

APPLICATION OF NOTARIAL LEGISLATION TO FOREIGN CITIZENS

Mamajanova Intizar Turdimatovna

Lecturer at Tashkent State University of Uzbek
Language and Literature named after Alisher Navoi
Intizormamajonova31@gmail.com

Abstract

This article deals with the issues of execution of peculiarities of documents intended to be sent abroad. It can be noted that in recent years in our country are economic reforms that stimulate business interest in Uzbekistan on the part of foreign investors, a noticeable increase in the number of notarial acts performed with the participation or in the interests of foreign legal entities

Keywords: notary, international acts, law, legal status, consular conventions, civil capacity, foreign citizens, stateless persons, legal status.

Introduction

Under the Constitution, foreign nationals and stateless persons in Uzbekistan are guaranteed the rights provided for by law, including the right to apply to the courts and other State agencies for the protection of their personal, property, family and other rights [1] The legal status of foreign nationals in Uzbekistan is also determined by the multilateral and bilateral international treaties to which Uzbekistan is a party [2]

A significant number of international instruments are devoted to State co-operation in ensuring legitimate human rights.

Legal instruments on human rights include the Covenants on Economic, Social and Cultural Rights; on Civil and Political Rights; and on the Elimination of All Forms and Forms of Discrimination. The norms relating to foreign nationals are set out in consular conventions concluded and to be concluded by Uzbekistan, agreements on economic and technical cooperation, trade agreements, agreements on navigation, cultural and scientific cooperation, and so on. While guaranteeing the rights and freedoms of foreign nationals and stateless persons in Uzbekistan, the Constitution also imposes on them the obligation to comply with the laws in force. The civil capacity of foreign citizens and stateless persons with respect to transactions made in Uzbekistan and obligations arising from the infliction of harm on the territory of the RUZ is determined by the law of the Republic of Uzbekistan.

The Law on Notaries of the Republic does not contain any restrictions on the rights of foreign citizens, stateless persons, foreign enterprises and organisations to apply for notarial acts. In practice, this means that any of the notarial acts provided for in Article 23 of the Law on



Notaries may be performed in the interests of a foreign citizen, stateless person or foreign enterprise, organisation [3]

The identity of foreign nationals and stateless persons residing in Uzbekistan is established on the basis of a residence permit issued by the internal affairs authorities. The identity of foreign nationals and stateless persons temporarily residing in Uzbekistan is established by national passports or substitute documents registered in accordance with the established procedure.

Foreign citizens and stateless persons are subject to the basic rules for the performance of notarial acts established by the Notaries Act, such as 'Place of performance of notarial acts', 'Grounds and time limits for postponing and suspending the performance of a notarial act', 'Procedure for signing notarised transactions, applications and other documents', 'Requirements for documents submitted for the performance of notarial acts' and others. As natural and legal persons, the notary is obliged to assist foreign citizens, stateless persons and foreign legal entities in exercising their rights and protecting their legal interests, to explain their rights and obligations, and to warn them of the consequences of notarial acts so that legal ignorance cannot be used to their detriment.

Foreign citizens or stateless persons applying for the performance of a notarial act of the Republic of Uzbekistan have the right to expect that the notary will keep secret the information that became known to him in connection with the exercise of his professional activity. Of significant importance is the provision on the language of notarial proceedings. According to article 11 of the Notaries Act, if the person applying for notarial action does not speak the language in which notarial proceedings are conducted, the texts of the documents drawn up must be translated by a notary or an interpreter.

Thus, when performing a notarial act in the interests or with the participation of a foreign citizen or stateless person, the notary in applying the norms of the legislation on notaries is guided by the principle of equating these categories of persons with the citizens of RUZ. First of all, representatives of foreign legal entities apply to the notary for certification of authenticity of the signature of the translator who has translated documents drawn up abroad; for certification of agreements on establishment of joint ventures in the Republic of Uzbekistan, as well as for certification of powers of attorney and fidelity of copies of documents.

The legal status of foreign nationals in the performance of notarial acts is determined both by Uzbek legislation and by international conventions and treaties concluded by Uzbekistan [4].

In accordance with Article 93 of the Law on Notaries, if an international treaty of the Republic of Uzbekistan establishes other rules on notarial acts than those provided for by the legislative acts of the RUZ, the rules of the international treaty are applied in the performance of notarial acts.

In this regard, when a notary performs a notarial act affecting the interests of foreign citizens or organisations, he must first of all find out whether the Republic of Uzbekistan with the relevant foreign state has an international treaty in force, containing provisions relating to the activities of the notariat. If there is such a treaty, the notary, having familiarised himself with its text and having established that it contains different rules on the performance of notarial acts than those contained in the legislation of the RUZ, applies the rules of this treaty.



According to Article 93 of the Notaries Act, if an international treaty places within the competence of a notary the performance of a notarial act not provided for by Uzbek law, the notary shall perform that act in accordance with the procedure established by the Ministry of Justice of the Republic of Uzbekistan. In practice, conflict-of-laws rules usually relate to inheritance relations. For example, inheritance relations are determined by the law of the country where the testator had his last permanent place of residence. However, inheritance of buildings and other immovable property located in the RUZ, as well as rights to this property is determined under the legislation of the Republic of Uzbekistan.

Application of notarial legislation to foreign nationals A notary public accepts documents drawn up in accordance with the requirements of international treaties and also makes certifying inscriptions in the form prescribed by the legislation of other States, if this does not contradict the international treaties of the Republic of Uzbekistan.

References

1. Конституции Республики Узбекистан Тошкент- «Узбекистан»-2017
2. Закон о Нотариате Республики Узбекистан. -Тошкент: Адолат,1997г.
3. Закон о Нотариате Республики Узбекистан.-Тошкент: Адолат,1997г
4. Конвенция о правовой помощи и правовых отношениях по гражданским, семейным и уголовным делам. 1993. // Сборник международных соглашений и рекомендаций. –Ташкент. -1995. ИПК “ШАРК” -393с .
5. Постановление Олий Мажлиса РУз от 06.05.1994. №1076-X11 // Консульская Конвенция между Российской Федерации и Республикой Узбекистан.
6. Постановление Олий Мажлиса РУз от 06.12.1995..№78-1.//Консульская конвенция между Республикой Узбекистан и Республикой Польша.
7. Постановление Олий Мажлиса РУз от 27.12.1996..№ 358-1.// Договор между Республикой Узбекистан и Латвийской Республикой о правовой помощи и правовых отношениях по гражданским, семейным, трудовым и уголовным делам.
8. Постановление Олий Мажлиса РУз от 30.08.1996..№289-1// Договор между Республикой Узбекистан и Грузией о правовой помощи и правовых отношениях по гражданским, семейным и уголовным делам.
9. Постановление Олий Мажлиса РУз от 30.08.1997. № 487-1.// Договор между Республикой Узбекистан и Республикой Казахстан о правовой помощи и правовых отношениях по гражданским, семейным и уголовным делам.
10. Постановление Олий Мажлиса РУз от 25.04.1997.№ 431-1.// Договор между Республикой Узбекистан и Литовской Республикой о правовой помощи и
11. правовых отношениях по гражданским, семейным и уголовным делам.
12. Постановление Олий Мажлиса РУз от 30.07.1997..№ 488-1 // Договор между Республикой Узбекистан и Азербайджанской Республикой о правовой помощи и правовых отношениях по гражданским, семейным и уголовным делам.

