Notarial Act – Drawing up form and procedure

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Abstract

The notarial act includes a document on which the opinion of a person is expressed in writing, regardless of the material with which it is written or on which it is expressed and the type of signs with which they are written. The notarial act is an act which, in a strictly defined form and procedure, is drawn up in its entirety by a notary public within his official powers. Therefore, this type of notarial act, in addition to the official one, also has the material authenticity of a public document (the so-called full probative value of a public document), because it confirms the content of the legal transaction. This achieves a higher degree of legal certainty in legal transactions, regulates public registers, etc.
A notarial act is not a generally accepted term in comparative law. There are other names such as: notary public (Serbia), notarial act (Croatia), notarized document (Federation of BiH), notarial act (Slovenia), notarial act (Macedonia), notarielle Beurkundung (Germany), Notariatsakt (Austria)[1], 'atto notarile (Italy), l'acte notarié (France), notariële akte (Netherlands).[2] But despite the terminological differences, this type of notarial act in the Latin notarial system mainly has the same characteristics. It is an authentic and true document containing a legal agreement or other statement of intent drawn up by a notary public within his jurisdiction according to the parties, in accordance with the regulations governing the form and procedure of assembly. In legal theory, special elements that express the characteristics of a notarial act are noticeable.

Keywords: Notarial Act, form, procedure.

Introduction

The essential elements that make up the definition of a notarial act are:
1) it is an act when under its competence, for the parties as a whole, it consists of a notary public as a person with public authority;
2) is an act that contains a contract or other legal transaction, or a declaration of will by which certain rights and obligations are created, changed or terminated;
3) is an act whose content is determined by law;
4) it is a strictly formal act;
5) it is an act in the compilation of which the notary public must follow the procedure defined by law;
6) is an act that represents a public document and can also be an executive title.[3]

[1] It should be noted that the terms indicated in the Romanian legal systems (France and Italy) represent a general term for all types of documents drawn up by notaryship. In addition, in German law, the notarial term Beurkundung includes, in addition to documents on declarations of will (Beurkundungen von Willenserklärungen) and documents on facts (Beurkundungen von Tatachen).

[2] Compare Enes Bikić, Radović Miraš, Suljević Sefedin, "Notaryship in Montenegro", Podgorica, 2010, pg.110 & Gjurgjevic Dejan, "Activity of Notary Public" Belgrade, 2014, pg.111.

[3] Ruth, A., „Form folgt Function", Zur Bedeutung der öffentlichen Beurkundung im Immobiliarsa-

The compilation of a notarial act with the mentioned characteristics guarantees the validity of the legal work undertaken, the certainty that the parties will achieve the intended objectives, to protect the interests of third parties and realized public interests. The notary public as a legal expert, impartial, a professional, teaching and advising, offers clients a service with a great guarantee that their declarations of will create a legal agreement that will realize their interests.

The material function of the notarial act is manifested in the protection of the autonomy of the will and the freedom of the contract. A notarial act protects, in fact, the freedom of human opinions in the creation of legal relations and gives the individual space for the creation and self-responsible regulation of life issues.[4]

One of the material functions of a notarial act is its warning. The prescribed form can serve as protection for the parties. The complex procedure of the compilation and structure of the notarial act keeps the parties from irresponsible obligations from the legal business. This is how the form protects the autonomy of the will from itself,[5] preventing the negative aspects of freedom of contract.[6] Therefore it is said that the form has the function of making the parties more serious.[7] The notary public as an independent professional through counseling and teaching allows removing ambiguities for potential contractors to decide whether or not to consider concluding a contract in the form of a notarial act.[8] If they decide to bind legal work in the form of a notarial act, the notary's expert advice can clarify or avoid divergent interpretation of the content and thus reduce the potential for eventual conflict.[9]

But not only that, if the legal work is undertaken in the form of a notary public, the less likely it is to violate the autonomy of the will, the unbalanced power of the contracting parties,[10] because the notary public is obliged to teach the clients. Educating the parties consists in the obligation of the notary public to: 1) clarify the facts, 2) to examine the will (intention) of the parties, 3) to teach them about the law, the consequences of the intended legal action and 4) that such statements of the parties are fully, clearly and concretely recorded in the notarial act. Validation of facts is the basis for proper teaching.[11] The notary public wants the accuracy of the factual

chenrecht, Zeitschrift des Bernischen Juristenvereins (ZBJV), br. 149/2013, pg.403.

