

SPECIAL LEGAL CAPACITY OF LAWYERS: LAWYER, NOTARY AND EXECUTOR

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Abstract

The research object of this paper is the special legal capacity of lawyers, specifically, the special legal capacity for the performance of advocacy activities, regulated by the Law of Advocacy, the special legal capacity for providing notarial services, according to the Law on notaries, and the special legal capacity of the executors, according to the Law on Enforcement.

Full legal capacity is the abstract possibility of physical and legal persons to be the provider of rights and obligations. All physical persons have full legal capacity, however, some physical persons, because they fulfill special properties, acquire special legal capacity.

The research in this paper has two main purposes. The first intention is to analyze two assumptions necessary for achieving the special legal skills: 1. professional technical conditions requirements that must be completed by the natural person to operate the professional activities and 2. providing the authorization by the government.

The second goal is to show the specifics of the three types of professional activities, notion, acquire, cease and termination.

The project will analyze more closely the termination of the special legal capacity because of the loss of one from the two-expectations necessary for its acquisition (obtaining a lawyer's license, terminating the notary or the executor).

Keywords: legal capacity, lawyer, notary, executor, professional activity.

1. Introduction

Opposite the general legal capacity that all natural persons have, some of them can acquire the capacity to be the bearer of certain rights and obligations because they fulfill special properties¹. Accordingly, the general legal capacity of natural persons who do not meet these properties is limited, and natural persons who have these properties acquire a special legal capacity.

Civilians underline that the acquisition of the special legal capacity is not linked to the moment of acquisition of the title of the subject of law (with the birth of the natural person), but later², with the fulfillment of two assumptions: 1. the professional and technical conditions for performing the specified activity and 2. permissibility by the state.

Because the conditions are special, this ability can be lost not only with death but also during the life of the natural person, by his will or independently of his will. (for example, the attorney's right to practice law ceases if he: permanently loses the ability to practice law, is deprived of business capacity, his work license is revoked, etc.)³.

¹ Родна Живковска, Тина Пржеска, *Граѓанско право – Општ дел*, Скопје: Европа 92, 2021, 79.

² See: Родна Живковска, Тина Пржеска, *op. cit.*, p. 80.

³ Art. 23, p. 2, *Law on Advocacy*, Official Journal of NRM, no. 199/2023.

The result is that the special legal capacity is based on the person's ability to perform the specific activity for which he has professional-technical conditions and permission. During the entire period of exercise of the special legal capacity, the natural person also has the general legal capacity, he cannot perform other activities simultaneously.

In the Macedonian legal system, special laws regulate many special legal capacities. In this paper, that is, in the text that follows, three of the most common types of special legal capacity are presented: the special legal capacity for the performance of advocacy activities, the special legal capacity for providing notarial services, and the special legal capacity of the executors.

2. Special legal ability to practice law attorneys

For the practice of law, as a professional activity, it is of fundamental importance to say that the Code of Conduct of European lawyers of the European Council of Bar Associations and Lawyers' Associations, verbatim in Article 1.1 states that: in a society based on respect on the rule of law, the lawyer has a special role⁴.

Paragraph 6 of the Charter on the Fundamental Principles of the European Legal Profession⁵ defines the role of the lawyer in this way: "The role of the lawyer, whether employed by an individual, a corporation or the State, is that of a trusted advisor and advocate, a professional who enjoys respect from third parties, and a necessary participant in the fair distribution of justice. Embodying all these elements, the lawyer, who faithfully serves the interests of his client and protects their rights, also performs the function of a lawyer in society - and that is to intercept and prevent conflicts, to ensure that conflicts are resolved by the accepted principles of civil, public and criminal law and with due respect for rights and interests, to promote the development of laws and to defend freedom, justice and the rule of law".

In the legal system of the Republic of North Macedonia, advocacy is defined in Article 53 of the Constitution of the Republic of North Macedonia⁶ as "an independent and independent public service that provides legal assistance and exercises public powers by the law"⁷.

