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Civil, tax, and administrative liability of notary and registry offices according to the jurisprudence of the Minas Gerais Court of Justice

Responsabilidade civil, tributária e administrativa dos cartórios conforme jurisprudência do Tribunal de Justiça de Minas Gerais

Responsabilidad civil, tributaria y administrativa de los registros conforme a la jurisprudencia del Tribunal de Justicia de Minas Gerais

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KEYWORDS

Notary office. Liability.
Notary.

Abstract: This study aims to examine the administrative, civil, and tax liabilities of notary and registry offices through jurisprudential and documentary research. Based on 269 judicial decisions found on the official website of the Minas Gerais Court of Justice, 31 decisions meeting the study's criteria were collected. They were divided into 3 categories and 12 subcategories using Bardin's content analysis method. The study found that errors caused by negligence can be mitigated with people management strategies, well-structured recruitment and selection processes, and specialized training programs focused on document analysis and other skills. Additionally, intentional errors can be mitigated through the implementation of a compliance system, which may improve the quality of services provided by notary and registry offices and enhance their credibility. In conclusion, services provided by notary and registry offices are reliable, effective, and essential to citizens. However, notaries and registrars should possess sufficient administration and management skills, in addition to their technical and legal expertise, to effectively manage an office.

PALAVRAS-CHAVE

Cartório.
Responsabilidade.
Tabelião.

Resumo: Este estudo, visa analisar, por meio de uma pesquisa jurisprudencial e documental, como ocorre a responsabilização do tabelião nos âmbitos administrativo, civil e tributário. Partindo-se de 269 decisões judiciais no site oficial do Tribunal de Minas Gerais (TJMG), obteve-se 31 decisões que atendiam ao objetivo da pesquisa e que foram organizadas em 03 categorias e 12 subcategorias em conformidade com a análise de conteúdo de Bardin. Observou-se que os erros causados por condutas culposas poderiam ser reduzidos com o uso de estratégias gerenciais e de gestão de pessoas, por meio de um processo estruturado de recrutamento e seleção, treinamento, desenvolvimento e capacitações voltadas para análise de documentos apresentados nas serventias extrajudiciais. Já os erros dolosos, para amenizar as ocorrências, sugeriu-se a implantação de um sistema de compliance, visando o aumento na qualidade do serviço prestação e na credibilidade da atividade cartorária. Conclui-se que os serviços prestados pelos cartórios são confiáveis, eficazes e estão presentes na vida de toda população, mas enfatiza-se a necessidade do tabelião/registrator deter conhecimentos administrativos para gerir uma serventia de forma adequada, uma vez que este detém muitas vezes apenas o conhecimento técnico jurídico.

PALABRAS CLAVE

Notaría.
Responsabilidad.
Notario.

Resumen: Este estudio tiene como objetivo analizar, a través de una investigación jurisprudencial y documental, cómo se lleva a cabo la responsabilidad del notario en los ámbitos administrativo, civil y tributario. A partir de 269 decisiones judiciales en el sitio oficial del Tribunal de Minas Gerais (TJMG), se obtuvieron 31 decisiones que cumplían con el objetivo de la investigación y que fueron organizadas en 03 categorías y 12 subcategorías de acuerdo con el análisis de contenido de Bardin. Se observó que los errores causados por conductas culposas podrían reducirse con el uso de estrategias de gestión y de gestión de personas, a través de un proceso estructurado de reclutamiento y selección, entrenamiento, desarrollo y capacitación dirigidos a la análisis de documentos presentados en las oficinas extrajudiciales. En cuanto a los errores dolosos, para mitigar los incidentes, se sugirió la implementación de un sistema de cumplimiento normativo, con el objetivo de mejorar la calidad del servicio prestado y la credibilidad de la actividad notarial. Se concluye que los servicios prestados por las notarías son confiables, eficaces y están presentes en la vida de toda la población, pero se enfatiza la necesidad de que el notario/registrator tenga conocimientos administrativos para gestionar una oficina de manera adecuada, ya que a menudo solo posee conocimientos técnicos jurídicos.

Introduction

Extrajudicial notary and registry offices provide services endowed with legal authority to attest to documents and with the presumption of authenticity. These offices aim to ensure the authenticity, publicity, security, and effectiveness of legal acts and transactions. Notary and registry services provided by notary and registry offices are of a private nature and are conducted by delegation of public power. Recruitment and transfer of notary and registry office holders and employees consist of a competitive examination followed by the submission of proof of qualification (Brazil, 1994).

Extrajudicial notary and registry offices do not possess legal personality. Therefore, the National Registry of Legal Entities (CNPJ) number of these offices is only used for providing information to public bodies and for monitoring by the National Council of Justice. Thus, the notary or registrar (as a natural person) holds liability for damages caused to third parties (Santana, 2019).

Notary and registry services are considered essential for society. Notaries and registrars must ensure the integrity of all documents in notary and registry¹ offices. They should also strive to provide efficient and effective services to the population, adhering to the limits, conducts, and attributions expressed by the law (Martins, 2017). In case of non-compliance with the regulations, the notary or registrar may be subjected to criminal, civil, administrative, or tax liability. Such liabilities may be cumulative and are generally independent of each other (Gagliano & Pamplona Filho, 2019).

