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.

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