Based on the fact that according to the provisions of the Law on Advocacy⁸, a natural person may perform attorney work, as a professional activity, professors R. Živkovska and T. Pržeska, highlight that the lawyer, as a natural person, in addition to the general legal capacity, also has a special legal capacity for practicing law⁹.

⁴ *Code of Conduct for European Lawyers*, This Code was originally adopted at the CCBE Plenary Session held on 28 October 1988, and subsequently amended during the CCBE Plenary Sessions on 28 November 1998, 6 December 2002, and 19 May 2006. The Code includes an Explanatory Memorandum updated during the CCBE Plenary Session on 19 May 2006.

⁵ *The authority on the basic principles of the European legal profession* was adopted at the plenary session in Brussels on November 24, 2006. The purpose of the Charter is its application throughout Europe, reaching beyond the borders of member states, partner countries, and observer countries in the European Council of Law Bar Associations and Chamber of Lawyers. The authority contains a list of ten basic principles, which are similar to both national and international rules governing the legal profession, Opinions (13-16) of the Advisory Council of European Judges at the Council of Europe with reference documents and practice of the European Court of Justice human rights: international documents for an independent and efficient judiciary, OSCE, Skopje, 2014, p.356.

⁶ *Constitution of the Republic of North Macedonia*, Official Gazette of RNM, no. 52/1991, 1/1992, 31/1998, 31/1998, 91/2001, 91/2001, 84/2003, 84/2003, 107/2005, 107/2005, 3/2009, 3/2009, 13/2009, 49/2011, 49/2011, 6/2019 and 6/2019.

⁷ "The autonomy and independence of the lawyer's office as a public service is realized by the free and independent practice of the lawyer's activity, the free choice of the lawyer...", Art. 5. Law on Advocacy, Official. Journal of NRM, no. 199/2023, "Legal assistance consists in providing legal advice, representation in conducting negotiations, providing legal assistance in business protocol, represent up documents for legal acts, represent up agreements for establishment, partnership, cooperation and similar acts in connection with the establishment or the operation of business entities, incorporating of submissions in court and other proceedings, representation of the parties before the courts, state authorities, authorities of the local self-government units and other legal and natural persons, defense of suspects and accused persons and performing other legal aid work.", Art. 3, Law on Advocacy...

⁸ *Law on Advocacy*, Official. Journal of NRM, no. 199/2023. This law complies with two European directives in the field of advocacy, namely: - Directive 77/249/EEC of the Council, dated March 22, 1977, for enabling the efficient application of the freedom to provide services by lawyers; - Directive 98/5/EC of the European Parliament and the Council of February 16, 1998, on applying the activity of a lawyer in a member state that is not the country where that qualification was obtained, art. 2, Law on Advocacy..

⁹ Родна Живковска, Тина Пржеска, *Граѓанско право – Општ дел*, Скопје: Европа 92, 2021, 86.

Pursuant to the Law on Advocacy, the right to practice law is acquired by registration in the Directory of Lawyers of the Bar Association¹⁰. After registration in the Directory of Lawyers of the Bar Association, the registered lawyer is issued a work license¹¹.

According to Article 12 of the Law, a person who meets the general conditions for establishing an employment relationship in government entity, who enjoys a reputation and is dignitary of practicing law, and who meets the following conditions, can be entered in the Directory of Lawyers¹²: 1. to be a citizen of the Republic of North Macedonia or to be a citizen of a country that is a member of the European Union; 2. to have the active legal capacity 3. to have acquired a university diploma for a graduate lawyer in the Republic of North Macedonia with a completed four-year higher education of legal studies VII/1 or with acquired 300 credits according to the European Credit - Transfer System (ECTS) or a nostrify diploma from a law school from abroad; 4. to actively speak the Macedonian language; 5. to have passed the law exam in the Republic of North Macedonia; 6. by a final court decision to not be sentenced to an unconditional prison sentence for more than six months, to not be sentenced to a prohibition on performing a profession, activity or duty as well during the duration of the sanction; 7. not to be employed; 8. not to perform work that is incompatible with the practice of law; 9. not be a judge, public prosecutor, state ombudsman or deputy, ombudsman or deputy, an elected or appointed official, i.e. not having completed employment as a civil servant, notary, deputy or assistant notary, executor or deputy executor, with a final decision in a court, disciplinary or other procedure that establishes responsibility in the performance of the function, i.e. the service until realizing five years' experience since the finality of the decision and 10. to submit proof of completed initial training at the Education Center of the Bar Association.