Civil liability refers to the procedures that secure an individual's right to compensation for moral or material damages caused by third parties (Diniz, 2008). Administrative liability is the imposition of penalties on individuals who are subject to a different legal regime for holding a particular public or private position. As for tax liability, notaries and registrars are jointly liable for the payment of taxes resulting from acts

performed by their offices (Brazil, 1966).

Therefore, when errors occur, the liability falls on the notary or registrar, whether for acts performed by them or by the office staff. To minimize these errors, the office must provide its staff with training in notarial practice. For instance, training in people management may prevent errors, enhance performance, and motivate employees (Dutra, Dutra & Dutra, 2017).

This study aims to examine the administrative, civil, and tax liabilities of notaries and registrars during notarial activities, as well as the issues surrounding these liabilities, through jurisprudential and documentary research. To accomplish this, judicial decisions (judgments) of the Minas Gerais Court of Justice, published between 2013 and 2021, were analyzed. Furthermore, this study aims to provide people management strategies that can prevent or mitigate errors that may occur in notary and registry offices. These errors may result in administrative, civil, and tax liabilities for the notary or registrar, potentially discrediting the services provided by notary and registry offices.

This study is relevant due to the importance of the services provided by notary and registry offices from the beginning until the end of citizens' lives. Services provided by notary and registry offices streamline and simplify processes that previously required judicial proceedings (Queiroz & Silva, 2020).

Theoretical elements of the research

This theoretical review aims to provide an overview of the concepts addressed in this study, including notarial activity, administrative, civil, and tax liability, people management, and compliance.

Notaries are legal experts who serve as the holders of notary offices. They are authorized to conduct their activities after passing a competitive examination. Notaries are autonomous, not subject to administrative, economic, or political

validity of notarial acts and grants them *erga omnes* publicity (Brazil, 1984).

¹The main difference between the roles of a notary and a registrar is that the notary formalizes the contractual will of the parties in a document, enabling it to have legal effects in the future. The registrar, on the other hand, examines the

subordination, and are subject to administrative, civil, tax liabilities (Santana, 2019).

Notaries and registrars are independent and subject to the laws and regulations imposed by the judiciary of each state. Therefore, they must perform notary and registry services according to the attributions of each office. In Minas Gerais, there are 3,018 registered and active notary offices (Justiça Aberta, 2022).

Notaries are responsible for legally formalizing the will of two or more parties in an agreement, offering intervention and guidance when necessary. They provide services including, but not limited to, signature notarization, document authentication, and transcription of public deeds (deeds of sale and purchase, donation, declaration, emancipation, and power of attorney). Conversely, registrars are responsible for services related to public registration, such as registration of real estate, titles, and documents, registration of natural and legal persons, and registration of interdictions and guardianships (Brazil, 1994).

As compensation for their services, notaries, who possess financial autonomy, receive fees. These fees are determined by Law 10.169 (2000), which establishes the general parameters for the payment of notary services. In addition, each state must establish the values of notary or registrar services according to local tax laws (Brazil, 2000).

If the notary or registrar makes an error, they may face various legal consequences, including labor, criminal, civil, administrative, and tax liabilities. This study aims to examine the criminal, civil, and tax liabilities in particular.

Civil liability occurs when an individual, through an unlawful act, causes harm to another and is obliged to rectify it. Civil liability can be strict or fault-based. Silva (2020) states that strict liability does not require proof of intention or fault. Intention refers to the intention of causing harm, as demonstrated by a person who intentionally punches another person. Fault occurs when harm is caused unintentionally due to negligence, such as when a doctor leaves a scalpel inside the patient's body after surgery.

Coelho (2019) notes that proving a fault is a difficult process. Therefore, strict liability offers protection to victims of unlawful acts, as they only

need to demonstrate the conduct, causation, and harm. Causation denotes the connection between the conduct and the harm. Strict liability is based on the risk theory, where the offender assumes the responsibility for causing the harm (Ibid.). On the other hand, fault-based liability requires proof of intention or fault. In essence, if these elements are not proven, there is no obligation for compensation for the harm (Coelho, 2019).

Administrative liability occurs when notaries and registrars face penalties for infractions such as non-compliance with legal norms, conduct that is detrimental to notarial and registry activities, excessive charging of fees by claiming urgency, and violation of professional secrecy (Brazil, 1994). In such cases, the notary or registrar may be punished with a reprimand, a fine, a 30-day suspension (which can be extended for a similar period), and, in severe cases, termination from their position (Brazil, 1994).

Finally, tax liability occurs when notaries and registrars are held accountable for evidence of tax fraud found during inspection or unfulfillment of tax obligations (Article 134, VI, CTN) (Brazil, 1966).

A possible measure to prevent civil, administrative, and tax liabilities is applying people management strategies to notary and registry offices. These strategies encompass a set of practices and policies aimed at adjusting expectations between employees and organizations, while also aligning short-, medium-, and long-term values and objectives (Budde & Silva, 2020).

For employees to perform their functions optimally and consequently meet their expectations, organizations must provide the necessary tools and support. According to Budde & Silva (2020), employees should collaborate with the organization to develop their personal projects and attain professional growth. They should also possess the discernment to recognize their ability to contribute to the organization, as well as be aware of the opportunities that the organization can provide them (Ibid.).

