

Neutral Advisor

Contract law is the law for people with an interest in maximizing joint surplus.¹¹ In that sense, they only need someone who translates this joint interest into legal language. However, contracting parties also have diverging interests as to the distribution of that joint surplus.¹² Therefore, each party will be skeptical of the lawyer hired by the other party because that lawyer does not aim at maximizing joint surplus, but the surplus of her client. As a result, both parties are likely to end up hiring a lawyer even in standard situations with straightforward solutions.¹³ This increases transaction costs, which in turn leads to an inefficient distribution of property rights.¹⁴

Notaries solve this problem. They are not mandated by the contracting parties but – just like judges – by the government. As holders of a public office, they are legally bound to the principle of neutrality¹⁵ and focus on maximizing the joint surplus only. The parties only have to pay one legal advisor instead of two because they can trust the notary.¹⁶ This reduces transaction costs and fosters an efficient distribution of property rights.¹⁷

Key takeaway: In civil law countries, contracting parties only need to pay one notary instead of two lawyers. This reduces transaction costs.

Did you know?

The notary is one of the most popular and prestigious legal professions in civil law countries.⁹ Highly competitive entry exams and years of legal training limit the number of people that are admitted to become notaries.¹⁰