The right to continue working as a lawyer terminates under the conditions and in a procedure established by the Law, which lists the cases under which the practice of law terminates. Thus, the lawyer's right to practice law ceases if: 1. he renounces the right to practice law, 2. he permanently loses the ability to practice law, 3. due to termination of citizenship of the Republic of North Macedonia, 4. if he is deprived of the active legal capacity, 5. if he is imposed a security measure prohibiting him from practicing law, 6. he does not pay the chamber membership fee, 7. he does not take out liability insurance for damage caused to the party, 8. his work license was revoked, 9. if, after the termination of the suspension of the lawyer's activity, the lawyer does not submit a request to the Bar Association for the continuation of practicing the lawyer's activity or the continuation of the suspension, within 15 days from the day of the cessation of the reasons for the suspension of the lawyer's activity's, 10. does not have a bank account opened and is registered as a practitioner in the Central Registry of the Republic of North Macedonia, 11. does not have an established employment relationship in accordance with the law, 12. the lawyer or the law firm of which the lawyer is the founder and which are registered in the Central Registry of the Republic of North Macedonia, do not regularly submit an annual tax return within the deadlines and procedure established by law, 13. There is no proof of ownership or other legal basis for the use of the real estate in which the law office has its business office and in which it performs the legal activity unless the lawyer is in regular employment with a lawyer or a law firm, 14. the business officer of the lawyer or the law firm no longer meets the conditions provided for in Article 9 paragraph 3 of the Law¹³. The provisions show that the reasons for termination of

¹⁰ Art. 10, p. 1, Law on Advocacy...

¹¹ "The content and method of issuing and revoking the work license are regulated by the Statute of the Bar Association", art. 10, p. 2, 3, Law on Advocacy...

¹² See Art. 12, Law on Advocacy...

¹³ See: Art. 23, p. 1, 2, Law on Advocacy, Paragraph 3 of Article 9 of the Law refers to the headquarters of the lawyer: "The headquarters of the individual lawyer and the law firm must meet minimum hygienic-technical and other conditions for providing quality legal assistance, prescribed by an act of Bar Association".

the legal profession are exhaustively enumerated, and this implies that they cannot be expanded by something that is not provided for by the Law.

It should be pointed out that lawyers in the Republic of North Macedonia are organized in the Bar Association, which has the status of a legal entity¹⁴.

The Law distinguishes the representative who takes actions in the procedure on behalf of the parties from the lawyer who performs legal activities. In this sense, the Law on Litigation Procedure stipulates that a representative can be¹⁵: 1. a lawyer, 2. a person with a legal degree who is in a working relationship with the party and 3. a direct blood relative, brother, sister or spouse, with active legal capacity. Starting from the value of the object, when the representative represents a legal entity, the Law on Litigation Procedure makes a cross-section, that is, it determines conditions that the representative should have in order to be able to represent a legal entity: *"If the value of the subject matter of the dispute exceeds 1,000,000 denars, the representative of a legal entity can be a person who is a graduated lawyer with a passed bar exam and who is in a working relationship with the legal entity¹⁶"*. Which means, the conditions to represent a legal entity, by a natural person for a higher value dispute, are stricter than the other professional and technical conditions required for a lower value dispute, and for a represented person who is a natural person (and not a legal entity).

As for the lawyer's expert associate and the lawyer's trainee, they perform certain tasks of the lawyer's activity that will be entrusted to them by the lawyer and on his behalf¹⁷.