People management is a strategic measure that fosters harmonious work environments and cultivates positive relationships to achieve

predefined objectives (Santana & Lopes, 2018). Achieving balance in the work environment is necessary to attain success in both organizational and individual projects (Ibid.).

In light of this, people management begins with the appropriate selection of employees. This is possible through recruitment and selection processes. Akita, Santos, and Venâncio (2021) define recruitment as communication aimed at attracting candidates who possess the required characteristics for the existing position. The selection process involves choosing candidates who have already been recruited.

This stage aims to verify whether the recruited candidate possesses the physical, psychological, and behavioral conditions to perform the assigned duties, and should therefore be carried out with caution (Ibid.).

Furthermore, for employees to fulfill their roles effectively, organizations must provide training to develop their skills (Araújo, 2021). Therefore, providing training to employees aims to improve task execution and minimize unnecessary costs. In essence, training should be continuous, even if performance results are satisfactory (Ibid.).

In addition to people management strategies, Garbaccio, Lodie, and Bandeira (2023) asserted that the implementation of a compliance system in notary offices positively influences the mitigation of errors caused by illicit conduct of employees, as well as the number of lawsuits filed against registrars and notaries.

In the realm of notarial activities, as observed by Garbaccio, Lodie, and Bandeira (2023), the compliance system is defined as a set of anti-corruption strategies aimed at preventing, detecting, and combating corruption crimes. In this context, extrajudicial notary and registry offices are obligated to adhere to the norms, regulations, and ethical standards imposed within both the internal and external organizational environment. This adherence serves to mitigate risks that could result in liability for the notary or registrar, as well as to prevent the office from being discredited (Ibid.).

According to Goulart and Batista (2020), the compliance system is appropriate for notarial and registry activities due to their social impact.

Extrajudicial notary and registry offices possess a significant amount of information that ensures the legal security of notarial and registry acts. For this reason, notaries and registrars have an important role in the prevention of criminal acts (Goulart & Batista, 2020).

In this regard, Gomes, Pereira, and Martinez Lazcano (2021) stressed that the activities performed by notaries and registrars entail risks. Therefore, all notarial acts must undergo thorough analysis to ensure that they comply with regulations. Non-compliance may result in penalties, administrative sanctions, and, in severe cases, termination (Gomes et al., 2021).

However, in order to implement a compliance system within an organization, managers must be aware that significant investments will be required for its completion and operation. Therefore, the organization should assign employees to manage the compliance system or hire an outsourcing company (Bento, 2018).

Methodological elements of the research

This study consists of jurisprudential and qualitative documentary research with the main objective of examining the administrative, civil, and tax liabilities of notaries and registrars.

Queiroz and Feferbaum (2022) defined jurisprudential research as a scientific investigation guided by questions, which are answered through the analysis of judicial decisions. Gil (2002) defined qualitative documentary research as the analysis of public and private documents through observation, reflection, and interpretation of data. This research method is suitable for the purposes of this study, because it involves an extensive source of long-term and stable data. Additionally, it is a cost-effective method, as it relies solely on the researcher's availability to analyze the documents (Ibid.).

Judicial decisions published between 2013 and 2021 on the official website of the Minas Gerais Court of Justice (2021) were collected between February and July 2021, following the methods proposed by Gil (2002) and Queiroz and Feferbaum (2022).

Searches were conducted using the following

keywords, connected by the Boolean operator "and": "notary office administration", "notary liability", "notary administrative liability", "notary civil and criminal liability", "administrative improbity", "notary tax liability", "notary office tax liability", and "notarial and registry activities taxation". The searches resulted in 269 judgments that could potentially be relevant to the study's objective.

However, after reading the abstracts of the judgments, only 31 were relevant to the study's objective, which means they described situations that resulted in civil, administrative, and tax liabilities for notaries and registrars. As an exclusion criterion, judgments from higher courts (Supreme Federal Court and Superior Court of Justice) were excluded, since the analysis was limited to the State of Minas Gerais. Judgments with identical content were also excluded.

The selected judgments were organized and analyzed following Bardin's content analysis method (1977). The first stage of the analysis involved a pre-analysis to facilitate document organization. The second stage consisted of codifying, decomposing, and enumerating to arrange the collected data in a structured manner. The judgments were divided into three categories: administrative, civil, and tax liability (Table 1).

Table 1
Analyzed judgments

Category	Frequency	Judgments		
Civil	17	1.04 33.1 1.00 3336 - 5/00 2	1.0702. 12.081 161- 8/001	1.0000. 20.4867 17- 0/001
		1.00 00.2 0.57 2996 - 5/00 1	1.0000. 18.052 411- 8/001	1.0647. 09.1032 45- 6/003
		1.01 05.1 4.01	1.0024. 11.187 266-	1.0702. 09.5919 02-

		4460 - 8/00 1	9/001	4/002
		1.02 10.1 3.00 2372 - 9/00 2	1.0000. 18.066 417- 9/001	1.0024. 11.3338 66- 9/001
		1.00 79.0 9.93 9327 - 8/00 1	1.0000. 21.051 411- 3/001	1.0024. 10.0595 35- 4/001
		1.03 38.1 0.00 3516 - 5/00 1	1.0045. 17.001 252- 5/001	
Administrati ve	13	1.00 00.1 9.00 9293 - 2/00 0	1.0000. 19.014 406- 3/000	1.0000. 18.1390 94- 9/000
		1.00 00.1 8.09 2752 - 7/00 0	1.0000. 18.065 264- 6/000	1.0000. 18.0213 49- 8/000
		1.00 00.2 0.00 3073 - 2/00 0	1.0000. 19.150 220- 2/000	1.0000. 13.0546 05- 4/000
		1.00 00.1 9.02 3204 -	1.0000. 19.150 220- 2/000	1.0000. 18.1218 59- 5/000

		1/00 0		
		1.00 00.1 6.03 1544 - 6/00 0	1.0000. 16.075 620- 1/000	
Tax	01	1.00 00.1 9.06 6823 - 6/00 1		

Source: created by the authors.