[4] Ibidem.

[5] Mankowski P, Information and Formal Requirements in EC Private Law, European Review of Private Law, no.6/2005, pg. 665.

[6] Ruth A, „Form folgt Function", Zur Bedeutung der öffentlichen Beurkundung im Immobiliarsachenrecht, Zeitschrift des Bernischen Juristenvereins (ZBJV), no. 149/2013, pg.403.

[7] Mankowski, P, 2 Information and Formal Requirements in EC Private Law, European Review of Private Law, no.6,/2005, pg. 665.

[8] Ruth A, „Form folgt Function", Zur Bedeutung der öffentlichen Beurkundung im Immobiliarsachenrecht, Zeitschrift des Bernischen Juristenvereins (ZBJV), br. 149/2013, pg. 403.

[9] See Mankowski P, Information and Formal Requirements in EC Private Law, European Review of Private Law, no.6/2005, pg. 666.

[10] Ruth A, , „Form folgt Function", Zur Bedeutung der öffentlichen Beurkundung im Immobiliarsachenrecht, Zeitschrift des Bernischen Juristenvereins (ZBJV), no. 149/2013, pg. 404.

[11] Compare Kurt W, & Knechtel, Gerhard, "Commentary on Notarial Regulations", Vienna, no. 8, 2012, pg.52.

claims and interrogates the parties. He must teach the parties the meaning of the legal terms to be used and whether they use them in the correct sense.[12] It is the duty of the notary public to determine whether the legal terminology used by the party, if there is benefit, really fits his will. The notary public must explain to the participants the legal significance of their statements and the legal conditions for the intended legal success.

Therefore, the procedure of performing a notarial act represents an obligation where teaching compensates for the lack of experience and knowledge with less contractual.[13] In addition, the notarial record further strengthens and allows the autonomy of the will, the parties being equipped with a competent legal expert who through counseling and teaching to support the parties in the exercise of freedom by creating their legal affairs. Neutral expert in the procedure, the execution of a notarial act will expose the possibilities, chances and risks of creating the planned legal work in this way will enable it to be a complex contract where the autonomy of the parties will be implemented in reality.[14]

1. Notarial acts form

In order for a notarial act to have the probative force of a public document, i.e. represents a public document, it is necessary, among other things, that during its compilation the essential elements of the form prescribed by the Law on Notaries (articles 54 and 65) are respected. Without it, the notarial act does not have the status of a public document, and it can be proven with a separate lawsuit that the notarial act is not authentic. Therefore, notaries must strictly adhere to the form and procedure of drawing up notarial acts, because, otherwise, notaries may be liable for disciplinary measures and compensation for damages, because the notarial act has lost the status of a public document. The Law on Notaries (Article 66) and the Regulation on the form, writing manner and registration of notarial documents as well as the confirmation of facts and statements (Articles 2-23) paid special attention to the form and drafting of notarial acts. Bearing in mind that "Solemnitates iuris sunt observendaees" or "Form is the highest standard" we will mention some norms for its best implementation.

Notarial documents are drawn up by the notary public in a certain number of copies, which is suitable for the number of parties and bodies to which it is submitted, for the case for which the notarial document is drawn up, a copy of which is kept by the notary public.

All notarial documents drawn up by the notary public must contain the coat of arms of the Republic of North Macedonia and the title "Republic of North Macedonia". The coat of arms of the Republic of North Macedonia and the title "Republic of North

[12] Christian A, Nicola P, Tomas R, "Beurkundungsgesetz und Dienstordnung für Notarinne und Notare, BeurkG, DONOT-Komentar, Berlin, 2009, nr.20 for § 17 Beurk; pg. 273).

