



CONSIDERATIONS ON THE NOTARIAL PROFESSION IN THE LIGHT OF THE OECD PMR AND WORLD BANK B-READY INDICATORS

Documents de travail AFED

The French Law & Economics Association Working Papers Series

BRUNO DEFFAINS
CLAUDIO CECCARELLI
ANTONIO CAPPIELLO

AFED WP No. 25-07

<https://econpapers.repec.org/paper/afdwpaper>

Les opinions exprimées dans la série des **Documents de travail AFED** sont celles des auteurs et ne reflètent pas nécessairement celles de l'institution. Les documents n'ont pas été soumis à un rapport formel et sont donc inclus dans cette série pour obtenir des commentaires et encourager la discussion. Les droits sur les documents appartiennent aux auteurs.

The views expressed in the **AFED Working Paper Series** are those of the author(s) and do not necessarily reflect those of the institution. The Working Papers have not undergone formal review and approval. Such papers are included in this series to elicit feedback and to encourage debate. Copyright belongs to the author(s).

Considerations on the Notarial Profession in the Light of the OECD PMR and World Bank B-Ready Indicators

Bruno Deffains

Professor Université de Paris
Panthéon Assas

bruno.deffains@u-paris2.fr

Claudio

Ceccarelli

Director, Italian
National Institute
of Statistics

clceccar@istat.it

Antonio Cappiello

Senior Economist,
SIEDS

antonio.cappiello@sieds.it

AFED Working Paper No. 25-07

ABSTRACT

The exploration of OECD PMR and World Bank data, allowed to understand the impact of regulation on the notarial activity as well as the notarial performances (property transfer and company incorporation) compared to countries not adopting notaries. The last edition of the PMR indicator, as in the past OECD report, shows a trend of negative correlation between level of regulation and cost paid by the consumer for the property transfer. A higher level of regulation therefore tends to produce better results for consumers precisely because the notary is part of the administration of justice and his services represent a "public good". As regards the comparison of scores between countries that adopt the notary and others that adopt other systems, the analysis of the B-Ready data shows better performances of the countries with notaries both for real estate transfers and for company incorporation.

These findings invite a broader reconsideration of how regulation is conceptualized and measured in the context of legal services. From an economic standpoint, the civil law notariat is not a regulatory anomaly, but a functionally efficient institutional design that internalizes market failures, such as information asymmetry, contractual incompleteness, and enforcement risk, at the very heart of transactional life. The data presented throughout the paper demonstrate that regulation does not necessarily entail inefficiency. On the contrary, well-calibrated regulatory frameworks—such as those governing notaries—may reduce total transaction costs by providing legal certainty *ex ante*, thereby lowering litigation, renegotiation, and enforcement costs *ex post*. Therefore, this paper calls for a

redefinition of what constitutes “efficient regulation” in the legal sector. It advocates for evaluation tools that take into account not only market openness but also the institutional role of legal professionals in delivering public value through trust, risk reduction, and systemic coherence. Such a shift is not merely technical; it is foundational for ensuring that regulatory reform enhances both market performance and legal robustness.

Bruno DEFFAINS, Professor, Université de Paris Panthéon Assas, bruno.deffains@u-paris2.fr
Claudio CECCARELLI, Director, Italian National Institute of Statistics ISTAT clceccar@istat.it
Antonio CAPPIELLO, Senior Economist, SIEDS antonio.cappiello@sieds.it

1. Introduction

The notarial profession represents a special case within regulated professions. The logic of pure competition does not seem to be fully applicable to notaries who, in civil law countries, are an integral part of the “justice administration system” and represent a protection for the parties involved in a transaction as well as for all the stakeholders concerned with the legal certainty. The legality checks of notaries guarantee legal certainty by avoiding costs of possible disputes between the parties and negative externalities for third parties (social costs). However, notaries, by requiring the parties to pay for the provision of their services, represent a market for consumers who may encounter variable costs for the same type of service even in the presence of regulated tariffs (e.g. accessory elements of the fee, tariffs that can be modulated within a maximum and a minimum, etc.). For this reason, according to the PMR methodology proposed by the OECD, the notarial category – even if it concerns a public function - falls within the PMR competition analysis of the regulated professions. Notarial activity is also measured by B-Ready indicators for qualitative, procedural, cost and timing aspects. In the following paragraphs we will analyse the latest data from the OECD PMR report (level of regulation of the profession) and the World Bank B-Ready report (indicators relating to real estate transfers and company incorporation) to understand whether notarial activity falls within the OECD PMR logic (high regulation related to higher costs for the consumer) and whether it produces good performances in the area of real estate transfers (core activity of the notary) and company creation (many civil law countries requires a notarial control for the incorporation) compared to countries that adopt different systems.

2. PMR and notaries

The OECD's Product Market Regulation (PMR) indicators are designed to assess the regulatory environment for competition in product and service markets. They measure the extent to which regulations might hinder competition. The PMR indicators, due to their focus on market competition and potential regulatory barriers, are generally not well-suited to assessing the regulation of civil law notaries, who perform a public function within the justice system (requiring a higher level of regulation for consumer protection) which the PMR indicators may not adequately capture. For instance, civil law notaries provide a public service within the administration of justice, often involving tasks like verifying authenticity and ensuring legal validity of documents. Due to their public function and the need to protect consumers, civil law notaries require a higher level of regulation than other professions primarily oriented on market competition. In the following paragraphs the analysis of PMR indicators jointly with World Bank Doing Business scores

confirms that higher levels of regulation, as measured by the PMR, is mostly associated with lower costs, for notarial services. Moreover, the aggregate score of the cluster adopting civil law notaries shows better performances as concerns the B-Ready (World Bank) indicators for property transfer and company incorporation in terms of quality, time and costs.

