

**Bosnia and Herzegovina  
FEDERATION OF BOSNIA AND HERZEGOVINA**

**LAW  
ON NOTARIES**

**Sarajevo, August 2002**

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# **L A W ON NOTARIES**

## **I – BASIC PROVISIONS**

### **Article 1.**

#### *Purpose of the Law*

This Law defines the organization, authorities, work method and notary examination, as well as other issues of importance for the work of the notaries within the Federation of Bosnia and Herzegovina (hereinafter: the Federation).

### **Article 2.**

#### *Public Service*

The notary service is a public service that is performed by the notaries, who are self-standing and independent providers of that service.

### **Article 3.**

#### *Performance of the Service*

(1) A notary performs the service of the notary in a professional manner, and exclusively as a profession during the time for which he has been appointed, in accordance with this Law and regulations passed on the basis of this Law.

(2) A notary may perform his service until he is 70 years of age, except where reasons for early termination of service exist, which are described under Article 31, points 1 and 3 through 6, or reasons for dismissal exist which are described under Article 32. of this Law.

### **Article 4.**

#### *Evidentiary Weight of Notary Document*

(1) Notary documents are all documents of the notary that are made by him on the basis of this Law and under the scope of his responsibility.

(2) Notary documents are: the documents made by notary processing, notary confirmation or notary certificates.

(3) Notary documents have the weight of a public document, and are valid in the whole of the Federation, with all authorities, legal persons and other institutions, regardless of which particular notary had issued them.

(4) Notary processed documents, which were made by the notary under the scope of his official responsibilities and in a prescribed form, have the full evidentiary weight of a public document on the statements issued before the notary.

(5) Notary confirmation and certificate have the evidentiary weight of a public documents on the facts that are testified in them.

(6) It is allowed to prove that a statement has been incorrectly notary processed, i.e. that the testified facts are false.

## **II – NOTARY EXAM AND ORGANIZATION OF NOTARIES**

### **1. Notary exam**

#### **Article 5.**

##### *Conditions for Approaching a Notary Exam*

(1) Any person who meets the requirements for performing the notary service that are specified under article 26 of this Law may submit an application to the Federation Ministry of Justice (hereinafter: the Federation Ministry) to take notary exam. For this purpose, the Federation Ministry issues a written notification for the purpose of collecting the applications of the candidates who wish to take the notary exam, which notification is published in daily newspapers.

(2) After the entry of the applications, the Federation Ministry specifies if the candidate meets the requirements for taking the exam, which is notificated.

(3) The notification that specifies that a candidate meets the requirements for taking the exam is sent to the candidate and to the president of the Commission from Article 11 of this Law, while the notification that the candidate does not meet the requirements is sent only to the candidate.

#### **Article 6.**

##### *Conditions for taking the notary exam*

(1) During the transition period of eight years since entry into force of this Law, a person may take notary exam who has, after passing the bar examination as described under Art 26 Nr. 4, worked at least five years on legal affairs, as well as a person who meets the preconditions from paragraph 2 of this Article.

(2) After the termination of the transition period specified under paragraph 1 of this Article, only a person who has spent at least three years working as a notary assistant as understood under this Law may take the notary exam.

#### **Article 7.**

##### *Attending the preparatory seminar*

A condition for taking the notary exam is the obligation of attending the preparatory seminar for the candidate, in accordance with Article 132 of this Law.

**Article 8.**

*Written and oral part of the examination*

(1) Notary examination is taken orally or in writing.

(2) The content of the oral and written parts of the examination must correspond with the program of the seminar described under Article 132 of this Law, which is intended for preparation of the candidates to pass the notary exam.

**Article 9.**

*Subject of the written part of the exam*

The written part of the examination comprises three assignments, each of which is done four hours. The test assignments aim to check whether the candidates are able to make notary documents in the following areas of law:

1. obligations and law of things
2. family and heritage law
3. commercial law
4. executive law

**Article 10.**

*Subject of the oral part of the exam*

Oral part of the examination is taken in one day, from the following subjects:

1. regulations on the notary service;
2. regulation on land-book procedures;
3. regulations on entry of legal persons into the court registry and commercial law;
4. heritage law, family law, obligation law and law of things, but only in the parts that are of significance for the work of the notaries;
5. executive law.

**Article 11.**

*Examining commission*

(1) The notary exam is taken before the examining commission appointed by the Federation Ministry of Justice. The commission members are appointed from among the ranks of the graduated lawyers (B.A.) who had passed the bar exam, and have at least 10 years of work experience, and members of the schools of law who have special qualifications in the subjects for which they are appointed. It is also allowed to appoint foreign members, who have gained certain experience in performing notary work in other countries, provided they had passed the bar examination in Bosnia and Herzegovina and have at least 10 years of work experience.

(2) The Commission comprises a President and four members. For each member of the commission, a deputy is designated. The Commission is appointed for the period of two years. Reappointment is possible.

(3) After the expiration of the transition period of five years, at least two members of the commission will have to have passed the notary exam.

## **Article 12.**

### *Appointing the examination commission*

(1) The resolution on appointing the commission shall specify which member will examine which subjects.

(2) The same resolution will appoint the secretary of the commission from among the officials of the Federation Ministry.

(3) Members of the Commission and Secretary will receive a remuneration for their work, the amount of which will be determined by a resolution of a Federation Minister of Justice.

(4) The administrative-technical and accounting work for the Commission is performed by the Federation Ministry.

## **Article 13.**

### *Examination plan and examination schedule*

The examination plan and examination schedule for taking the written and oral part of the notary exam is determined by the President of the Commission.

## **Article 14.**

### *Notification on the time and place of examination*

(1) The candidate who has been approved to take the exam must be notified thereupon at least 30 days before the time set for taking the written part of the exam. If the candidate agrees, this time may be shorter.

(2) Notary exam is taken in the Federation Ministry. Exceptionally, the president of the Commission may specify another location for the exam, if all conditions for proper examination are provided.

## **Article 15.**

### *Procedures on the written part of the examination*

(1) Before starting the written part of the exam, the secretary of the Commission verifies the identity of the candidates who have approached the written part of the notary examination.

(2) Only the president, members and secretary to the Commission may be present at the written part of the exam. Proper supervision of the examination must be ensured. For this purpose, the president of the Commission may engage other officials of the Federation Ministry.

(3) While writing their papers, the candidates may only use the texts of the regulations.

(4) During the written part of the examination, the candidates are not allowed to talk with each other on the subject of the written test, to talk with other people, nor to leave the premises where the written part of the examination takes place.

(5) In case a candidate uses some not allowed aid, he/she will be excluded from the examination, and it will be considered as he/she has failed the exam.

#### **Article 16.**

##### *Evaluation of written papers*

(1) Each written paper is evaluated by two members of the Commission independently one from another, where the member who has given the written assignment must participate. The written papers are marked anonymously, and for that purpose, the evaluation is done by the number assigned by the Federation Ministry, without stating any names of the candidates.

(2) The papers are evaluated as excellent (10), very good (9), good (8), fully satisfactory (7), satisfactory (6) and has not passed (5), and only full marks may be given as individual marks. In case of discrepancy in evaluation, an average mark is calculated up to two decimal places (e.g.7.50).

(3) The candidate whose at least two written papers have been evaluated as “not passed” is considered failed the whole exam, and is excluded from the rest of the examination.

#### **Article 17.**

##### *Invitation to the oral part of the examination*

(1) Oral part of examination is taken before the members of the Commission typically 60 days after the completion of the written part of the examination.

(2) Together with the invitation to come to the oral part of the examination, the candidates will receive the evaluation of their written exam. The invitation for the oral part of the examination must be sent at least 30 days before the scheduled oral part of the exam.

(3) Provisions under article 14, paragraph 2 of this Law appropriately apply when taking oral part of the examination.

#### **Article 18.**

##### *Procedures in the oral part of the examination*

(1) On the oral part of examination, the sequence of examination of the five subjects listed under Article 10 of this Law is determined by the president of the Commission.

(2) The oral part of the examination should not take longer than four hours, with one one-hour break, and not more than five candidates may be examined at the same time.

(3) Oral part of the examination is public. The president of the Commission may have the observers who disturb the examination by their behavior removed, as well as the observers who can not be seated in the examination room in the way that would ensure that they would not interrupt the examination.

### **Article 19.**

#### *Evaluation of the success in the oral part of the examination and final mark*

(1) Each of the five subject is evaluated by all members of the Commission after the completion of each individual subject, and a mark is given using the scale and procedure described under Article 16, paragraph 2 of this Law, and then, the final result of the oral part of the examination is the average value of all individual marks, with maximally two decimal places.