The law on the legal profession of our country enables lawyers from other countries to provide legal assistance and practice law in the territory of the Republic of North Macedonia under conditions of reciprocity. When determining the conditions for reciprocity, the competent authorities must obtain an opinion from the Bar Association¹⁸. It is concluded that the professional-technical conditions for practicing law as a lawyer for foreign natural persons are more numerous and stricter, and it is understood that this is justified because the lawyer has to apply the law of the Republic of North Macedonia.

3. Special legal capacity to perform notarial work

The name notary or notary comes from the Latin word "notarius", which means scribe. A common title is "notary" or "public notary" (notarius publicus). Italy is considered the homeland of the modern European (Latin) notary, where it was definitely recognized from the time of Frederick Barbarossa and Pope Alexander III.

Professors A. Janevski and M. Rakočević believes that the notary service should be treated as a "sui generis" legal service, that is, a specific service in which features of public activities, which by their nature are non-litigious and administrative, are combined with free¹⁹, i.e. private organization of performing those activities.

Starting from the way of performing notary activity, the modern era is characterized by three main groups of notaries: Latin, Anglo-American and Scandinavian notaries. In continental Europe, the legal tradition is based on the Latin notary. Of all the types of notaries in the world, the form of organization and work of this service called the Latin notary is the most common.

The Latin type of notary is notariat, which means that in the notary service, notaries can only and exclusively perform notarial activity as an occupation, and may not perform other activities such as, for example, lawyering. Given this, the notary service must not and cannot

¹⁴ See: Art. 33, p. 1, 2, Law on Advocacy...

¹⁵ Art. 81, *Law on Litigation Procedure*, Official Gazette of the Republic of North Macedonia, no. 79/2005, 110/2008, 83/2009, 116/2010 and 124/2015.

¹⁶ Art. 82, Law on Litigation Procedure...

¹⁷ See: Art. 29, Law on Advocacy...

¹⁸ See: Art. 14, p. 1, 2, Law on Advocacy...

¹⁹ Arsen Janevski, Milka Rakočević, *Notary*, Skopje: Chamber of Notaries of the Republic of Macedonia, no. 28.

be equated with other legal professions, and in particular it should be distinguished from the legal profession. It should be pointed out that this type of notary is also represented in our country. The Notary Chamber of the Republic of North Macedonia is a full member of the International Union of Latin Notaries²⁰.

According to the Law on Notary²¹, a notary service is a public service performed by notaries, who are independent and independent holders of that service²². The law specifies that a notary is a person who exercises public powers established by Law, appointed by the Ministry of Justice, who performs the notary service as the only professional work²³.

According to the Law on Non-litigation Procedure²⁴ the notary as a trustee of the court is authorized to discuss the estate of a citizen of the Republic of North Macedonia, located in the Republic of North Macedonia.

To acquire a special legal capacity to perform notarial work, the natural person should meet the professional-technical conditions and the permission from the competent authority.

The professional-technical conditions for acquiring a special legal ability to perform notarial work prescribed by the Law are: a) to be a citizen of the Republic of North Macedonia; b) to have the active legal capacity and have general health ability, which is proven by a certificate issued by a competent health institution in the field of occupational medicine; c) to be a law graduate with a completed four-year higher education of legal studies or a law graduate who, according to the Bologna Declaration, has 300 credits of legal studies according to the European Credit Transfer System (ECTS) or a nostrified diploma for completed legal studies abroad for four years or according to the Bologna Declaration there are 300 credits of legal studies according to the European Credit Transfer System (ECTS); d) to have passed the law exam; e) to have passed the notary exam; f) to have at least three years of work experience in legal affairs after passing the bar exam or two years of work experience in a notary office after passing the bar exam; g) by a final court decision to not be sentenced to an unconditional prison sentence for more than six months, to not be sentenced to a prohibition on performing a profession, activity or duty; h) to have given a statement certified by a notary that he will provide adequate equipment and premises for performing the notary service; i) to make a statement before a notary that he is not over-indebted, with all the consequences of giving a false statement; j) to actively speak the Macedonian language and its Cyrillic script and j) that his position as a judge has not ceased, i.e. his employment as a civil servant, assistant notary, deputy notary, lawyer or executor has not ceased with a final decision in a disciplinary procedure until three years have passed from the day the decision became final²⁵.

