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LEGAL GROUNDS AND TYPES OF CRIMINAL AND ADMINISTRATIVE LIABILITY FOR OFFENCES RELATED TO NOTARIAL ACTIVITIES

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ANNOTATION

This article analyzes the legal grounds and types of liability for offences related to notarial activities, with particular emphasis on criminal and administrative liability. It examines the legal consequences of violations of legal requirements in the course of notarial activities, as well as the specific aspects of determining liability measures based on the nature and degree of social dangerousness of the offences. The article also considers issues related to improving legal mechanisms aimed at ensuring legality in the notarial sphere, preventing offences, and strengthening the inevitability of liability. Furthermore, the article puts forward theoretical and practical conclusions and proposals aimed at enhancing the effectiveness of the existing legal framework.

Keywords: Criminal liability, administrative liability, notarial office, notary, personal data, investigating judge, grounds for liability.

The institution of notariat plays an important role in ensuring the rights and legitimate interests of individuals and legal entities, safeguarding the stability of legal relations, and certifying the legality of transactions. Violations of legal



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requirements in the course of performing notarial acts may adversely affect not only the rights and interests of individuals, but also the reliability of civil transactions and legal security. Therefore, preventing and detecting offences related to notarial activities and ensuring the inevitability of liability for committed acts constitute important legal objectives of the state.

First and foremost, in the Republic of Uzbekistan, the liability of notaries is established by Article 19 of the Law of the Republic of Uzbekistan “On Notariat”, which stipulates that a notary shall be held liable, in accordance with the procedure established by law, for failure to perform or improper performance of his or her duties. Damage caused as a result of the failure of a notary of a state notarial office to perform his or her duties shall be compensated by the state in accordance with the procedure determined by the Cabinet of Ministers of the Republic of Uzbekistan.

A privately practicing notary shall bear civil liability for damage caused to the property of individuals and legal entities as a result of violations of the law committed through notarial acts, unless otherwise provided by this Article.

Damage caused to the property of individuals and legal entities shall be compensated from the insurance payment (insured amount) under the contract of civil liability insurance of the privately practicing notary. If the insurance payment is insufficient, the damage shall be compensated from the notary’s personal property, and if the notary’s personal property is insufficient, from the Compensation Fund established under the Notarial Chamber.

Where a court decision confirms that damage to the property of individuals or legal entities was caused by intentional acts of a privately practicing notary, such damage shall not be compensated from the Compensation Fund established under the Notarial Chamber.



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At the same time, Article 16 of the Criminal Code of the Republic of Uzbekistan may be cited when explaining the grounds for criminal liability. According to this provision, the commission of an act containing all the elements of a crime prescribed by the Criminal Code constitutes the basis for criminal liability.

Cases concerning administrative offences for which a notary may be held liable under Articles 46, 46², 61¹, 164, 174, 179³ and 193³ of the Code of Administrative Responsibility of the Republic of Uzbekistan are considered, pursuant to Article 245 of the Code of Administrative Responsibility, by district (city) criminal courts. In accordance with recent legislative reforms, cases falling within this category are considered by an investigating judge of the criminal courts.

One of the types of administrative offences applicable to notaries is the unlawful refusal to perform a notarial act, provided for in Article 193³ of the Code of Administrative Responsibility. An unlawful refusal to perform a notarial act entails the imposition of a fine ranging from five to ten times the basic calculation amount.

According to Article 38 of the Law of the Republic of Uzbekistan “On Notariat”, a notary shall refuse to perform a notarial act in the following cases:

- if the performance of such an act is contrary to the law;
- if the act must be performed by another notary;
- if an incapacitated individual or a representative without the necessary authority applies for the performance of a notarial act;
- if a transaction performed on behalf of a legal entity is contrary to the purposes specified in its charter or regulations;
- if the transaction does not comply with the requirements of the law;
- if the documents submitted for the performance of the notarial act do not comply with the requirements of the legislation.



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Therefore, a refusal to perform a notarial act may be deemed unlawful only where the refusal is based on a circumstance that is not provided for by law as a ground for refusing to perform the relevant notarial act. At the same time, pursuant to paragraph 21 of the Instruction “On the Procedure for Performing Notarial Acts by Notaries”, approved by Order No. 2-mh of the Minister of Justice of the Republic of Uzbekistan dated 4 January 2019, a refusal to perform a notarial act in the presence of the circumstances specified therein does not entail liability.

Furthermore, Article 46 of the Code of Administrative Responsibility establishes liability for the disclosure of information that may cause moral or material harm to an individual. The disclosure of medical or commercial secrets, correspondence and other communications, secrets of notarial acts, banking operations and deposits, as well as other information that may cause moral or material harm to an individual or adversely affect his or her rights, freedoms and legitimate interests, provided that such act does not contain the elements of an offence предусмотренный by Article 46¹ of the Code, shall entail:

- a fine imposed on individuals in the amount of one-half to two times the basic calculation amount;
- a fine imposed on officials in the amount of two to five times the basic calculation amount.

Moral harm may manifest itself in the following forms:

- emotional distress caused by the loss (death) of a close relative;
- inability to continue active participation in social life;
- loss of employment;
- disclosure of family or medical secrets;
- dissemination of false information that damages the honor, dignity and professional reputation of individuals;
- temporary restriction or deprivation of any other rights;



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• illnesses suffered as a result of the moral distress and suffering caused by the harm inflicted; and other similar circumstances.

At the same time, Article 46² of the Code of Administrative Responsibility of the Republic of Uzbekistan establishes liability for violations of legislation on personal data. Accordingly, the unlawful collection, systematization, storage, modification, supplementation, use, provision, dissemination, transfer, depersonalization and destruction of personal data shall entail a fine of seven times the basic calculation amount for individuals and fifty times the basic calculation amount for officials.

Under the legislation, including Resolution No. 71 of the Cabinet of Ministers of the Republic of Uzbekistan, personal data may include, inter alia:

- first name, surname and patronymic;
- date and place of birth;
- telephone number;
- temporary or permanent place of residence;
- information about family status and family members;
- social status;
- education, occupation, position and place of employment;
- income and property status;
- personal photograph and other photographic images;
- biometric and genetic data; and
- other information relating to an individual.

Administrative liability is also established under Article 197² of the Code of Administrative Responsibility for obstructing the performance of the professional duties of a notary. In accordance with this provision, obstructing a notary in the performance of his or her professional duties, including failure to provide the notary with the information and documents necessary for performing notarial



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acts, shall entail a fine ranging from two to five times the basic calculation amount.

In **conclusion**, the lawful and effective performance of notarial activities constitutes one of the important guarantees of the stability of civil transactions and the reliable protection of the rights and legitimate interests of individuals. Offences committed in the sphere of notarial activities, depending on their legal consequences and degree of social dangerousness, necessitate the application of appropriate measures of administrative or criminal liability. From this perspective, alongside ensuring the inevitability of liability, particular importance should be attached to improving preventive mechanisms aimed at strengthening legality, professional responsibility and legal diligence in the activities of notaries.