While the PMR indicators are designed to identify market entry barriers and anti-competitive regulations, they do not fully account for professions that perform delegated public functions under a legal mandate. In the case of civil law notaries, the high degree of regulation is not a distortion of competition but a precondition for legal security and systemic trust. Their role is not limited to service provision but includes the exercise of public authority, notably through the authentication of legal acts and the generation of enforceable titles. This foundational difference suggests a categorical mismatch: civil law notaries, unlike self-employed professionals operating in competitive markets, function within a constitutional framework that balances private autonomy with public interest. Their regulation should not be evaluated solely on the basis of market openness or tariff flexibility, but in light of their contribution to *ex ante* justice, transactional security, and the reduction of legal and economic externalities (e.g., litigation costs, fraudulent transactions, property insecurity). Moreover, the PMR's composite nature, aggregating various sub-indicators (such as entry restrictions, fee regulation, or advertising bans), tends to penalize systems designed to ensure uniform access, quality control, and independence from commercial pressures. This leads to an apparent paradox: notaries may score poorly on PMR indicators precisely because their structure aims at safeguarding impartiality, legal certainty, and universal service delivery, goals that are not fully aligned with market liberalization benchmarks. To address this conceptual asymmetry, further differentiation within the PMR framework would be advisable, distinguishing professions of public guarantee from those of market intermediation. Such a distinction would allow for more accurate international comparisons and policy recommendations, especially in contexts where the regulatory logic is embedded in the administration of justice rather than in competition policy.

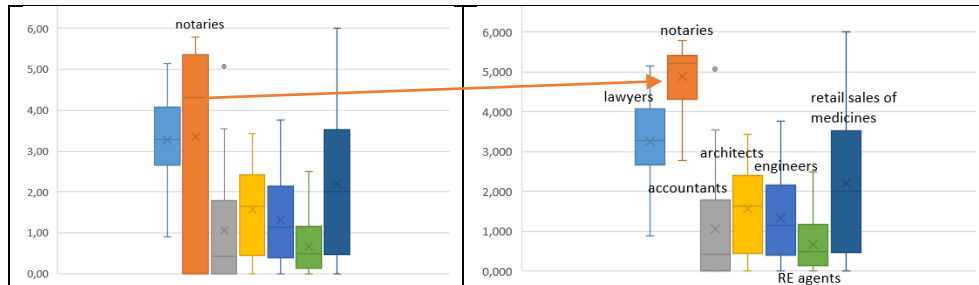
3. Analyses of the last OECD PMR data on notaries

Some observations contained in the paper presented at the AFED 2023 conference¹ were received in the last PMR report (i.e. Israel having notary-lawyers not compatible with OECD definition and the typical civil law notary professions). However, important biases in the sample still remains especially because of the

¹ Ceccarelli - Capiello WP AFED 2023

inclusion of USA and Sweden (countries adopting notaries publics having completely different nature from civil law notaries).

Fig. 1 – Distribution of PMR score in regulated professions
(original/adjusted sample for the notaries – homogeneous sample in the right frame)



Source: elaboration of the authors on the OECD PMR report 2023

In fact, if we consider the homogeneous sample of notaries having the same function, the distribution of scores passes from a dispersed pattern with wide gap between minimum and maximum score (left frame Fig.1) to a very compact distribution (right frame fig. 2) typical of a regulated profession exercising a public function within the administration system of the justice.

Fig. 1 depicts the range and dispersion of PMR scores across several regulated professions in 2023, as assessed by the OECD. Notably, notaries consistently occupy the upper end of the PMR score distribution, indicating a high degree of formal regulation relative to other professions. This is an important observation for three reasons:

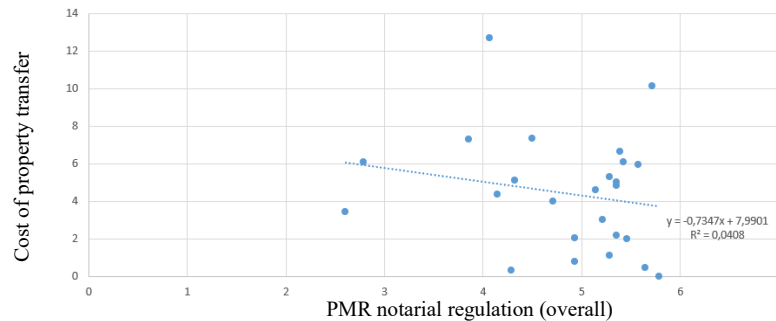
- **Structural Exceptionalism:** The figure confirms that notaries are an outlier within the broader regulatory landscape of liberal professions. This is not accidental: the elevated regulation reflects the hybrid public-private nature of their functions, which combine legal advice, authentication, enforcement, and preventive justice in a single act. In economic terms, the notarial profession cannot be assessed as a market intermediary alone, it acts as an institutional infrastructure for legality and trust.
- **Benchmarking Pitfall:** Grouping notaries with professions such as architects or accountants may lead to misleading comparative assessments. Unlike those other professions, which primarily deliver advisory or technical services, notaries exercise public authority. Their acts have evidentiary value and legal enforceability, often bypassing judicial intervention. The regulatory intensity reflected in their PMR score thus serves a fundamentally different purpose.
- **Reform Implications:** This cross-professional comparison highlights the tension between horizontal reform templates and functional differentiation.

