



Republika e Kosovës
Republika Kosovo-Republic of Kosovo
Kuvendi - Skupština - Assembly

Law no. 03/L-10

ON NOTARY

The Assembly of Republic of Kosovo,

Pursuant to article 65 (1) of the Constitution of the Republic of Kosovo,

For the purpose of establishing the Notary System in Kosovo

Approves:

LAW ON NOTARY

CHAPTER I
BASIC PROVISIONS

Article 1
Purpose of the Law

This law regulates the organizing and functioning of the Notary as a public activity in Kosovo, the conditions and methods of work and other important issues for exercising the Notary's duty.

Article 2
The Notaries and the notary service

1. Notary service is judicial and public service that aims to protect legal interests of natural and legal persons in compliance with Constitution and laws of Republic of Kosovo.
2. Notary is a professional lawyer, public official, appointed by the Ministry of Justice to perform the activities defined by the law.

3. Notary exercises its function within the purview of this law, with due regard to the Notary Code of Ethics and Professional Conduct in conformity with the oath taken.

4. Notwithstanding the public nature of their office, the notary acts both impartially and independently

Article 3 **The notarized deeds**

1. The notary prepares and certifies all deeds described in this law and any subsequent law, upon the request of natural and legal persons, or public authorities.

2. Notarized deeds are prepared in connection, *inter alia*, with the following operations, which the parties wish or are required to endow with the authenticity attaching to acts of public authority:

2.1. processing of statements and records on legal matters or transactions made by the Notary or in his or her presence;

2.2. certification and confirmation of facts by the Notary, including certification that copies are true copies of the original document;

2.3. legalization of signatures affixed by individuals to documents signed under hand; and

2.4. receipt of sworn statements.

3. Notarized deeds may be executed *en minute* or *en brevet*:

3.1. an act *en minute* is a deed, which a notary must deposit and preserve in his or her notary records, and from which authentic copies or extracts may be issued, under certain conditions.

3.2. an act *en brevet* is a deed, in the form of one or more originals, that a notary executes and may deliver to the parties. No authentic copy of, or extract from, an act *en brevet* may be issued. Powers of attorney, authorizations, acquaintances and other ordinary acts may be executed *en brevet*.

4. The authenticity and enforceability of notarized deeds are based on the signature, form and content of the document. Notarized deeds enjoy the benefit of dual presumption of legality and accuracy of content; they may be contested only through judicial channels. They are enforceable instruments with conclusive force.

5. The Notary further performs all manner of other activities authorized under the law.

CHAPTER II CONDITIONS FOR THE NOTARY PROFESSION

Article 4 Conditions

1. A Notary task may be performed by a person who fulfills the following conditions: resident of Kosovo who satisfied the following conditions is eligible to become a notary:

1.1. to be permanent resident of Kosovo;

1.2. to have good skills for action;

1.3. to have a good professional and moral reputation;

1.4. possession of Bachelors from the Faculty of Law of Kosovo or from any School of Law of another country, after nostrification of the diploma in the Republic of Kosovo;

1.5. to have carried out a practice as a lawyer in institutions, in other bodies within term of three (3)years;

1.6. has passed the Notary Examination;

1.7. Have the capacity to provide the equipment and premises necessary to carry out the notary functions in the manner prescribed in this law, according to criteria determined by sub-legal acts, after consultation with the Chamber of Notaries.

2. A person who has worked not less than three (3) years as: teacher of legal subjects in one of the universities in the country or abroad; judge, lawyer, prosecutor and notary, is released of obligation to perform the practice of the notary, determined in sub-paragraph 1.4. of this Article

3. Applicants for the position of Notary are disqualified if they:

3.1. have been condemned for an intentional criminal offense carrying a sentence of at least three (3) months of imprisonment, or for any offense related to the unlawful acquisition of gains or forgery;

3.2. are heavily indebted or bankrupt, until such time as this situation lasts;

3.3. are members of a political party, or in the service of a religious congregation;

3.4. were removed from office as a judge or civil servant by decision of the competent disciplinary body;

3.5. were disbarred, by decision of the Kosovo Bar Chamber;

3.6. are facing criminal prosecution for intentional offences carrying a sentence of at least three months of imprisonment, or for any offense related to the unlawful acquisition of gains or forgery, until such time as the charges against them are dismissed, or they are acquitted.

Article 5 **Notary candidates**

1. Any person who fulfills the conditions to be a Notary according to Article 4 of this Law may be a candidate for Notary.
2. The Chamber of Notaries shall organize competitions for applicants to Notary candidature. The conditions of, and procedure for such competitions shall be determined by the Ministry of Justice after consultation with the Chamber of Notaries.
3. The Notary candidates selected by the Chamber of Notaries are appointed by the Ministry of Justice.
4. The Notary candidates shall carry out all notary functions and conform in all regards to the notary duties, in the office of their supervising Notary. They shall further participate at least three years of regular sessions of in-service training prepared and organized by the Chamber of Notaries.
5. The Notary candidates receive monthly remuneration from their Supervising Notary. The Chamber of Notaries defines and reviews each calendar year the criteria relevant to the determination of the amount of the remuneration of the Notary candidates.
6. A Notary candidate during the practical work who passed the Notary Examination shall remain a candidate and perform the duties assigned to him or her until official assumption of the notary office.
7. A Notary candidate may not personally sign notarized deeds or certification records, or perform any notary acts in his or her name.

Article 6 **Organization of the notary examination**

1. The Ministry of Justice oversees the Notary Examination and its organization and it shall issue the relevant regulations and directives in this regard.
2. A Notary Examination Commission shall be appointed by the Ministry of Justice, in consultation with the Chamber of Notaries, for the purpose of organizing the Notary Examination and appraising the candidates thereto.
3. The Notary Examination Commission shall be comprised of seven (7) members: four (4)

notaries, one (1) judge, one (1) professor of Law and one (1) advocate, a member of the Kosovo Bar Chamber. Each member of this Commission shall have a substitute of the same profession.

4. The Notary Examination Commission is assisted by a Secretary chosen among the officials of the Ministry of Justice, which shall further provide for the logistical and financial assistance necessary to the Notary Examination Commission's activities.

5. The Notary Examination Commission shall meet at least every six (6) months.

Article 7 **The Notary examination**

1. The Notary Examination is taken both orally and in writing, and it shall be comprised of at least the following topics: Law on Obligations and Property Law; Family Law and Law on Inheritance; Commercial Law; Law on Executive Procedure; Laws and Regulations relevant to the Notary Service; Cadastral Law.

2. All those who meet the eligibility requirements for the Notary Service, save for the Requirement of Article 4, paragraph 1.4 of this law above, may apply to the notary examination, with the Ministry of Justice.

3. The Notary examination may be taken up to three (3) times.

4. The successful applicant is given the certificate of passing the Notary exam. He/her may apply for a notary office, when such duty is offered to competition.

CHAPTER III **DISTRIBUTION AND ATTRIBUTION OF THE NOTARY OFFICES**

Article 8 **Distribution of the notary offices**

Ministry of Justice distributes the notary offices after consultation with the Chamber of Notaries, and according to the following principles:

1.1. there shall be at least one notary office per municipality;

1.2. this number may be increased for municipalities comprising more than twenty thousand (20,000) inhabitants, taking into consideration the number of documents processed by the concerned notary offices on a yearly basis;

Article 9

Notary competition

1. The candidate who has passed the exam for Notary is assigned in a Notary Office on the basis of a competition organized by a Notary Selection Commission appointed by the Ministry of Justice in consultation with the Chamber of Notaries.

2. The Notary Selection Commission:

2.1. shall be composed of seven (7) members: four (4) notaries, one (1) judge, one (1) professor of Law and one (1) advocate, a member of the Kosovo Bar Chamber. Each member of the Commission shall have a substitute of the same profession;

2.2. shall not be comprised of members of the Notary Examination Commission;

2.3. shall be assisted by a Secretary chosen among the officials of the Ministry of Justice;

2.4. shall obtain from the Ministry of Justice the logistical and financial assistance necessary for its activities;

2.5. shall meet as the need arises.

3. Upon the advice of the Ministry of Justice, the Notary Selection Commission shall publish a notice of competition for notary offices in at least two (2) daily newspapers in all municipalities and in the official publication of Kosovo. The Notice of Competition shall set forth:

3.1. the conditions of eligibility to the Notary Service, as envisioned in this law;

3.2. a statement to the effect that applications to the competition will only be received until the fifteenth (15th) day following publication of the notice of competition;

3.3. a deadline during which the candidates shall be advised of the competition's outcome;

3.4. the number, location and seat of the vacant notary offices.

4. The Notary Selection Commission determines the list of candidates who meet the conditions of eligibility to the Notary Service and proceeds with the interview of each of the candidates meeting the conditions of eligibility, at the latest forty five (45) days after the expiry of the deadline for application to the competition.