(2) After the completion of taking the oral part of the exam, the final mark is formulated with maximum two decimal places on the basis of individual results of individual subjects, which are all summed up and divided by five. The mark of the oral part of the examination is added to the mark for the written part of the examination and divided by two. The exam is considered passed if the final mark is at least six (6), provided that all individual marks on the oral part of the examination are at least six (6).

(3) The Commission discloses the final mark to the candidate orally, after taking the oral part of the exam, after it has acted in accordance with paragraph 2 of this Article.

### **Article 20.**

#### *Absence from the exam*

In case that a candidate fails to approach the examination, or states before the exam that he gives up the exam, it is considered that he had never taken the exam.

### **Article 21.**

#### *Interruption of examination*

(1) An exam that has already started (written or oral) may be interrupted if the candidate, due to illness, traffic accident or death of a close family member is prevented from continuing the examination.

(2) The Commission will make a decision on the continuance of the examination, what is reflected in an official note entered into the records.

(3) Application for continuance may be filed within eight days from the day when the candidate took or should have taken the written or oral part of the examination.

(4) After the expiration of 60 days deadline from the day when the candidate has interrupted the examination, the examination can not be continued.

### **Article 22.**

#### *Records*

(1) While taking the written and oral part of the examination, the secretary of the Commission keeps a separate records. This records notes the personal data of the candidate, the composition of the examination commission, duration of written

examination with indication of time when the paper has been submitted, evaluation of the commission, and other remarks.

(2) The records are signed by the President and the members of the Commission who have examined the candidate, as well as the secretary to the Commission.

(3) Each candidate is entitled to see the records, as well as the marks of his written papers, and the commission has to make such insight possible.

### **Article 23.**

#### *Repeating the examination*

The candidate who has failed the exam may take it again after the expiration of six months time from the day of taking the prior exam. The exam may be taken no more than twice.

### **Article 24.**

#### *Certificate*

A certificate is issued on passed the notary exam within 30 days from the day when the notary exam had been taken, which shows the final mark. The form of the certificate shall be prescribed by the Minister of Justice.

### **Article 25.**

#### *Examination records*

(1) A list of persons who have passed the exam is maintained with the Federation Ministry, and the records of those candidates who have failed the notary exam is also kept.

(2) The form and content, as well as the method of maintaining the records book shall be prescribed by the Federation Minister of Justice. The records book must be bound, and the pages must be marked by sequential numbers. The book is certified by the Federation Minister of Justice.

(3) The registry books are kept permanently.

## **2. *Conditions and procedures for selection of the notary, termination of service and removal of the notary from service***

### **Article 26.**

#### *Conditions for performing the notary service*

Only the person who cumulatively meets the following conditions may be appointed notary:

1. he is a national of Bosnia and Herzegovina;
2. he has full business capacity and meets general health conditions for a public administration official;

3. he has graduated from the school of law in Bosnia and Herzegovina or a school of law in former Yugoslavia, if he had graduated before April 6, 1992. If the person has acquired a diploma from a school of law in some other state, this condition is met after the nostrification of the diploma by the responsible body;
4. he has passed the bar exam in Bosnia and Herzegovina, or, if he had passed the bar exam before April 6, 1992, in former Yugoslavia. If the bar exam had been passed in another country, this condition is considered met after the Federation Ministry has recognized the exam;
5. he has not been sentenced for imprisonment committing criminal offenses against humanity and international law, against official or other duty, or for some other premeditated criminal offense that has not yet been expunged from records kept with the responsible agency at the time of appointment;
6. he is not a member of a political party; and
7. he has passed the notary exam.

#### **Article 27.**

##### *Official seat of the notary and number of the notary*

(1) On proposal by a head of cantonal administration agency responsible for administration and justice (hereinafter: cantonal administration agency), the Cantonal Government determines the number of notaries needed for the area of the Canton, as well as their official seat.

(2) Official seat of a notary is the municipality or city designated by the Cantonal Government.

(3) After the establishment of the Notary Chamber of the Federation Bosnia and Herzegovina (hereinafter: the Notary Chamber), when determining the number of notary positions and when determining the official seats of the notaries, the opinion of the Notary Chamber must be obtained too.

(4) The number of notaries is determined in accordance with the number of people living in the canton, where one notary position is typically needed per 20,000 people, but also taking into account the number of documents the notaries process per year.

(5) Two or three municipalities with fewer people than defined under paragraph 4. of this Article may share one notary.

#### **Article 28.**

##### *Competition for selection of the notary*

(1) Selection of notaries is done on the basis of competition.

(2) The competition is organized and implemented by the cantonal administration agency.

(3) In addition to the general conditions for selection of notaries as foreseen by law, the competition must also contain the following information: deadline for application, deadline for notification of candidates on the results of the competition, as well as the official seat for which the notary is being selected.

(4) Deadline for application for competition is 30 days from the last announcement of the competition done in accordance with paragraph 5 of this Article.

(5) The competition must be published in at least one daily newspapers and in the "Official Gazette of the Federation BiH" and the official gazette of the canton.

### **Article 29.**

#### *Selection of notary*

(1) Only those candidates who are by their work and human qualities worthy of the dignity of notary service may be selected to the notary position..

(2) When selecting among several candidates who all meet the conditions specified under Article 26 of this Law, the decisive criteria shall be the success they achieved at the notary examination.

(3) The selection of the candidates who had applied to the competition must be done no later than 30 days from expiration of the time set for submitting the applications for competition.

(4) The head of the cantonal administration agency establishes a commission for implementation of the competition, which commission shall determine the list of candidates who meet the conditions specified by the competition. This commission must include as a member one representative designated by the Federation Minister of Justice.

(5) The resolution on selection of the candidate is made by the head of the cantonal administration agency, where he must obtain the consent of the Federation Minister of Justice.

(6) The candidates who do not get selected for notaries receive a written notification that states the reasons why they had not been selected, as well as the information on the candidate who had been selected for notary.

(7) Against the resolution on selection of notaries an objection may be filed with the Federation Minister of Justice within eight days from receipt of the resolution or notification. The objection against the selection of candidate for notary suspends the execution of the Resolution.

(8) The Federation Minister of Justice has to decide on the objection within 30 days from the date of receiving the objection. The decision on the objection is considered final.

(9) In case the decision specified under paragraph 8 of this Article is made, the candidate may seek protection of his rights before the court of jurisdiction, or other

bodies specified by law, within 30 days from the date of receiving the decision made on the objection.

### **Article 30.**

#### *Taking official oath and appointment charter*

(1) After the decision on selection of notary made in accordance with Article 29 of this Law has become final, the notary is appointed by the head of the cantonal administration agency.

(2) On the appointment as notary, the head of the cantonal administration agency delivers to the notary a charter on appointment. The format and the content of the charter shall be defined by the Federation Minister of Justice. The Resolution on Appointment is published in the "Official Gazette of the Federation BiH" and in the official gazette of the Canton.

(3) Before being served the Charter on Appointment, the notary takes official oath before the head of the cantonal administration agency. The official oath reads as follows:

"I hereby swear to perform the notary service by protecting the Constitution and Law, and to perform my service without bias, conscientiously, independently, and preserving the business confidentiality."

(4) Within 60 days from the receipt of the Charter on Appointment, the notary has to submit to the cantonal administration agency the evidence that he has equipped notary office in his official seat, that he had obtained the official seal, and that he had concluded liability insurance policy as described under article 59 of this Law. The standards of equipment and the premises that must be met by the notary office shall be prescribed by the Federation Minister of Justice.

(5) The notary start to work when he meets the conditions specified under paragraph 4. of this Article, but not later than 60 days from the day of receiving the Charter on Appointment. In justified cases, the head of the cantonal administration agency may extend this deadline.

### **Article 31.**

#### *Termination of notary service*

(1) The notary service ends with:

1. death of the notary;
2. the notary becomes 70 years of age;
3. by a written resignation of the notary – as of the day of making a final decision on termination of service;
4. if the notary gets convicted of criminal offense stipulated under article 26, paragraph 5 of this Law, which was committed with premeditation, or if he has been prohibited to continue performing the notary service – as of the day when such court decision becomes final;

5. if he fails to start working within the deadline specified under Article 30, paragraph 5 of this Law without a valid reason;
6. when he loses the right to perform the notary service by a decision of a disciplinary body – as of the day when the decision of the disciplinary body became final;
7. by dismissal – as of the day of passing the final decision on dismissal.

(2) The decision on termination of notary service, for reasons specified under paragraph 1 of this article, is made by the head of the cantonal administration agency when the reason for termination of service occurs.

