

Balancing State Supervision And Professional Self-Governance In The Notarial Sphere: Lessons For Uzbekistan From Comparative Law

Munavvarova Naimakhon Zokhidulaevna,

Independent Researcher,

University of World Economy and Diplomacy

ORCID: 0009-0001-2789-9509

e-mail: naimaxonmunavvarova@gmail.com

Abstract. This article examines how authority should be divided between the competent state body and a professional self-governing notarial organization. The question is relevant to Uzbekistan and to civil-law notarial systems generally because the notary simultaneously exercises delegated public authority and practices an independent legal profession. Using doctrinal, functional and comparative methods, the article analyses Uzbekistan's Law on Notariat, the institutional powers of the Ministry of Justice and the Notarial Chamber, and selected arrangements in Germany, France and Estonia. Given recent reforms in Uzbekistan – such as the transition to remote notarial acts via videoconferencing, the integration of audio/video records directly into the unified digital system, and expanded quasi-judicial powers like execution notes for undisputed claims – a unified digital inspection protocol is essential. The article proposes a joint risk register built on the "Notariat" Automated Information System, reasoned referral procedures, data minimization, and judicial review. The model seeks to protect citizens without turning professional monitoring into a parallel state inspection regime. The article moves beyond a descriptive comparison and proposes an operational allocation of powers, information flows, and safeguards that can be translated into legislation and joint administrative procedures.

Keywords: notary; Ministry of Justice; Notarial Chamber; professional self-governance; state supervision; monitoring; disciplinary responsibility; Anti-Money Laundering (AML); digitalization; Uzbekistan; comparative law.

Introduction The institutional design of the notariat contains an inherent duality. A notariat is entrusted with public authority to confer authenticity, preserve evidence and prevent disputes, but must exercise professional judgment independently and impartially. Consequently, neither a purely administrative model nor an entirely corporatist model adequately protects the public interest. The central governance problem is not whether the State or the profession should supervise notaries; it is how their different forms of oversight should be allocated, coordinated and reviewed.

The issue has become particularly important in Uzbekistan since the establishment of private notarial practice and the Notarial Chamber. The Law on Notariat describes the Chamber and its territorial administrations as a unified system of professional self-government. The Chamber is assigned functions that include coordinating private notaries, promoting uniform practice, collecting and studying statistics, providing methodological assistance, developing recommendatory manuals, protecting professional rights, and monitoring compliance with notarial legislation, professional ethics and professional duties [1]. The Ministry of Justice, by contrast, performs public-administration functions, including regulation of the field, establishing rules for processing normative acts, licensing, state control within the limits set by legislation, and technically administering the electronic notariat systems [1; 2].

This distribution is conceptually sound but operationally delicate. The statutory obligation for the Ministry and the Chamber to "cooperate" lacks detailed procedural mechanisms. The same event may indicate both a breach of law, which calls for state control, and a deficiency in professional technique, which calls for Chamber monitoring and guidance. If both institutions request the same files, interview the same notary and issue overlapping conclusions, the system produces duplication and uncertainty. If the Chamber alone handles serious misconduct, public accountability may be weakened. If the Ministry routinely substitutes its interpretation for the notary's independent legal judgment, preventive justice may be reduced to bureaucratic compliance.

The purpose of this article is to formulate a legally precise cooperation model that preserves the Ministry's authority and the Chamber's autonomy while preventing gaps and duplication. The research asks: (1) which functions are inherently public and which are appropriately professional; (2) how should information and cases move between the two institutions, particularly given the rapid digitalization of notarial acts; and (3) what safeguards are required for notaries and service users?

Materials and Methods. The study relies on the Constitution and legislation of Uzbekistan, particularly the Law on Notarat and recent Presidential resolutions N PP-3666 of 13 April 2018 [2] and N PP-280 of 9 September 2025 [3] reforming the notarial system and the structure of the Ministry of Justice. It also utilizes mandatory compliance frameworks, specifically the Internal Control Rules for Combating the Legalization of Proceeds from Criminal Activity and Terrorism Financing (AML/CFT) in Notarial Offices [4]. Official legal materials from Germany, France and Estonia are used for comparative analysis [5-9]. International standards of the International Union of Notaries (UINL) are used as a functional benchmark rather than as binding law [10].

The formal-legal method was used to distinguish legal supervision, professional monitoring and disciplinary jurisdiction. Functional analysis tested each competence against its purpose: legality, service quality, ethics, professional independence or institutional learning. Comparative analysis focused on transferable mechanisms rather than formal labels, comparing systems through appointment, routine inspection, professional standards, discipline, and external review.

Results and Analysis. Uzbek law gives the Notarial Chamber a distinctive evidentiary advantage. Its mandatory professional membership and territorial structure allow it to observe recurrent errors across offices, identify divergent interpretations and aggregate operational data. These capacities justify the Chamber's role in methodological recommendations and professional monitoring. The Chamber is closest to practice and can intervene early through training, peer review and guidance before a defect becomes a systemic violation.

State supervision serves a different constitutional purpose. The Ministry acts on behalf of the public, safeguards legality, administers the licensing framework and applies coercive measures where statutory conditions are met. Its conclusions must be based on law rather than corporate standards alone. A prime example of exclusive state jurisdiction is the enforcement of AML/CFT regulations. Notaries are legally bound to identify clients, identify beneficial owners of legal entities, evaluate risks, and update client profiles at least annually. Crucially, if a suspicious transaction is detected, the notary must report it to the specially authorized state body within three hours. Monitoring compliance with these strict public law duties falls directly under state control, separate from the Chamber's ethical purview.