5. Only those candidates to the Notary Competition who, on account of their professional background and moral qualities, are worthy of the Notary Service, may be selected.

6. The Ministry of Justice entrusts with a notary office those candidates selected by the Commission, who achieved the best results at the Notary Examination.

7. Written notice of the results of the Notary Competition is given to the candidates. The unsuccessful candidates shall be advised in writing of the reasons why they were not selected, as well as of the candidate or candidates who were appointed Notaries, and the territorial jurisdiction of their respective Offices.

Article 10 **Appeal Process against the decision for Selection of Notary**

1. An Internal Review Committee shall be established by the Ministry of Justice, for the purpose of hearing appeals against the notary competition process. The Internal Review Committee shall be comprised of two (2) judges and one Notary designated by the Assembly of the Chamber of Notaries. The Committee can not be comprised of members of the Notary Competition Commission.

2. An appeal against the notary competition process may be lodged by unsuccessful candidates with the Internal Review Committee, within eight (8) days following service of notification of the results of the Competition. The Committee shall decide its decision on the appeal within ten (10) days following the lodging of the appeal. This decision shall be deemed as the final administrative enactment in the notary competition process.

3. The filing of such petition is suspended in regard to the decision appointing Notaries.

4. The decision of the Internal Review Committee may be challenged before the competent Court pursuant to the applicable administrative conflicts with indictment. The incitement may be submitted by unsatisfied candidates within eight (8) days following publication of the decision.

CHAPTER IV **BASIC PROVISIONS REGARDING THE EXERCISE OF THE NOTARY SERVICE**

Article 11 **Oath, Notary license and assumption of office**

1. The Ministry of Justice shall administer the following oath of office to all successful Notary candidates, in the presence of the President of the Supreme Court and of the President of the Chamber of Notaries:

“I hereby swear that I shall perform my duties in a conscientious, honorable and impartial manner, pursuant to the Constitution and applicable laws of the Republic of Kosovo, as well as the Notary Code of Ethics and Professional Conduct, and that I shall at all times protect the interests of the parties.”

2. Upon administration of the oath, the Ministry of Justice or a person authorized by the latter provides the Notary with his or her Notary license.
3. Upon receipt of a transcript of the Notary license, the Chamber of Notaries sets the date of assumption of duty of the appointed Notary, and oversees its publication in the Official publication of Kosovo.
4. The appointed Notary shall assume his functions within three (3) months from the date published in the Official publication of Kosovo. If the Notary fails to assume his or her Office within that deadline, the right to exercise the Notary Office is lost. A Notary may however request the Ministry of Justice for an extension of this deadline for a further period of three months. Such request must be supported by valid and acceptable reasons, together with all available supporting evidence.
5. The Chamber of Notaries and Ministry of Justice shall keep a register of all Notaries, including the address of their professional premises, their personal address, and their respective signatures.

Article 12

Seal and signature

1. Upon taking the oath, and without delay, the Notary requests the Chamber of Notaries to prepare his or her seal, at his or her own cost.
2. The Notary seals shall all conform to a readily identifiable circular model, and comprise the concerned Notary's name and first name as well as the seat of his or her Office. The general characteristics of the Notary seals shall, with the necessary adjustments, be consistent with the design of the Stamps of Courts, Prosecutor's Offices and Penal Establishments, as envisioned in UNMIK Regulation No. 2000/30 of 20 May 2000, On Stamps and Headings of Courts, Prosecutor's Offices and Penal Establishments.
3. The mark of the Notary's seal and a sample of his or her signature, as kept in the Chamber of Notary's register, shall be approved and certified by the President of the District Court with jurisdiction over the seat of the Notary's Office. The certified seal and signature shall be deposited with the Chamber and with the Municipal Court.
4. The Notary may have only one official seal, which he or she keeps with special care, ensuring particularly that no third parties have access to it.
5. The Notary shall immediately inform the competent Municipal Court, the Police and the Chamber of Notaries of the loss, theft or destruction of his or her seal by way of a facsimile or electronic message, and he or she shall confirm the loss, theft or destruction by way of personal delivery of the notification or by registered post with a form for acknowledgement of receipt.
6. The Chamber of Notaries shall replace the lost or destroyed seal at the Notary's costs.

Article 13
The duty to maintain confidentiality

1. A Notary is required to maintain the confidentiality of information garnered in the exercise of his or her duties, save where the law or parties to a notarized deed, or the legal transaction envisaged in the notarized deed, require otherwise.
2. The Notary's duty of confidentiality extends to the employees of the Notary's office, the translators and interpreters and all persons who have access to the information envisioned in Paragraph 1 of this Article. This duty is permanent; it remains after the cessation of the Notary's functions, or of those in his employ.
3. A Notary shall disclose information concerning notary acts performed by him or her only:
 - 3.1. to the persons at whose request or concerning whom the notary acts were performed;
 - 3.2. to the legal representatives of the persons referred-to in sub-paragraph 3.1 of this paragraph;
 - 3.3. to persons or bodies authorized by a court order;
 - 3.4. to public bodies before which notarized deeds must be produced, pursuant to the law.
4. A Notary may disclose information concerning the existence and the content of a will only after the death of the testator.
5. A person at whose request a Notary performed a notary act or the legal successor or representative of the person may release a notary from the duty to maintain the confidentiality of the notary act by submitting written consent to this effect. If the person is deceased and has no legal successors or where it is not possible to establish contact with the person, a court may release a notary from the duty to maintain confidentiality. At the request of the notary, a court may also release a notary from the duty to maintain the confidentiality of a notary act for other valid reasons.
6. The duty to maintain the confidentiality of notary acts also extends to credit institutions, courts, archives and other legal persons and agencies, and to the employees thereof who possess documents containing the information specified in paragraph 1 of this Article or who have access to such documents, unless otherwise provided by law. Credit institutions, courts, archives and other legal persons and agencies that possess documents containing notary acts or information pertaining thereto shall disclose the information analogously with the procedure provided for in paragraph 3 of this Article, unless otherwise provided by law.

Article 14
Liability and compensation of damage

1. A Notary is liable for, and shall compensate, any damage caused in the exercise of his or her functions, as a result of negligence, or otherwise in violation of his obligations, in accordance with the legal provisions for compensation of damage.
2. The Notary is also liable for damage caused by those in his or her employ, including notary candidates, and his or her deputy.
3. The right to claim compensation for damage caused by a notary or those in his employ, and the Deputy Notary, may be exercised during a period of three (3) years following the date when the damage was discovered, but not later than within ten years after the damage was caused.
4. No public authority can be held as liable for damage caused by a Notary.
5. The compulsory insurance of a Notary from professional risks provided for by this law shall not exempt him or her from direct liability in relation to the parties suffering the damage.

Article 15
Insurance

1. Prior to assuming his or her functions, a Notary shall obtain insurance through a Kosovo or international insurance company, with a license for Kosovo for all damages he or she could inflict on third parties in the performance of his or her functions.
2. The insurance policy shall cover any damage caused by those in the Notary's employ, including notary candidates, and his or her deputy.
3. The insurance policy may provide that the Notary shall compensate damage caused up to a certain threshold.
4. The conditions of insurance are jointly determined by the insurance company and the Notary according to the applicable law.
5. A minimum amount of insurance coverage for one insured event, and minimum amount of the totality of insurance indemnities payable during an insured year for one or more events are established by the Ministry of Justice, after consultation with the Chamber of Notaries.

Article 16
Fees, retainers and reimbursement of expenditures

1. The Notary receives fees in exchange of the services rendered, and reimbursement of expenditures met in connection therewith.

2. The notary fees shall be defined by the Ministry of Justice, in consultation with the Chamber of Notaries.
3. The Notary may request payment of the appropriate retainer upon acceptance of performance of the services requested.
4. The Notary shall issue a receipt for all retainers, fees and reimbursements paid.
5. Where more than one person have taken part in the notarized legal transaction or in the case where a notary performed one action for several parties, all such parties are jointly responsible for payment of the fees and expenditures owed to the Notary.
6. A Notary's professional income, for performance of his/her service, is the amount remaining with the Notary out of the fees he or she receives after payment of the maintenance costs of his or her office, of the taxes provided by law and of other compulsory payments related to the professional activities of the Notary.