The frequency column indicates the number of judgments under each category, following Bardin's content analysis method (1977). Furthermore, the categorization and subcategorization of the selected judgments enabled the analysis of their contents, as described in the third stage of Bardin's method (1977), which consists of the processing, inference, and interpretation of results.

Result presentation and discussion

After data collection, the judgments were divided into three categories: civil, administrative, and tax liability. Subsequently, these judgments were further classified into four subcategories: negligence, intentional errors, liability of the government, and absence of liability of the notary or registrar. These subcategories were further divided into additional subcategories, as outlined in Table 2.

Table 2
Categories and subcategories

Category	Subcategories
Negligence (14 judgments)	Negligence in document verification (10 judgments)
	Errors in the execution of notarial acts (2 judgments)
	Errors when providing information to the INSS (1 judgment)

	Registration of a false public deed (1 judgment)
Intentional errors (14 judgments)	Non-compliance with regulations (7 judgments)
	Improper collection of fees (2 judgments)
	Transcription of a deed of sale and purchase with awareness of potentially forged documentation (1 judgment)
	Signature notarization while absent from the notary office (2 judgments)
	Tax evasion (2 judgments)
Liability of the government (1 judgment)	Document verification (1 judgment)
Absence of liability of the notary or registrar (2 judgments)	Birth registration and acknowledgment of paternity (1 judgment)
	Document verification (1 judgment)

Source: Created by the authors.

The "negligence" category refers to instances where notaries and registrars failed to properly execute notarial and registry acts without the intention of causing harm. Negligent practice refers to actions resulting in undesired effects due to negligent, imprudent, or unskilled behavior (Brasil, 1984). A total of 14 judgments demonstrated errors committed by the notary or registrar due to negligence.

This category was further divided into four subcategories. The first subcategory, "negligence in document verification," encompassed 10 judgments, which revealed negligence on the part of the notary or registrar due to the failure to verify the presented documentation.

A practical example illustrating this category was described in judgment 1.0702.09.591902-4/002, where the notary issued a public deed of purchase and sale without verifying the authenticity of the power of attorney (TJMG, 2021). A power of attorney is a legal document in which an individual designates another as their representative to act on their behalf in situations where they cannot be present (ANOREG, 2018).

The second subcategory, "errors in the execution of notarial acts," comprises two judgments that revealed negligence on the part of the notary. For instance, in judgment 1.0000.18.066417-9/001, a notary incorrectly described the property under negotiation when transcribing a public deed of purchase and sale. Consequently, the description of the property's characteristics differed from those stipulated in its registry in the deeds registry office (TJMG, 2021).

The third subcategory, "errors when providing information to the INSS," includes one judgment that revealed negligence on the part of the registrar. The registrar, when transcribing a death certificate for submission to the National Social Security Institute (INSS) and the Special Department of Federal Revenue, mistakenly provided the Individual Taxpayer Registration (CPF) number of the person who reported the death instead of the deceased's number. As a result, the declarant's CPF number was cancelled, leading to multiple negative consequences, such as denial of access to prescribed medications for ongoing medical treatment.

Lastly, the fourth subcategory, "registration of a false public deed," comprises one judgment that reveals that the registrar failed to verify the authenticity of a public deed presented to the deeds registry office, which was later found to be forged.

The second category, "intentional errors," refers to conduct resulting from the intentional actions of notaries and registrars. Intentional conduct occurs when an individual takes unlawful action to achieve an objective. The individual is aware of the irregularity of the action but decides to carry it out regardless (Brasil, 1984). A total of 14 judgments were included in this category, which was further divided into five subcategories, which describe the actions of the notaries and registrars that have incurred liabilities.

The subcategory "non-compliance with regulations" includes seven judgments and is therefore the most common type of intentional error. As an example, the judgment 1.0000.18.065264-6/000 describes a case in which the notary, when transcribing a public deed, exceeded the spatial limits of the municipality where the property was located.

The third category, "liability of the government," comprises one judgment. This category comprises cases where the government assumed the strict liability for an error committed by the notary or registrar. Strict liability, as described in the theoretical framework section, does not require proof of intention or negligence (Brasil, 2002).

The subcategory "improper collection of fees" includes two judgments where the notary or registrar charged a fee that did not adhere to the norms established by the Minas Gerais Court of Justice. The following subcategory, "transcription of a deed of sale and purchase with awareness of potentially forged documentation," comprises one judgment. This subcategory refers to the transcription of a public deed of sale and purchase in spite of the clear indications that the documentation was forged. Although the notary was aware of the inconsistency, they decided to proceed with the act.