### **Article 32.**

#### *Dismissal of the notary*

(1) A notary shall be dismissed:

1. if the prerequisites for performing notary service described under article 26 of this Law subsequently cease to exist, or if it is determined subsequently that such prerequisites had not been met at the time of appointment;
2. if he establishes a working relationship, or starts using the age or disability pension, or starts performing some other service, or if any of the reasons stated under article 56 of this Law occur;
3. if he has been deprived or restricted in his business capacity by a court decision;
4. if due to a physical disability, physical or mental weakness or due to illness he becomes permanently incapable of performing his service properly;
5. if his business relations or method of conducting the notary business, or his material circumstances bring the interests of the parties into jeopardy;
6. if he has not concluded the liability insurance policy by making an insurance contract, or is not paying the insurance fee to the Notary Chamber, as specified under article 59 of this Law.
7. if he has not attended at least two courses for professional development of notaries per year, which courses are recognized by the Federation Ministry.

(2) The Decision on dismissal is made by the head of the cantonal administration agency after consultations with the Notary Chamber, providing that the notary must be heard about the circumstances related to the dismissal before the decision is made, and he must state his opinion on the reasons.

(3) The legal remedy foreseen under article 29, paragraphs 7 through 9 of this Law may be filed against the decision on dismissal.

**Article 33.**

*Loosing the right to use the official name*

By termination of service or dismissal from service, the notary loses the right to use the title “notary”.

**Article 34.**

*Temporary suspension from service*

(1) A notary may be temporarily suspended from service in the following reasons:

1. if a procedure has been started against him to deprive him of the business capacity;
2. if the preconditions are met for dismissal, in accordance with article 21. of this Law, or the dismissal procedure has been initiated..

(2) If in a criminal procedure, a detention of the notary has been ordered, for the duration of the detention the effects occur of temporary suspension by force of law, without issuing a special decision.

(3) The decision on temporary suspension from service is made by the head of the cantonal administration agency ex officio.

**Article 35.**

*Consequences of temporary suspension from service*

(1) The decision on suspension of service on the basis of article 34 of this Law, must decide on keeping the files, business books and seals and stamps for as long as the suspension lasts.

(2) During the temporary suspension from service, the Notary must not take any official actions from the area of responsibility of notary.

**3. Acting notary**

**Article 36.**

*Acting notary*

(1) In case that the notary service has terminated, the cantonal administration agency may, without public competition, appoint an acting notary. Only another notary or a person who meets the conditions specified under article 26 of this Law may be appointed acting notary.

(2) The mandate of the acting notary lasts until the appointment of the new notary, but not more than six months, providing that in justified cases this deadline may be extended for another six months.

(3) The acting notary takes over all files, books and other documentations of the notary in whose place he has been appointed.

(4) The task of the acting notary is to continue the official actions that had been started by the notary, and he is not authorized to take new notary jobs.

(5) The acting notary has the right to claim fees, if they become due after the take over of the job, and if the party had paid an advance payment to the notary to take a specific official action, he is entitled to include that advance payment into calculation of fee to the acting notary.

(6) Performance of the duty is done at the expense and for the account of the Notary Chamber, to which the acting notary submits an account of its activities, and receives an appropriate fee from it for the notary jobs he has performed.

(7) The acting notary uses, when necessary, the seal of the notary whose service has ended, with an addition "acting notary".

(8) Provisions of article 46, paragraphs 1 and 2 and Art. 47 paragraph 2 of this Law, also apply to the acting notary.

#### **4. Notary assistant**

##### **Article 37.**

##### *Notary assistant*

(1) A notary assistant (hereinafter: notary assistant) may be employed with the notary office

(2) The notary assistant is trained at work to perform the jobs of a notary independently later on, and to pass the notary exam.

##### **Article 38.**

##### *Conditions for notary assistant*

(1) Only the persons who are by their work and human qualities are worthy of the dignity of the notary function may be accepted to the position of notary assistant.

(2) Choice between several candidates is made by applying the criteria that relate to personal and professional qualities of each candidate, particularly taking into account the success achieved during the studies at the school of law.

##### **Article 39.**

##### *The need for notary assistants and conditions for their appointment*

(1) The need for accepting a notary service to a notary office is determined by the Notary Chamber, after having obtained the opinion of the notary, and the final decision on the number and competition for the notary assistant positions is made by the cantonal administration agency on proposal by the Notary Chamber.

(2) Only the person who meets the following conditions may be appointed notary assistant:

1. he is citizen of Bosnia and Herzegovina;
2. he has passed the bar exam in accordance with article 26, paragraph 4 of this Law.

#### **Article 40.**

##### *Competition for filling the post of notary assistant*

- (1) Choice of notary assistant is made on the basis of competition.
- (2) The competition is organized and implemented by the cantonal administration agency, on proposal by Notary Chamber.
- (3) The invitation to competition must contain the following data: general conditions for appointing the notary assistant, the deadline for application, and deadline for notification of candidates on the results of competition.
- (4) The competition must be published in at least one daily newspaper and in the "Official Gazette of the Federation BiH".
- (5) Deadline for submitting applications for the competition is 30 days from the last day of publishing the competition, in accordance with paragraph 4 of this Article.

#### **Article 41.**

##### *Procedure for selecting notary assistant*

- (1) The cantonal administration agency has to present to the Notary Chamber a list of candidates who meet the conditions stated in the competition announcement within 15 days from the expiration of deadline for submission of applications.
- (2) The Notary Chamber passes a decision on selection of the candidate for notary assistant within 30 days from the day of being presented the list of candidates.
- (3) The candidates who are not selected for notary assistant shall receive a written notification that contains the reasons why they had not been selected, as well as the information on the successful candidate.
- (4) An objection against the decision on selection of notary assistance may be filed with the Federation Minister of Justice within eight days from the day of receiving the decision. The objection against the decision on selection of candidate for notary assistant postpones the execution of the decision on selection of notary assistant.
- (5) The Federation Minister of Justice has to decide on the objection within 30 days from receiving the objection. The decision on the objection is considered final.
- (6) The candidate has the right to seek protection of his rights against the decision from paragraph 5 of this Article before the court of jurisdiction, or other responsible agency, in accordance with law, within 30 days from the day of receiving final decision.

**Article 42.**

*Position of the notary assistant*

(1) Training of notary assistant with the notary lasts at least three years.

(2) The job of notary assistant is terminated by appointment for notary, or by termination of the employment contract by the Notary Chamber. The employment contract may also be terminated at personal request of the notary assistant. He may be discharged if he definitely fails the notary exam.

(3) Provisions under article 57 of this Law appropriately apply to notary assistant. On the day of his entry at work, the notary assistant must terminate any other working relations that he might have.

**Article 43.**

*Jobs of notary assistant*

(1) The notary assistant may perform, under the direct supervision by notary, all jobs a notary is authorized by law to perform.

(2) The notary assistant must not personally sign the notary documents or certification records.

(3) During his service in notary office, the notary assistant has to adhere to the same official and other liabilities that are applicable to the notary.

**Article 44.**

*Salary of the notary assistant*

(1) From the day of his entry on the job and during his service, the notary assistant receives an appropriate salary, as well as other rights related to the work with Notary Chamber.

(2) The Notary Chamber shall pass an act whereby it will define the criteria for salary of the notary assistant.

(3) The act from paragraph 2 of this Article shall also define the amount of fee the notary to whom the notary assistant has been sent to work has to pay to the Notary Chamber.

**5. Deputy notary**

**Article 45.**

*Deputy notary*

(1) If the notary is prevented for more than two weeks to perform his service, has to report his absence immediately to the cantonal administration agency. If his inability to work lasts longer than one month, the notary must receive an approval by the cantonal administration agency. The approval shall be issued only if that would not prejudice the exercise and protection of the rights of the parties.

(2) If the notary is prevented from performing his duties for more than one month, he must request appointment of a deputy notary, and if he fails to submit such request, the cantonal administration agency may appoint the deputy notary even without such request.

(3) At request by the notary, the cantonal administration agency may appoint a deputy notary to perform his service during his absence or inability to work that lasts less than two weeks. The deputy notary may be appointed in advance for the cases of notary's inability to work that would occur during one calendar year (the so called permanent deputy notary).

(4) In case of temporary suspension of the notary from service, the deputy notary may be appointed even without a request by the notary.

(5) Only a notary assistant or other notary may be appointed deputy notaries.

(6) With respect to the issues that are not regulated by the provisions under articles 46 and 47 of this Law, the provisions of this Law that apply to notaries also apply to deputy notaries, except for the provision under article 59 of this Law.