[13] See Ruth A, , „Form folgt Function", Zur Bedeutung der öffentlichen Beurkundung im Immobiliarsachenrecht, Zeitschrift des Bernischen Juristenvereins (ZBJV), no. 149/2013, pg. 405.

[14] Ruth A, , „Form folgt Function", Zur Bedeutung der öffentlichen Beurkundung im Immobiliarsachenrecht, Zeitschrift des Bernischen Juristenvereins (ZBJV), no. 149/2013, pg. 406.

Macedonia" are written in the upper left corner of the first page of the notarial document and below it is written "NOTARY PUBLIC", his first and last name, head office and address.
In the upper left corner of the first sheet of the notarial document, data is entered for the day, month, year, place and time when the act was drawn up. In the upper right corner of the first page of the document or notarial book, is written the item with the office number from the relevant register or ledger. At the end of the notarial document, under the content and signatures of the parties, the notarial document is personally signed by the notary public and authenticated with an official seal.
If the notarial document consists of several sheets, the mark with the office number from the relevant register or book is placed on each sheet in the upper right corner. The sheets of the notarial document must be sewn with thread, so that they represent one whole.
Each sheet of the notarial document must have an imprint of the notary's embossed seal. Each page of the notarial document must be marked with an Arabic number.

1.1. The technique of drafting a notarial act

The technique of drafting a notarial act is a very important aspect of notarial activity, and it is clearly described by the norms of the Law on Notaries[15] and the Regulation on the work of notaries.[16]
As a rule, a notarial act is drawn up with electronic or mechanical devices to write text that leave a lasting impression. Exceptionally, in case of emergency, if electronic and mechanical writing devices are not available, a notarial act can also be drawn up in legible handwriting written with permanent ink. A copying machine can be used to make copies and transcriptions, which is located in the notary's office and this will usually happen in practice, because the copy must correspond to the original, which, after being signed and pre-signed by other participating parties and notaries affixing a notary's seal, the most secure and easiest to photocopy, marking it as a dispatch and includes a clause on the certification of dispatch.[17]
The durability of the notarial act is also ensured by prescribing the obligation to write on white paper in A4 format and with a quality that guarantees durability. When drawing up a notarial act, security against forgery must also be taken into account, therefore:

[15] Articles 39-43 of the Law on notaryship ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18), Decision of the Constitutional Court U. no. 129/16, dated 24.01.2018 ("Official Gazette of the Republic of Macedonia" no. 25/18).
[16] Regulations about the form, writing and marking of notarial documents as well as confirmation of facts and statements (Article 4).
[17] The dispatcher collects, analyzes and monitors the data that is essential for the performance of services in the road transport of passengers and goods and organizes the economical and safe use of vehicles. The work of the dispatcher is varied and depends on the job position.
Dispatchers use computers in business with customized programs, with maps showing different traffic situations and various documents and instructions for their implementation. In the Federation of BiH, Article 35 of the Regulation on the Work of Notaryship (Official Gazette of FBiH No. 13/09) prescribes the preparation of copies and transcriptions using a photocopier in the notary's office as an obligation.

- The spaces in the notarial act must be filled with lines;
- Amounts, dates and other numerical signs must also be written in letters, provided that only the numerical notes of real estate documents and certain provisions of the law or other regulations on which the act is based are excluded;
- The use of abbreviations is prohibited, except for those that are common and known;
- Words and signs should not be written outside the text;
- The notary's act and the number from the relevant register are written, as well as the number of the calendar year, e.g. UZZ - 1/2009;
- In the upper right corner, the seal of the notary public is affixed (Articles 10 and 20 of the Regulation on the work of notaries), which contains the name: Republic of North Macedonia, the sign "NOTERY", the surname and first name of the notary public and the seat of the notary public.[18]