The subcategory "signature notarization while absent from the notary office" includes two judgments. This subcategory refers to cases where a signature notarization was incorrectly performed while the notary was absent from the notary office. Signature notarization can be done in two ways: by authenticity or by resemblance. Notarization by authenticity occurs when an individual signs a document in the presence of the notary or designated representative. Notarization by resemblance occurs when the notary, substitute, or clerk compares the signature on the document with the signature on a card that was previously filed in the notary office. In this case, the individual does not sign the document in the presence of the notary. As an example of this subcategory, judgment 1.0000.18.139094-9/000 describes a case in which a signature notarization for a vehicle transfer document was carried out in the presence of a notary clerk when it should have been carried out in the presence of the notary or a representative appointed by him.

The final subcategory is labeled "tax evasion." It specifically refers to the Judicial Inspection Tax (Taxa de Fiscalização Judiciária), the evasion of which is considered a serious offense. This subcategory comprises two judgments. For

instance, judgment 1.0000.20.003073-2/000 describes a case in which the notary collected a lower amount than required and was punished with a reprimand.

The third category, "liability of the government," comprises one judgment. This category comprises cases where the government assumed the strict liability for an error committed by the notary or registrar. Strict liability, as described in the theoretical framework section, does not require proof of intention or negligence (Brasil, 2002).

In February 2019, the Supreme Federal Court declared that the government is strictly liable for the actions of notaries and registrars that cause harm to third parties. This means that the government is obligated to demand that the notary or registrar compensates the affected party for the harm caused in situations where there is proof of intention or negligence. Failure to do so may result in penalties due to administrative improbity (Brasil, 2019).

Lastly, the final category, "absence of liability of the notary or registrar," includes two judgments. It refers to cases where the conduct of the notary or registrar was legitimate. In this case, the notary or registrar is exempt from liability upon proving that the conduct followed the regulations. This category is divided into two subcategories.

The first subcategory, "birth registration with acknowledgment of paternity," refers to a case in which a birth certificate with acknowledgment of paternity was transcribed without the presence of the father at the registry office. It comprises one judgment (1.0105.14.014460-8/001). In this case, the registrar transcribed the birth certificate based on documentation that proved the paternity (TJMG, 2021).

The second subcategory, "document verification," refers to a case in which all the necessary documentation was verified before conducting the notarial activities. It includes one judgment (1.0000.20.481637-5/001) (Brasil, 2021). In this case, the notary diligently issued and archived a municipal clearance certificate. However, the property owner was indebted to the municipal government. A possible explanation for this is that the municipal public servants did not

verify the data or transcribe the certificate properly. Therefore, since the notary duly verified the documentation, their liability was dismissed.

As shown in Table 2, errors caused by negligence were observed in 14 judgments. These errors could have been avoided or mitigated with the implementation of people management strategies. In notary and registry offices, reciprocity among officers and employees is essential to foster a productive and harmonious work environment and mitigate errors. In this regard, people management plays a crucial role, especially employee training. Therefore, notaries and registrars should assume the responsibility of providing training to employees. Since notary and registry services must adhere to regulations, notaries and registrars should instruct new employees on these regulations.

Candidates who aspire to join a notary or registry office team should be proactive and prudent, and possess good communication, observation, analytical, and technology skills, among others. For instance, the duties of a notary assistant include assisting customers and performing the initial verification of their documentation. Following this initial verification, the assistant informs the customer about the conditions of the service and offers guidance if there are any impediments, such as when additional documentation is required.

In view of this, office employees should receive training in customer service, document verification, and detection of forged documents, such as identity cards, driver's licenses, certificates, deeds, and powers of attorney. These training programs should aim at preventing or mitigating the errors described in the results section of this study.

The need for training programs is particularly evident in the cases found in this study. Judgment 1.0000.19.014406-3/000 (TJMG, 2021) describes a situation where liability and penalty were imposed on a registrar of deeds for registering a public deed of purchase and sale without verifying its authenticity. This could have been avoided with training in document verification. A training program on document verification should cover the authentication of electronic seals, the

validation of official seals and signatures belonging to notaries and registrars, and emphasize the importance of having multiple employees examine the documentation to minimize errors.

Similarly, specialized training should be provided to notaries and registrars, assisting them in verifying and authenticating documents, attesting the legal capacity of the parties involved in the act, and revising information before concluding acts. For instance, judgment 1.0000.20.486717-0/001 describes errors in the submission of data pertaining to birth, marriage, and death certificates to public institutions such as the INSS (TJMG, 2021).

In order to minimize errors caused by negligence, a training program could be offered to all employees, focusing on document analysis, including document and handwriting examination. These training programs should prepare employees to analyze the security features of each type of document. For instance, in judgment 1.0702.09.591902-4/002, if employees had conducted a careful examination of the documents, the notary may not have been penalized for validating a public deed based on forged powers of attorney and personal documents (TJMG, 2021).

Additionally, by employing document examination techniques, employees may be able to identify watermarks printed on the specific type of security paper that is used for notarial and registry transcripts in each state of the country. Forged personal documents can also be analyzed using techniques such as laser-engraved serial numbers, hologram state seals, hologram Brazil-shaped seals on certificates, colored security fibers, among other elements (Parodi, 2018).

Notary and registry offices located in capital or large cities are better equipped to provide training to employees. Due to the large number of employees, these offices are typically divided into sections. Each section is assigned a particular service, which is carried out by a designated team of employees and coordinated by a section manager.