Under the Law, the second requirement is the appointment of the notary by the decision of the Ministry of Justice²⁶. The competition for the appointment of notaries is announced by the Ministry and implemented by the Chamber. The cumulative fulfillment of the two legal conditions leads to the acquisition of a special legal capacity to perform notarial work as a professional activity.

According to the Law on Prevention of Corruption and Conflict of Interests²⁷, the notary is obliged, upon appointment, and no later than within 30 days from the day of appointment, to submit a statement of property status and interests.

²⁰ *The International Union of Latin Notaries* (UINL), was founded in 1948. Its legal headquarters are in Buenos Aires while its administrative offices are in Rome. It has 91 members on four continents. It currently brings together all the notaries in the world who are delegated by the public authority.

²¹ *Law on Notary*, Official Gazette of the Republic of North Macedonia, no. 72/2016, 142/2016, 25/2018 and 233/2018.

²² "The notary is an independent, independent public service in which works of the type of public authority are performed, based on the law.", art. 2, Law on Notary...

²³ See: art. 3, para. 1, 2, Law on Notary...

²⁴ Art. 131, *Law on Non-litigation Procedure*, Official journal of the Republic of Macedonia, no. 9/2008 and 77/2018.

²⁵ See: Art. 10, para. 1, Law on Notary...

²⁶ *The competition for the appointment of notaries is published in the "Official Gazette of the Republic of North Macedonia" and in two daily newspapers, one each in the newspapers published in the Macedonian language and in the newspapers published in the language spoken by at least 20% of the citizens who speak an official language different than Macedonian.*, art. 11, Law on Notary.

²⁷ Art. 82, *Law on Prevention of Corruption and Conflict of Interest*, Official Gazette of RNM, no. 12/2019.

It needs to be said that the Rulebook on disciplinary responsibility and the disciplinary procedure regulate more closely: disciplinary responsibility, disciplinary violations, disciplinary authorities, sanctions, the statute of limitations for prosecution, temporary removal from service, and the execution of disciplinary responsibility of members of the Notary Chamber of the Republic of North Macedonia²⁸.

Professors R. Živkowska and T. Przeska regarding the termination of the legal capacity to perform notarial work, i.e. group the function of notary in the following: by force of law, at the notary's request or upon his dismissal²⁹.

When it comes to the institution of exemption of a notary, it is important to say that the notary, according to the Law, will be exempted³⁰ at his request or the request of the parties, if he is a party when preparing a notarial deed or confirming (solemnizing) a private document, his spouse, his siblings, his parents, or children.

We think that, in this case, it is quite logical that the Law prescribes the exemption of a notary about the institute. According to the logic of the legislator, it is the most rational solution in the specific case, because in such cases it cannot be expected that the notary will be objective and impartial (unbiased).

Each EU country has its own regulations for the selection of notaries³¹.

In Italy, where there is limited competence in the territorial sphere, the aspiring notary must obtain a license there, complete two years of practice as a notary, take a pre-selection test of the computerized type and then, ultimately, secure a national opposition. This includes three written tests with practical case simulations, each to be solved with a notarial public document and a theoretical motivation, and once the written tests are examined, so that you can have an oral exam in matters of notarial interest.

In Spain, the competition, which is national, consists of four oral tests, with themes sorted from an official list, and then, from the writings.

In France, where the territorial competence of notaries is national, after graduation, there are two ways to access the notary: a) a "professional", it is decided through the course of a course of a year; b) other than "university", through a notarial diploma.

In Holland, ultimately, the selection is made by qualification and not by exam, so that you can complete three years of practice and, in most cases, you need 10 to 15 years to access the profession.