If the notarial act consists of several pages, then the notary public must act as follows:
- Notes are placed on the first page as stated above, and each subsequent page is marked with a sign and number from the relevant register and the number of the calendar year, and the ordinal number of the page;
- All pages with attachments of the notarial act, which are, as such, placed in the notarial act, or a notarial act of one page with attachments, are sewn with a guarantor, so that both ends on the side of back of the back page to be sealed with adhesive tape and notarized, and if the attachments cannot be joined with the notarial act for technical reasons, at the end of the act and before the signature of the parties, participants and other notaries, the text for the number , the content, marks and date of issue attached, documents and appendices are kept on the cover of the file as an integral part of the notarial act;
- All pages (in case the notarial act has several pages) of the original are signed by the notary public and the parties, i.e. witnesses or other notary public for the party who does not know or cannot write, provided that the initials are not placed above the text, but in a visible place, below the text of each page (article 40 of the Law on Notaries and article 21, paragraph 6 of the Procedure Regulation of the Notaries).

The act drawn up by the notary public must be legible, nothing in it must be deleted, the deletion is made with a thin horizontal line, so at the end of the act, before the signature of the parties, other participants and notaries, it must be indicated and thus which should indicate the place and field (number of words and sentences) of the text that is described. The same is done by changing or supplementing the text of the act, all in accordance with the provisions of Article 42 of the Law on Notaries.

At the end of the act he has drawn up, the notary public signs with his hand and places the seal next to the signature. The parties and other participants sign the act before the notary public. After the signature of the notary public, the act cannot contain anything. If the notarial act does not contain the notary's signature, seal, then such act does not have the status of a public document. If the party is illiterate or cannot sign for any reason, this must be stated in the act. In that case, during the drafting of the act, there must be two written witnesses chosen by the party or another notary

[18] Article 3 of the Regulation on the form, way of writing and notation of notarial documents as well as confirmation of facts and statements.

public, before whom the party puts a fingerprint, and the witnesses or another notary public confirm this.

1.2. The procedure for drawing up notarial acts

The procedure for drawing up notarial acts is strictly formal. The drafting of notarial acts is not a mechanical writing of a text and authentication, but a notary public, as an independent, neutral and professional public service provider, is obliged to act within the limits of his official powers and adhere to the form and the established procedure. All this together makes the notarial act have the status of a public document, thus distinguishing a notarial act, as a public document, from private documents composed by some other legal professions. The Law on Notaries[19] defines the rights and duties of notaries in undertaking official actions and rules of procedure which we can call as notarial procedures. The nature of the notarial procedure is determined by the position, powers and duties of the notarial service as a public service, i.e. the notary public as holder of that service. The notarial service is a public service because the state transferred public powers to the notary public by law in those areas of the law that it considered appropriate from the point of view of public interest, legal security, facilitating the courts, etc. trust, and an independent, neutral and professional holder of that service, which he performs exclusively as a profession. Notarial documents are, under the conditions provided by law, public documents, and the notarial service has the duty to ensure legal protection of physical and legal persons in the way of preventing disputes. All are classified in the notarial procedure, a group of procedures that have as their object the legal protection of civil relations.

The notarial procedure is based on certain principles of contentious and non-contentious matters, with certain rules and some specific principles.[20] They are:

The principle of formality. The notary public is obliged to conscientiously and honestly, in accordance with the Law, at the request of the party, undertake official actions within his competence. There are exceptions to this rule when a notary public can refuse to undertake an official action within his/her competence, and only in the cases defined by the Law on Notaries.[21] In these cases, the party has the right to submit a complaint to the Chamber of Notaries for the refusal to take official actions. The Law on Notaries expressly defines the cases when a notary public is authorized and obliged to refuse to take an official action. Otherwise, the notary public would act outside of his official powers and thus violate the official obligation, which could further lead to the loss of authenticity of the notarial act, i.e. loss of property of a public document. Due to the violation of the official duty, the notary public can be materially and disciplinary responsible. The notary public is obliged and authorized to refuse the undertaking of an official action in cases where there are reasons for the exclusion of the notary public (Article 32), when the official action or legal action is illegal (unacceptable or prohibited by law), when there is a disability, etc.

[19] Articles 39-54 of the Law on Notaryship of RNM.