#### **Article 46.**

##### *Appointing deputy notary*

(1) The deputy notary is appointed without competition by a written resolution issued by the head of cantonal administration agency.

(2) Deputy notary must, if he had not taken oath before, take it before he starts working. If the deputy notary had already taken oath once before as a deputy to some other notary, it will suffice that the resolution invokes such previously taken oath.

(3) The appointed deputy notary may be recalled at any time.

#### **Article 47.**

##### *Rights and liabilities of the notary deputy*

(1) The deputy notary performs the service the same as notary, and has to put on the document he issues, along with this signature, an addendum that would identify him as a deputy notary, and use the seal and stamp of the notary he is replacing.

(2) Deputy notary must restrain from taking those official actions that are prohibited to the notary he is replacing.

(3) The deputy notary performs the service at the expense of the notary he is replacing, and the notary has to pay an appropriate fee for work to the deputy notary.

(4) Official authorities of the deputy notary begin with taking over the service, and end, if the appointment is not recalled before that, when he gives the service over to the notary. During that time, the notary must restrain from performing his service.

(5) A party who has suffered damage due to violation of official duty committed by the deputy notary, may hold responsible, in addition to the deputy notary, the notary as a joint debtor. In the relationship between the notary and deputy notary, only the deputy notary is considered liable.

## **6. *Expert associate in the notary office***

### **Article 48.**

#### *Expert associate*

(1) A notary may hire an expert associate who had passed the bar exam in accordance with article 26, point 4 of this Article

(2) During his service, the expert associate is entitled to salary and other rights stemming from labor relationship with the notary, in accordance with appropriate application of the Federation laws and other Federation regulations which deal with the labor relations and salaries of the officials in the Federation administration agencies.

## **7. *Rights and liabilities of notaries***

### **Article 49.**

#### *Official territory of the notary*

(1) A notary may have only one office to work in.

(2) Official territory of the notary is the area of jurisdiction of cantonal court. The notary may perform his activities related to issuance of documents only within the borders of his official territory, except in exceptional cases, when the justified interests of the applicant impose the necessity of operation outside the official territory.

### **Article 50.**

#### *Working hours*

The typical work hours of the notary is defined by a decision by the head of cantonal administration agency. The notary may, when necessary, take official actions outside the specified working hours.

### **Article 51.**

#### *The obligation to take official actions*

The notary has to take all official actions from the area of his legally defined responsibility and must not refuse taking the action without a valid reason.

## **Article 52.**

### *Exemption of the notary*

(1) The notary must not act if there is any doubt in his impartiality. In terms of the exemption of the notary from taking an official action, the provisions of the Law on Administrative Proceedings accordingly apply which are related to the exemption of an official person.

(2) In case of doubt whether there are the reasons for exemption, the notary has to refuse taking the official action.

(3) The decision on the exemption of the notary, the acting notary or the notary assistant is made by the head of the cantonal administration agency on proposal by the party or by the notary.

(4) Official actions that are, contrary to paragraph 1 of this article, taken by the notary, notary assistant, acting notary or deputy notary, are considered nil and void.

## **Article 53.**

### *Refusal of an official action*

(1) The notary is obliged to take official actions if this action is related to the issue that by the law does not fall under the jurisdiction of the notary, particularly if the participation of the notary is requested for the purpose of achieving an obviously illegal or dishonorable goal.

(2) The notary must not, when concluding a legal transaction, mediate between the parties nor give guarantees or some other security for the party in connection with some official action. The notary has to make sure that the persons he employs restrain from such affairs too.

## **Article 54.**

### *Obligation of confidentiality*

(1) The notary is liable to keep as official secret what he has learned while performing his service, except when the Law, will of the party or the content of the legal transaction requires otherwise.

(2) The persons working in the notary office are also liable to keep the official secret from paragraph 1 of this article.

(3) The parties may free the notary from the obligation of keeping official secret.

(4) The obligation of keeping official secret is still in force after the termination of the notary service.

**Article 55.**

*Joint performance of service*

(1) The notaries who have been appointed in the same seat, and for the purpose of joint performance of the service, may be linked and have the joint premises for the office.

(2) Such linking for the joint performance of work or for the joint use of the same offices is allowed only when the personal performance of the service, independence and impartiality of the notary is not brought into jeopardy.

**Article 56.**

*Professional performance of service*

(1) Notary may not be an attorney at the same time.

(2) The notary may not simultaneously perform any other service or have any other professional job.

(3) The prohibition from paragraph 2 of this Article does not apply to performance of the service of the will executor, guardian, or any other similar service based on the decision of a responsible agency.

(4) Prohibition does not apply either to performance of scientific, artistic or lecturing activities, or to performance of duties in the Notary Chamber or international associations of notaries.

**Article 57.**

*Supplementary activity*

(1) A notary may not perform any supplementary activity in any agency, commercial company or other legal person (hereinafter: legal person) in exchange for a fee or salary, nor may it be a member of management or any other body of the legal person.

(2) The notary may perform some supplementary activity only if it is not contrary to his service, and if this is approved by the head of the cantonal administration agency.

**8. Compensation of damages**

**Article 58.**

*Compensation of damages*

(1) The notary has to compensate the damages he had caused to another by violating his official duty.

(2) For the damage he has caused, the notary is held responsible in accordance with the general rules for compensation of damages.

(3) The notary is also held responsible for any damage caused by the notary assistant or any other employee of his office. The notary is responsible for the damage caused by the deputy notary, in accordance with provisions under article 47, paragraph 5 of this Law.

**Article 59.**  
*Liability insurance*

(1) The notary has to conclude a policy of liability insurance for the damages he might cause to third parties through performance of his official duty. This insurance includes also the liability insurance for the actions made by the deputy notary, notary assistant and other employees in the notary office.

(2) The insurance clauses may foresee that the notary pays up the damage up to a certain amount directly.

(3) The liability insurance is taken by each notary having the duty to conclude an insurance policy with an appropriate insurance company (insurance company) and that this insurance is extended in time. The insured sum must be at least 250,000 KM for each insured case.

(4) The conditions of insurance are jointly determined by the insurance companies in the Federation and the Notary Chamber.

(5) It will be considered that the notary had concluded the insurance policy when he had submitted the insurance application to the insurance company.

(6) The insurance companies have to conclude the liability insurance policy with the notary who addresses them.

(7) The Notary Chamber may take over the liability insurance of all notaries in the Federation, providing that in this case, the notaries have to pay to the Notary Chamber a specified premium for the determined amount of the liability insurance.

(8) If during the procedure it is found that the notary has caused damage to third parties deliberately or out of extreme negligence, the insurance company that has paid the damages to the party is entitled to request a refund by the notary.

**9. Seal and stamp of the notary**

**Article 60.**  
*Seal and stamp*

(1) Notary has his seal and stamp.

(2) The shape, content, method of issuing, using and safekeeping the seal and stamp of the notary shall be defined by a regulation issued by the Federation Minister of Justice.

**Article 61.**

*Official signature of the notary*

Notary has to submit to the president of the cantonal court that is responsible for his official seat his signature, which he intends to use when performing official actions. The notary must indicate his official capacity with the signature.

**III – NOTARY CHAMBER**

**Article 62.**

*Notary Chamber*

- (1) All notaries from the Federation must be organized in the Notary Chamber.
- (2) The Notary Chamber has the capacity of a legal person.
- (3) The seat of the Notary Chamber is in Sarajevo.
- (4) Notary chamber is entered in the relevant registry of the Federation Ministry.

**Article 63.**

*Tasks and organization of the Notary Chamber*

(1) The Notary Chamber represents the notaries with responsible government agencies, protects the dignity, honor and rights of the notaries, and makes sure that the notaries perform the notary service conscientiously and responsibly, in accordance with the Law on Notary Service.

(2) The Notary Chamber carries out the tasks that have been placed under its jurisdiction by Law or other regulations, and may also perform other tasks that suit the purpose of its establishment.

(3) Except where otherwise specified under this Law, the organization, responsibilities, number, composition, method of selection and the rights and duties of the Notary Chamber and other issues of significance for the work and operation of the Notary Chamber are defined by the Statute of the Notary Chamber.

(4) The Statute of the Notary Chamber is made by the Assembly of the Chamber, with approval of the Federation Minister of Justice.

**Article 64.**

*Reports on work*

The Notary Chamber has to submit to the cantonal administration agency a report on its work, its positions on the situation in the notary offices, and on measures that need to be taken to improve such situations every year.

**Article 65.**

*Contributions for Notary Chamber*

The Notary Chamber is financed from contributions paid by notaries, in the amount defined by the Assembly of the Notary Chamber.

