

UDC 342.9

DOI <https://doi.org/10.32849/2663-5313/2024.1.17>**Svitlana Turevska,***Postgraduate Student, Scientific Institute of Public Law, 2a, H. Kirpa street, Kyiv, Ukraine, postal code 03055, turevskasvitlana@ukr.net***ORCID:** [orcid.org/0000-0003-2088-5838](https://orcid.org/0000-0003-2088-5838)

Turevska, Svitlana (2024). The public-law status of notarial professional self-governance bodies. *Entrepreneurship, Economy and Law*, 1, 95–99, doi <https://doi.org/10.32849/2663-5313/2024.1.17>

## THE PUBLIC-LAW STATUS OF NOTARIAL PROFESSIONAL SELF-GOVERNANCE BODIES

**Abstract. Purpose.** The purpose of this article is to characterize the public-law status of notarial professional self-governance bodies. **Results.** One of the most significant aspects of the legal nature of notarial professional self-governance is the existence of specialized bodies that unite these authorized individuals and exercise delegated powers. These bodies serve as the driving force and organizational actors through which the goals and objectives of self-organization, self-governance, and self-regulation of representatives of this institution are implemented. Currently, in accordance with the applicable legislation, these bodies are represented by the Notarial Chamber of Ukraine and its subordinate institutions, which possess a special public-law status. A classification of the entities within the Notarial Chamber of Ukraine is presented. These are proposed to be divided into the following groups: (1) entities responsible for ensuring the functioning and implementation of the core self-governance powers, including the Congress of Notaries of Ukraine, the Council of the Notarial Chamber of Ukraine, the President, the First Vice-President and Vice-President of the Notarial Chamber of Ukraine, the Audit Commission, and the Commission on Professional Ethics of Notaries; and (2) auxiliary collegial and advisory bodies whose activities are aimed at deeper and higher-quality implementation of specific functions related to notarial self-governance and the protection of professional interests and rights of notaries, as well as the Regional Branches of the Notarial Chamber of Ukraine, which exercise delegated powers within specific territories. **Conclusions.** It is concluded that, under current Ukrainian legislation, notarial professional self-governance bodies are represented by the Notarial Chamber of Ukraine and its subordinate entities. The Notarial Chamber of Ukraine is a key non-governmental body with broad delegated powers in the administration of the notarial profession and the regulation of the activities of its members. It operates independently from state authorities and unites all notaries without exception. Its structure includes specialized bodies: the Congress of Notaries of Ukraine, the Council of the Notarial Chamber of Ukraine, the President, the First Vice-President and Vice-President of the Notarial Chamber of Ukraine, the Audit Commission, and the Commission on Professional Ethics of Notaries. These bodies ensure the functioning and execution of the core powers of the Notarial Chamber of Ukraine and address the most significant matters of notarial professional activity. In addition to the aforementioned bodies, the system of the Notarial Chamber of Ukraine also includes auxiliary collegial and advisory bodies. Their purpose is to ensure a more thorough and effective implementation of certain functions related to notarial self-governance and the protection of notaries' professional interests and rights. At the local level, the representation of notaries is carried out by the Regional Branches of the Notarial Chamber of Ukraine, which perform the powers assigned to them within designated territorial jurisdictions.

**Key words:** notariat, professional self-governance, Notarial Chamber of Ukraine, commissions of the Notarial Chamber of Ukraine, congresses.

### 1. Introduction

One of the most important aspects of the legal nature of professional self-governance in the notarial profession is the existence of specialized bodies that unite authorized individuals and exercise delegated powers. These bodies serve as the driving force and institutional composition through which the objectives and functions of self-organization, self-management, and self-regulation are implemented by

representatives of this institution. According to current legislation, such bodies are represented by the Notarial Chamber of Ukraine and its subordinate institutions, which possess a distinct public-legal status.

In contemporary legal scholarship, various problematic aspects of notarial practice have repeatedly become the subject of research. In particular, these issues have been examined by scholars such as V.V. Barankova, S.S. Bychkova,

M.S. Dolynska, V.V. Komarov, V.K. Matviichuk, S.Ya. Fursa, A.H. Chubenko, among many others. However, despite the relevance of issues concerning notarial operations, the institutional composition of professional self-governance in this field has not yet received adequate doctrinal coverage.

Therefore, the aim of this article is to characterize the public-legal status of the bodies of notarial professional self-governance.

