

Urisbayeva A.A., Assubayeva A.S.

**The role of notarial archive in conducting of a notary services in Republic of Kazakhstan**

Archive- is a centre of historical memorials and one of the main state means which preserves historical and cultural heritage, fulfills social, legal, political, scientific and moral needs of the society. Among other archives, the areas of activities of the branch of Notary Chamber «Private notarial archive» include storage of the notary documents of private notaries, assurance of the preservation of documents, their usage in the interests of the country, society and people, maintenance of documents' register, provision of information support for organizations and citizens, carrying out methodical works with private notaries in respect of archiving and documentation, development of methodological materials for private notaries.

**Key words:** Archive, State archive fund, Private notarial archive, documents, files' nomenclature.

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Урисбаева А.А., Асубаева А.С.

**ҚР-да нотариаттық қызметті жүзеге асыру барысындағы нотариаттық мұрағаттың алатын орны**

Мұрағат – халықтың тарихи ескерткіштерінің орталығы және ұлтымыздың тарихи-мәдени мұрасын сақтаудағы жүзеге асыратын, қоғамның әлеуметтік-құқықтық, саяси, ғылыми және рухани қажеттілігін қанағаттандыратын мемлекеттік негізгі нышандарының бірі болып табылады. Өзге мұрағаттар сияқты Астана қаласының Нотариаттық палатасы «Жеке нотариаттық мұрағат» филиалының жұмыс істеу бағыттарының ішінде жекеше нотариустарының нотариалды құжаттарын сақтауға қабылдау, құжаттардың сақталуын қамтамасыз ету, оларды мемлекет, қоғам және азаматтар мүддесіне сай қолдану, құжаттардың есебін жүргізу, ұйымдар мен азаматтарды ақпараттық қамтамасыз ету, мұрағаттану мен құжаттану саласы бойынша жекеше нотариустарға әдістемелік жұмыстар жүргізу, жекеше нотариустар үшін арнайы әдістемелік құралдар әзірлеу міндеттерін жүзеге асыру.

**Түйін сөздер:** Мұрағат, Ұлттық мұрағат қоры, жеке нотариаттық мұрағат, құжаттар, істер номенклатурасы.

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Урисбаева А.А., Асубаева А.С.

**Роль нотариального архива в осуществлении нотариальных услуг в Республике Казахстан**

Архив – это центр исторических памятников народа и одно из основных государственных способов, сохраняющих историко-культурное наследие нации, обеспечивающих социально-правовые, политические, научные и духовные потребности общества. Среди прочих архивов, направлениями деятельности филиала «Частный нотариальный архив» Нотариальной палаты города Астаны являются хранение документов частных нотариусов, обеспечение сохранения документов, их использование в интересах государства, общества и граждан, ведение реестра документов, информационное обеспечение организаций и граждан, проведение методологических работ по архивированию и документалистике, подготовка специальных методических материалов для частных нотариусов.

**Ключевые слова:** Архив, Государственный архивный фонд, частный нотариальный архив, документы, номенклатура дел.

## **THE ROLE OF NOTARIAL ARCHIVE IN CONDUCT- ING OF A NOTARY SER- VICES IN REPUBLIC OF KAZAKHSTAN**

Archive – is a centre of historical memorials and one of the main state means which preserves historical and cultural heritage, fulfills social, legal, political, scientific and moral needs of the society. Archive-keeping is an inalienable part of science, culture and executive personnel. The important documents related to historic events of various periods, political, social and economical directions of the society are kept in archives.

Today we have over 250 different archives in our country. Their functions include the supplementation of National archive fund of the Republic of Kazakhstan with documents, assurance of their safe-keeping and maintaining the state register of documents, provision of the information for state bodies, organizations and citizens, usage and publication of documents, development of information retrieval system, execution of methodical works in respect of archiving and documentation, as well as generation of methodological materials for internal use of organizations. Moreover, the areas of activities of the branch of Notary Chamber «Private notarial archive» are as following:

- 1) To store the notary documents of private notaries of Astana city;
- 2) To ensure the preservation of documents, to use them in the interests of the country, society and people;
- 3) To maintain register documents, to provide information support for organizations and citizens, to conduct methodical works with private notaries in respect of archiving and documentation, to develop methodological materials for private notaries.

According to article 5 paragraph 2 subparagraph 2 of the Law of the Republic of Kazakhstan «On National archive fund and archives» private archives are sources of replenishment of National archive fund. Based on article 11 paragraph 3 of this Law legal entities and individuals create departmental and private archives in order to collect, store and use documents of National archive fund [3].

It is a duty of the country which is aspired to civilization to save the memorable documents. Private notaries of Astana city felt the necessity of such system for society and citizens.

On the instructions of President N.A.Nazarbayev and under the supervision of Ministry of Justice of the Republic of Kazakhstan and Justice department of Astana city in pursuance of article 29-1 of the

Law of Republic of Kazakhstan «On notariat» on November 11, 2011 under the minutes #2 of General meeting of Astana city notaries the Rule on branch of Astana city Notary Chamber «Private notarial archive» was approved, and on November 21, 2011 it was legally registered in Justice department of Astana city.