Article 17

Obligation to perform official actions and exemption therefrom

1. A Notary shall perform in person the duties imposed on him or her by law. He or she may not refuse performing his official duties without a valid reason, such as where a doubt arises as to his or her impartiality, or as otherwise provided for by law.
2. Particularly, the Notary may not undertake official actions at the request of a party whom he or she knows to be lacking the legal capacity to undertake or conclude the transaction at issue. Neither shall the Notary take official actions for which he has no competence, or which are requested in connection with an obviously dishonorable or illegal transaction.
3. The Notary is required to explain his refusal to act to the person(s) concerned, as well as the procedure for appeal against such refusal, including the right of the person concerned to request issuance of a document setting out the reasons for the Notary's refusal within three working days.
4. The provisions of the Law on Administrative Procedure relevant to official persons apply to Notaries in regard to the exemption from the obligation to perform official actions, and a party facing refusal of performance of a notary act may challenge such refusal, and request performance of the act in question, in accordance with the Law on Administrative Disputes.
5. Official actions undertaken contrary to Paragraph 1 of this Article shall be deemed null and void.

Article 18
Obligation to advise the parties

1. The Notary shall advise the parties on the nature and legal effects of the transactions and deeds contemplated, the scope of the obligations attached to such acts, and on the legal provisions applicable.
2. The Notary shall safeguard in all fairness and impartiality all the interests at stake in the legal transaction.

Article 19
Incompatible duties

1. A Notary may not engage in other professional activity, including practice as an attorney-at-law, or hold public office.
2. Notwithstanding paragraph 1 of this Article, a Notary may engage in the following supplementary activities, provided that they do not affect the proper discharge of his or her official duties:
 - 2.1. scientific, artistic and teaching activities;
 - 2.2. functions of court-appointed translator or expert;
 - 2.3. functions within the Chamber of Notaries or in international notary associations.

Article 20
Conflict of interests

A Notary may not carry out his or her functions:

- 1.1. if he or she is in any manner and directly or indirectly interested in the legal transaction ;
- 1.2. where a party to the act is the Notary's lineal blood relative to any degree, and laterally to the fourth degree, or a spouse or in-law to second degree, regardless of whether the marriage has ceased or not.

Article 21
Professional premises and hours of duty

1. A Notary may have only one professional outlet, which shall be located within the

municipality or the area of the municipality of his or her Office.

2. A Notary may only share professional premises with another Notary of same resort, with the consent of the Committee of the Chamber of Notaries. In operating a common office, each notary performs notary acts in his or her own name and is personally liable for his or her professional activities.

3. A Notary may not share professional premises with representatives of other professions.

4. Notary offices shall be open for public on working days for at least five (5) hours a day for work with parties.

CHAPTER V CESSATION OF OFFICE, SUSPENSION, ABSENCE OF A NOTARY

Article 22 Release and removal from office

1. A Notary shall be released or removed from his or her Office:

1.1. by death;

1.2. by resignation, once such resignation enters into force;

1.3. after seventy (70) years of age;

1.4. if any of the conditions of eligibility to the Notary Service ceases to exist, or where it is established after appointment of a notary that any of these conditions was not met at the time of his designation;

1.5. upon assuming another employment;

1.6. upon failure to extend the term of his or her professional liability insurance, or to compensate the Chamber of Notaries for such insurance;

1.7. upon failing to assume office within three (3) months following the publication of his or her appointment in the official publication of Kosovo.

1.8. for health reasons, which may impede the performance of his or her official duties;

1.9. as a result of disciplinary proceedings, in the circumstances described in Article 75, paragraph 4, of this Law.

2. The decision to release a notary from his or her Office is issued by the Ministry of Justice

after consultation with the Chamber of Notaries.

3. In the cases provided for in Paragraphs 1, sub-paragraphs 1.4. till 1.9. of this Article, the Ministry of Justice shall hear the concerned Notary prior to issuing the decision.

4. Decision envisioned in Paragraph 2 of this Article, may be contradicted in accordance with the Law on Administrative Disputes.

Article 23

Resignation

1. A Notary may at all times ask for release from his Office by submitting a written application to this effect to the Ministry of Justice.

2. The Ministry of Justice shall render a decision on such request within three months from notification of the application for release, after consultation with the Chamber of Notaries. At the expiration of this three (3) month period, and in the absence of a decision on the application for release, it shall be assumed that the Notary has been released from duty.

3. At any time prior to expiry, the Ministry of Justice may extend the deadline envisioned in Paragraph 2 of this Article, so as to ensure the continued performance of the Notary's functions.

Article 24

Notification of the release from office

1. The Ministry of Justice notifies the Chamber of Notaries and the District Court with jurisdiction over the seat of the Notary Office of his or her decision to release from office the concerned Notary.

2. Upon notification of the above-noted decision:

2.1. the Chamber of Notaries deletes reference to the individual concerned from the Directory of Notaries, and publishes a notification in the Official publication of Kosovo;

2.2. the Notary shall return his or her seal to the competent municipal court; and

2.3. the Municipal Court shall nullify, declare void and destroy the seal of the concerned Notary, then publish a notification in the Official publication of Kosovo.

Article 25

Temporary suspension

Notwithstanding Article 76, paragraph 2 of this Law, a Notary shall be temporarily suspended from the exercise of his or her functions:

1.1. where legal action is initiated, the effect of which might be to deprive the Notary of his or her legal capacity to act;

1.2. where the conditions for release of a notary from his or her office are met;

1.3. where a Notary has been absent from his or her seat for more than five (5) working days without notifying the competent body or for more than ten (10) working days without approval of the competent body;

1.4. at the request of a Notary who wishes to engage in individual professional development, or for other valid reasons.

Article 26 **Acting Notary**

1. Upon release of a Notary from his or her office, the Ministry of Justice may appoint an Acting Notary on a non-competitive basis, after consultation with the Chamber of Notaries.

2. Only a Notary or a person meeting the conditions of eligibility to the Notary Service may be appointed as Acting Notary pending appointment of the new Notary, for a maximum period of six (6) months, which may be extended by the Ministry of Justice after consultation with the Chamber of Notaries, where special circumstances warrant such extension.

3. The Acting Notary shall take the notary's oath of office before assumption of office, if he or she has not previously taken such oath.

4. The Acting Notary takes over all files, books and other documentation belonging to the Notary he is replacing. He or she ensures that the Notary's files and archives are well kept, and that the services and actions undertaken by the Notary prior to his replacement are completed or carried out. He or she may not undertake new Notary services.

5. If the Notary is released from his duty, his deputy has a right to use the office for three (3) months, in case that the office appears to be property of the released Notary.

6. The Acting Notary may claim the fees due upon his or her assumption of office, taking into account all advance payments made by parties to the Notary prior to replacement.

Article 27

Absence of a Notary and designation of a deputy Notary in the event of absence or suspension of a Notary

1. A Notary must as far as practicable give advance notice to the Ministry of Justice of any circumstances preventing him or her from carrying out his or her functions for more than five (5) working days.
2. Absence of a Notary from his or her office for a period of more than ten working days shall be approved by the Ministry of Justice, in consultation with the Chamber of Notaries. Such approval may be given only where the absence is not likely to jeopardize the rights of the parties. The leave shall be granted in the case of an illness preventing the Notary from exercising his or her functions, or maternity.
3. A Notary prevented from performing his or her duties for more than ten (10) working days must request the Ministry of Justice to appoint a Deputy Notary during his or her absence. In the request, the Notary may identify one or more colleagues who expressed their consent to act as his or her deputy.
4. A Deputy Notary may also be appointed in replacement of a notary temporarily suspended from his or her office.
5. The decision appointing a Deputy Notary may be taken *ex officio*, if the request envisioned in paragraph 3 above has not been submitted, or following the temporary suspension of a Notary.
6. The decision appointing a Deputy Notary may be recalled at any time by the Ministry of Justice, after consultation with the Chamber of Notaries.
7. Only another Notary, or a person fulfilling all the conditions of eligibility to the Notary Service, may be designated Deputy Notary.
8. A list of potential Deputy Notaries may be established by the Ministry of Justice, in consultation with the Chamber of Notaries.
9. A suspended Notary shall not undertake any official activities, under threat of absolute nullity.

Article 28

Rights and duties of the deputy notary

1. The Deputy Notary performs his or her services on account and at the expense of the absent or suspended Notary.
2. The Deputy Notary affixes the seal of the absent or suspended Notary on the deeds and other documents drawn on the latter's behalf. He signs such documents with his own signature, and attaches an addendum identifying him as Deputy Notary.

3. The Deputy Notary shall abstain from exercising any official action prohibited to the Notary he is replacing.
4. The absent or suspended Notary pays the Deputy Notary an appropriate fee for the services rendered and the work performed by the latter on his or her behalf.
5. The Deputy Notary is officially vested with the office of the absent or suspended Notary upon taking over the latter's functions. Save in the case of prior recalling of the decision appointing him or her, his mandate extends until handing over of his or her functions to the Notary.
6. While the Deputy Notary officially assumes the absent or suspended Notary's functions, the latter must restrain from performing his Service.
7. The absent or suspended Notary may be held liable as a joint debtor together with the Deputy Notary for any damage suffered by a party due to the violation of his or her legal and professional duties by the Deputy Notary. However, in terms of the relationship between the Notary and his or her Deputy, only the latter is considered liable for such damage.