**Article 66.**

*Powers of the Notary Chamber*

The Notary Chamber has the right to adopt general acts that are binding for the notaries, in accordance with this Law and Statute of the Notary Chamber.

**Article 67.**

*Legal remedies against the decisions made by the Notary Chamber*

Against the final and binding decisions made by the bodies of the Notary Chamber that decide on the rights and liabilities of the notaries, deputy notaries, notary assistants and other persons employed with the notary, a contestation may be initiated with the responsible court within 30 days from the day of receiving the final decision.

**Article 68.**

*Organization and registration*

(1) Organization and registration of the Notary Chamber is done in accordance with the Law on Associations and Foundations.

(2) The Federation Ministry supervises the work of the Notary Chamber.

**IV – RESPONSIBILITIES OF THE NOTARY**

**Article 69.**

*Jobs of the notary*

(1) Notary is responsible for undertaking notary processing of a document, issuing confirmations, and certify signatures, handsigns and copies.

(2) Notary may perform other jobs that are allowed under this Law.

**Article 70.**

*Notary processing of a document*

Notary processing of a document means that the document is fully made by the notary, in accordance with the provisions under article s 74 through 89 of this Law, proving the statement written in the document, which were given by the parties before the notaries, and which were approved by their signatures.

**Article 71.**

*Certification and confirmation*

Certification and confirmation means that the document has been made in accordance with the provisions under article 92 through 101 of this Law.

**Article 72.**

*Order issued by court or government agency*

The court or some other government agency may entrust to the notary, should he concede to it, performance of other jobs that are in agreement with his activities. This includes, in particular, the following:

1. signing and sealing the heritage mass and bankruptcy mass;
2. evaluation and public sales (auctions) of movable objects and real estates in non-litigation procedure, particularly in case of voluntary sale;
3. division of the sales price in the executive proceedings.

**V – OBLIGATION OF NOTARY PROCESSING OF DOCUMENTS**

**Article 73.**

*Legal affairs for which the notary professing of documents is mandatory*

(1) Legal affairs that, in order to be considered legally valid, require notary processing of document, relate to:

1. legal transactions on regulating property relationships between the spouses, and between the persons who live in non-marital community;
2. disposal of significant shares of property of juvenile and persons who do not have business capacity,
3. legal transactions that promise some action as a gift, providing that the lack of notary format, in this case, is replaced by the execution of the promised action,
4. legal transactions the issue of which is transfer or acquisition of ownership or other real rights over the real estates,
5. foundation acts of different business companies and definition of their statutes, as well as nay change of the statute.

(2) Legal transactions for which, contrary to paragraph 1 of this Article, have not been made as notary processed documents, are considered nil and void.

(3) Independently from provisions under paragraph 1 of this Article, the obligation of notary processing may be foreseen in other laws too.

(4) Parties are entitled to request notary processing of documents for other legal transactions not listed under paragraphs 1 or 3 of this Article too.

(5) Provisions of this Article are considered valid only until they are replaced by special regulations on the obligations of notary processing of documents, which will explicitly put them out of force, in part or in whole.

## **VI – RULES OF PROCEDURE ON THE METHOD OF NOTARY WORK**

### **1. General provisions on notary processing of documents**

#### **Article 74.**

##### *Content of the original of notary document*

The original notary document (hereinafter: the original) must contain:

1. data on the notary participating in compilation of the original (last name, first name, seat of the notary);
2. data on the parties (last name, first name, profession and address), and data on possible witnesses and interpreters/translators;
3. method how the identity of persons under point 2 of this Article has been ascertained;
4. text of the legal transaction, with indication of possible authorizations or attachments;
5. note that the original has been read to the parties, or that the provisions under article 87, paragraph 2, article 88, paragraph 1 and article 89 of this Law have been adhered to;
6. the day, month, year and place, and when so required by law or parties, the hour when the original has been made;
7. the signatures of the persons specified under paragraphs 1 and 2 of this Article, and the seal of the Notary who has made the original.

#### **Article 75.**

##### *Implementation procedures*

The Federation Minister of Justice shall issue a regulation to provide a closer definition of writing, marking, correcting errors, linking, indicating the documents with several pages, protecting and issuing documents and other issues of relevance for validity of notary documents.

#### **Article 76.**

##### *Method of writing originals*

(1) The originals must be written on a typewriter or other typing device, clearly and readably. Exceptionally, the originals may be written by hand, but only by permanent ink.

(2) The abbreviation may be used in the original only if they are usual and generally known, providing that the blank spaces in the text are filled with hyphens.

#### **Article 77.**

##### *Signature and seal*

(1) The notary has to sign the original personally, stating his name and an addition "Notary". Next to the signature, he shall put his official seal. At the end of the

original, above the notary signature, the parties sign, as well as witnesses if there were witnesses participating in writing the original.

(2) If a party is illiterate, this will be indicated in the original. If a person is unable to write, the original shall indicate the reasons why the party is unable to write.

#### **Article 78.**

##### *Changes and amendments*

If any changes or amendments have to be made in the original, this will be done at the end of the document, under condition that an indication is provided to which part of the text of the original the changes or amendments relate to. The changes and amendments shall be signed by the parties and the notary, if the changes and amendments have been entered into the original after it had been signed.

#### **Article 79.**

##### *Crossing out words*

(1) Nothing may be deleted from the original.

(2) If there is a need to cross out a word, that will be done in the way that will preserve its readability. The number of crossed out words shall be indicated at the end of the original, with an indication of the page and line of the original, and the number of crossed out words. Such a note shall be signed by the parties in accordance with the rules applicable to signing changes and amendments to the original (article 78)

#### **Article 80.**

##### *Procedure of notary processing of the document*

(1) Within the procedure of notary processing of documents, the notary must check whether the parties are capable and authorized to undertake and conclude the legal transaction.

(2) The notary must examine the real will of the parties, explain the situation, teach the parties on the legal effects of the transactions and formulate clear and unambiguous statements in the form of a notary original. In doing so, the notary must make sure that all confusions and doubts are excluded, so that inexperienced and unskilled parties are not harmed.

(3) The original must be read to the parties in the presence of the notary, the notary gets ensured by asking direct questions that the content of the original corresponds with the will of the parties, after which the parties must approve and personally sign the original. Before the signatures of the parties, a note must be entered in the original stating that this had been done.

(4) The attachments must also be read, except when the parties renounce this right or state that they are familiar with the content of the attachment. This must be

reflected in the original. Writing the original may be done only when during the reading of the original the attachments are at disposal of the parties.

#### **Article 81.**

##### *Obligation to warn and instruct*

(1) If the parties wish to enter in the original unclear, imprecise or ambiguous statements, which might give rise to disputes or would fail short of achieving the desired effects, or there are justified reasons to believe that the purpose thereof is to damage some party, the notary shall warn the parties thereupon, and give them the appropriate instructions.

(2) If the parties still want to enter such statements, the notary may refuse to make the original, or enter them as such into the original, in which case the notary shall give special mention of his warning of the parties of consequences of such statements.

#### **Article 82.**

##### *Confirmation identity*

(1) If the notary does not know the parties personally and by name, he shall confirm their identity by viewing their ID card or passport, or some other personal document. If this is not possible, their identity must be confirmed by some other notary, or two witnesses.

(2) In the original, the notary shall mention whether he knows the parties, or in which way he had determined their identity, accurately noting the name, profession, and address of the witness, date and number of the document used for confirmation of identity, and the issuing agency of the document.

#### **Article 83.**

##### *Calling witnesses*

(1) Two witnesses are needed when compiling the notary original when any of the parties is illiterate.

(2) In other cases, it will depend on the notary and parties whether the witnesses will be called upon to be present when making the notary original.

(3) Instead two witnesses, another notary may be called.

#### **Article 84.**

##### *Conditions of the personality of the witness*

(1) The witnesses must be adult and must speak one of the official languages, and one of the witnesses must know how to read and write.

(2) Identity of the witnesses is certified in accordance with provision under article 82 of this Law.

**Article 85.**

*Persons who may not be witnesses*

Witnesses may not be:

1. the persons who can not provide valid testimony due to their mental or physical disabilities;
2. persons employed with the notary who performs the official action;
3. persons who may benefit from the transaction they are witnessing;
4. person who are related to the party or to the one benefiting from the notary action in any way, or with the notary himself in the way that may serve as a basis for exemption of the notary.

**Article 86.**

*Presence of the witness*

(1) Except where otherwise stipulated by law, the witnesses or other notary must be present at latest when the notary starts reading the original to the parties, and when the parties sign the original.