[20] Trgovčević-Prokić M, "Powers of the Notary Public", Official Gazette of the Republic of Serbia, 2007, pg. 124-132.

[21] Article 3 and 30, Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

The immediate principle. In the process of drafting notarial acts, this principle is expressed by the fact that the notary public is obliged to examine the will of the parties, instruct the parties on the legal consequences of the work and give them a warning, and then, when the statements of the parties are entered in the act, the notary public is obliged to read them, include possible instructions and warnings in the act and ensure with immediate questions whether the content of the notarial act corresponds to the will of the parties. At the end of the notarial act drafting procedure, the parties and other participants sign the act in the presence of the notary public.[22] In accordance with the immediacy principle, in the case of a bilateral legal transaction, it is necessary for the parties to be present before the notary public at the same time when they draw up, read and sign the notarial act.

The principle of independence. This principle is reflected in the fact that a notary public, although appointed by the state that supervises his work, is obliged to perform the notarial service and undertake actions within his competence exclusively in accordance with the law and regulations.[23]

The principle of public trust. The Law on Notaries defines the notary public as a person who enjoys public trust, and, as such, is obliged to act conscientiously and honestly towards all parties to the proceedings while performing duties within the scope of his competence in the same manner , in accordance with the Law and regulations.[24]

The principle of impartiality. According to this principle, the notary public is obliged, in accordance with the Law, to equally protect the interests of all parties, investigate their will, advise and teach them, and warn about the shortcomings and consequences of potential harm to the intended legal transaction. Moreover, the Law describes the reasons for the exclusion of a notary public, as well as the sanction that the notarial act does not have the status of a public document if there was a reason for the exclusion of the notary public (e.g. doubt about his impartiality).[25]

Principle of party privilege. The essence of this principle consists in the defined obligation of the notary public, as well as the persons employed by him, to keep confidential the information he learned during his work. There are exceptions to this rule, so the notary public is not obliged to keep secret if something else arises from the Law, the will of the parties or the content of the legal transaction. Otherwise, the notary public would violate the official duty of secrecy.[26]

The principle of determining the true will of the parties. The notary public is obliged to examine the will of the parties and the facts, and to translate the true will of the parties into a notarial act, completely, clearly and definitively. If the notary public considers that the statements of the parties are unclear, incomprehensible,

[22] Articles 40 of the Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

[23] Articles 2 and 3 of the Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

[24] Article 29 of the Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

[25] Article 29 par.2 of the Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

[26] Article 33 paragraph 1, 2 and 4 of the Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

where they wish to, despite the notary's warning, be included in the act, the notary public can only do so with both the entry link and the warning in the notarial act.[27] Otherwise, the notary public would violate the official duty to determine the true will of the parties.

The principle of advising and warning the parties is one of the central principles of the notarial procedure, because it affects the very essence of notarial activity in the field of drafting notarial acts. One of the basic goals of the notary public service, which is the legal protection of the parties in civil cases[28], depends mainly on the qualitative application of this principle in the practice of notaries. The notary public is obliged, before drawing up the notarial act, to instruct the parties on the legal consequences and the scope of the intended legal action. The essence of this principle is that the notary public guides the parties in material law and gives them warnings in this regard, in terms of business risks related to the legal transaction (e.g. payment of the price of a sales contract before the registration of a pre-registration of property rights). The notary public also instructs and warns the parties about all the legal prerequisites for the validity of the legal transaction. This principle does not violate the principle of autonomy of wills, but seeks to show the parties the possible harmful consequences and thus prevent hasty and harmful declarations of will. When the parties act within the legal limits of the autonomy of the will, in addition to learning the legal scope of the intended legal action, the notary public is obliged to warn the parties of the legal consequences, business risks and possible shortcomings of the legal transaction, especially if he considers them to be unclear their statements are incomprehensible and unclear, and if they can lead to disputes and damages. If, even after the notary's instruction and warning, the parties continue to stand by their statements, the notary public shall insert their statements in the notarial act, but also the fact that he instructed them and warned them of the consequences of such statements. Otherwise, the notarial act may lose its authenticity, i.e. property of a public document and can be revoked like any private document and the notary public violates the official duty to advise, instruct and warn the parties. Likewise, a notary public may be liable for damages resulting from the breach of this official duty. What should be emphasized is the fact that the teaching and warning of the parties in the practice of notaries is insufficiently done when it is necessary, and is often used indiscriminately, where it should not or should not be used. Counseling or teaching should not turn into the imposition of the will of the parties by the notaries, the mediation of the notaries between the parties, nor should it endanger the autonomy of the will of the parties established by law. also, official actions cannot be taken and notarial acts can be drawn up that are not allowed or that are invalid, because the teaching and warning of the parties in such cases has no effect and meaning (e.g. the sale of real estate that is out of circulation, making a will by a person who does not have testamentary capacity, etc.).[29] The notary public must refuse to take official measures. The instructions and