Given that each section specializes in a particular service, with a clearly defined scope of activities, developing a strategic training program

becomes more feasible. Such a program can comprehensively cover the required skills for these activities. For instance, an employee who is responsible for transcribing powers of attorney can receive specialized training for this purpose. Large notary and registry offices are presumed to operate on high revenues due to their large organizational structures. For this reason, they are generally capable of providing specialized training as needed.

In contrast, notary and registry offices located in small cities or rural areas lack the necessary resources to offer adequate training to their employees. The available resources are sufficient to support basic operations, but insufficient to increase the number of employees or expand the organizational structure. Because of this, officers and employees often share the same duties.

This disparity becomes more pronounced in offices located in cities that do not hold the seat of a judicial district. These offices generally provide both notary and registry services, and office staff is smaller in size. In this case, employees should receive general training to be able to perform all notarial and registry activities, such as transcribing birth, death, and marriage certificates, powers of attorney, and different types of public deeds, while avoiding the errors described in this study.

The Minas Gerais Union of Registrars (Sindicato dos Oficiais do Registro Civil de Minas Gerais) offers training programs to registry offices, especially the smaller offices, across Minas Gerais. These programs cover the current regulations, changes in regulations, methods for adequately charging fees, electronic notarial acts, as well as accounting and management strategies, as required by the Judicial Administration Department of Minas Gerais (Corregedoria Geral de Justiça de Minas Gerais) for notary and registry officials (Sindicato dos Oficiais do Registro Civil de Minas Gerais, 2022).

Based on the findings of this study, notaries should possess not only legal expertise but also financial and management skills. In spite of that, the curriculum of the Undergraduate Program in Law at the University of Sao Paulo, regarded as the best program in the country, does not include courses on people management and business

administration (Universidade de São Paulo, 2021; Albuquerque, 2021). Therefore, after graduating from the program, legal professionals will possess a superficial understanding of organizational management and administration. However, this understanding is indispensable for notaries, who are required to manage notary offices, ensuring that they adhere to regulations and do not incur errors during notarial activities.

Organizational and people management are essential tools to mitigate the errors described in this study. The technical and legal expertise of notaries and registrars does not encompass the necessary skills to manage a notary or registry office. People management is particularly relevant, since officers often need to train new employees and inform them of changes in regulations to mitigate errors.

An intentional error occurs when a notary and registrar is aware of the irregularities of a notarial or registry act but decides to proceed with it regardless. The analyzed judgments include cases where notaries and registrars did not comply with regulations, leading to penalties, such as fines, reprimands, and, in severe cases, suspension from their positions for 30–90 days.

Intentional errors can be mitigated with the implementation of a compliance system. A compliance system aims at providing safe and reliable services to customers. Even well-established and well-structured offices are vulnerable to illicit acts carried out by notaries, registrars, and employees.

To implement a compliance system, the notary or registrar must first assess the risks that may lead to liability. In notarial activities, the greatest risk factor is non-compliance with regulations. For instance, judgment 1.0000.16.075620-1/000 (TJGM, 2021) describes a case in which a notary disregarded the provisions of Law 8.935/1994, which establishes the regulations of notary and registry services, by transcribing a public deed of will outside of their jurisdiction (TJMG, 2021).

After assessing the risks, the notary or registrar should develop a code of conduct to which all employees must adhere. The purpose of this document is not only to ensure that the office

complies with regulations but also to encourage ethical conduct among employees.

The notary or registrar should develop strategies that are appropriate for the size of the office. After establishing the code of conduct, the notary or registrar, exercising their prerogatives, should designate a compliance manager among the office deputies. The compliance manager should be responsible for overseeing the activities performed by all office employees, ensuring that the services are carried out in accordance with the legislation and the ethical principles of notarial and registry activities (Freire, 2016).

Alternatively, the notary could outsource the compliance management to a specialized company. In any case, compliance strategies should only be implemented after approval by the notary. Furthermore, compliance policies should be publicized in order to yield satisfactory results. This can be done by establishing communication channels between employees and customers, encouraging customers to share feedback and complaints about office services (Bento, 2018).

A compliance system may reduce the number of lawsuits filed against the office due to civil liability resulting from harm caused to third parties by notaries and registrars. This may improve the credibility of the office and foster customer trust (Freire, 2016).

Implementing a compliance system in notary and registry offices may reduce the occurrence of intentional errors, where the notary or registrar performs an act with awareness that it does not adhere to the regulations. The consequences of intentional errors do not only affect the perpetrator but also undermine the credibility of the office as a whole (Nino, 2005).

In this study, four judgments revealed liabilities caused by intentional errors. These judgments describe cases where notaries did not comply with office hours or violated the geographical limits of the jurisdiction, for example. These errors led to mild to moderate penalties, including a 70-day suspension, fines, and financial compensation (TJMG, 2021). These cases demonstrate the importance of implementing a compliance system in notary and registry offices, as well as its relevance for all employees,

including notaries and registrars.

In contrast, there were cases where notaries and registrars performed their duties in accordance with the regulations. In two judgments, the notary or registrar was exempt from liability. For instance, in judgment 1.0105.14.014460-8/001 (TJMG, 2021), the registrar registered a birth certificate with a false acknowledgment of paternity, which was provided by the mother. The documents she submitted were sufficient to enable the inclusion of the father's name on the certificate.