## 2. The Public-Legal Status of Notarial Professional Self-Governance Bodies

The word *status* originates from Latin and is defined as the position or condition of something or someone. A synonym of this term is *position*, since regardless of the field in which it is applied, the two are equal in meaning and differ only in morphological origin (Lytvynchuk, 2007). The public-legal status is a branch of the general legal status that develops and operates within the field of administrative law. Its subject matter encompasses legal relationships that arise in connection with the functioning of state and local self-government bodies.

Based on the analysis of various scholarly concepts and interpretations, V.A. Hvozdi identified three main approaches to defining the administrative-legal (public-legal) status. In the narrow sense, it is understood as a set of rights, duties, and responsibilities of the subjects of administrative-legal relations. In the broad sense, the structure of administrative-legal status includes the purpose, mission (or overarching objective of a certain entity's existence), tasks and functions of the subject of administrative-legal relations, guarantees of its activities, and the scope of its competence, as well as the aforementioned rights, duties, and legal responsibility. A third approach, which is intermediate between the previous two, defines administrative-legal status as a legislatively established position of an administrative law subject in society, which enables it to carry out certain activities and bear legally prescribed responsibility for compliance with legal norms in cases where such activities extend beyond those norms. Under this third approach, the structure of administrative-legal status includes the rights, duties, responsibilities, and activity guarantees of the subjects of administrative-legal relations (Hvozdi, 2020).

The administrative-legal status is characterized differently depending on the specific area of administrative-legal regulation. For example, H.O. Balyk, in examining the administrative-legal status of the Pension Fund of Ukraine, defined it as the legal position of the Pension Fund derived from its competence, tasks, functions, organizational structure, procedures of operation, accountability, and its interactions

with other entities involved in implementing state policy in the field of pension provision and compulsory state social insurance (Balyka, 2015). O.V. Ivanov interpreted the public-legal status of the National Agency on Corruption Prevention as a functionally determined, normatively defined set of its legal rights, duties, and guarantees realized both within and beyond the scope of administrative legal relations, reflecting the real position and role of this central executive authority with special status in the system of entities involved in the formation and implementation of state anti-corruption policy, while also defining the specific nature of its activities (Ivanov, 2019).

In view of the above, the public-legal status of notarial professional self-governance bodies should be understood as the legislatively defined position of such bodies within the system of administrative legal relations arising in the state, as well as their competence and powers, which enable them to participate in such relations and fulfill their designated functions.

## 3. Functioning of Notaries' Professional Self-Governance Bodies

The bodies of professional self-governance of notaries are organized hierarchically, grouped within a system headed by the Notarial Chamber of Ukraine (NCU). According to national legislation, in particular the Law of Ukraine "On Notariate," professional self-governance of notaries is exercised through the Notarial Chamber of Ukraine and its bodies. The NCU is a non-profit legal entity that performs professional self-governance in the field of notarial activity and possesses its own official seal. Its activity is carried out in accordance with the law and its statute.

The powers of the NCU include: representing the interests of regional notarial chambers and notaries before governmental and other institutions; ensuring the protection of social and professional rights of notaries; participating in the expert evaluation of draft laws related to notarial activity; ensuring the professional development and training of notaries and their assistants; monitoring compliance with professional ethics rules, and other delegated functions.

Membership in the NCU is open to individuals who hold a certificate of the right to engage in notarial activity. The amount of membership fees and other mandatory payments required to perform the functions of the Chamber is determined by the Congress of Notaries. The NCU is registered in accordance with the Law of Ukraine "On State Registration of Legal Entities, Individual Entrepreneurs and Public Formations," taking into account the specifics provided by the Law of Ukraine on Notaries (1993).

Thus, the Notarial Chamber of Ukraine is a non-governmental self-governing body that unites all notaries without exception and exercises delegated powers related to the organization of their professional activities, as well as the protection and representation of their rights and interests. However, the NCU is not the only institution within this framework. According to the Chamber's Statute, the system of notaries' professional self-governance consists of the Notarial Chamber of Ukraine and its governing bodies, as well as its regional branches in the Autonomous Republic of Crimea, regions, and the cities of Kyiv and Sevastopol (hereinafter – NCU Branches), along with their respective bodies.

The governing bodies of the NCU, each with its own public-law status and functions, include: the Congress of Notaries of Ukraine; the NCU Council; the NCU President; the First Vice-President; the Vice-President; the Audit Commission; and the Commission on Professional Ethics of Notaries (Statute of the Notarial Chamber of Ukraine, 2018).