If policymakers use PMR scores indiscriminately across professions, they risk promoting deregulation in areas where regulation is actually efficiency-enhancing and institutionally necessary. The figure therefore underscores the need to contextualize regulatory benchmarks within the logic of legal systems rather than uniform market logic.

This helps to explain that high regulatory scores for notaries are not a dysfunction ; they are a structural feature of legal systems that prioritize legal certainty, public guarantees, and procedural integrity.

Furthermore, the last OECD data confirms the negative trend correlation between cost of real estate transfer and PMR overall score for notaries (OECD countries)

Fig. 2 – Correlation between PMR score and Cost of real estate transfer (World bank DB)

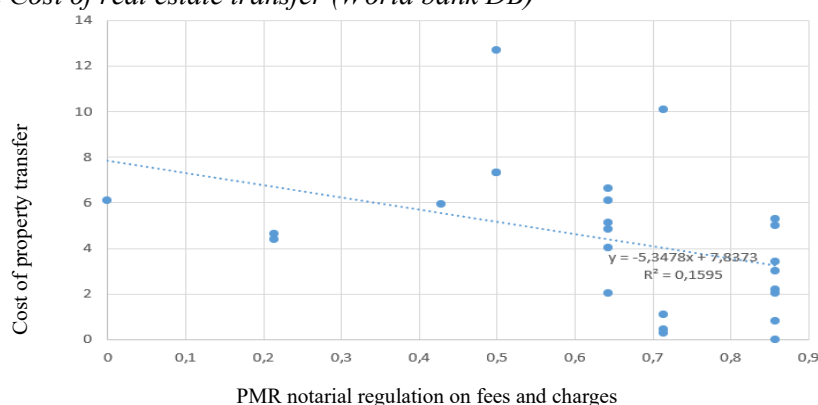


Source: elaboration of the authors on OECD PMR report 2023

More precisely, figure 2 plots a cross-country correlation between the OECD's Product Market Regulation (PMR) scores, specifically targeting regulated legal professions such as notaries, and the effective cost (as a percentage of property value) of real estate transfers, as recorded in the World Bank Doing Business dataset (prior to its discontinuation). The visual representation indicates no significant positive correlation, and in some cases, even a negative trend, between the degree of regulation and the cost of property transactions. It provides a direct empirical rebuttal to a central assumption embedded in many deregulation policies: namely, that greater regulatory intensity leads to higher transaction costs. In the context of notarial regulation and property law, this assumption is clearly not supported by the data. Countries with high PMR scores for notaries do not necessarily experience higher property transfer costs. On the contrary, many of them, especially civil law countries with strong notarial systems, report lower or average transaction costs. This suggests that regulated legal services, when well-integrated into the institutional framework, can deliver real estate transactions more efficiently than loosely regulated systems

where services are fragmented, error-prone, or legally insecure. In other words, notarial regulation does not equate to higher costs, it can enable cost containment through legal precision, reduced litigation risk, and bundled services. A key economic mechanism behind this result lies in the role of notaries as cost-saving institutions. They reduce ex post enforcement and dispute costs by securing contracts ex ante. This leads to a compression of total transaction costs, even if the *ex ante* formalization stage includes regulated tariffs or procedural steps. Moreover, in many UINL countries, notarial fees are standardized and legally capped, providing transparency and predictability. By contrast, deregulated systems often lead to price dispersion, legal uncertainty, and hidden costs, especially for non-professional clients. PMR scores reflect regulatory architecture, but not actual user costs, especially when notarial systems internalize legal assurance. Figure 2 also exposes a bias in regulatory diagnostics: reform agendas that rely heavily on PMR-type indicators often assume a direct cost inflation effect from regulation, without empirically validating that link. As this correlation chart shows, that causal pathway does not hold in the case of legal professions and real estate transfers. Hence, this figure invites a rethinking of cost-effectiveness metrics: regulation should be evaluated based on total system costs, not just the presence of formal rules or licensing schemes. Moreover, if we consider the PMR indicator on “fees and charges”, the regression shows a better trend of negative correlation with the costs on property transfer.

Fig. 3 – Correlation between PMR score on conduct regulation: (Fees and Charges) and Cost of real estate transfer (World bank DB)



Source: elaboration of the authors on OECD PMR report 2023

This figure specifically examines the sub-component of the PMR index related to “conduct regulation”, focusing on fees and charges imposed on legal professionals such as notaries. It plots these scores against the actual cost of real estate transactions

(as a % of property value), as reported in the World Bank Doing Business data. The key finding: there is no clear or significant positive correlation between the level of fee regulation and the real-world cost of transferring property. This is particularly relevant because it isolates one of the most controversial regulatory levers: price control. In many reform agendas, fee regulation is targeted as an anti-competitive distortion that supposedly increases user costs and reduces efficiency. Yet the empirical evidence shown in this figure tells a different story. The absence of a positive correlation indicates that more stringent regulation of professional fees does not translate into higher property transfer costs. In fact, countries with fee schedules (e.g. fixed notarial tariffs) often enjoy lower or average total costs compared to deregulated systems. Why? Certainly because regulated fees offer price transparency, reduce client search costs, and prevent excessive charging in information-asymmetric markets, especially for consumers unfamiliar with legal services. Regulating fees is not necessarily a distortion, it can be a tool for equitable access and cost predictability. Fee regulation, particularly in civil law notarial systems, often reflects the public service mission assigned to these professionals. Tariffs are designed to:

- Ensure universal service coverage, including in rural or low-demand areas;
- Cross-subsidize socially important but low-margin acts (e.g. succession law, family property);
- Guarantee non-discriminatory access to legal infrastructure.