In summary, out of the 31 analyzed judgments, 29 described cases where the notary or registrar were liable for the committed errors. In most cases, the judgments resulted in penalties, including fines, financial compensation, reprimands, and, in rare cases, the suspension of the notary for a period of 30–90 days.

Final Remarks

None of the analyzed judgments resulted in severe penalties, such as termination. Only one judgment resulted in the payment of both a fine and compensation totaling over R\$ 130,000. Furthermore, in this study, only 29 judicial decisions were found to result in penalties for the notary or registrar due to errors caused by negligence or intentional conduct. Since there are 3,018 notary and registry offices across Minas Gerais, this number suggests that services provided by notary and registry offices are reliable, secure, and effective, while there is still room for improvement.

Errors caused by negligence may be mitigated by implementing effective organizational and people management strategies. For instance, a public institution, such as the Minas Gerais Court of Justice, could offer courses and training programs on document and handwriting examination for notaries, registrars, and employees. Notary and registry offices should not bear the responsibility of developing training programs, since many are small offices with insufficient resources to do so.

Intentional errors may be mitigated by implementing a compliance system. Non-compliance with regulations not only discredits the

office where the error occurred but also the entire profession. Implementing a compliance system in notary and registry offices aims to ensure that employees adhere to the principles that guide notarial activity, such as authenticity, veracity, legitimacy, legal authority, and legal security.

This study has certain limitations. Firstly, it solely examined judgments submitted to appellate courts, excluding those exclusively presented to trial courts. Secondly, it did not include cases resolved through consensus between the notary or registry office and the customer, with no involvement of the Judiciary.

A suggestion for future studies is to address the development of training programs for notaries and registrars. These programs could also be available to individuals preparing for competitive examinations to become notary or registry professionals. This suggestion is supported by the observation that notaries and registrars hold significant administrative responsibilities, which are rigorously attested during inspection, despite lacking sufficient training in administration and management. Another suggestion is to collaborate with public institutions, such as the Minas Gerais Union of Registrars and the Minas Gerais Court of Justice, to develop and promote training programs.

References

- Akita, L. D. S., Santos, G. C. D., & Venâncio, G. V. D. S. (2021). *Recrutamento e Seleção de Pessoas*. Recuperado de <https://ric.cps.sp.gov.br/handle/123456789/9300>
- Albuquerque, J. P. F. (2022). *As 10 melhores faculdades de direito do Brasil*. Recuperado de <https://infoenem.com.br/as-10-melhores-faculdades-de-direito-do-brasil/>
- Araujo, K. C. D. (2021). *Gestão de pessoas: treinamento e desenvolvimento de pessoas em uma empresa supermercadista da cidade de Araguaína-TO*. 201. 20 f. *TCC (Graduação) - Curso de Logística, Universidade Federal do Tocantins, Araguaína*. Recuperado de <https://repositorio.uft.edu.br/bitstream/11612/4533/1/KL%c3%89BER%20CARVALHO%20DE%20ARA>

<https://www.reunir.org.br/revistas/revista-de-administracao-e-contabilidade/2022/1/14-102#>

Associação dos Notários e Registradores do Estado de Minas Gerais. (2022). *CNB/MG - “Conhecimento Atualizado e Treinamento: Armas Para Combater Os Fraudadores”*. Recuperado de https://www.serjus.com.br/noticias_ver.php?id=14102#

Bardin, L. (1977). *Análise de conteúdo*. Lisboa. Edições 70.

Bento, A. M. (2018). Fatores relevantes para estruturação de um programa de compliance. *Revista da FAE*, 21(1), 98-109.

Budde, C., & Silva, N. (2020). Impactos na percepção de felicidade no trabalho após um processo de redução nas políticas e nas práticas de gestão de pessoas. *Psicología desde el Caribe*, 37(1), 40-69.

Coelho, C. R. J. (2019). Responsabilidade objetiva do estado por danos causados a terceiros por tabeliães e registradores: comentários ao Recurso Extraordinário 842.846. *Revista de Direito Administrativo e Infraestrutura RDAI*, 3(10), 193-201. DOI: <https://doi.org/10.48143/rdai/10.crjc>

Diniz, M. H. (2008). *Curso de direito civil brasileiro: Direito de família* (23a ed.). São Paulo: Saraiva.

Dutra, J. S., Dutra, T. A., & Dutra, G. A. (2017). *Gestão de pessoas: realidade atual e desafios futuros* (1a ed.) São Paulo: Atlas.

Freire, D. R. S. (2016). Compliance nos Cartórios: Instrumento Garantidor da Confiança Depositada no Notário pelos Cidadãos, Empresas e Estado? *Revista Brasileira de Direito Empresarial*, 2(1), 23-39. DOI: <http://dx.doi.org/10.26668/IndexLawJournals/2526-0235/2016.v2i1.986>

Gagliano, P. S., & Pamplona Filho, R. M. V (2019). *Novo curso de direito civil, v.3: responsabilidade civil* (17a ed.). São Paulo: Saraiva.

Gil, A. C. (2002). *Como elaborar projetos de pesquisa* (Vol. 4). São Paulo: Atlas.

