

Succession Law

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.

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