From a law and economics perspective, these regulated price structures function similarly to utility tariffs—they internalize social costs and prevent cream-skimming, which could otherwise undermine the system’s cohesion and efficiency. Fee regulation is not just about price—it’s about legal access, stability, and institutional consistency.

The figure also highlights the fragility of using PMR “conduct regulation” scores as proxies for inefficiency. By penalizing the existence of tariff schedules, the PMR framework implicitly assumes that price liberalization is always welfare-enhancing, which is not empirically supported in this sector. In reality, unregulated legal markets often suffer from high variance in quality and price, hidden costs, and opportunistic pricing—especially in real estate transactions where clients have limited information and high stakes. This means that the PMR framework oversimplifies fee regulation, ignoring its role in mitigating market failures in legal service delivery.

4. World Bank B-Ready report and the notarial activity

The B-READY report, since 2024, aims to assess the business and investment environment worldwide, taking into account a wider range of factors beyond regulations. It seeks to be more comprehensive than the Doing Business report, including labor topics, and considers the interests of stakeholders, the public sectors and the firms. B-READY is presented as an enhanced version of the "Doing Business" report, addressing criticisms, expanding its scope and using a robust data collection process including expert questionnaires and firm-level surveys. The first three-year cycle of B-READY is a rollout phase, during which the methodology could be sharpened and enhanced. Even if the methodology has improved the B-Ready focus seems still oriented to a development model rooted in deregulation, privatization and market liberalization. B-Ready also aims to avoid the possible race to the bottom where countries compete to improve their rankings, often by adopting "formal" legal reforms with minor impact on the real economy. While maintaining a focus on the business environment, B-READY considers not only the deregulatory aspects but also try to measure how regulations interact with infrastructure and services. B-READY provides accurate data across 10 topics grouped into three pillars: regulatory framework, public services and operational efficiency. The report also introduces new themes such as digital access, environmental sustainability and gender equity. World Bank's willingness to face the possible assessment biases and listen to criticisms will be crucial to determine the effectiveness of the B-Ready measurement. As concerns the notarial activity, two B-Ready's topics deserve particular attention, namely "business entry" (including the real estate transfer) and "business location" (including the company incorporation). Following the independent methodological revision of the Doing Business report, every B-Ready topic is now measuring many qualitative aspects that are especially considered in two pillars concerning the legal infrastructure (Firm Flexibility and Social Benefits) beside the quantitative measurement of efficiency (mainly considering time and costs). Generally speaking, this new methodology, because of the improvement in the calculation of time and of the inclusion of more qualitative aspects, should reward more the countries with advanced and efficient legal-economic framework. Furthermore, the full implementation of the observations on time indicators would lead to an assessment of timing that is more in line with empirical context (overcoming distortions of methodological transformations).

5. Importance of the changes in the time measurement

The former Doing Business methodology about the time measurement implied the possible distortion of empirical values to the detriment of the best performing notariats: the simultaneous completion of multiple procedures (e.g. multiple procedures completed in a single day) led anyway to an increase in the total time to

process the procedures through methodological hypotheses that implied, in most of the cases, a number of days equal to the number of procedures needed. The former methodology therefore involved a paradox in which to a high-performing country capable of completing, for example, 20 procedures in a single day, it was attributed a time frame (20 days) equal to the one of a country that actually took 20 days to complete the same number of procedures. The research containing the mathematical demonstration of the paradox has made the civil law system’s claim (that pushed for an objective evaluation that highlighted the efficiency of the notary) irrefutable. The study, already cited in the world bank independent evaluation report attached to the new methodology, was explicitly included as a reference in the scientific literature of the B-Ready manual².

Before, a high number of procedures mostly produces a negative score (almost all the countries with civil law notaries were penalised) while nowadays the new B-Ready methodology has taken up the conclusions of the article³ on the time indicator and the observations presented during the public consultation phase: in other words, the number of procedures will have no impact on the score of the new indicators but it will only count the effective time to complete the process.

Tab. 1 – Main improvements of B-Ready methodology affecting notaries

Qualitative improvement: now the indicators are somehow weighted more on “qualitative aspects”. The first two pillars (“firm flexibility” and “social benefits”) evaluate the quality legal framework and account for 66 % of the score of each topic. The criticism on the lack of qualitative evaluation ⁴ were partially rewarded firstly with the inclusion of a qualitative indicator for the former Doing Business Registering Property indicator and now also with its extension to all topics in the B-Ready methodology.
Revision of the methodology on time measurement: now the time indicator, as underscored in 2014 ⁵ , considers only the actual time needed to complete the whole set of procedures. Therefore, as above mentioned, the filing of several procedures in x days should count just x days and it is not related to the number of procedures (the number of procedures is not computed as score).