CHAPTER VI GENERAL PROVISIONS REGARDING NOTARISED DEEDS AND OTHER NOTARIAL SERVICES

Article 29 Notary functions

The notary functions are:

- 1.1. To process certain documents as envisioned in Chapter VII of this law, so as to:
 - 1.1.1. provide proof of the statements contained therein, as made by the parties before the Notary, approval of which is evidenced by the parties' signatures;
 - 1.1.2. provide direct executive force to the legal transactions contained therein;
 - 1.1.3. confer validity to certain legal transactions, regarding which this and other laws provide for mandatory notary-processing, for such transactions to produce legal effect.
- 1.2. To confirm facts and certify signatures, transcripts and copies of documents, and to receive sworn statements, in the manner envisioned in Chapter VIII of this Law;
- 1.3. To provide for the safe-keeping of cash, bills of exchange, checks, public bonds, and other securities, documents or other items, as envisioned in Chapter IX of this law;
- 1.4. To deal with all non-contentious inheritance proceedings;

1.5. to provide legal assistance;

1.6. compilation and verification of the contracts;

1.7. to carry out other duties, consistent with their main functions and general obligations, subject to their consent, as ordered by a court or governmental or administrative bodies. Such duties may include:

1.7.1. signing and sealing of assets to be divided in the context of inheritance and bankruptcy proceedings;

1.7.2. evaluation, public auction and sales by auction of corporeal movables and real estates in non-contentious proceedings, particularly in the case of voluntary sales;

1.7.3 division of the sales price in the context of executive proceedings.

Article 30

Mandatory notary processing of deeds

1. Notarized deeds are mandatory in regard to the following legal transactions, under threat of nullity:

1.1. transfer or acquisition of ownership or other real rights over real estate;

1.2. constitution of mortgages on immovable property;

1.3. marriage contracts and settlements regarding property relationships between spouses or persons living in non-marital community;

1.4. founding of corporate bodies and business companies and establishment of, and alteration to, the statutes of such bodies and companies.

2. The parties may request the notary processing of documents regarding other legal transactions than those listed in paragraph 1 of this Article. Other acts so notarized shall be endowed with the authenticity attaching to acts of public authority.

Article 31

Duty of the notaries to represent parties before public authorities

1. The Notaries may represent parties before judicial and administrative bodies without specific authorization from the concerned parties. In this capacity, the Notaries may forward and claim documents, submit objections, unless otherwise prescribed by law.

2. At the request of a Notary, judicial and administrative bodies shall submit documents

necessary for the performance of notary acts and copies thereof to notaries, unless otherwise prescribed by law.

Article 32
Enforceability of notarized deeds

1. A notarized deed prepared in accordance with the relevant procedures is directly enforceable, provided that it includes valid mandatory provisions agreed upon by the parties, and a statement of the party required to perform certain action, to the effect that direct and compulsory enforcement of the obligation may be carried out pursuant to the notarized deed, upon maturity of the obligation.
2. The original notarized deed or the certified transcript of an original notarized deed prepared pursuant to a power of attorney or authorization shall include the relevant authorization or power of attorney, prepared in the manner required by law for such deed.
3. Registration in the land register may occur on the basis of the notarized deed setting forth an obligation to create, transfer, limit or cancel real rights over real estate, subject to the debtor's express consent thereto in the notarized deed.
4. Where the obligation arising out of the notarized deed is made to depend upon certain condition or a deadline which is not determined on the basis of the calendar, the notarized deed shall have executive authority once a further notarized deed is prepared in which it is stated that the condition is met, or the deadline has been met. Where it is not possible to prepare such further notarized deed, a decision by the competent court is required.
5. Notarized deeds issued in another country have the same legal effect in Kosovo as notarized deeds issued in accordance with this law, subject to reciprocity and to the same extent as in the country where the deed was prepared.

CHAPTER VII:
PROCESSING OF NOTARISED DEEDS AND OTHER NOTARIAL SERVICES

Article 33
Information required in notarized deeds

The Notarized deeds shall in any event contain the following information:

- 1.1. the year, month, day, place, and if required by law or by the participants to the deed, the time when the act was drawn, all such mentions to be made in letters;
- 1.2. the last and first names and the seat of the Notary who drafted the deed;
- 1.3. the name, family name, place and date of birth, address of permanent or temporary residence and occupation of the participants to the deed, the witnesses, translators and all

persons who participated in the preparation of the deed, including the representatives, if any, of the participants;

1.4. a statement by the Notary regarding his or her conviction as to the identity of the participants, including, as the case may be, their legal representatives, and the manner in which the identity of each of the participants and their legal representatives, if any, was ascertained;

1.5. a detailed description of the subject matter of the act (leaving the appropriate blank spaces for inserting possible changes);

1.6. where immovable property is the subject matter of the deed, the place where such property is located, reference to the cadastre plan and cadastre number and definition of the boundaries of such property;

1.7. a description of the documents attached to the act, including the mandatory power of attorney of the representative of a party to the deed, if any;

1.8. a statement to the effect that the notarized deed and the documents enclosed therein were read in the presence of the parties, or that the procedures described in this law regarding deaf or illiterate participants or participants who do not speak or understand the official language, were observed.

Article 34

Form and manner of drafting of the notarized deeds

1. The notarized deeds shall be prepared with a typewriter or any suitable electronic or computerized device, in a clear and legible manner. In exceptional cases only, may notarized deeds be hand-written, with durable ink. They may not be drafted on a previously prepared blank form.

2. The manner of drafting notarized deeds shall be as follows:

1.1. only common or generally known abbreviations may be used in notarized deeds.

1.2. blank spaces shall be filled by a dash.

1.3. changes, corrections, inserts between lines or erasures should be avoided.

1.4. where changes, corrections, inserts between lines or erasures cannot be avoided:

1.4.1. a circle shall be drawn around the words needing correction or to be erased, in such a manner that they remain legible;

1.4.2. all changes, corrections, inserts and/or erasures made shall be listed and

explained above the signatures of the witnesses to the notarized deeds and those of all who participated in the preparation of the deed;

1.4.3. the total number of all changes, corrections, inserts between lines or erasures shall be noted before the signatures of the participants to the notarized deed, category by category;

1.4.4. a statement will be included before the signatures of the participants to the notarized deed, to the effect that the changes made were agreed-to or witnessed by all parties concerned.

1.4.5. no changes or inserts may appear after the Notary's signature.

1.5. Reference to numbers and dates is made in letters, except for census data and deeds regarding the division of assets of inheritance. In the latter case, the final amount shall be drafted in letters, as well as the respective amounts which the parties involved seek from one another.

1.6. Reference to dates and numbers regarding other documents and provisions of legislation, cadastre file numbers, lots and area of lots, shall be made in digits only.

3. The Ministry of Justice may determine further criteria regarding the form and manner of drafting of notarized deeds after consultation with the Chamber of Notaries.

Article 35 **Language of notarized deeds**

1. All notarized deeds shall be issued in the Albanian or the Serbian language, depending on the language better known by the Notary processing the act.

2. The parties have a right to ask the Notary to issue a copy in language that they want. This copy is deemed as deed according to paragraph 1 of this Article.

3. Parties to a notarized deed who do not speak and/or understand either one of the two languages mentioned in paragraph 1 of this Article may request the assistance of an interpreter.

Article 36 **Preparation of notarized deeds**

1. The Notary ascertains that the parties to the notarized deed are capable and authorized to undertake and conclude the legal transaction concerned. In doing so, the Notary establishes their actual intention. He or she then provides the necessary legal assistance to the parties, by explaining to them the applicable law and the legal effects of the transaction considered. The

Notary then prepares the relevant and necessary notarized deed(s), in which he or she formulates in the appropriate clear and unambiguous statements the legal transaction concerned.

2. At all stages in this process, the Notary shall ascertain that no confusions or doubts arise in the mind of the parties as to the legal transaction considered and its legal effects or the drawing of the deed, with a view to protecting inexperienced or unskilled parties.

3. The document thus drawn is read to the parties in the presence of the Notary, who ensures, by asking the appropriate questions to the parties, that its content conforms in all regards to their intention.

4. Where attachments are to be enclosed in the original deed, these should be at the disposal of the parties during the entire drafting process.

5. After the original deed is drawn, and its content has been read and approved, the notary shall ask the parties whether they approve the content of the deed, and if so, to personally sign it, underneath a detailed statement by the Notary, to the effect that the applicable provisions of this Article has each been respected.

