

Neutral Advisor

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

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.