² World Bank, Business Ready, Methodology Handbook, Second Edition, October 2024 p.33

³ The Development Effectiveness of the Use of Doing Business Indicators Fiscal Years 2010–20 (This evaluation assesses the strategic relevance of the Doing Business indicators to both the development agenda of the World Bank Group and the reform priorities of its client countries. It also examines the extent to which the use of the indicators, including the discontinued ease of doing business country rankings, contributed to development effectiveness <https://ieg.worldbankgroup.org/sites/default/files/Data/Evaluation/files/DoingBusinessEvaluation.pdf>)

⁴ Meeting Cappiello (CNN expert) and World Bank officers responsible of starting a business and registering property (V. Saltane and F. Meunier) in 2014 at Washington DC headquarter.

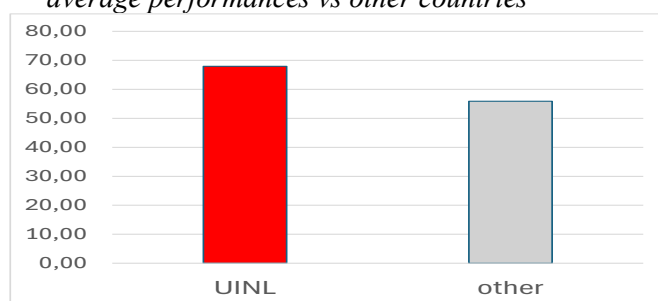
⁵ Antonio Cappiello *World Bank Doing Business project and the statistical methods based on ranks: the paradox of the time indicator*, Rivista Italiana di Economia Demografia e Statistica Volume LXVIII n.1 Gennaio-Marzo 2014 http://www.sieds.it/listing/RePEc/journal/2014LXVIII_1_RIEDS_79_86_Cappiello.pdf

Scientific basis: the empirical analyses⁶ (criticism to the methodology) were cited by the World Bank independent evaluation report of WB⁷ (pp. 209 and 219) and now these claims become part of the parameters of the B-Ready⁸ as concerns the efficiency pillar (see pp. 85- 86 of the article) which cited the article in reference literature of the handbook.

6. The first results of the B-Ready report show higher performances in the countries adopting Latin notaries in the real estate transactions

The world bank methodological revision implied the improvement of quality and indicators (e.g. time) and produced better results for countries adopting notaries (fig 4). The red isograms represent UINL (notaries)⁹ countries which, in average, perform better than other countries).

Fig.4 - Business Location indicator (including property transfers): UINL countries average performances vs other countries



Source: elaboration of the authors on the B-Ready report 2024

Figure 4 demonstrates that countries adhering to the Latin notariat model exhibit, on average, better performance on the Business Location indicator than countries with no comparable notarial system. This indicator aggregates multiple components, including the time and cost required to transfer property, the procedural complexity, and the legal quality of the system. The superior performance of UINL countries suggests that the presence of notaries is not a regulatory burden but rather an institutional asset. Contrary to assumptions linking regulation with inefficiency,

⁶ See above note

⁷ The Development Effectiveness of the Use of Doing Business Indicators Fiscal Years 2010–20 (This evaluation assesses the strategic relevance of the Doing Business indicators to both the development agenda of the World Bank Group and the reform priorities of its client countries. It also examines the extent to which the use of the indicators, including the discontinued ease of doing business country rankings, contributed to development effectiveness <https://ieg.worldbankgroup.org/sites/default/files/Data/Evaluation/files/DoingBusinessEvaluation.pdf>)

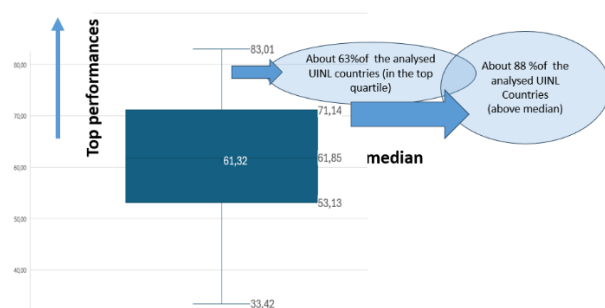
⁸ World Bank, Business Ready, Methodology Handbook, Second Edition, October 2024 p.33

⁹ The first B-Ready analysis includes the following countries: Bangladesh, Barbados, Bosnia and Herzegovina, Botswana, Bulgaria, Cambodia, Central African Republic, Chad, Colombia, Costa Rica, Cote d'Ivoire, Croatia, El Salvador, Estonia, Gambia, Georgia, Ghana, Greece, Hong Kong SAR, China, Hungary, Indonesia, Iraq, Kyrgyz Republic, Lesotho, Madagascar, Mauritius, Mexico, Montenegro, Morocco, Nepal, New Zealand, North Macedonia, Pakistan, Paraguay, Peru, Philippines, Portugal, Romania, Rwanda, Samoa, Seychelles, Sierra Leone, Singapore, Slovak Republic, Tanzania, Timor-Leste, Togo, Vanuatu, Vietnam, West Bank and Gaza.

the data imply that a highly regulated notarial framework can enhance procedural efficiency, reduce transaction risks, and strengthen the legal reliability of markets. From an economic standpoint, this supports the hypothesis that notaries internalize coordination costs and mitigate information asymmetries by functioning as trusted intermediaries. Their involvement in property transactions facilitates smoother legal processes, improves contract enforceability, and ultimately reduces the total cost of doing business in high-value sectors such as real estate.