(2) If the parties demand so, the witnesses may be, except where otherwise prescribed in particular cases, excluded at the time of reading the original; however, in this case, the parties must sign the original in the presence of the witnesses and state that they had read the original or had it read to them, and that it corresponds to their will. All this shall be reflected in the notary original.

**Article 87.**

*Deaf, dumb or deaf and dumb person who is literate*

(1) A deaf party who is literate must read the original personally, and in an obvious way state that it had read it and that it suits his will.

(2) Dumb or deaf and dumb person who is literate must write on the original by his own hand that he had read it, and that he approves it. Such statement must be entered in the original, before the signatures.

(3) The original must contain an indication whether the provisions under paragraphs 1 and 2 of this Article have been acted upon.

**Article 88.**

*Deaf, dumb, blind or deaf and dumb person who is illiterate*

(1) If the deaf party is illiterate, or if a dumb or deaf and dumb party is illiterate, it must also, in addition to the witnesses, call one person who can communicate with him by signs. This person must have the capacity of witness, and does not have to be literate. This person may be related to the deaf, dumb, or deaf and dumb person, if he has no personal interest in the legal transaction the original deals with.

(2) If some party is blind, deaf or dumb, the witnesses must be present when the parties issue a statement on disposal that would be entered into the original, or when reading the whole original to the parties, or when they are reading it themselves, or when the parties state their agreement and sign the original. This will be reflected in the original.

(3) The notary must rest assured that the person of confidence can communicate by sign language with the deaf, dumb or deaf and dumb person, and indicate his assurance in the original.

### **Article 89.** *Interpreter*

(1) If any of the parties speaks no any of the official languages, in addition to the witnesses from paragraph 1, article 83 of this law, the court interpreter must also be invited. The original shall reflect that this has been done.

(2) The person employed with the notary may also act as an interpreter, but he also have to have all other qualities of a witness.

(3) Interpreter is not required if the notary and both witnesses or other notary can use the language of the party mentioned under paragraph 1 of this Article.

(4) In case described under paragraph 3 of this Article, the witnesses may not be excluded when reading the original. The original will contain an explanation why an interpreter had not been invited.

(5) When an interpreter is required, the notary shall try to learn the real will of the party through him, and compile the original in one of the official languages respecting that will, which original will then be translated by the interpreter to the parties. If so demanded by the party, a written translation of the original shall be made, which shall be attached to the original.

(6) The notary should warn the parties that they may require the written translation and its attaching to the original. The original should reflect whether this was done, and whether the parties have renounced this right.

## **2. *Executive notary documents***

### **Article 90.** *Executive documents*

(1) Notary documents are executive documents if they are made in a prescribed format, and if they are compiled on a right of a claim, the subject of which is payment of a specified amount of money or giving a certain quantity of other replaceable things or securities, and the debtor has accepted in the document the execution without delay.

(2) On the basis of notary document, on the basis of which a mortgage has been entered in the land books or land debt on a certain real estate, the execution

on that real estate may be required for the purposes of paying the secured claim immediately after maturity, if the debtor has explicitly agreed to this in the original.

(3) No further activity of the executive court is required for the documents from paragraphs 1 and 2 of this Article to be executive.

#### **Article 91.**

##### *Refusal of execution*

Execution of notary document may be refuted in accordance with the provisions regulating the executive procedures.

### **3. Notary certifications and confirmations**

#### **Article 92.**

##### *Certification and confirmations*

(1) On the items regulated under articles 93 through 101 of this Law, the notary issues certifications or confirmations.

(2) If the provisions under articles 83 through 101 of this law do not prescribe anything different, in case of certifications and confirmations, instead of the original, within the meaning of article 74. of this Law, a document suffices that must contain the testimony of the notary, his signature, seal and date and place of issuance.

#### **Article 93.**

##### *Certification of a copy*

(1) The notary shall certify only the copies that had been made in the notary office, or using the photocopying machine in the notary office. A photocopy of the document is deemed equal to the copy.

(2) The copy must correspond to the document in writing, punctuation and abbreviation of words. If some places have been altered, deleted, crossed over, inserted or added in the original, this must be stated in the certification. The certificate shall indicate whether the document is torn, damaged or otherwise suspicious in its appearance, except when it is obvious from the very copy or photocopy.

(3) The notary must accurately compare the copy with the original and ascertain that the two matches, and if it does, he shall confirm that at the very copy, indicating in addition that this is a copy of a document designated as original by the party, or whether the copy is a copy of a certified or ordinary copy of a document, and whether it has been charged as such, whether it was written by hand or machine or any other mechanical or chemical means, by pencil or pen, and where, by his knowledge or statement of the parties, the original is located, and if the party had brought it, the name and address of that party.

(4) If any clause or objection is found on the document, it shall also be entered in the copy.

(5) When the copy of one part of a document is certified, or an extract from a document, the copy must clearly indicate which parts of the document have remained not copied.

#### **Article 94.**

##### *Certification of extracts from trade or business books*

When certifying extracts from trade or business books, the notary shall compare the extract with the relevant items in the original books, and write on the extract the certification clause, noting that the extract fully corresponds with the relevant parts of the original book. The date of reviewing the trade or business books shall also be indicated on the extract.

#### **Article 95.**

##### *Certification of signature*

(1) The notary may certify that a party has personally signed a writ, or placed his signature on it, or that the signature, which had already been on a writ, was confirmed by the party as his own.

(2) The identity of the party must be ascertained in accordance with the provisions under article 83 of this Law.

(3) The certification shall be placed on the original writ, with indication how the identity has been ascertained, and with an addendum that the signature is true, after which the date, signature and official seal of the notary shall be fixed.

(4) The notary has to check the writ only with regards to the possible existence of reasons grounded in law for refusing to perform the official service.

(5) In case that the conditions from paragraph 4 of this Article are met, the notary may certify the signature on the writ that had not been written in the official language.

(6) If the party is blind, or illiterate, the notary shall read the writ to him before certifying the signature, and if the notary knows not the language in which the writ had be written, the writ shall be read by the court interpreter, what shall be reflected in the certification.

(7) If a signature of a person representing a legal person or agency is being certified, the notary may in his certification confirm that the person has signed on behalf of a legal person or an agency only if the notary has previously satisfied himself that the person is authorized to do so.

#### **Article 96.**

##### *Confirmation on the time for presenting the writs*

(1) The time when the writ has been presented to the notary or some other person in the presence of notary shall be confirmed at the very writ, with a precise indication of the day, month, year, and if so demanded by the party, the hour too.

(2) If so demanded by the party, the identity of the person who had presented the writ and the person to whom the writ was presented must also be ascertained. The confirmation shall contain indication of how the identity of those persons had been ascertained.

#### **Article 97.**

##### *Confirmation of a person's life*

(1) The notary may confirm that a person is alive if he knows him personally or by name, or when he has determined the person's identity in the way prescribed under article 83 of this Law.

(2) The original of the document that will be issued to the party shall confirm that the person has been before the notary, and it shall indicate the day, month and the year, and, if so demanded by the party, the hour when that had happened, and how the identity had been ascertained.

#### **Article 98.**

##### *Confirmation of the authority to represent*

(1) The notary has power to issue a confirmation on the authority to represent, if such authorization stems from a court or other registry. Such confirmation has the same weight of evidence as a certificate issued by the court of registration

(2) The notary shall issue the confirmation from paragraph 1 of this Article only if he had previously seen the registry and certified extract from the registry. The confirmation shall contain the indication of the day of seeing the registry or the day when the extract from the registry is issued.

#### **Article 99.**

##### *Confirmations of other facts from the registry*

(1) The notary may issue a confirmation on existence or seat of a legal person, on statutory changes and other legally relevant fact if those stem from any public registry.

(2) In case described under paragraph 1 of this Article, the notary must act in the way prescribed under article 98, paragraph 2 of this Law.

#### **Article 100.**

##### *Confirmation of conclusions made by bodies of a legal person*

(1) If the notary has been invited to confirm the conclusion of an assembly or meeting of some other body in a legal person, he shall enter in the minutes the date and time of the session, then describe everything that had happened there in his presence, what was proposed or stated, to the extent as this is relevant for judging the regularity of the procedure, and particularly the conclusions made at the session. He shall also confirm everything else prescribed by law.

(2) The minutes from paragraph 1 of this Article shall be signed also by the person who had chaired the meeting.

(3) At request, the identity of the president and other persons present at the meeting may be ascertained, and the minutes shall state the way how their identity had been ascertained.

#### **Article 101.**

##### *Confirmation of other facts*

(1) At request of the interested parties, the notary may confirm facts that have taken place in his presence, such as hearings on offers, auctions, drawing or statements of persons on facts and conditions of which the notary himself, or with participation of expert persons, had learned.