6. All attachments to the deed shall also be signed by the parties and the Notary.

Article 37 **Obligation to warn and instruct**

1. The Notary shall issue the appropriate warning and instructions to the parties:

1.1. where the parties request that the deed include unclear, imprecise or ambiguous statements which might give rise to disputes or a trial; or,

1.2. in the case of valid and legitimate reasons, in the Notary's opinion, to believe that the transaction would jeopardize the rights of any party or cause damage to them, or is otherwise illegal.

2. Should the parties maintain their position after the appropriate warnings are issued, the Notary may refuse to prepare the deed, or to insert the suggested statements or changes.

Article 38 **Confirmation of identity**

1. Where the Notary does not know the parties personally and by their names, he shall ascertain their identity on the basis of the available official documents such as their identification card or their passports. Where official documents are not available, the Notary may consider other identifying documents. Where no such documents are available, or where the Notary is not satisfied of the identity of the parties in view of the documents produced, their identity must be

confirmed by another Notary, or two (2) witnesses, advising them for responsibility.

2. In case of doubt as to the authenticity of official documents produced by the parties, the Notary may consult the relevant official registries.

3. The original deed shall include a statement by the Notary specifying:

3.1. the manner in which he or she ascertained the identity of the parties;

3.2. the date, reference number and issuing body of the identifying documents produced;

3.3. the names, professions and addresses of any witnesses to the deed.

Article 39 Interpreters

1. When an interpreter is required, the Notary shall aim to understand and faithfully transcribe in the notarized deed, the actual intention of the concerned party through the interpreter's rendition of his statements.

2. Once the original deed is prepared, the interpreter shall translate the content of the document in the language of the concerned party, and sign the deed.

3. A written translation of the notarized deed shall be made at the concerned party's request, which shall be enclosed in the original deed, also it has to be signed from the interpreter after his identity is verified, if he is not a Notary staff.

Article 40 Witnesses

1. The participation of two witnesses is mandatory:

1.1. upon preparing a testament;

1.2. for deeds involving one or more blind, deaf, mute or deaf and mute persons;

1.3. for deeds involving one or more illiterate persons;

1.4. for deeds involving persons who do not speak or understand the language used in the preparation of the deed;

1.5. as otherwise required by law.

2. The Notary and the parties may decide to call two (2) witnesses for the preparation of other

categories of deeds.

3. Adult persons, whose identity is known or can be ascertained in conformity with the procedures envisioned for participants to the notarized deeds pursuant to this law and who fulfill the general conditions for being witnesses in court proceedings, may be witnesses to notarized deeds, provided they are literate.

4. The following may not be a witness to a notarized deed:

4.1. a person unable to testify due to a mental or physical disability;

4.2. a person who has an interest or is likely to have an interest, whether direct or indirect, in the notarized transaction;

4.3. a person who entertains a relationship with a party to the deed, with a person likely to benefit from the deed or with the Notary, such as warrants the Notary's exemption from performance of the act.

5. The witnesses to the deed must be present, at least, at the time of the reading of the act by the Notary to the participants, and upon signature of the act; and they shall sign the deed in the preparation of which they have participated.

Article 41 **Deaf, mute and blind parties**

1. A mute, or a deaf and mute, literate party, shall:

1.1. read the original deed personally, and in a clear and unambiguous manner reflect to the Notary and the other participants, if any, that he has read the document and that its content conforms to his or her will;

1.2. personally write on the original deed, before the signatures, that he or she has read it, and that he or she approves its content.

2. A blind party shall have the deed read to him or her by the Notary, before expressing his or her approval of the content of the deed, as envisioned in paragraph 1 of this Article.

3. The original deed must comprise a statement, to the effect that the provisions of paragraph 1 of this Article have been observed.

4. Where a party is both illiterate and deaf or mute or both, a person able to communicate with that party must be present, besides the two (2) witnesses or the other Notary. Such person shall meet all criteria for being a witness to a notarized deed, except that of literacy. Further, he or she may be related to the concerned party, if he or she does not have a personal interest in the legal transaction which is the subject matter of the deed.

5. If a party to the notarized deed is blind, deaf or mute, the witnesses or the other notary must be present when the parties issue a statement on disposal that would be entered into the original, or when reading the whole original to the parties, or when they are reading it themselves, or when the parties state their agreement and sign the original. This shall be reflected in the original deed.

6. In the cases provided for in paragraphs 3 and 4 of this Article, the notary shall ascertain that the person of confidence can communicate by sign language with the deaf, mute or deaf and mute person, and reflect the steps taken in this regard in the original deed.

CHAPTER VIII CONFIRMATION OF FACTS, CERTIFICATION OF DOCUMENTS, RECEIPT OF SWORN STATEMENTS

Article 42 General requirements

Upon issuing certifications and confirmations, the Notary shall:

- 1.1. ascertain the identity of the requesting party or parties, as envisioned in Article 38 of this law; and,
- 1.2. add the certification or confirmation clause, state the date of certification or confirmation, his signature and his or her official seal.

Article 43 Certification of copies of original documents

1. A Notary shall only certify copies of original documents prepared in the Notary office. A Notary may also certify copies of original documents brought for certification by a party, provided copy of the document is made in the notary office.

2. The copy must conform in all regards to the original document, including in respect of writing, punctuation and abbreviation of words. If parts of the original document were altered, deleted, struck through, inserted-to or added-to, this shall be reflected in the certification. The certification shall indicate whether the original document was torn, damaged or otherwise suspicious in its appearance, except where it is obvious from the very copy or photocopy of the document.

3. The Notary shall carefully and accurately compare the copy with the original and ascertain that the two (2) match. Should the Notary so conclude, he or she shall include a statement to this effect on the copy made. The notary shall further add:

- 3.1. that the copy is of a document designated as an original by the party; or
 - 3.2. whether it is a copy of a certified or ordinary copy of an original document, in which case the notary shall state that the copy conforms in all regards to the copy, rather than the original document, which was not presented to him or her;
 - 3.3. whether the original document was written by hand or with a typing machine or another mechanized or electronic device or by chemical means, by pencil or pen; and
 - 3.4. where the original of the document is located according to the Notary's own knowledge or on the basis of the statements of the party or parties; and
 - 3.5. if the party brought the document to be certified, the name and address of that party.
4. Where certification is made of the copy of one part of a document, or of an extract from a document, the copy shall clearly indicate which parts of the document have not been copied.

Article 44 **Certification of extracts of trade or business books**

Upon certifying extracts from trade or business books, the notary shall compare the extract with the relevant items in the original books, and write on the extract the certification clause, noting that the extract fully corresponds with the relevant parts of the original book. The date of the review of the trade or business books shall also be indicated on the extract.

Article 45 **Certification of Signature**

1. The Notary may certify that a party personally signed a document in his or her presence, or that the signature, which already figured on the document, was confirmed by the party as being of his or her hand.
2. The certification clause shall be drawn on the original writ, with indication of the manner in which the identity of the signatory was ascertained, and an addendum to the effect that the signature is true. Under the addendum, the date shall be entered, followed by the notary's signature and his or her official seal.
3. Should the party requesting certification of his or her signature be blind or illiterate, the notary shall read out the writ to him or her before certifying the signature. In such a case, the presence of two witnesses is further required, in accordance with the provisions of Article 40 of this Law. Finally, should the Notary not know the language of the document, the document shall be read by an interpreter. The participation of two (2) witnesses and/or an interpreter shall be reflected in the certification.

4. If certification is requested of the signature of a person acting as a representative of a legal person or agency, the Notary shall confirm in the certification that the person concerned signed the writ on behalf of the legal person or agency concerned. However, he or she may do so only after being satisfied that the person is authorized to do so.

Article 46 **Authentication of date**

The Notary may confirm the time when document was presented to him or her, or to a third party in his or her presence. This shall be confirmed in the relevant document, with indication of the day, month and year when the document was presented to him or her. The Notary may add the hour when the presentation occurred, at the request of the party.

Article 47 **Confirmation that a person is alive**

1. A Notary may confirm that a person is alive if he or she knows that person personally and by name, or after ascertaining that person's identity pursuant to the provisions of Article 38 of this law.

2. It shall be confirmed, in the original of the document issued to the party, that the person concerned presented himself or herself before the Notary. The document shall further comprise indication of the day, the month and the year, and, if so requested by the party, the hour when these events occurred. The notary shall further state in the confirmation how the person's identity was ascertained.

Article 48 **Confirmation of conclusions made by organs of a legal person**

1. A Notary may be requested to confirm the conclusions of an assembly or meeting of some other body of a legal person. In such a case, the notary shall enter in the minutes the date, time and place of the session, then describe in detail the proceedings and debates being witnessed, and add all the information required for one's appreciation of the regularity of the proceedings, with particular emphasis on the conclusions of the session. The notary shall add all other information required by law.