The Congress of Notaries of Ukraine is the supreme governing body of the NCU. It is convened by the NCU Council at least once every two years and is authorized to decide on any matter concerning the activities of the Chamber. Delegates to the Congress are elected at general meetings of the notaries from the NCU Branches among those practicing notaries operating in the respective region (Statute of the Notarial Chamber of Ukraine, 2018).

The NCU Council, in accordance with its Rules of Procedure approved by Decision No. 35 dated 15.02.2017, exercises professional self-governance functions between the Congress sessions. The Council comprises the NCU President, First Vice-President, Vice-President, the heads of NCU Branches, and two notaries elected by general meetings of those branches where the number of notaries exceeds one thousand. At its meetings, the Council:

1. facilitates the implementation of state guarantees for notarial activity, and protects the professional and social rights of notaries;
2. approves and, if necessary, amends the annual budget of revenues and expenditures of the NCU and its Branches;
3. decides on the amount of the monthly remuneration for the NCU President for fulfilling statutory duties under a civil contract if the position is held outside the Chamber's staff structure;
4. determines the salary and other payments to the NCU President if the duties are performed in an official staff capacity;
5. approves and ensures the implementation of key plans and activities, among other func-

tions (Regulations of the Council of the Notarial Chamber of Ukraine, 2017).

According to the NCU Council Decision No. 35 dated 15.02.2017, the President of the Notarial Chamber of Ukraine serves as its official representative, symbol of unity, and head of the organization (Regulations on the President of the Notarial Chamber of Ukraine, 2017).

The **Commission on Professional Ethics of Notaries** of the Notarial Chamber of Ukraine (NCU) and the **Audit Commission** of the NCU are NCU bodies accountable and subordinated to the Congress of Notaries of Ukraine. In particular, the Commission on Professional Ethics of Notaries, within its scope of authority, monitors notaries' compliance with the Rules of Professional Ethics of Notaries of Ukraine and, upon detecting violations, takes appropriate measures to address them. It also considers complaints and other appeals from NCU members, the Ministry of Justice of Ukraine, chief territorial departments, individuals, and legal entities concerning breaches of ethical standards by notaries (Regulations on the Commission on Professional Ethics of Notaries of the Notarial Chamber of Ukraine, adopted by the NCU Council Decision No. 9 of 26.02.2014).

According to the NCU Council Decision No. 2 of 10.06.2013, which approved the Regulations on the Audit Commission of the Notarial Chamber of Ukraine, the Commission monitors compliance with the NCU Statute, decisions of the Congress of Notaries of Ukraine, and NCU Council resolutions. It also oversees the financial and economic activities of the NCU and its branches, monitors the payment of monthly fees by NCU members, and annually reviews the implementation of the NCU budget and that of its branches, as well as the budget for maintaining the NCU administrative apparatus. The Audit Commission consists of one representative from each NCU branch, elected at the general meeting of notaries of the respective branch for a two-year term (Regulations on the Audit Commission of the Notarial Chamber of Ukraine, 2013).

These NCU bodies are central within the system of professional self-governance. At the same time, several auxiliary collegial commissions should also be highlighted. While they form part of the notarial self-governance system, they are not direct governing bodies of the NCU and are accountable and subordinated to the NCU Council. These commissions are established to ensure deeper implementation of functions and tasks in the field of notarial self-governance, as well as compliance and oversight of NCU activities. They include, among others: the Legal Expert Commission, the NCU Commission on Analytical

and Methodological Support of Notarial Activities, and the NCU Commission on Cooperation with State and Local Government Bodies (Official website of the Notarial Chamber of Ukraine, 2024).

At the local level, professional self-governance of notaries is represented by **branches of the Notarial Chamber of Ukraine**. According to the **Standard Regulations on the Branch of the Notarial Chamber of Ukraine in the Autonomous Republic of Crimea, regions, and the cities of Kyiv and Sevastopol**, approved by the Regular Congress of Notaries of Ukraine (Protocol No. 5 of 20.04.2018), a branch of the NCU serves as the official representation of the Notarial Chamber of Ukraine in the Autonomous Republic of Crimea, regions, and the cities of Kyiv and Sevastopol. It ensures organizational unity among NCU members and notaries practicing in the corresponding territory. Each branch operates within its respective territorial jurisdiction for an indefinite period.

