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## **REFORM OF THE SYSTEM OF NOTARIES**

### **РЕФОРМА СИСТЕМИ НОТАРІУСІВ**

The article is devoted to the features of theoretical legal meaning and practical application of training notaries. Using the experience of foreign countries, the author proposes amendments to national legislation.

**Key words:** *notaries, notary, training, reforming.*

Стаття присвячена особливостям правового значення теоретичної та практичної підготовки нотаріусів. Використовуючи досвід зарубіжних країн, автор пропонує внести зміни в національне законодавство.

**Ключові слова:** *нотаріат, нотаріус, підготовка, реформування.*

Статья посвящена особенностям правового значения теоретической и практической подготовки нотариусов. Используя опыт зарубежных стран, автор предлагает внести изменения в национальное законодательство.

**Ключевые слова:** *нотариат, нотариус, подготовка, реформирование.*

Everyone's right to get legal assistance is a fundamental and guaranteed by the Constitution of Ukraine law, which provided both through the public authorities, and through the institutions where the state legislation empowers the appropriate authority. Today, as an important legal institution Notary adopted as an institution whose main objective in statutory limits on notarial acts is to ensure the realization of this right [4].

Thus, the issue of improving the system of professional development in Ukraine is one of the main directions of reforming the state, which is carried out in accordance with international practices and in accordance with clearly defined standards, adapted to European [9].

The effectiveness of notaries as the system agencies and officials entrusted with the duty to certify the law and the facts of legal significance, perform other notarial acts, by law, to provide them with legal validity, largely depends on the recruitment, are not only professionally, but also ideologically prepared for professional and competent, creative work. Because insufficient level of professional knowledge, practical skills and knowledge of public and private notaries, notaries public archives and other officials authorized to perform notarial acts, as well as those that provide notarial activity (consultants, assistants), only partially compensated by teaching in schools of professional development [2, p. 301].

In spite of organizational and functional similarities Notary «Roman type» in foreign countries, and their construction activities are purely national affair, based on the legal culture seated in tradition. So, speaking of certain standards, we should talk about the default set of so-called «Positive practices» (*eng. – good practices*), commonly used in different countries in the organization of the educational process for this professional group of people [6, p. 1]. Today we can identify certain minimum standards:

1) *The duty of continuing professional training*. It consists in a periodic execution of legal duty professional development notaries and employees of notaries. This approach is common to the laws of most countries in Eastern and Western Europe.

We pay also attention that duty professional development fixed as one of the principles at the supranational level of the European Code of notarial ethics (p. 2.8.), Which clearly states that the notary is obliged to maintain in good condition and level of knowledge as in the legal and technical sense, and should control and contribute to the improvement of professional skills of the employees [3]. Thus the main differences concern the amount and frequency of participation in educational activities of notaries. Note that a number of countries have not only set a positive obligation for notaries to improve their skills, but provide responsibility measures for its failure [7].

In our opinion in Ukraine necessary the approval of a single application, as the actual courses that must take place under the guidance of the Ministry of Justice of Ukraine, with the active participation of Notary Chamber of Ukraine. It is well known that highly qualified specialists in professional notarial law in the required amount in one area is not enough to ensure the quality of courses. Even in

European countries such professionals is not enough. They shuttle between providing quality education of notaries certain range for application [10, p. 20]. So it can be arranged retraining in Ukraine. The Ministry of Justice of Ukraine approves the application range of questions and a list of lecturers that provide training for them. And this group of teachers may conduct re-approved schedule for notaries in various regions of our country.

2) *Participation collective notaries in organizing activities to enhance professional development.* This standard is the most common and widely recognized. European Code of notarial ethics requires the notary creating infrastructure for professional development, particularly in the sphere of of new technologies (p. 2.8) [3]. Practically oriented and additional education, training should be enough flexible and variable in time, however, it is hardly possible standardization at the national level. At the same time, the creation and support educational infrastructure requires financial and organizational relevant collective participation of notaries.

3) *Active development of specialized education centers.* For today, approximately equally used two models of professional development: 1) at the law schools with the release of specialized units (departments, faculties, institutes, etc.), 2) through the development of autonomous educational institutions in collective bodies of notaries. Each model has its advantages and disadvantages, but usually the choice in each state is based on utilitarian considerations: economic justification, the need for licensing or authorization for the activity, the availability qualified staff [6, p. 3].

For example, on a modern university model its supporters indicate that the construction of legal education for two sectional system «Bachelor-Master» creates conditions for even greater flexibility and specialization units that provide training masters [1]. Becoming increasingly popular common with other legal professions, scientific and practical activities. The most commonly held joint events with lawyers, judges and registrars. In addition, the European Union have become increasingly popular international educational training programs, such as the European Academy of Notaries (Valencia, Spain) and the European Centre for Research and Notarial programs [7]. The first is focused more on the development of notaries (the organization of the profession, professional control and discipline, rights and duties of a notary, etc.). Other subjects focused on cross-border and prepared the audience (international taxation in inheritance, theory and practice of the European enterprises, satisfying creditors through foreclosure of the mortgaged property) [6, p. 3].

4) *Keeping universal competence of notaries.* Unlike other legal professions for the notary specialization in most countries of Latin Notaries allowed only in small limits and is usually is informal (someone better make a pledge, and someone is inheritance provides flawless tax optimization, etc.). The required level of specialization notarial activities provided where possible, special training programs focused on employee notaries – assistants and specialists, which in large offices in the metropolitan areas may specialize in certain types of notarial acts (inheritance and family law, corporate law, estate, legal facts).

Substantial interest in foreign countries is the acquisition notaries of new, additional competencies, hence the special courses in psychology, technology negotiation, mediation, corporate and trust management, investment and so on. Everywhere in the European countries are directions related to mastery notary a new information technologies for quality of interaction with public authorities, including in the framework of e-government.

5) *Using the latest in educational technology of professional notaries development.* Among these technologies are the most common in our opinion is the online distance learning courses, e-learning, law case, business games, short-term training in other lawyers (in notary lawyer, judge, registrar and vice-versa). In any case, it should be noted that to keep the attention of today, and thus the interest of professional audience based on lectures alone, no matter how talented lecturer did not have, it seems to the majority of our foreign colleagues impossible task. In this sense, they are very pragmatic view them transferred knowledge and skills as a specific commodity for which form of presentation has as much, if not more important than the packaging for the product. The latter, of course, must be of impeccable quality.

6) *Training himself.* Personal and professional qualities necessary for quality performance of the notary, it is important to regularly maintain. You can not do without the constant «charge» of the mind. Notary important to remember that the most refined occupation of man is training the brain. No courses will not be able to compensate for lost time if there is no desire to read independently and enjoy reading, including fiction. So, if the notary does not read the whole Chekhov, he should know at least the notary artistic image of created by this writer's novel «Nothing to do» (like there are works of O. de Balzac «Notary» G. Simenon «Notary of Chateauneuf, «etc.).

**Conclusions.** Thus, we can see that skills development of Ukrainian Notaries still at the stage of development and reform, because it is constant and relentless process improvement. Skills development of Ukrainian Notaries develops and turns towards professionalism, stability and financial independence. Reform of the skills development of Ukrainian Notaries activity and as a result, notaries is not an purpose in itself. It is important that it should be done systematically. That is not about implementing a specific plan of sequential actions, but the integrated set of measures to reform the current system of professional development notaries.

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