In the Republic of Albania, the legal regime of the notary service is commanded by the Law on Notary³². This law establishes the rules for practicing the notary profession, further the organization and operation of the notary service in the Republic of Albania³³.

4. Special legal capacity of executors

The professors of Civil Procedural Law A. Janevski, T. Zoroska-Kamilovska, and M. Rakočević underline that in 2005 the Republic of North Macedonia took a big step in reforming the system of forced execution. Leaving behind the decades-long tradition of a judicial system of execution, the legislator decided on a completely different concept of forced execution from the previous one. According to professors A. Janevski, T. Zoroska-Kamilovska, and M. Rakočević, by introducing the system of private execution carried out by executors as persons applying public powers established by Law, the Republic of North Macedonia tended to eliminate all dysfunctionalities of the system that were due to the

²⁸ See: Art. 1, *Rulebook on disciplinary responsibility and disciplinary procedure, Chamber of Notaries of Republic of Macedonia*, 2010.

²⁹ See: Родна Живковска, Тина Пржеска, *op. cit.*, p. 92.

³⁰ See: art. 32, para. 1, *Law on Notary...*

³¹ *Access to the profession of notary in the EU*, www.notaiolotta.it (26.10.2023).

³² *Law on Notary*, Republic of Albania, no. 110/2018.

³³ See: art. 1, *Law on Notary*, Republic of Albania...

slowness and inefficiency of the enforcement procedure, which seriously affected the realization of quality legal protection³⁴. To improve and advance the system of enforced execution and of course to strengthen legal security, ten years after the introduction of the system of private enforcers, in April 2016, the assembly of the Republic of North Macedonia adopted the new Law on Enforcement³⁵.

In the legal system of the Republic of North Macedonia, the executor is defined as: "*a natural person who applies public powers established by Law, appointed by the Ministry of Justice*"³⁶. According to the Law, the executor carries out the execution³⁷. It is about forced execution of enforceable documents: 1. enforceable court decision and court settlement; 2. executive decision and settlement in an administrative procedure, if they vote on the fulfillment of a monetary obligation; 3. executive notarial document; 4. a decision to issue a notary payment order and 5. another document that is provided by law as an enforceable document³⁸.

The current Law on Enforcement stipulates that a natural person who meets the following professional-technical conditions can be assigned as an executor: 1. to be a citizen of the Republic of North Macedonia; 2. to have active legal capacity and have general health ability, which is demonstrated by a certificate issued by a competent health institution in the field of occupational medicine; 3. to be a law graduate with a completed four-year higher education in legal studies or a law graduate with 300 credits of legal studies according to the European credit transfer system (ECTS); 4. to have passed the law exam; 5. to have passed the executor exam; 6. to have work experience in legal matters for at least five years after completing legal studies VII/1 degree or 300 credits of legal studies according to the European credit transfer system (EKTC); 7. to actively master the Macedonian language; 8. that he has not been punished by a final court decision to an unconditional prison sentence of more than six months, or that he has not been punished to a ban on performing a profession, activity, or duty; 9. to state in front of a notary that he will provide equipment and space that are necessary and appropriate for performing executive works and 10. to state a notary about his property situation, with all the consequences of giving a false statement³⁹.

The second condition for acquiring a special legal capacity for execution is permissibility. The executor is determined by a decision of the Ministry of Justice based on a competition. The competition for the determination of executors is announced by the Ministry, and it is implemented by the Chamber of executors of the Republic of North Macedonia⁴⁰.

According to the Law on Prevention of Corruption and Conflict of Interests⁴¹, the executor is obliged, upon appointment, and no later than within 30 days from the day of appointment, to submit a statement of property status and interests.

Enforcement actions are implemented by the executor personally or, on his authority, by the representative of the executor or the assistant of the executor⁴².