Information about each branch is included in the Unified State Register of Legal Entities, Individual Entrepreneurs, and Public Formations in accordance with applicable legislation. A branch is a separate structural unit of the NCU, does not possess legal entity status, and operates based on the Standard Regulations. The governing bodies of the branch are:

1. the General Meeting of Notaries of the Branch;
2. the Board of the Branch;
3. the

Head

of the Branch (or Deputy Head of the Branch) (Standard Regulations on the Branch of the Notarial Chamber of Ukraine in the Autonomous Republic of Crimea, regions, and the cities of Kyiv and Sevastopol, 2018).

#### 4. Conclusions

The conducted analysis demonstrates that, in accordance with the current legislation of Ukraine, the bodies of professional self-governance of notaries are represented by the **Notarial Chamber of Ukraine (NCU)** and its subordinate entities. The NCU is a key non-governmental body endowed with broad delegated powers in managing the notarial profession and overseeing the activities of its members. This Chamber operates independently of state authorities and unites all notaries without exception.

Its structure comprises several specific governing bodies, including the **Congress of Notaries of Ukraine**, the **NCU Council**, the **President**, the **First Vice President**, and the **Vice President of the NCU**, as well as the **Audit Commission** and the **Commission on Professional Ethics of Notaries**. These bodies

ensure the functioning of the Notarial Chamber of Ukraine and the implementation of its core responsibilities, as well as addressing the most significant issues concerning the professional activities of notaries.

In addition to the aforementioned bodies, the NCU system includes **auxiliary collegial and advisory bodies** aimed at more thoroughly and effectively performing certain functions to guarantee notarial self-governance and the protection of notaries' professional rights and interests.

At the local level, the representation of notaries is carried out by **NCU branches**, which exercise delegated powers within their respective territorial jurisdictions.

#### References:

- Balyka, H. O. (2015). *Administratyvno-pravovyi status Pensijnoho fondu Ukrainy [Administrative and legal status of the Pension Fund of Ukraine]* (Candidate's thesis). Zaporizhzhia. (in Ukrainian)
- Hvozdi, V. A. (2020). *Administratyvno-pravovyi status orhaniv advokatskoho samovriaduvannya [Administrative and legal status of the bodies of bar self-government]* (Candidate's thesis). Kyiv: Interregional Academy of Personnel Management. (in Ukrainian)
- Ivanov, O. V. (2019). *Administratyvno-pravovyi status Natsionalnoho ahentstva z pytan zapobihannya koruptsii [Administrative and legal status of the National Agency for the Prevention of Corruption]* (Candidate's thesis). Kyiv: National Academy of Internal Affairs. (in Ukrainian)
- Lytvynchuk, O. I. (2007). *Protsesualnyi status slidchoho v kryminalnomu protsesi Ukrainy [Procedural status of the investigator in the criminal process of Ukraine]* (Candidate's thesis). Luhansk: Luhansk State University of Internal Affairs. (in Ukrainian)
- Notarial Chamber of Ukraine. (2024). *Official website of the Notarial Chamber of Ukraine*. Retrieved from <https://npu.ua/palata/komisii/> (in Ukrainian)
- Notarial Chamber of Ukraine. (2014). *Regulations on the Commission on Professional Ethics of Notaries of the Notarial Chamber of Ukraine: dated February 26, 2014*. Retrieved from <https://npu.ua/wp-content/uploads/2022/01/PolKomEt21new.pdf> (in Ukrainian)
- Notarial Chamber of Ukraine. (2017). *Regulations on the President of the Notarial Chamber of Ukraine: dated February 15, 2017*. Retrieved from [https://npu.ua/wp-content/uploads/2018/01/polo-jenya\\_pre\\_npu\\_15022017.pdf](https://npu.ua/wp-content/uploads/2018/01/polo-jenya_pre_npu_15022017.pdf) (in Ukrainian)
- Notarial Chamber of Ukraine. (2013). *Regulations on the Audit Commission of the Notarial Chamber of Ukraine: dated June 10, 2013*. Retrieved from [https://npu.ua/wp-content/uploads/2018/01/poloshennap-roveviziynukomisiyNPU\\_2016.pdf](https://npu.ua/wp-content/uploads/2018/01/poloshennap-roveviziynukomisiyNPU_2016.pdf) (in Ukrainian)
- Notarial Chamber of Ukraine. (2017). *Regulations of the Council of the Notarial Chamber of Ukraine: dated February 15, 2017*. Retrieved from <https://npu.ua/wp-content/uploads/2022/11/reglament-rada-300922.pdf> (in Ukrainian)