(2) The notary shall make an original on confirmation of facts from paragraph 1 of this Article, where he shall state the place, time, names and addresses of the parties and other participants, as well as a precise description of what has happened in his presence or what he has ascertained. The original shall be signed by all participants. If any of the participants refuses to sign the minutes, the notary shall indicate so in the original.

(3) The original from paragraph 2 of this Article shall particularly contain the indication of how the identity of the parties the confirmation relates to has been ascertained.

#### **Article 102.**

##### *Regulations on court procedure*

Provisions under articles 93 through 101 of this Law have no prejudice to the regulations specifying the responsibilities and procedures of courts to take actions the provisions relate to.

#### **4. Safekeeping and issuing dispatches and copies of originals**

#### **Article 103.**

##### *Safekeeping of original documents*

A document that was made by a notary in accordance with this law is considered the original document, which is kept by the notary in his files. In the same file, the notary keeps all other documents he makes while performing his notary service, in accordance with law.

#### **Article 104.**

##### *Dispatch of the original*

(1) When a notary makes an original, he has to issue to the parties a dispatch of the original.

(2) The dispatch of the original must fully correspond in its form, content and other issues to the original, it must be marked as a dispatch, and it may replace the original in legal sense.

(3) If the original had been issued, no dispatch may be issued thereupon, but only a copy of the original.

#### **Article 105.**

##### *Issuing dispatches of originals*

(1) Except where otherwise defined in the original, the dispatch of the original may only be issued:

1. to the persons who have concluded the legal transactions described in the document in their own name;
2. to the persons in whose name the legal transaction has been concluded;
3. persons to the benefit of who the legal transaction has been concluded;
4. legal heirs of the persons under items 1 through 3 of paragraph 1 of this Article.

(2) If, due to termination of work of the notary, the notary documents, other files and documents had been given for safekeeping to a court or another government agency or to another notary, those bodies or the notary who keeps the documents, or while he is not working, the deputy notary, shall issue the documents specified under paragraph 1 of this article.

#### **Article 106.**

##### *Dispatch of the original for the purpose of execution*

(1) Dispatch of the original for the purpose of execution is issued to the persons designated in the original as creditors, or heirs of creditors, providing that the fulfillment of conditions for executiveness of the original has been made sure, in accordance with article 90 of this Law.

(2) Only one dispatch of the original may be issued for the purpose of execution on executive original, except in cases foreseen under paragraph 3 of this Article.

(3) Repeated dispatch of the original for the purpose of still not executed dispatch described under paragraph 1 of this Article may be issued only in the following cases:

1. if all the individuals specified under article 105, paragraphs 1 and 2 of this law, or their legal successors agree to it. This agreement must be notary processed by a note on the very original, signed by the parties, or by a separate certified document, which shall be attached to the original;

2. if the dispatch issued before had been returned to the notary for some fault, or if it had been destroyed, damaged, or unusable in some other way;
3. if the court, within whose area the notary has his seat, on proposal by the party, orders the issuance of a new dispatch of original. The court shall issue an order to this respect if the party proves it likely that it needs new dispatch of the original.

**Article 107.**

*Copies of the original*

If nothing different were specified in the original itself, the certified and ordinary copies of originals on legal transactions among the living parties may be issued to the witnesses, persons who are drawing some benefit from that legal transactions, legal representatives or heirs and other universal legal successors to the persons who are drawing some benefit from that legal transaction, whenever they demand so. Those persons shall be allowed to see the documents at any time.

**Article 108.**

*Dispatch or copy of the original will*

The dispatches or copies of the originals that are related to the last will or provisions in case of death, which originals were made by the notary, or which have been submitted to the notary in writing, except when otherwise stipulated in the original itself, may only be issued to the author while he lives, or to the person he explicitly authorizes to that respect by a certified authorization. After the death of the author, such dispatches or copies of the original may only be issued after the pronouncement of the decisions of the last will. The day of pronouncing the decisions of last will shall be noted on the dispatch or on the copy of the original.

**Article 109.**

*Foreign notary documents*

(1) Notary documents issued in a different country have the same legal effect as the notary documents issued in accordance with this law, subject to reciprocity.

(2) The foreign notary documents may not have the legal effect in the Federation that they do not have in accordance with the law which was applicable on their issuance in that other country.

**5. Legal protection**

**Article 110.**

*Procedure of legal protection*

(1) An dissatisfied party is entitled to object to the cantonal administration agency for the notary not taking the required official action, or for his not taking such

requested action, in terms of content or form, in accordance with law, or for his delaying taking the action.

(2) The cantonal administration agency has to issue a decision ordering to the Notary to take the requested legal action, and setting a deadline for execution. The notary has to act on such decision.

## **6. *Taking over documents, money and securities for safekeeping or surrender***

### **Article 111.**

#### *Keeping and turning over the documents*

(1) The notary has to take over for safekeeping the documents of all kinds, providing that he has the right to refuse to take over for safekeeping a document for which he thinks justified reasons exist for such a decision.

(2) An original shall be made on taking over the documents, which will indicate the place and time of the takeover, last and first name, profession and address of the person giving over the document, the reason for depositing it and who it should be issued to. The original shall be signed by the person who had submitted the document, and the notary. The notary shall fix his official seal on the original.

(3) If the document is sent to the notary in a letter, a minutes shall be made thereupon in accordance with paragraph 2 of this Article. The letter shall replace the signature of the person submitting the document.

(4) The notary shall issue a receipt on taking over the document. If the document had been sent by mail, the receipt shall be sent to the sender also by mail.

(5) The notary has to ascertain the identity of the person to whom he gives the document in accordance with the provisions under article 83 of this Law. The recipient has to confirm the receipt of the document by fixing his signature on the original.

### **Article 112.**

#### *Safekeeping of cash and securities*

(1) The notary may accept for safekeeping cash, bills of exchange, cheques, government bonds and other securities, and has to accept only when they had to be surrendered to him on the occasion of compiling a notary original for the purpose of delivering them to a designated person, or for depositing them with appropriate government agencies.

(2) If the takeover has not been confirmed when making the notary original, a new original shall be made on the takeover which will clearly indicate the number of the entry book and the depository book, place and time of the takeover, and indication of the amount of money, value of documents, and the name of person who had surrendered them, as well as his statement on what should be done with them. The

notary shall issue a receipt on takeover to the party, where he shall specify the amount of money and securities that had been surrendered to him.

(3) If the money and securities are sent to the notary by mail, he shall make an original thereupon, in accordance with paragraph 2 of this Article. The letter shall be attached to the original.

#### **Article 113.**

##### *Separate keeping and surrendering money and securities*

(1) The money and securities he had taken over, the notary has to keep separately from his own money and securities, in a separate envelope, where he shall write the file and the name of the party. The money entrusted to him, the notary must keep on a separate account with a bank or another financial institution, which may not be available in case of forced execution against the notary.

(2) The notary shall immediately surrender the money and securities taken over by the notary to the government agency or person to whom he was supposed to surrender them after he had established his identity. The recipient shall confirm the receipt on the file or in the book of deposits.

#### **Article 114.**

##### *Obligation to return*

(1) If the notary can not perform the surrender within the specified time, he may, after the lapse of that time, or, if the time has not been restricted, not later than 15 days from the day of take over, immediately return the valuables to the party, or, if this is not possible, he may surrender them to the responsible judge for safekeeping, and notify the surrenderor thereupon by a registered letter, or in some other reliable way.

(2) The deposit with the notary has the effect of a court deposit.

(3) Provisions under articles 111 through 113 of this Law shall be appropriately applied also in the case when the notary, as a court trustee, takes over the legacy documents, money, securities or valuables.

## **VII – BUSINESS BOOKS OF THE NOTARY**

#### **Article 115.**

##### *Business books*

(1) The notary maintains the following business books:

1. general business entry book, where all notary originals and signature certifications are entered;
2. list of persons who have delivered some disposal before the notary in case of their death, with indication of the respective file number;

3. depository book on taken over and issued money belonging to another, securities and valuable objects, where, in addition to precise description of the deposit which was taken over, a clear indication of the names and addresses of the depositor and the person to whom the object is to be delivered must be given;
4. the entry of jobs the court or some other government agency has entrusted to the notary, with alphabetical list of names;
5. joint alphabetical list of names of parties for his entry books and for the depository books.

(2) The Federation Minister of Justice shall prescribe the contents, forms and method of maintaining the business books specified under paragraph 1 of this Article.