[27] Article 54 Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

[28] For more details, see Milena Trgovčević-Prokić M, "Powers of the Notary Public", Official Gazette of the Republic of Serbia, 2007, pg. 128-132).

[29] "The will in the form of a notarial act is drawn up in accordance with the provisions of the Law on non-contes-

warnings may be general regarding the legal field of the business (eg in the case of a lifetime maintenance contract "that the property which is the subject of this contract shall not enter the inheritance of the maintenance recipient), and may be specific to certain provisions and statements (e.g. in the case of the sales contract "that there is a risk to the buyer if he pays the price and is not secured by being registered in the real estate cadaster") Lessons and warnings can are entered in the introductory part of the notarial act, within the text of the legal transaction or in the final part of the notarial act. The notary public can combine the technique of inserting instructions and warnings in the notarial act, which is a matter of style and technique of each notary public, because it is not described by the provisions for the actions of notaries during the compilation of notarial acts. Regarding the technique of inserting instructions and warnings in the notarial act, the solutions of the comparative law and the practice of notaries are the same.

2. Subjects and other participants in the process of drafting notarial acts

The procedure for compiling notarial acts is directed by a notary public, and initiated by the parties, i.e. natural and legal persons personally or through an authorized representative. All natural and legal persons who can appear under the substantive law as holders of rights and obligations (legal capacity) Kapacitas iuridicae and who have the ability to participate in carrying out the legal transactions (capacity to act - business) Kapacitas agendii have the ability to participate in the procedure of drafting notarial acts.
The provisions of the law on the legal and business capacity of the parties are contained in several laws: e.g. in Family Law, in the Law on Trading Companies, in the Law on Property-Legal Relations, in the Law on Inheritance, in the Law on Obligations, etc. These laws regulate the legal and business capacity of natural and legal persons in general or for certain legal transactions (e.g. testamentary capacity, who can and under what conditions enter into a marriage contract, a lifetime maintenance contract, be subject of property rights and other real rights).
The Law on Notaries contains provisions of a procedural nature, which regulate the conditions under which blind, deaf, dumb persons, as well as persons who do not know or cannot write or who do not know the language in which the act is drawn up, may appear as a party and participate in the procedure of drafting a notarial act.[30]

2.1. Determining the identity of the parties

The procedural prerequisite for starting the procedure for drawing up a notarial act is the determination by the notary public of the identity of the parties and other participants. The notary public is obliged to determine the identity of these persons by inspecting the documents issued by the competent state authority, on the basis of which the identity can be determined in a clear way. What these documents are is

tation procedure that applies to the drawing up of a judicial will." Article 67 of the Law on Notaryship of RNM.
[30] Article 53 and 54 of the Law on Notaryship of the RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

determined by a separate law, but one thing is certain - they must be personal documents with a photo issued by the competent authority (ID Card, passport, driver's license, etc.), because, only on the basis of such documents, the identity can be determined in a clear way, which is determined by the Law on Notaries of the Republic of North Macedonia. The law does not prescribe the possibility of a different identification in situations where the identity cannot be determined by inspecting a personal document. This is good in terms of preventing abuse and strengthening security in legal transactions, but can often create difficulties in practice. In contrast, the Law on Notaries in other countries[31] as a complementary way of determining the identity of the parties also provide for the recognition of the parties personally and by name by a notary public, or attestation of identity by another notary public or two witnesses, who must be of legal age (adults) and know how to read and write and know the Cyrillic alphabet.

