, in foreign experience, the German notary system is organized on the basis of the system of continental law, and notaries act as representatives of the state. Their main task is the full, accurate, and reliable legal formalization of contracts, property rights, inheritance,

and other legal agreements. German notaries operate independently and transparently, they are strictly controlled by state bodies. Notaries are required to have high legal knowledge and undergo special training. Among the main powers of notaries are the registration of property rights, the conclusion of contracts, the conduct of guardianship cases, and the resolution of out-of-court disputes. Their activities are based on a high level of professionalism and ethical standards[13]. According to G. von Schlieffen, "Notary is a trust-based legal institution with state participation or through independent lawyers, which ensures legal security and legal stability"[14].

The notary system in France is also part of the civil law system and is historically one of the earliest developed notary institutions among European countries. Here too, notaries are representatives of the state and operate transparently and legally. Their competence includes the provision of legal advice, the execution of documents, inheritance, guardianship as well as the approval of contracts and other powers[15]. According to Michel Grimaldi, "Notary is an institutional guarantee that protects the rights and obligations of participants in civil transactions by formalizing their voluntary transactions within the framework of the law"[16].

It should be noted that among the CN countries in order to become a notary in Russia a citizen must have a higher legal education undergo at least one year of practical training in a notary office, and pass a qualification exam. In Great Britain, to become a notary one must first qualify as a lawyer or barrister and then obtain a two-year diploma in notarial practice. Also, only a lawyer with ten years of legal experience in India or a member of the Indian legal service has the status of a notary. In more than 60 member states of the International Union of Notaries in Latin America, the procedures for appointing and dismissing notaries are different[17].

The experience of foreign countries shows that the notary system is aimed at ensuring independence, professionalism, state control, the introduction of electronic services, and the wide range of legal services. Approaches borrowed from the German and French systems can serve as a basis for the development of the notary system in Uzbekistan.

Main proposals for the development of the "Digital Notary" system in Uzbekistan:

1. Expansion of the types of remote notarial acts: Today only 10 types of notarial acts are performed remotely. However, many important documents, in particular, such actions as the purchase and sale of housing, are not carried out in digital form. This is due to the

incomplete integration of the cadastral database. Therefore, it is necessary to expand the types of remote notarial acts and ensure integration with cadastral, tax, and other relevant information systems.

2. Implementation of "Mobile Notary" and a single electronic platform: According to the experience of Azerbaijan, citizens can use the services of a notary through a mobile application, resolve all processes remotely through a single "E-notary" system. For Uzbekistan, it is proposed to introduce a single platform that will allow verifying identity and performing notarial acts using Face ID or biometric identification based on a mobile notary system.

3. Digital control of the activities of notaries and creation of a database: According to the German experience, information about each citizen who contacted a notary is entered into a centralized database, and notaries are obliged to consider any request. It is necessary to introduce a similar unified database in Uzbekistan and establish liability for a notary's unjustified refusal.

4. Development of a separate instruction on notarial acts with a foreign element: Currently, there is no unified approach to incoming documents and requests. In accordance with the Minsk and Chisinau Conventions, the mechanisms for recognizing and performing notarial acts should be clearly regulated, and liability measures should be established for violating the deadlines for sending inquiries and responses abroad.

5. Determining the number of notaries based on market mechanisms and ensuring security: Instead of artificially limiting the number of notaries, it is necessary to introduce a self-regulatory system based on market demand, while developing mechanisms that serve to increase competition and service quality. At the same time, the introduction of cybersecurity standards operating on a single CIS platform, ensuring security and data exchange between notaries, is a requirement of the times.

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