2. The minutes from paragraph 1 of this Article shall be also signed by the person who chaired the meeting.

3. Upon request, the Notary may include in the minutes the identity and functions of all or some of the participants to the proceedings, for instance the chairperson or president of the meeting or assembly. If so, the notary shall ascertain such persons' identity in accordance with Article 38 of this law, and state in the minutes in which manner he did so.

Article 49
Confirmation of other facts

1. At the request of the parties, the notary may confirm facts, transactions and events which occurred in his presence, such as hearings on offers, auctions, drawings or statements made by persons regarding certain facts and the conditions in which the Notary himself, or with the participation of experts in the fields concerned, learnt of the facts, transactions or events.
2. The Notary shall prepare an original document regarding the confirmation of facts referred-to in Paragraph 1 of this Article. In this document, the Notary shall state the place, time, names and respective addresses of all parties and other participants, as well as a precise description of the facts, events or transactions occurred in his or her presence, or those whose occurrence he or she ascertained, and in which manner. The original document shall be signed by all participants. Should any of the participants refuse to sign the minutes, the Notary shall reflect this in the original document.
3. The original document envisioned in paragraph 2 of this Article shall include the manner in which the identity of the party or parties to the confirmation was ascertained, as envisioned in Article 38 of this Law.

Article 50
Receipt of sworn statements

A Notary may receive sworn statements from parties. The notarized statement shall reflect the oath taken by the party concerned, as follows:

“I hereby swear upon my honor that I have spoken truly and faithfully in response to all questions asked to me by the Notary in regard to this matter and that I have not withheld any facts known to me in regard to this matter.”

CHAPTER IX
DEPOSIT OF VALUABLES, DOCUMENTS AND OTHER ITEMS

Article 51
Safe-keeping and handing over of documents

1. A Notary may take responsibility for the safe-keeping of documents. Such deposit has the effect of a court deposit.
2. The notarized deed reflecting the deposit shall contain the following information:
 - 2.1. the place where, and the date when, the documents were handed over;

- 2.2. the names, profession and address of the person handing over the documents;
 - 2.3. the reason why the documents are deposited with the Notary;
 - 2.4. the person or persons who shall retrieve the documents and, if known, the date when the handing over of the documents is to take place.
3. The original document shall be signed by the depositing party and the Notary. The Notary shall affix his or her official seal on the original and keep such act *en minute*.
 4. Should the documents be sent to the Notary in a letter, the notary shall record this fact in minutes, including the information referred-to in paragraph 2 of this Article, where known. The letter shall in such a case replace the signature of the person submitting the document.
 5. The Notary shall issue a receipt regarding the taking over of the documents to the person handing over the documents. If the documents were received by mail, the receipt shall be sent, by mail, to the person who sent the documents.
 6. The Notary shall ascertain the identity of the person to whom he or she delivers the documents in accordance with Article 38 of this law. The recipient of the documents shall confirm receipt of the documents by signing the original document.

Article 52

Safe-keeping and handing over of cash, valuables and securities

1. A Notary may take responsibility for the safe-keeping of cash, bills of exchange, cheques, government bonds and other securities and valuables for the purpose of handing over these items to a person or government agency, in connection with the compilation of a notarized deed. In such a case, the original notarized deed shall include the names of the person, or the government agency, who shall receive these items. Such deposit has the effect of a court deposit.
2. Should the taking over of the valuables or securities not be mentioned in the original notarized deed, a further notarized deed shall be prepared, comprising at least the following information:
 - 2.1. the number of the entry book and the depository book;
 - 2.2. the place, date and time of the takeover;
 - 2.3. the amount of cash or the value of the documents deposited;
 - 2.4. the name of the party who surrendered them for safe-keeping and handover;
 - 2.5. the action to be taken by the notary in respect of the cash or valuables deposited.
3. The Notary shall issue a receipt regarding the taking over of the cash, valuables or securities to

the party. The receipt shall include the amount of the cash deposited, or a description of the securities or valuables deposited indicative of their value.

4. If the cash, valuables or securities are sent to the Notary by mail, the notary shall prepare an original deed upon receipt of such items, in accordance with paragraph 2 of this Article. The letter shall be attached to the original deed. Both shall be kept *en minute*.

5. The Notary shall keep the cash, securities or valuables deposited by the party separately from his own cash and securities. The securities shall be placed in a separate envelope, on which the notary shall inscribe reference to the file of the notarized deed and the names of the party concerned. The cash shall be placed by the Notary in a separate account in a bank or another financial institution. The Notary may also deposit all other valuables in a safe-deposit box in a bank or other financial institution providing such services. A forced execution against the Notary may not affect this separate account and/or safe-deposit box.

6. The Notary shall immediately surrender the cash, valuables and securities entrusted to him or her to the government agency or person designated in the notarized deed as the recipient, after ascertaining the recipient's identity in conformity with Article 38 of this law. The recipient's confirmation of receipt of the cash or securities shall be placed in the corresponding notary file, or in the book of deposits.

Article 53 **Obligation to return**

1. Should the Notary not be in a position to surrender the cash, the valuables or the securities to the intended recipient at the time specified in the notarized deed, he or she may, after such time has lapsed, with the relevant minutes surrender the cash, valuables or securities to the party or, where this proves impossible, to a judge responsible for safekeeping. In the latter case, the notary shall thereupon notify the party who surrendered these items of their handing over to a judge, by registered post or in some other reliable way.

2. If the original notarized deed does not comprise a time-limitation for the handing over of the items deposited, the notary shall act as envisioned in paragraph 1 of this Article at the latest fifteen (15) days from the day when take-over occurred.

Article 54 **Notary acting as a court trustee**

Articles 51 to 53 of this law also apply where the Notary, as a court trustee, takes over legacy documents, cash, securities or valuables.

CHAPTER X
DEFICIENT PROCESSING OF NOTARIAL ACTS

Article 55
Absolute nullity

Notwithstanding other provisions to the same effect in this or other laws, a notarized deed shall be deemed null and void:

1.1. if it was prepared:

1.1.1. by a Notary who is not registered in the directory of Notaries;

1.1.2. by a Notary who ceased to exercise his or her office, as envisioned in Articles 23 and 24 of this Draft Law;

1.1.3. outside of the territorial jurisdiction of the Notary;

1.2. if the provisions of this or other laws regarding mandatory presence of witnesses or an interpreter were not observed;

1.3. if the provisions regarding illiterate, blind, deaf and mute participants were not respected;

1.4. if the provisions of this or other laws regarding required information in notarized deeds were not respected;

1.5. if the date and the name of the municipality on whose territory the act was drawn out are missing,

CHAPTER XI
ARCHIVES, NOTARIAL BOOKS AND ISSUANCE OF DISPATCHES AND COPIES
OF ORIGINAL DEEDS

Article 56
General duty to archive or store, keep and preserve

The Notaries shall permanently keep and preserve all acts performed by them, items deposited with them and the registry books, directories and other books relevant to those acts. This duty extends to those under whose care notary archives are transferred and to those in the Notary's employ who have access to his or her archives.

Article 57
Safekeeping of original deeds and issuance of dispatches and copies

1. The Notary issues a dispatch of the original notarized deed to the parties. Such dispatches shall be identical in every respect to the form and content of the original deed. However, they shall be marked as being dispatches.
2. Except where otherwise defined in the original deed, a dispatch may only be issued:
 - 2.1. to the persons who concluded the legal transactions described in the document in their own name;
 - 2.2. to the persons in whose name the legal transaction was concluded;
 - 2.3. to those for whose benefit the legal transaction was concluded;
 - 2.4. to the legal heirs of the persons listed in sub-paragraphs 2.1. till 2.3. above.
3. If, due to the termination or temporary cessation of a Notary's functions, his or her notarized deeds and other files and documents are transferred for safekeeping to the competent municipal court, a government agency or another Notary, including a Deputy Notary, the court, agency or Notary concerned shall issue the documents specified under paragraph 3 of this Article.
4. One dispatch of the original notarized deed is issued for purposes of execution to the persons designated in the original as creditors, or their legal beneficiaries, providing that the conditions applicable to the form and content of notarized deeds, as envisioned in the present law, are met.
5. A further dispatch of the original may be issued for the purpose of a renewed attempt at execution of a notarized deed, in the following cases:
 - 5.1. where the persons specified under paragraphs 2 and 3 of this Article, or their legal successors agree thereto, as shown in a notary processed note on the original deed signed by the parties, or in a separate notarized deed attached to the original;
 - 5.2. if the first dispatch was returned to the Notary for being erroneous or faulty, or if the original dispatch was destroyed, damaged, or could not be resorted-to for any other reason;
 - 5.3. upon issuance, by the municipal court with jurisdiction over the Notary's seat, of an order for the issuance of a new dispatch of the original deed, at the concerned party's request, subject to the establishment, by the party concerned, of the need for such new dispatch.
6. Where an original is issued, no dispatch may be delivered to the parties, but only a copy of the original deed.