Gomes, M. F., Pereira, E. C., & Lazcano, A. J. M. (2021). The importance of the notary and registry service as an ally of compliance in the prevention of

environmental crimes. *Revista Eletrônica do Curso de Direito da UFSM*, 16(1). DOI: <https://doi.org/10.5902/1981369467927>

Goulart, M. S., & Batista, Y. A. (2020). A atuação dos tabelionatos brasileiros de notas na prevenção aos crimes de lavagem de dinheiro. *Revista Científica da Faculdade Quirinópolis*, 2(10), 47-67.

Justiça Aberta. (2022). *Serventias Extrajudiciais cadastradas e ativas*. Recuperado de https://www.cnj.jus.br/corregedoria/justica_aberta/

Lei nº 5.172, de 25 de outubro de 1966. (1966). Dispõe sobre o Sistema Tributário Nacional e institui normas gerais de direito tributário aplicáveis à União, Estados e Municípios. Recuperado de http://www.planalto.gov.br/ccivil_03/leis/15172compilado.htm

Lei nº 7.209, de 11 de julho de 1984. (1981). Altera dispositivos do Decreto-Lei nº 2.848, de 7 de dezembro de 1940 - Código Penal, e dá outras providências. Recuperado de http://www.planalto.gov.br/ccivil_03/LEIS/1980-1988/L7209.htm#art18

Lei nº 8.935, de 18 de novembro de 1994. (1994). Regulamenta o art. 236 da Constituição Federal, dispondo sobre serviços notariais e de registro. (Lei dos cartórios). Recuperado de http://www.planalto.gov.br/ccivil_03/LEIS/L8935.htm

Lei nº 10.169, de 29 de dezembro de 2000. (2000). Regula o § 2º do art. 236 da Constituição Federal, mediante o estabelecimento de normas gerais para a fixação de emolumentos relativos aos atos praticados pelos serviços notariais e de registro. Recuperado de https://www.planalto.gov.br/ccivil_03/Leis/L10169.htm

Lei nº 10.406, de 10 de janeiro de 2002. (2002). Institui o Código Civil. Recuperado de https://www.planalto.gov.br/ccivil_03/LEIS/2002/L10406compilada.htm

Martins, M. T. (2017). *A responsabilidade civil dos notários e oficiais de registro* (Monografia de Graduação). Universidade do Sul de Santa Catarina, Araranguá, Brasil.

Minas Gerais. (2020). *Provimento Conjunto nº 93/2020*. Institui o Código de Normas da Corregedoria-Geral de Justiça do Estado de Minas Gerais, que regulamenta os procedimentos e complementa os atos legislativos e normativos referentes aos serviços notariais e de registro do Estado de Minas Gerais. Recuperado de <http://www8.tjmg.jus.br/institucional/at/pdf/vc00932020.pdf>

Nino, C. (2005). *Un país al margen de la ley*. Buenos Aires: Ariel.

Parodi, L. (2018). *Falsificação de Documentos em Processos Eletrônicos: como detectar e comprovar através de documentoscopia em documentos digitais e outras técnicas*. Rio de Janeiro: Brasport.

Garbaccio, G. L., Lodi, G., & de Melo, G. N. C. S. (2023). Compliance nas Serventias Extrajudiciais: uma Estratégia Anticorrupção. *Novos Estudos Jurídicos*, 28(2), 178-205.

Queiroz, R. M. R., & Feferbaum, M. (2022). *Metodologia da pesquisa em direito*. Saraiva.

Queiroz, E. P., & da Silva, R. A. (2020). A importância dos cartórios/tabelionato de notas na desburocratização do Poder Público. *Revista Artigos. Com*, 18.

Recurso Especial 842846/SC. (2019, 27 de fevereiro). Relator: Luiz Fux. Recuperado de <https://portal.stf.jus.br/processos/detalhe.asp?incidente=4650160>

Santana, L. P. (2019). *Aspectos controvertidos da destinação dos valores arrecadados em cartórios extrajudiciais à luz da Constituição Federal* (Dissertação de Mestrado). Instituto Brasiliense de Direito Público, Brasília, Brasil.

Santana, R. D. D., & Lopes, T. B. (2018). Gestão de Pessoas: Agregar, Aplicar, Manter e Avaliar pessoas. *ID on line. Revista de Psicologia*, 12(42), 261-278.

Silva, M. P. D. (2020). Os impasses na responsabilidade civil dos notários e registradores. *Repositório de Trabalhos de Conclusão de Curso*. Recuperado de <http://pensaracademico.unifacig.edu.br/index.php/repositoriotcc/article/view/1762>

Sindicato dos Oficiais do Registro Civil de Minas Gerais. (2022). *Abertura do Encontro dos Registradores Civis de Minas Gerais reúne 250 representantes de RCPN em Belo Horizonte*. Recuperado de <https://recivil.com.br/abertura-do-encontro-dos-registradores-civis-de-minas-gerais-reune-250-representantes-de-rcpn-em-belo-horizonte/>

Tribunal de Justiça do Estado de Minas Gerais. (2021). *Pesquisa Jurisprudência*. Recuperado de <https://www.tjmg.jus.br/portal-tjmg/#test5%20passim>

Universidade de São Paulo. (2022). *Grade Curricular*. Recuperado de <https://uspdigital.usp.br/jupiterweb/listarGradeCurricular?codcg=2&codcur=2014&codhab=104&tipo=N>