Macedonian objective law stipulates that the executor's duty ceases in the following cases: 1. by death (with the day of the executor's death); 2. upon reaching 64 years of age in accordance with the law; 3. at his request (with the expiration of the term specified in the request for termination of service); 4. if he is punished by a final court decision to an unconditional prison

³⁴ Арсен. Јаневски, Татјана Зороска-Камиловска, Милка Ракочевиќ, *Новините во Законот за извршување од 2016 година со измените и дополнувањата од 2018 и 2020 година*, Скопје: Правен факултет "Јустинијан Први", Универзитет "Св. Кирил и Методиј" во Скопје, 2021, 1.

³⁵ *Law on Enforcement*, Official Gazette of the Republic of North Macedonia, no. 72/2016, 142/2016, 178/2017, 26/2018, 233/2018, Official Gazette of Republic of North Macedonia, no. 14/2020, 136/2020 and 154/2023.

³⁶ See: art. 32, para. 1, 2, Law on Enforcement...

³⁷ See: art. 3, para. 1, Law on Enforcement...

³⁸ See: art. 12, para. 1, Law on Enforcement...

³⁹ See: art. 33, paragraph 1, Law on Enforcement ...

⁴⁰ See: art. 34, paragraph 1, 3, Law on Enforcement ...

⁴¹ See: art. 82, Law on Prevention of Corruption and Conflict of Interest...

⁴² See: art. 32, paragraph 1, Law on Enforcement...

sentence of more than six months (with the finality of the criminal verdict); 5. if he is sentenced to a penalty-prohibition for performing the duty of executor (with the date of the finality of the court's decision); 6. if by decision of the disciplinary commission, a disciplinary measure has been imposed on him - permanent deprivation of the right to perform the duty of executor (with the date of finality of the decision of the disciplinary commission); and 7. with dismissal (with the validity of the dismissal decision)⁴³. Also, the executor can at any time, with a written request to the Minister of Justice, request to be released from the powers of an executor⁴⁴.

5. Conclusion

All natural persons with the act of birth acquire general legal capacity, which presents abstract possibilities to be the bearer of rights and obligations. But some natural persons because they meet special attributions can also acquire special legal capacity.

The natural person who wants to operate law as a professional activity should fulfill the professional-technical conditions determined by the Law on Advocacy and Permissibility which is acquired by registration in the Directory of Lawyers of the Bar Association.

To acquire a special legal capacity to perform notarial work, the natural person should meet the professional-technical conditions and the permission from the competent authority. The professional and technical conditions for acquiring a special legal ability to perform notarial work are determined by the Law on Notary. Under the Law, the second requirement is the appointment of the notary by the decision of the Ministry of Justice.

An executor may be appointed a natural person who meets the professional-technical conditions determined by the Law on Execution. The second condition for acquiring a special legal capacity for execution is permissibility. The executor is appointed by a decision of the Ministry of Justice based on a competition.

The increasing fulfillment of the two legal conditions provides for the acquisition of a special legal capacity for practicing law, notary work, and forced execution of court decisions as a professional activity.

We can conclude that natural persons to acquire the special legal capacity to exercise a convinced activity must fulfill two assumptions: 1. professional-technical conditions and 2. permission from the government. Contrary to the general legal capacity that ends with the death of the natural person, the special legal capacity ends directly when one of the precedent conditions necessary for its acquisition terminates.

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- [5] Code of Conduct for European Lawyers was originally adopted at the CCBE Plenary Session held on 28 October 1988, and subsequently amended during the CCBE Plenary Sessions on 28

⁴³ See: art. 71, paragraph 1, Law on Enforcement ...

⁴⁴ Арсен. Јаневски, Татјана. Зороска-Камиловска, *Граѓанско процесно право, книга трета, извршно право*, Скопје: Правен факултет “Јустинијан Први”, Универзитет “Св. Кирил и Методиј” во Скопје 2021, 33.

- November 1998, 6 December 2002 and 19 May 2006. The Code includes an Explanatory Memorandum which was updated during the CCBE Plenary Session on 19 May 2006.
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