Notarial Chamber of Ukraine. (2018). *Statute of the Notarial Chamber of Ukraine: dated April 20, 2018*. Retrieved from <https://npu.ua/wp-content/uploads/2018/05/Statut-NPU-nova-redaktsiia-vid-20.04.2018.pdf.pdf> (in Ukrainian)

Notarial Chamber of Ukraine. (2018). *Standard Regulations on the Branch of the Notarial Chamber of Ukraine in the Autonomous Republic of Crimea,*

*regions, cities of Kyiv and Sevastopol: decision of April 20, 2018*. Retrieved from <https://npu.ua/wp-content/uploads/2019/07/viddilennia.pdf> (in Ukrainian)

Verkhovna Rada of Ukraine. (1993). *Law of Ukraine on Notaries: dated September 2, 1993, No. 3425-XII*. Retrieved from <https://zakon.rada.gov.ua/laws/show/3425-12#Text> (in Ukrainian)

**Світлана Туревська,**

здобувачка, Науково-дослідний інститут публічного права, вул. Г. Кіпрі, 2а, Київ, Україна, індекс 03035, [turevskasvitlana@ukr.net](mailto:turevskasvitlana@ukr.net)

ORCID: [orcid.org/0000-0003-2088-5838](https://orcid.org/0000-0003-2088-5838)

## ПУБЛІЧНО-ПРАВОВИЙ СТАТУС ОРГАНІВ ПРОФЕСІЙНОГО САМОВРЯДУВАННЯ НОТАРІУСІВ

**Анотація. Мета** статті полягає у тому, щоб охарактеризувати публічно-правовий статус органів професійного самоврядування нотаріусів. **Результати.** Одним із найважливіших аспектів правової природи професійного самоврядування нотаріусів є спеціальні органи, які об'єднують зазначених уповноважених осіб та виконують делеговані повноваження. Це рушійна сила, суб'єктний склад, в діях якого реалізуються мета і завдання самоорганізації, самоуправління та саморегулювання представників вказаного інституту. На сьогоднішній день відповідно до чинного законодавства дані органи представлено Нотаріальною палатою України та підпорядкованими їй установами, що мають особливий публічно-правовий статус. Здійснено класифікацію суб'єктів, що входять до Нотаріальної палати України, які запропоновано поділити на наступні групи: 1) суб'єкти забезпечення функціонування та реалізації основних повноважень самоврядування: З'їзд нотаріусів України, Рада Нотаріальної палати України, Президент, Перший віце-президент та Віце-президент Нотаріальної палати України, Ревізійна комісія, а також Комісія з питань професійної етики нотаріусів; 2) допоміжні колегіальні та дорадчі органи, діяльність яких спрямована на більш глибоку та якісну реалізацію окремих функцій із забезпечення нотаріального самоврядування та захист; професійних інтересів та прав нотаріусів; відділення Нотаріальної палати України, які виконують надані їм повноваження в межах окремих територій. **Висновки.** Зроблено висновок, що органи професійного самоврядування нотаріусів, згідно до чинного законодавства України, представлено Нотаріальною палатою України та підпорядкованими їй суб'єктами. НПУ – це ключовий, недержавний орган із широкими делегованими повноваженнями в сфері управління нотаріатом та діяльністю його представників. Дана палата незалежна від державних структур та об'єднує всіх, без виключення, нотаріусів. Її структуру складають спеціальні органи, З'їзд нотаріусів України, Рада Нотаріальної палати України, Президент, Перший віце-президент та Віце-президент Нотаріальної палати України, Ревізійна комісія, а також Комісія з питань професійної етики нотаріусів. Вони забезпечують функціонування та реалізацію основних повноважень Нотаріальної палати України, а також вирішення найбільш значимих питань професійної діяльності нотаріусів. Крім вказаних органів, в системі Нотаріальної палати України створюються допоміжні колегіальні, дорадчі органи, мета роботи яких – це більш глибока та якісна реалізація окремих функцій із забезпечення нотаріального самоврядування та захисту професійних інтересів та прав нотаріусів. На місцевому рівні представництвом нотаріусів займаються Відділення Нотаріальної палати України, виконують надані їм повноваження в межах окремих територій.

**Ключові слова:** нотаріат, професійне самоврядування, Нотаріальна палата України, комісії Нотаріальної палати України, з'їзди.