Article 58
Copies of the original deed

1. Except where otherwise provided in the original notarized deed, certified copies or ordinary copies of the original deeds regarding a legal transaction among living parties may be issued, at their request, to the parties to the deed who did not receive the dispatch or their legal representatives, heirs or other universal legal successors.
2. All the persons listed in paragraph 1 of this Article have the right to access the notarized deeds at any time.

Article 59
Dispatch or copy of the original will

1. Except where otherwise provided in the original document, the dispatches or copies of the original deed containing one's last will, or whose provisions apply in the case of death of the author of the deed, whether prepared by the Notary or submitted to the notary in writing, may only be issued to the author of the deed or to those explicitly authorized by the author of the deed to receive such dispatches or copies. Proof of such authorization shall be adduced in the form of a certified document signed by the author of the will.
2. After the death of the author of the will, dispatches or copies of the original deed may only be delivered after disclosure of the last will.
3. The date when disclosure of the last will occurred shall be inscribed on the dispatch or copy delivered.

Article 60
Registry books

1. The Notaries shall keep the following books and registers in orderly fashion:
 - 1.1. a general business registry book, containing reference to all the acts and minutes prepared, whether relating to legal transactions, certifications and confirmations, or deposits of cash, valuables, securities or other documents, as well as the documents related to all their other activities, except those mentioned in sub paragraph 1.2. of this paragraph;
 - 1.2. a registry book for objections
 - 1.3. a directory of the parties who deposited items for disposal in the event of death, with indication of the number of the corresponding act;
 - 1.4. a deposit book for the taking over and handing over of cash, securities and valuables of other persons where, in addition to the precise indication of the deposit taken over by the

Notary, the names and address of the depositing party shall be entered, as well as the names and address of the person who shall receive, and eventually received, the deposited object(s); and

1.5. Common directories of the parties concerned with the data entered in the registry books referred-to under sub-paragraphs 1.1. and 1.2. of this paragraph

2. The registry books and other books mentioned in sub-paragraphs 1.1. and 1.2. of paragraph 1 of this Article shall be bound, with each page numbered and sewed in with a thread and certified by a seal of the Notary. The relevant data shall be entered immediately, in the order of each of the documents prepared or actions taken, at the time when such documents and actions are prepared or taken. All entries shall be clearly legible, without blank spaces, crossing, erasures or corrections.

3. The Notary shall sign and affix his or her seal on every page of the general business registry book.

4. All registry books and other notary books shall be bound every year with a binding of a maximum of ten (10) cm thickness, and their pages shall be numbered. On the page margin of the binding, the name of the notary public, the year and the ordinal number of the binding should be indicated.

Article 61

Transfer of notary archives and/or responsibility for issuance of transcripts and copies to parties in case of suspension

1. In the event of temporary suspension of a Notary, the Chamber of Notaries appoints another Notary for the purposes of issuing transcripts, certificates and extracts from the archives of the temporarily suspended Notary.

2. In the event of cessation of a Notary's functions, or of transfer of the Notary's seat to the resort of another municipal court, the municipal court with jurisdiction over the Notary's original seat shall keep the Notary's records and books, as well as the documents handed over to him or her in his or her official capacity, and the seals declared null and void. The municipal court of original jurisdiction in whose care the notary archives have been placed shall issue all transcripts and extracts of the records of the concerned Notary.

3. Subject to the approval of the Ministry of Justice, the records and books of a Notary who has ceased to carry out his or her functions, as well as the documents handed over to him or her in his or her official capacity may be handed over to the Notary replacing him or her.

4. Should the transferred or temporarily suspended Notary be reinstated as Notary in the district in which he or she previously had his or her seat, the Notary's records, books, seals and stamps shall be returned to him or her. The Ministry of Justice shall issue a decision to this effect.

Article 62
Secondary legislation

The Ministry of Justice may issue the appropriate regulations or directives regarding the archiving and storage of notary documents and items deposited with a Notary, and the form and archiving of all registry books, directories and other notary records.

CHAPTER XII
THE CHAMBER OF NOTARIES

Article 63
General dispositions

1. The Chamber of Notaries (“Chamber”), a legal person in public law, shall operate pursuant to this Law and its statute, as adopted by the General Assembly of the Chamber of Notaries and approved by the Ministry of Justice.

2. The Chamber shall have its seat in Prishtinë/Priština and shall be comprised of all the Notaries in Kosovo. The membership in the Chamber of Notaries is obligatory.

3. The Chamber is comprised of the following organs:

3.1. a President and a Vice-President;

3.2. a Committee;

3.3. an Assembly;

3.4. an Arbitration and Disciplinary Council; and

3.5. an Audit Committee.

4. The statute of the Chamber shall provide for the organization of work of the bodies of the Chamber, the legal relationship between those bodies and the Notaries, the administration and management of the Chamber and other issues within the latter’s competence.

Article 64
Functions and activities of the chamber

1. The functions of the Chamber are as follows:

- 1.1. ensure that Notaries execute their professional duties in a conscientious and correct manner, comply with professional ethics and act in a dignified manner;
 - 1.2. harmonize professional activities of Notaries;
 - 1.3. organize training of notaries and employees of Notaries' offices; and
 - 1.4. organize candidate service.
2. In fulfillment of its objectives, the Chamber shall:
- 2.1. represent Notaries before administrative agencies and other domestic and foreign institutions;
 - 2.2. prepare recommendations for the harmonizing of the practices of Notaries related to office;
 - 2.3. adopt a Notary Code of Ethics and Professional Conduct, which shall be approved by the Ministry of Justice;
 - 2.4. require written explanations from Notaries concerning complaints filed in their regard and where necessary and submit proposals for the commencement of disciplinary proceedings to the Ministry of Justice;
 - 2.5. establish compulsory contributions by Notaries to the Chamber;
 - 2.6. establish salaried offices within the Chamber;
 - 2.7. allocate funds from its budget to sustain notary offices generating an insufficient income due to circumstances independent of the concerned Notary, where maintaining such office is necessary to address the needs of the residents of the corresponding territorial jurisdiction;
 - 2.8. allocate subsidies to retired Notaries and their family members, where necessary;
 - 2.9. acquire and dispose of the real and movable property necessary for the performance of the duties specified in this Law; and
 - 2.10. perform all other activities consistent with the law and its statute.

Article 65
Monitoring and supervision of the Chamber

1. The legality of the activities of the Chamber shall be supervised by the Ministry of Justice, which may require from the Committee of the Chamber to submit the documents relevant to such supervision and file any objection against legal acts of, and measures taken by, bodies of the

Chamber of Notaries, in accordance with the Law on Administrative Procedure and the Law on Administrative Disputes.

2. The Chamber shall submit a comprehensive annual report concerning its activities to the Ministry of Justice at a time determined by the latter. Such report shall further address the activities of the Notaries, acting notaries and notary candidates during the preceding year, and a work schedule for the discharge of the main duties of the Chamber for the following year, including the relevant financial assessments.

Article 66 **Assembly meetings**

1. The Committee convenes the Chamber's annual Assembly Meetings by giving written notice to all the members of the Chamber of the time, place and agenda of the Assembly Meeting at least two weeks in advance.

2. *Ad Hoc* Meetings of the Chamber's Assembly may be convened, in the manner envisioned in Paragraph 1 of this Article, to address urgent issues concerning the Notaries which need to be resolved before the annual Assembly Meeting, at the initiative of:

2.1. the Committee of the Chamber of Notaries;

2.2. the Ministry of Justice;

2.3. at least one fifth of the members of the Chamber of Notaries.

3. The members of the Committee of the Chamber of Notaries shall participate in the Assembly meetings personally.

Article 67 **Competence of the Chamber's Assembly**

1. The Chamber's Assembly may enter on its agenda and adopt resolutions concerning any issue within the competence of the Chamber of Notaries.

2. The Chamber's Assembly shall have exclusive competence to decide on the following issues:

2.1. approval and amendment of the Chamber's statute;

2.2. election of the members of the Chamber's Committee, including the President of the Chamber and chairperson of the Committee;

2.3. approval of annual budget;

2.4. amount of the compulsory contribution of the Notaries to the Chamber;

2.5. approval of annual reports;

2.6. election of the members of the Audit Committee;

2.7. election of the members of the Arbitration and Disciplinary Council.

3. The Assembly's resolutions shall be passed at the Meetings, on the basis of a simple majority vote. A Meeting has a quorum if at least two-thirds of the total number of members of the Chamber are present, or represented. In the absence of a quorum, a further Meeting is convened by the members present.