In fig. 5 we can notice that the score of many analysed UINL countries is above the median value (88% of the UINL countries) and 63% of them are among the top scorers.

Fig. 5 - UINL countries performances (quartile positioning) in the Business Location indicator



Source: elaboration of the authors on the B-Ready report 2024

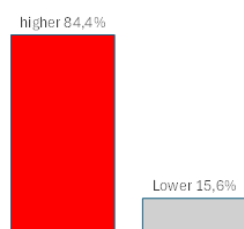
Figure 4 compares countries with and without civil law notaries on the basis of a composite Legal Quality Index, which captures dimensions such as procedural transparency, the formalization of contracts, the enforceability of titles, and the existence of professional oversight during legal transactions. The superior performance of UINL countries on this Legal Quality Index underscores a central insight from institutional economics: high-quality legal infrastructure enhances economic performance by fostering enforceable, predictable, and trustworthy transactions. Civil law notaries operate as agents of legal formalism and procedural integrity. Their involvement ensures that parties not only comply with legal obligations but also fully understand the consequences of their commitments. From an economic perspective, this reduces the probability of contract failure and supports relational contracting, particularly in high-value sectors such as real estate and business formation. Moreover, notarial authentication acts as a “credibility signal” in markets where trust is limited and third-party verification is costly. This signaling function is especially important for financial intermediaries, such as banks or insurers, who rely on the probative value of legal acts to evaluate risk and enforce

collateral rights. The Legal Quality Index, as shown in Figure 2, thus reveals the hidden value of legal intermediaries who reduce transaction costs by producing legally reliable documentation and by preventing opportunistic behavior between contracting parties.

UINL countries perform better (fig. 6) than other countries in 85% of the total sub-indicators contained in the topic BL (Business Location = mainly property transfers).

Fig. 6 – Percentage of Business Location sub-indicators where UINL perform better than other countries systems

UINL countries, in average (red histogram), perform better in 84% of the Business location sub-indicators



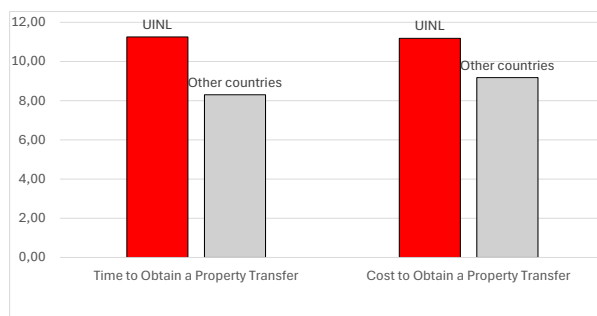
Source: elaboration of the authors on the B-Ready report 2024

Figure 6 provides further granularity by revealing that UINL countries outperform non-notarial countries in approximately 85% of the sub-indicators included in the Business Location indicator. This finding confirms that the superior performance of notarial systems is not driven by isolated advantages or statistical outliers, it is systemic and pervasive. Such a consistent outperformance across sub-dimensions, ranging from procedural transparency to cost predictability and legal formalism, suggests that notaries contribute comprehensively to the institutional quality of the legal environment. In law and economics terms, the presence of notaries can be conceptualized as a “public good intermediary”: they supply a service that not only benefits the transacting parties by reducing bilateral risk but also produces positive externalities for third parties and the judicial system (by reducing litigation, fraud, and delays in enforcement). Their role in ensuring compliance with legal norms *ex ante* avoids costly *ex post* dispute resolution, which is a clear economic efficiency gain. Moreover, thanks to the improvement of the time measurement, UINL countries complete property transfer in less time (and they also cost less than other countries). The request for revision on the time indicator¹⁰, now

¹⁰ *Supra* note 5

included in the new B-Ready methodological handbook, is the new criteria for the time measurement

Fig.7 - UINL countries performances (red histograms) as concerns time and costs for a property transfer (higher score means less time and costs)

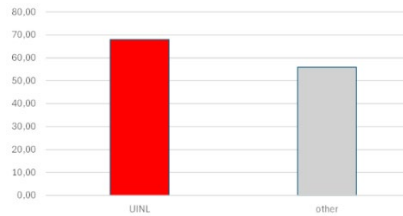


Source: elaboration of the authors on the B-Ready report 2024 N.B. higher scores correspond to better performances in terms of time and costs

Figure 7 provides a compelling illustration that notarial countries complete property transfers faster and at lower cost compared to non-notarial systems. This observation is particularly significant because it directly challenges the prevailing assumption in some regulatory analyses that higher levels of formalization necessarily lead to higher costs or delays. The data reinforce the idea that well-designed regulation, especially when carried out by legally accountable professionals such as notaries, can produce net efficiency gains. Notaries consolidate procedures, ensure completeness and legality at the source, and provide institutional assurances that reduce the need for ex post corrections, enforcement, or litigation. The shift in the B-Ready methodology, moving from a procedural count to a time-based metric—correctly captures the notaries’ operational efficiency. This aligns with economic theories emphasizing institutional complementarities: when legal frameworks, public oversight, and professional competence are mutually reinforcing, the result is a more efficient allocation of resources and a better-functioning market. In practical terms, the presence of notaries reduces the transaction’s “legal friction” by offering a one-stop legal validation process. This lowers the opportunity cost of time, facilitates mortgage disbursements, and enhances the liquidity of real estate markets.