According to article 4 paragraph 3 of the Law of RoK «On notariat» documents of state notaries must be submitted to state archives in ways prescribed by legislation of the Republic of Kazakhstan [1]. Also, documents of private notaries must be submitted to private notary archives.

Currently, under the agreement with estimation committee of files' nomenclature for 2014-2018, the explanation sessions for newcomers of Notary Chamber are conducted.

For the purposes of accuracy of files management of private notaries' work the nomenclature for each private notary is made. The files' nomenclature is a base for grouping the documents into cases, systemizing and registering the cases, preparing lists for permanent and temporary storage and determining a period of storage, likewise registering cases in temporary storage.

The files' nomenclature of private notaries conforms with the estimation committee of private notaries' archive, the city estimation and inspection committee of State archive, where documents are submitted to permanent storage and is approved by notary himself. Considering the absence of significant changes in duties and structure of Notary Chamber, the files' nomenclature should be agreed with state archive institutions at least once in 5 years terms.

The files' nomenclature is printed in required quantity. One copy of the approved nomenclature should be stored in state archive.

Every private notary has files' nomenclature. The files' nomenclature should consist of all cases, registers, books and journals. The files' nomenclature is defined at the end of the year and introduced into use starting from January 1 of the next year. The files' nomenclature shall have reserve numbers as new cases may be added in current year. At the year-end the closing entry is made to files' nomenclature, it contains numbers of registered cases.

A performer should form the executed documents into cases in accordance with article 127 of the decree #1570 of Government of Republic of Kazakhstan dated December 21, 2011 «On model principles of preparation and maintenance of documentation in state and non-state organizations» and «Rule on notary files management» approved

by order #32 of Ministry of Justice of Republic of Kazakhstan dated January 31, 2012. The formation of cases beyond the nomenclature is forbidden [2].

As soon as all documents of a private notary are executed they are grouped to cases according to a nomenclature.

It is very important to save and to ensure the usage of documents for future society. Moreover, the archive personnel not only file documents, but also check their physical and biological condition. In case documents are stale or decays, restoring works are performed.

As per article 11 paragraph 1 and article 13 paragraph 1 of the Law «On National archive fund and archives» state-owned documents should be temporary stored in departmental archives [3]. Afterwards, such documents shall be transferred for constant storage in state archives.

The fund of private notarial archive is aimed to benefit and for purposes of people.

Notarial record keeping is based on the «Rules of notarial record keeping», established by Ministry of Justice of the Republic of Kazakhstan with the approval of the state body of the Republic of Kazakhstan on management of archives and documentation. Territorial justice departments and notary chambers control the compliance with the rules' requirements. State notaries' documents should be submitted to the state notary archives in the way, prescribed by legislation of the Republic of Kazakhstan. Private notaries' documents should also be submitted to the private notary archives in the way, prescribed by legislation of the Republic of Kazakhstan.

Notary has the seal, which bear his/her full name and the name of the state notary office (the state notary's stamp) or the number and the date of issuance (the private notary's stamp), the national symbol of the Republic of Kazakhstan. In addition, notaries, regardless if they are state or private, have the stamp with authorizing notes and letterheads. The seal of the notary's stamp and signature samples are saved at Ministry of Justice of the Republic of Kazakhstan, territorial justice departments and notary chambers. The organization of production of a stamp for notary actions and its transfer to the notary is carried out by territorial justice departments. Production of private notaries' stamps are paid by themselves, and production of state notaries' stamps are paid by state budget. Territorial justice departments and notary chambers should take measures for notary's stamp destruction and recall of the license, transfer of the notary's documents to the other notary or private notary archive, in case of license annulment.

The direct functions of the notary include: to perform notary actions, specified by the «Law on notary» and other regulatory acts of the Republic of Kazakhstan; to explain to people their rights and obligations, to notify regarding the consequences of notary actions, in order to avoid the damage, which could be caused by ignorance of the law; to keep confidentiality in relation to the data, know as a result of his/her professional practice; to refuse to carry out notarial activity that contravenes Kazakh legislation; comply with professional ethics; submit information on fulfilment of notarial action, other documents, and where necessary personal explanations, including issues of noncompliance with the requirements of professional ethics in the event of complaints about their action to judicial authorities and/or the notary chambers; transfer documents to another notary in the event of suspension of license, according to the procedure provided for by the rules

concerning «Rules of notarial record keeping»; send all notarial documents in place to the private notary archive in the event of license termination; provide information on change of surname, name, patronymic name and location of office to the territorial justice department within one month.

In accordance with legislation, notaries in our country may be private or state. It should be mentioned private and state notaries have equal rights and responsibilities when carrying out notarial activity. Documents formulated by them have equal legal force.

Therefore, obligations regarding the document keeping and submitting documents to the specialized notary archives are the same for both state and private notaries, without any exceptions. We assume that the role of the notary archives is enormous and meaningful, as it provides possibility for the notarial insititute to protect rights and legal interests of people.

#### References

- 1 Law «On notariat» #155 of the Republic of Kazakhstan dated July 14, 1997.
- 2 «Rule on notary files management» approved by order #32 of Ministry of Justice of Republic of Kazakhstan dated January 31, 2012.
- 3 «On National archive fund and archives» Law #326-I of the Republic of Kazakhstan dated December 22, 1998.