Article 68 **Committee and President of the Chamber**

1. The members of the Chamber's Committee ("Committee"), including the President and the Vice-President of the Chamber, are elected by the Assembly through a secret ballot, for a term of three years. The Committee shall further comprise three other members of the Chamber.

2. Between the Chamber's Assembly sessions, the Committee shall perform all the duties of the Chamber which do not fall within the exclusive competence of other bodies of the Chamber. It shall ensure compliance with the Chamber's statute and the proper implementation of the Assembly's resolutions.

3. The President of the Chamber shall be the chairperson of the Committee. The President shall convene the Committee's regular sessions, which are usually held every month. He or she shall represent the Chamber in all legal acts.

Article 69 **Audit Committee**

1. The Chamber's Audit Committee ("Audit Committee") shall audit the economic activities and the management of the Chamber of Notaries, on its own initiative or at the request of at least one fifth of the members of the Chamber.

2. The Audit Committee shall review and comment on the annual report regarding the Chamber's activities, before submission of the report to the Chamber's Assembly.

3. The Audit Committee shall be comprised of at least three members, elected by the Assembly for a period of up to three years. The members of the Audit Committee may not be members of the Committee of the Chamber's Arbitration and Disciplinary Council.

4. The Audit Committee's resolutions are adopted on the basis of a majority vote.

Article 70
Arbitration and Disciplinary Council

1. The Chamber's Arbitration and Disciplinary Council ("Council") shall:
 - 1.1. decide on complaints against Notaries in disciplinary matters, as filed by members of the public or other Notaries, the Committee or the Audit Committee;
 - 1.2. act as an arbitrator in disputes among Notaries or involving notary candidates, or in disputes between notaries and their clients.
2. The Council may also decide *ex officio* to initiate disciplinary proceedings against a Notary if there are reasonable grounds to believe that a Notary may be in violation of his obligations as set forth in the law or the Notary Code of Ethics and Professional Conduct.
3. The Council shall be comprised of at least three members, elected by the Assembly for a period of up to three (3) years. The members of the Council shall not be members of the Committee or the Audit Committee. An appropriate number of alternative members shall be elected together with the members.
4. The Council shall be multi-ethnic and its members shall be distinguished Notaries meeting the highest standards of efficiency, competence and integrity. They shall be independent and impartial.
5. A member of the Council shall rescue himself or herself from hearing matters where legitimate concerns regarding his or her impartiality may arise.
6. The Council's decisions are taken on the basis of a majority vote.
7. The decisions of the Council shall be made public.

Article 71
Duty of confidentiality of members and employees of the Chamber

1. A Notary or an employee of the Chamber who, through his or her activities within the Chamber, obtains information regarding the content of notary acts, may disclose such information only where ordered to do so by a court, and subject to the permission of the Committee. This duty of confidentiality remains after the cessation of one's activities within the Chamber, whether as a member or as an employee.
2. A notary or an employee of the Chamber, who is disclosing such information, shall be liable to a criminal fine between five hundred (500) up to one hundred thousand (100.000) Euro.

CHAPTER XIII SUPERVISION AND DISCIPLINE

Article 72

General disposition regarding supervision of notary activities

The Ministry of Justice ascertains, in consultation with the Chamber of Notaries, that all notary activities are carried out in conformity with the applicable law. Such supervision includes the preparation of notarized deeds, the archiving of notarized deeds and observance of the notary fees.

Article 73

Regular supervision

1. The maintenance of each notary office, and the performance of the concerned notary's duties, shall be reviewed every two years, at a specific date, with prior notice to the concerned Notary of the date of the review by registered mail, facsimile or electronic message.
2. The concerned Notary or a person authorized by him or her shall comply with such notification and any directions issued by the Ministry of Justice in the context of the review.
3. Minutes shall be taken, describing the review. These minutes shall be signed by the persons who performed the supervision and by the Notary whose office and/or activities were reviewed. The review made of the Notary's registry books shall be recorded under the last entry in the concerned book.
4. The original copy of the minutes shall remain with the Chamber of Notaries, and legalized transcripts shall be given to the concerned Notary, the Ministry of Justice the President of the Municipal Court with jurisdiction over the seat of the Notary and the President of the Chamber of Notaries.

Article 74

Ad Hoc supervision

The Ministry of Justice may further order the performance of the *ad hoc* review of a notary office, in a manner and according to the procedure provided for the performance of regular supervisions, without prior notice to the concerned Notary.

Article 75
General dispositions regarding discipline

1. Disciplinary proceedings may be instituted against a Notary, notwithstanding civil or criminal proceedings, for conduct contradicting a notary's obligations pursuant to the law or the Notary Code of Ethics and Professional Conduct.
2. One's cessation of notary office does not affect disciplinary liability for conduct while assuming notary office.
3. Disciplinary proceedings are instituted within the Chamber of Notaries, by the Disciplinary Council, as envisioned in Article 70 of this Law.
4. The disciplinary sanctions are:
 - 4.1. written admonition;
 - 4.2. fine ranging from five hundred (500) Euros to five thousand (5000) Euros;
 - 4.3. temporary withdrawal of the right to perform notary activities for a maximum period of 6 months;
 - 4.4. removal from office.
5. A fine may be imposed cumulatively with the sanctions envisioned in sub-paragraphs 4.1, 4.3, and 4.4. of paragraph 4 of this Article.
6. The Disciplinary Council shall ensure that any sanction is proportional to the misconduct for which it is imposed.
7. The sanction consisting in removal from office may only be imposed by the Ministry of Justice, upon the proposal of the Disciplinary Council of the Chamber of Notaries.
8. A Notary upon whom a disciplinary sanction is imposed may challenge the Council's decision before an administrative disciplinary panel established by the Ministry of Justice, whose decision shall be deemed as the final administrative enactment.
9. The administrative disciplinary panel shall be comprised of five (5) members, including the Ministry of Justice or a representative, two (2) notaries, a professor of law and a judge.
10. An appeal against the decision of the administrative disciplinary panel before the competent court, pursuant to the Law on Administrative Disputes and the Law on Regular Courts, lies as of right, save in the case of sanctions consisting in a written admonition or a fine of less than seven hundred fifty (750) Euros.

11. An Administrative Instruction shall be issued, regulating further the procedure in disciplinary matters, as well as the administrative and judicial appellate procedures. The disciplinary procedure shall safeguard the rights of a Notary to be heard and to defend himself or herself or with the assistance of another Notary or Counsel.

CHAPTER XIV TRANSITIONAL AND FINAL PROVISIONS

Article 76 General dispositions

1. The respective amounts of provisional notary fees shall be determined by the Ministry of Justice within six months following the entry into force of this Law. These provisional notary fees shall apply until the Chamber determines, in consultation with the Ministry of Justice the new notary fees.
2. The Ministry of Justice shall adopt the necessary administrative directions and other secondary legislation describing in more detail, among other issues:
 - 2.1. the nature, content, form and modalities of preparation of notarized deeds;
 - 2.2. the keeping of all notary books, registers and other directories;
 - 2.3. the conditions of delivery of valuable items deposited with the notaries;
 - 2.4. the form, content, manner of delivery and recovery of the notary seals and office signs/advertisement (pannonceaux – enseignes, logo);
 - 2.5. the number and location of the notary offices.
3. During a transitional period of three (3) years, legal practitioners with five years of professional experience shall be deemed as fulfilling the criteria to eligibility set forth in Article 4, paragraph 1 sub-paragraph 1.3 of this Law.
4. The Notaries shall assume the functions envisioned in Article 29 of this law only after the transitional period from one (1) up to two (2) years following entry into force of this Law.
5. The Ministry of Justice shall organize the first notary examination within six (6) months following the entry into force of this Law.
6. The Ministry of Justice shall publish the first notice of competition for notary offices within one (1) month following such time as ten (10) applicants to the notary service have succeeded in the notary examination.

7. The Ministry of Justice shall continue publishing notices of competition for notary offices until such time as the Chamber of Notaries is established.

8. The first Assembly of the Chamber of Notaries shall be convened within one (1) month following assumption of office of the first notaries.

9. After three (3) years following the entry into force of this Law, the number and respective seats of the Kosovo notaries shall be defined by the Ministry of Justice after consultation with the Presidents of the Municipal Courts and the Chamber of Notaries.

10. Within one (1) year following entry into force of this Law, the Provisional Institutions of Self-Government shall submit to the Special Representative of the Secretary-General the amendments to the Law on Inheritance in Kosovo and the Law on non-Contested Procedure rendered necessary by this Law.

Article 77
Entry into Force of the Law

This Law shall enter into force fifteen (15) days after its approval in the Official Gazette of the Republic of Kosovo.

Law No. 03/L-10
17 October 2008

President of the Assembly of Republic of Kosovo

Jakup KRASNIQI