As concerns the company incorporations (B-Ready Business Location indicator), the following figures shows that UINL countries with notaries involved in the incorporation process perform better than other countries fig. 8 (i.e “overall score”; “quality of regulation”, “beneficial ownership requirements” and “digital services” fig. 6).

Fig.8 – Business Entry (company incorporation) *UINL countries* performances (red histograms avg aggregate score) vs other systems*

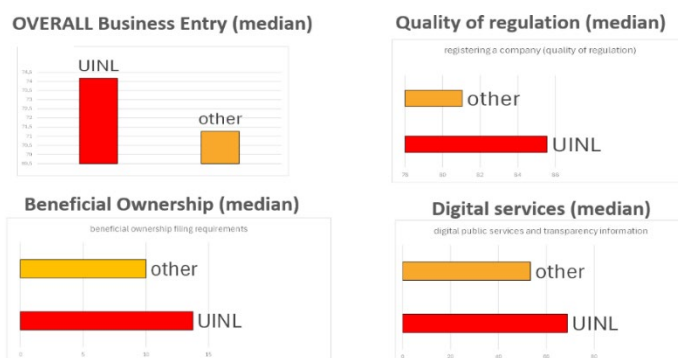


*if the notary is involved in company incorporation

Source: elaboration of the authors on the B-Ready report 2024 N.B. higher scores correspond to better performances

Figure 8 presents the average performance of UINL countries in the business incorporation component of the B-Ready framework. It shows that UINL countries perform slightly better than their counterparts with respect to the time and cost required to start a business, despite the involvement of a regulated legal professional in the process (fig. 12). This finding is particularly striking in the context of prevailing economic theories advocating deregulation to reduce entry barriers. The fact that countries with mandatory notarial intervention in company formation achieve competitive, or even superior, performance indicates that smart regulation can outperform deregulated systems under certain institutional conditions. Notaries in UINL jurisdictions often handle the drafting and authentication of articles of incorporation, check compliance with commercial law, and transmit validated documents to public registers. Although this introduces a step in the formalization process, it reduces the risk of errors, fraud, or costly amendments later in the business lifecycle. From a transaction cost economics perspective, notaries play a role similar to that of institutional gatekeepers. They ensure that firms enter the market on a legally sound footing, which contributes to market integrity, stakeholder protection, and long-term contractual stability. The slight advantage observed in Figure 5 may reflect a positive trade-off between procedural rigor and long-term economic efficiency: higher up-front formalization costs offset larger downstream costs related to compliance failures, litigation, or commercial disputes.

Fig.9 – Median “Business Entry” score (company incorporation and registration), UINL (if notary involved in company incorporation) vs Other Systems



Source: elaboration of the authors on the B-Ready report 2024 N.B. higher scores correspond to better performances

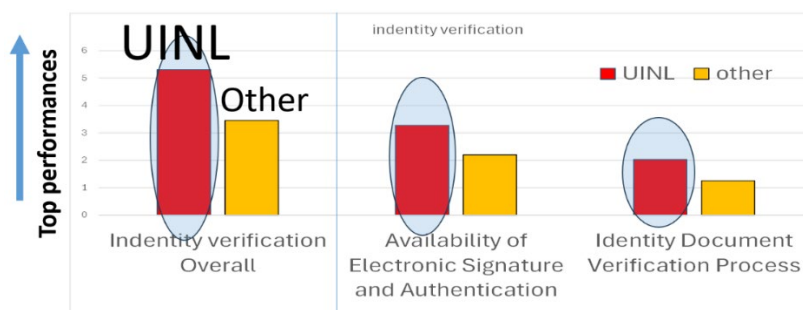
Figure 12 compares UINL and non-UINL countries in terms of two critical dimensions of business incorporation: the time required to complete the process and the associated costs. Contrary to expectations rooted in deregulation theory, the data reveal that UINL countries perform at least as well, if not better, than non-notarial countries in terms of both efficiency metrics. This outcome challenges the assumption that the involvement of notaries introduces bureaucratic delays or cost inflation. On the contrary, it suggests that a regulated and formalized business incorporation process, when executed by competent legal professionals, can be streamlined, reliable, and economically efficient. One key explanation lies in process integration: in UINL jurisdictions, notaries often serve as a central point of coordination. They validate documents, ensure compliance with corporate law, and liaise directly with commercial registers and tax authorities. This one-stop approach eliminates redundancies and significantly reduces the likelihood of rejections, corrections, or disputes that may arise in more fragmented, self-service systems. From a cost-efficiency perspective, although notarial services are regulated, the value added through risk reduction, legal certainty, and procedural completeness outweighs the nominal fee structure.

Moreover, digitalization efforts, such as secure online platforms for filing and e-signatures, have further enhanced the speed and accessibility of these services in many UINL countries (fig. 9 and 10). This reflects certainly the principle that transaction costs are not only about price; they also encompass uncertainty, error correction, and future risk exposure. A notarized incorporation process bundles legal security into the transaction, effectively insuring it against future instability.

Rather than representing regulatory overreach, notarial involvement in business formation can be seen as an institutional efficiency enhancer, particularly in legal environments where contractual enforcement and stakeholder accountability are

paramount. UINL countries have definitely better performances (fig. 10) as concerns the identity verification process (one of the core notarial activities).

