

Succession Law

Did you know?

Some countries, especially in the common law world, require witnesses when making a will or granting power of attorney.¹²⁴ In the traditional civil law system, notaries replace these anachronistic formalities because they guarantee the authenticity and validity of the transaction.¹²⁵

Succession law is another area involving notaries. Notaries generally intervene at three stages. First, they help individuals opting out of inheritance default rules by drafting their wills¹²⁶ or the donation of assets among the living.¹²⁷ Second, they draft inheritance renunciations if they are legal in the country at stake.¹²⁸ Third, they are involved in the transfer of assets at the moment of death. Here, they draft inventories and settlements of inheritance.¹²⁹ They also issue or apply for inheritance certificates.¹³⁰ These certificates are equivalent to registers: they provide information on property rights at low costs.

Just like with real estate and company law, there are five important reasons for notarial intervention: First, notaries are required as gatekeepers because certificates of inheritance are like registers and because death changes property rights in public registers (*gatekeeper dimension*).¹³¹ Second, inheritance transactions lead to the transfer of valuable assets at a moment when individuals are particularly vulnerable (*value dimension*).¹³² Third, wills structure future economic life for generations, triggering an increased need for legal certainty (*time dimension*).¹³³ Fourth, succession law is essential for the allocation of land and social security of family members: it involves public interest (*sovereignty dimension*).¹³⁴ Fifth, at death, notaries manage bureaucratic communication on behalf of people grieving for their loss (*management dimension*).¹³⁵

Key takeaways: Notaries draft wills and inheritance renunciations. They also help with the transfer of assets at the moment of death.