

History of Azerbaijan notary

Azerbaijan has an interesting history of notary system.

As in all countries, the formation of notarial acts in Azerbaijan coincides with the establishment of states and their development, as well as the emergence of written evidence.

The first major slave state in the territory of Azerbaijan was Manna. At the beginning of the first millennium BC, a will, which was a notarial act in the first slave state of Azerbaijan, was drawn up both in written and verbal form. Verbal statements of a testator before witnesses were also taken into account. During the verbal testimony, the witnesses became a kind of notary and if necessary, they were called to certify the testimony of the testator after his/her death.

The formation of feudal economic relations in the territory of Azerbaijan dates back to the beginning of the III century AD, when notarial acts were carried out by secretaries.

“Letter of Tansar” created in the VI century and “Matikan” created in 620 are considered as legal monuments of Sasanian Empire. “Matikan” is also called as a Sasanian Legislation. According to the “Letter of Tansar”, community members are divided into four level, thus, clerks and officials drawing up contracts belonged to third level. Inheritance issues are covered in detail in “Matikan”. At that time a will was a written document dictated to a clerk or another official before witnesses. The will of the high priest Aturpat states that, the document was written on the basis of testator’s words – verbal statement. Both verbal and written wills were valid prior to the adoption of Sasanian Legislation, but since 620 only written will was valid. Conclusion of marriage contract which is new in our country was considered in “Matikan”. According to the national tradition of Azerbaijan when couples get married a bride has to bring some necessary household stuff, instead of this a groom has to pay some amount of money to bride’s parents, thus, those things and money were mentioned in ancient marriage contracts.

Priests were in charge of court cases, but notarial acts were handled by secretaries.

In the VII-IX centuries, when Azerbaijan was under the rule of the Arab Caliphate, the judiciary in the center and places was exercised by judges called “qazi” appointed by the caliphs. Besides court cases, the judges drew up civil and legal documents, concluded contracts and transactions. Judges were paid by population for those services.

At the beginning of the VIII century, after Islam became the dominant religion in Azerbaijan, Sharia and Muslim Law which are the inseparable parts of Islam religion played major role in legal system of Azerbaijan.

282nd verse of Surat al-Baqara of the Holy Quran states: “When you lend something to each other for a period of time, write it down! Let it be written down by a secretary! Let a secretary write it down as Allah (God) told him! Let him who

owes a debt write it down by word of mouth, and let him not decrease the amount. If the debtor is unintelligent and weak (old and child), or he can't speak, in this case, let his representative say the debt. Let two men be witnesses! Let witnesses not avoid this case. Do not be lazy to write the debt on time (for how long), even if it is more or less! Your work is fairer in the sight of God, more accurate in testimony, and closer to the truth, so that you may not doubt.”

Judges were appointed by people who knew Sharia law excellently and one of the main duty of judges was to register civil-legal contracts and agreements.

Muslim law considers different ways of establishment of property right: civil-legal acts, inheritance on the basis of a will and by law. According to the Muslim law, a person may bequeath his property to any other person.

Starting from the VIII century, powers of attorney began to be certified in Azerbaijan.

In the XV century, there were Shirvanshahs, Garagoyunlu and Aghgoyunlu feudal states in Azerbaijan. At these times, as well as after that, in the period of Safavis and after that, till the beginning of the XIX century the Muslim law was the main law and the notarial acts were carried out by judges and scribes as in previous centuries.

Starting from the XIX century official documentations were drafted and certified by the scribes. Starting from the time of Amir Teymur, in most Turkic states, first nobles, and then intellectuals and educated people were called as "scribes".

After the occupation of Azerbaijan by Tsarist Russia in the early 19th century, temporary district courts were established in 1814 on the instructions of the General Director for the Caucasus. Besides judicial, administrative and police affairs, they carried out notarial actions too. The judicial reform made in 1864 caused re-establishment of notarial system in Russia and its provinces. In 1866, the Regulation on the Notary Field was adopted, which provided for the establishment of the position of notary.

On December 9, 1867, the Law on “Application of judicial regulations dated November 20, 1864 in the Caucasus region” was adopted. According to the Law, notarial office of Baku district court and private provincial notarial offices were established. Later, according to the written order of the Caucasus Viceroy dated February 12, 1868, the office of the senior notary of the Yelizavetpol district court and the offices of private notaries of the Yelizavetpol province subordinated to him were established. Later, notary offices in different regions of Azerbaijan were established.

With the establishment of the Azerbaijan Democratic Republic on May 28, 1918, works on the new stage of statehood in Azerbaijan - the traditions of independent and democratic governance, as well as a new legal system began.

On the same day as the establishment of the Azerbaijan Democratic Republic, the Ministry of Justice was established. The Regulation defining functions, activity

directions and powers of the Ministry of Justice was approved on November 22, 1918.

The Ministry of Justice interacted with other law enforcement agencies and carried out important works, such as establishment and application of legislation, legal acts. The Ministry did important works in order to form independent judicial system in the country. By the decision of the Board of Ministers, activity of the Baku District Court and prosecutor's office were re-established on October 1, 1918 and the Regulations of the Judicial Chamber of Azerbaijan was adopted on November 14.

From May 28, 1918 to April 28, 1920, during the Democratic Republic of Azerbaijan, notarial acts approved by notaries until May 28, 1918 remained in force, as well as both notary offices under the courts and private notary offices continued to operate during the period of the Democratic Republic of Azerbaijan.

After the April Revolution in 1920, the legal status of notaries in Azerbaijan changed dramatically. Private property was abolished. On May 13, 1920, the decree was signed on the abolition of the Judicial Chamber and the Baku and Ganja District Courts.

In May 1920, by decrees of the Baku Council of People's Commissars and the Revolutionary Committee of Azerbaijan, special notary offices in Azerbaijan were abolished and the position of people's notaries was established. After 1973, the organization and activity of notaries in the USSR were regulated by the Law on State Notaries.

After the restoration of Azerbaijan's independence, the notarial system entered a new phase. The Notary Law was adopted on November 26, 1999 and entered into force on January 30, 2000. This law has been significantly improved compared to its predecessor. The law provided for the establishment of private notaries and gave them the same rights as state notaries.