## **VIII – SAFEKEEPING OF DOCUMENT AND FILES**

### **Article 116.**

#### *Obligation of safekeeping*

The notary has to keep all notary documents he has written himself, as well as all the documents he has taken over for safekeeping, under key, separate from other files.

### **Article 117.**

#### *Keeping in case of termination of notary activity*

(1) If a notary ceases to work, he has to notify thereupon the cantonal administration agency immediately, and at the same time, he has to take all necessary actions to keep the notary documents, objects, business books, seals, stamps and other documentation or money or other securities he has been safekeeping.

(2) The cantonal administration agency shall issue a decision designating the persons who would take over the files and other documents from paragraph 1 of this Article and determine the place where the files and documents shall be kept. When performing the jobs from paragraph 1 of this Article, those persons act in accordance with the provisions of this law, and regulation under article 118 of this Law.

### **Article 118.**

#### *The regulations on the procedure*

The Federation Minister of Justice shall prescribe the procedure for taking over, keeping and using the files, documents, money, securities and other writs from article 117 of this Law.

## **IX – DISCIPLINARY RESPONSIBILITY OF THE NOTARY**

### **Article 119.**

#### *Disciplinary responsibility*

(1) Notary is held disciplinary responsible for violations of official duty he commits by his own fault.

(2) The notary may be held disciplinary responsible only for the actions specified by this Law.

(3) The responsibility for a criminal offense or misdemeanor does not exclude the disciplinary responsibility of the notary, if the kind of the violation is also a violation of official duty of the notary.

### **Article 120.**

#### *Violation of official duty*

The notary violates his official duty in the following cases:

1. if he fails to adhere to the provisions of this Law when compiling notary documents;
2. if he confirms that something happened in his presence that has not really happened;
3. if, contrary to the tariff, charges or demands higher award, or if he puts pressure against the parties as a trustee of the court to appoint him their representative;
4. if he seeks out parties, through an intermediary or in other improper way, promising to reduce the fee;
5. if he represents a party or compiles documents in cases when this is prohibited by law;
6. if he fails to act on valid and binding decisions by courts and supervisory agencies;
7. if does not maintain properly the business books;
8. if in a public auction, or during some other proceedings he conducts in his capacity of a notary or a trustee of court, or representative of parties, buys for himself or his relatives the object being sold, or buys objects, legacy or other rights;
9. if he performs, for a salary, a state or any other permanent public or private service, if he is engaged in trade or mediation, or in profession that is not compatible with the dignity, honor and independence of the notary;
10. if he makes deals in his own name for others, or in others' name for himself, or if he himself is a party in the transactions where he takes official actions in his capacity of a notary or trustee of court;
11. if he invests the money entrusted to him for safekeeping in his own name, contrary to provisions of this Law;

12. if he takes over the obligation of guaranteeing or being responsible in the transactions made with his participation in the capacity of notary;
13. if during his suspension from performance of service, he performs the jobs of notary;
14. if he fails to ensure the work of notary assistant in accordance with this Law.

**Article 121.**

*Disciplinary punishment*

For violation of official duty, the notary may be pronounced the following disciplinary punishments:

1. written admonition,
2. a fine ranging from 2.500 KM to 25.000 KM,
3. temporary withdrawal of the right to perform the notary service for a period of one year.

**Article 122.**

*Disciplinary procedure*

(1) Procedure for determining disciplinary responsibility of the notary is initiated by the cantonal administration agency.

(2) The Notary Chamber is responsible for conducting the disciplinary procedure.

(3) For the purpose of conducting the notary procedure, the disciplinary councils of first and second instance are established. The composition and method of selecting the members of the first and second instance disciplinary council, as well as the method of their work shall be determined by the Notary Chamber.

(4) The procedure of disciplinary responsibility is conducted in accordance with the rules defined by the Notary Chamber.

**Article 123.**

*Appeal against the decision on disciplinary punishment*

(1) Disciplinary punishment are pronounced by a decision of the first instance disciplinary council of the Notary Chamber.

(2) An appeal may be filed against the decision from paragraph 1 of this Article to the second instance disciplinary council of the Notary Chamber.

(3) The appeal must be filed within 15 days from the day of receiving the decision.

(4) The decision made on appeal is considered final.

#### **Article 124.**

##### *Temporary suspending notary from service*

(1) If a disciplinary proceedings has been initiated against a notary, a decision may be issued on his temporary suspension from performance of service, if this is necessary for the purpose of protecting the honor and dignity of the service, or for protecting interests of the parties.

(2) Notary shall be temporarily suspended from service if an indictment has been raised against him, or a detention has been order because of a criminal offenses committed with premeditation, or if he is serving sentence of imprisonment of up to six months.

(3) The decision on temporary suspension is made by the first instance disciplinary council, in accordance with paragraphs 1 and 2 of this Article.

(4) Against the decision of suspension from service, the notary may file an appeal to the second instance disciplinary council within 15 days from receiving the decision on suspension from service.

(5) The appeal shall not delay the execution of the decision.

(6) The second instance disciplinary council has to decide on the appeal not later than 15 days from the date of its receipt.

(7) The decision made by the second instance disciplinary council on the appeal is considered final.

#### **Article 125.**

##### *Disciplinary responsibility of persons working with notaries*

The provisions of this Law on disciplinary responsibility of notaries apply accordingly to the disciplinary responsibility of the notary assistant, deputy notary, acting notary or expert associate.

#### **Article 126.**

##### *General possibility of starting the procedure before court*

Against final decisions made by the disciplinary bodies of the Notary Chamber, a procedure may be initiated before the court of jurisdiction within 30 days from the date of receiving the final decision.

### **X – FEE FOR WORK AND REIMBURSEMENT OF EXPENDITURES**

#### **Article 127.**

##### *Fee for work and reimbursement of expenditures*

(1) The notaries are entitled to a fee for their work, and reimbursement of expenditures they had in connection with the work performed, in accordance with a tariff of fees and reimbursements.

(2) The tariff on the fees and reimbursements to the notaries shall be defined by the Federation Ministry on proposal by the Notary Chamber.

**Article 128.**

*Maturity of fee and reimbursement for expenditures*

(1) Payment of fee for work and reimbursement for expenditures to the notary is done immediately after the completion of the job, and the notary may also request from the party to pay an appropriate advance at the time of accepting the job.

(2) The notary has the obligation to issue a receipt on the fee and reimbursements that have been paid.

**Article 129.**

*Joint responsibility*

If more individuals have taken part in concluding a legal transaction before a notary, or the notary has performed one action for several parties, all those parties jointly owe the award and compensation of expenditures to the notaries, except where the parties agree otherwise.

**XI – SUPERVISING IMPLEMENTATION OF THIS LAW**

**Article 130.**

*Supervising implementation of this Law*

(1) The Federation Ministry supervises the implementation of this Law, and the work of the notaries is supervised by the cantonal administration agency and the Federation Ministry.

(2) The notary is liable to facilitate the supervision and make available all the files, originals and space that is related to the work of notaries when carrying out the job of the notary as defined under this Law, and act on the decision of the supervising body.

**XII – TRANSITIONAL AND FINAL PROVISIONS**

**Article 131.**

*Implementation regulations*

The Federation Minister of Justice shall pass the regulations he is by this Law authorized to pass within six months from the date of this Law's entry into force.

**Article 132.**

*Preparatory seminars for notary examination*

(1) Within 12 months from the day of this Law and regulations passed on the basis of the Article 131 of this Law entering force, the Federation Ministry is liable to

organize special seminars to prepare the candidates to take the notary examination, in accordance with the program determined by that Ministry. The program will more closely define separately the content of each subject that is listed under Article 10 of this Law.

(2) Within 24 months since entry into force of this Law, the Federation Ministry has to make sure that the seminars are organized for additional training of notaries, as described under Article 32, paragraph 1, point 7 of this Law.

(3) The Federation Ministry, on proposal by the Notary Chamber, shall define the conditions under which the seminars for continued education of notaries would be considered seminars within the meaning of article 32, paragraph 1, point 7 of this Law.

### **Article 133.**

#### *Establishing a Notary Chamber*

Within three months from the date of completed appointment of the first notaries in the Federation, a Notary Chamber must be organized and constituted. The activities on organization of the Notary Chamber shall be conducted by the Federation Ministry in cooperation with the cantonal administrative agencies.

### **Article 134.**

#### *Termination of law*

On the day of this Law's entry into force, the "Law on Public Notaries" ("Official Gazette of the Federation BiH" No. 49/99) shall cease.

### **Article 135.**

#### *Entry into force*

This Law shall enter force on the eighth day from its publication in the "Official Gazette of the Federation BiH", and shall start to be implemented after the lapse of 18 months deadline from the day of its entry into force.