2.2. Other participants and the creation of their identity

In the cases described by the Law on Notaries, in addition to the parties, other persons (participants), whose identity is determined by the notary public in the same way as the identity of the parties, must also participate in the procedure of drawing up notarial acts.

Other participants, according to the Law on Notaries of RNM, **witnesses** or other notaries are foreseen as other participants in the procedure of drawing up notarial acts. In the case where the party does not know to read and write (illiterate) or cannot write (educated, but due to health or some other reason cannot write), in article 40, paragraph 3 of the Law on Notaries, it is stipulated that two written witnesses must be called or another notary public, that fact must be mentioned in the act. During the entire procedure of drawing up a notarial act, two written witnesses, adults and with disabilities, chosen by the party, must be present, provided that the law does not deprive them of the opportunity to be witnesses (Article 59- 61 of the Law on Notaries). A witness cannot be a person employed by a notary public, a person who is a relative of a notary public by blood in a direct line, regardless of degree, and in a collateral up to another degree; who is the spouse of a notary public, or a relative of the father-in-law up to the second degree, regardless of whether the marriage has ended; a person who can benefit from a legal transaction for which a notarial act has been drawn up and a person who, according to the laws on judicial procedures, is exempt from the duty to testify. Instead of a witness, another notary public can be called in case the party does not know or cannot write.

The role of a witness or another notary public is the same and consists in the fact that they must be present during the drafting of the notarial act, which includes reading and signing the act, and they must confirm that the party has affixed the fingerprint in the notarial act. The notary public is obliged to indicate all this in the last part of the notarial act.

[31] Article 82 of the Law on Notaryship of FBiH; "Official Gazette of FBiH No. 45/02".

3. Parties and other participants in the procedure of drawing up notarial acts

In the Law on Notaries, the other participants are also defined as deaf participants, who can read, must read the act himself and declare explicitly that he has read it and that it coincides with his will. The mute and deaf-mute participant, who knows how to read and write, must write in the notarial act with his own hand that he has read it and that he agrees. Those statements must be included in the notarial act before the participant's signature. In the notarial act, it must be noted that it was acted in accordance with the provisions of paragraphs 1 and 2 of this article.[32]
A court interpreter is a mandatory participant in the procedure of drafting a notarial act when one of the parties does not understand the language in which the act was drafted or if the party requests it. These circumstances must be indicated in the act, and at the end of the act the notary public must indicate that the text of the act has been translated for the participant.[33]

Conclusions

Notarial acts are public documents for legal matters, declarations of will and facts compiled by a notary public (notarial minutes and minutes of confirmation of a private document), minutes of legal actions and facts followed by a notary public (notarial minutes), certificates of facts which, within the scope of their competence, are confirmed by a notary public (notarial certificates) and verifications of copies, signatures and other data (notarial certificates).
Of all the notarial acts, the most important are the acts related to legal issues and declarations of will (notarial notes), which also have the full probative value of a public document on statements made before a notary public. Drafting such notarial acts does not mean simply writing the text of the document and certifying it, but also includes the process of teaching and advising the parties. The notary public must act, in the procedure provided by the law relying on the Code of Conduct, where the notary public is presented as a neutral and professional public service provider. The same procedure must be applied to the minutes of confirmation of a private document, which is equated to a notarial register by law.
Above we mentioned the form, the technique and the mandatory legal rules provided for the drafting of the notarial act, in which case also the register on the confirmation of a private document that presents a high evidentiary power. Therefore, its importance is also great.

[32] Article 62 of the Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).
[33] Article 64 of the Law on Notaryship of RNM, ("Official Gazette of the Republic of Macedonia" no. 72/16, 172/16 and 233/18).

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