Furthermore, the expansion of notarial competence increases the need for precise state oversight. Recent reforms empower notaries to issue execution notes for undisputed civil claims up to 1000 times the basic calculated value. By fulfilling quasi-judicial functions and securing evidence, the notary's acts directly trigger state enforcement mechanisms. Additionally, state financial oversight is necessary as notarial offices are funded through mechanisms including a 15% allocation from collected state duties.

The difficulty lies in the statutory use of broad terms. "Control," "monitoring," "coordination," "methodological assistance" and "compliance" may overlap unless subordinate procedures identify their objects, methods and consequences. A practical example illustrates the distinction. Suppose territorial data show that notaries apply different document requirements to a transaction involving jointly owned housing. The Chamber should collect anonymized cases, identify the source of divergence and issue a methodological recommendation. If a particular notary deliberately requested documents prohibited by an express rule or

failed to report a suspicious transaction under AML laws, the case moves from systemic monitoring to individual legality control by the Ministry. One information chain thus produces two different institutional responses.

Comparative models demonstrate different approaches. Germany demonstrates a structured combination of professional organisation and public supervision through the Federal Notaries Act, cleanly separating regional chamber tasks from state supervisory authorities and disciplinary proceedings [5]. France also treats notaries as public officers while organising the profession through chambers, where recent reforms have strengthened national disciplinary frameworks and public accountability [6; 7]. Estonia offers a smaller-system comparison highly relevant to digital administration, where digital information flows and a national e-notariat environment divide public-law functions from state supervision [8; 9].

UINL principles state that notarial chambers organise the exercise of the profession, represent it, uphold its interests and help ensure proper professional performance, while notaries remain subject to the public framework associated with delegated state authority [10]. The comparative lesson is not that one institution should dominate, but that professional proximity and public coercive authority should be separated and connected through transparent procedures.

Uzbekistan has heavily adopted this digital paradigm. The "Notariat" Automated Information System (AIS) now centralizes operations. Remote notarial acts are authorized via videoconferencing, requiring notaries to use 360-degree cameras to ensure no coercion is taking place. Audio and video recordings of notarial acts are now directly attached and stored within the "Notariat" AIS. Furthermore, electronic forms of notarized documents possess the same legal force as paper documents, and banks can independently register or remove electronic mortgage prohibitions via the system without physical notary intervention. This rich digital architecture means that physical inspections are largely obsolete; monitoring can be conducted continuously and remotely.

Proposals and Discussion. The comparative lesson is not that one institution should dominate, but that professional proximity and public coercive authority should be separated and connected through transparent procedures. Based on this, several core elements are proposed for Uzbekistan:

The first element is a statutory competence map. The Ministry should have exclusive or primary responsibility for licensing decisions, legality inspections, state information-system requirements, mandatory orders, AML/CFT compliance monitoring, and official legal interpretation within its competence. The Chamber should have primary responsibility for professional standards, ethics guidance, continuing education, peer-based quality monitoring, methodological recommendations, and representation. Joint functions should include risk assessment and reform planning.

The second element is a single digital inspection protocol. A shared annual risk plan should identify systemic priorities. Before requesting documents, each body must utilize the "Notariat" AIS to check if equivalent information (such as audio/video files or electronic documents) has already been obtained. Physical inspections should be exceptional. The protocol should specify the lead body, legal basis, data set, and deadlines.

The third element is a two-way referral mechanism. The Chamber must refer evidence of a serious statutory breach to the Ministry through a reasoned dossier. The Ministry should refer patterns of non-uniform practice to the Chamber for methodological action. A referral is not proof of wrongdoing; procedural rights begin before adverse findings are adopted.

The fourth element is procedural protection. A notary should receive notice of the legal basis and subject of an individual examination, access to materials, a reasoned decision, and a route for judicial review. Privileged client information must be requested only when necessary and handled under strict access controls.

The fifth element is public-interest accountability for self-regulation. The Chamber should publish an annual aggregate report containing recurrent practice problems, guidance issued, training responses, and referrals.

To formalize this, the Law on Notariat should explicitly define monitoring as a continuous, primarily non-coercive collection and analysis of information, distinct from state control. A model legislative clause may provide: "The Ministry of Justice and the Notarial Chamber shall cooperate on the basis of differentiation

of state control and professional monitoring. Information obtained electronically by one body shall not be requested again physically by the other. Materials indicating a breach outside the competence of the collecting body shall be transferred through a reasoned referral”.

Institutional independence does not require isolation. A self-governing chamber can receive public tasks and cooperate in discipline while remaining capable of representing the profession. Excessive self-regulation may produce opacity, while excessive state control may undermine the notary's duty of impartial legal assessment. Differentiation, traceability through the digital system, and judicial review provide a middle path.

Conclusion. For Uzbekistan and comparable civil-law jurisdictions, the most sustainable arrangement is a differentiated co-regulatory model. The competent state body should safeguard legality, enforce strict compliance (such as AML/CFT), administer the unified digital ecosystem, and exercise coercive public powers. The professional self-governing organisation should lead professional quality, ethics, education and practice monitoring. Shared risks should be managed through one electronic information chain utilizing the "Notariat" AIS, rather than parallel physical inspections. Clear definitions, referrals, a unified risk register, procedural rights, and judicial review can successfully reconcile public accountability with notarial independence.

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