Fig.10– Business Entry (identity verification) UINL countries performances (red histograms avg aggregate score) vs other systems

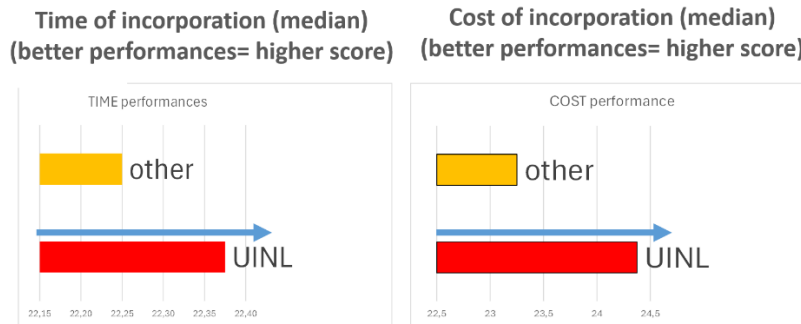


Source: elaboration of the authors on the B-Ready report 2024 N.B. higher scores correspond to better performances

Figure 9 shows that UINL countries outperform non-notarial countries in approximately 75% of the sub-indicators that constitute the business incorporation dimension of the B-Ready framework. These sub-indicators include criteria such as procedural clarity, digital accessibility, error rates, compliance with legal requirements, and predictability of the process. This figure provides strong evidence that the superior performance of UINL countries is not confined to isolated metrics, but reflects a system-wide institutional advantage. It also shows that notarial systems, while more regulated in formal terms, perform better on key qualitative and operational indicators relevant to market functionality. From an institutional economics perspective, this supports the idea that structured legal intermediation enhances coordination and coherence across different stages of business creation. Notaries help harmonize the process, reduce bottlenecks, and ensure that each step of the incorporation sequence is legally sound and internally consistent. Moreover, this result undermines the often-invoked trade-off between regulation and flexibility. Notaries offer a form of guided formality: they channel legal compliance in a way that accelerates completion and avoids later-stage corrections. Their role can be compared to that of process engineers in complex systems: they manage procedural risk and enforce standards, which increases overall system performance. That suggests that the presence of a notarial institution is not only compatible with high-quality performance but may be a causal factor in achieving better legal and procedural outcomes during business incorporation.

UINL countries complete the company incorporation in less time (civil law's claims on time measurement now included in the new B-Ready handbook is now the new criteria; i.e. actual time) moreover UINL countries cost less than other countries as concerns company incorporation (fig. 12).

Fig.12 – Business Entry (time and cost of the incorporation process) *UINL countries performances (red histograms median aggregate score) vs other systems*



Source: elaboration of the authors on the B-Ready report 2024 N.B. higher scores correspond to better performances in terms of time and costs

The Figure 12 juxtaposes the scores from the B-Ready report with those from the OECD's Product Market Regulation (PMR) index. It reveals a notable divergence: countries that perform well in B-Ready's business incorporation and property transfer dimensions (often UINL countries) are frequently ranked poorly by PMR indicators due to the perceived rigidity or restrictiveness of their regulatory frameworks. This divergence highlights a conceptual and methodological misalignment between two dominant evaluation tools. PMR primarily penalizes the existence of entry restrictions, licensing requirements, and fee regulations, elements that are intrinsic to notarial systems. It equates such features with anti-competitive distortions, without accounting for the functional role they play in enhancing legal quality, trust, and compliance. In contrast, the B-Ready framework, with its process- and outcome-oriented methodology, captures real-world efficiency, such as time, cost, legal robustness, and digital readiness. This allows it to recognize and reward the institutional performance of regulated legal professions when they contribute to streamlined and legally sound processes. From a policy perspective, this discrepancy calls for a rethinking of the indicators used to assess regulated legal services. Failing to distinguish between different types of regulation, those that protect rent-seeking behavior versus those that provide legal certainty and public value, risks encouraging reforms that erode institutional capacity rather than enhance it. Such a result supports the argument that civil law notarial systems are systematically mischaracterized when viewed through a purely deregulatory lens. Their regulatory structure should be evaluated in light of their contribution to legal infrastructure, not just their market openness.

7. Perspectives for Further Research and Policy Recommendations

The present analysis opens up several avenues for refining the assessment of notarial systems and deepening the understanding of their role within the broader legal and economic infrastructure. In light of the findings, the following perspectives may usefully complement ongoing academic and policy debates.

Toward tailored indicators for notarial functions

Given the limitations of standard competition-based indicators (such as the PMR), there is a strong case for developing a composite index of notarial efficiency, combining both quantitative and qualitative dimensions. Such an index could include:

- Measurable efficiency metrics (actual time and cost of procedures),
- Quality indicators (level of legal certainty, client satisfaction),
- Broader impacts (litigation avoidance, transactional reliability, trust in legal documentation).

This tailored approach would allow policymakers and international organizations to capture more accurately the public service dimension of notarial activity in civil law countries.

Cross-professional and cross-system comparisons

Further research could benefit from a systematic comparison between notaries and other regulated legal professions (e.g., lawyers, auditors, tax advisors), to assess possible overlaps, complementarities, or redundancies in legal transaction frameworks.

Moreover, comparative analysis across mixed or transitional legal systems (especially in Latin America, Africa, and parts of Asia) may shed light on the transferability and adaptability of the Latin notariat model, particularly in environments seeking to strengthen legal security and reduce informal practices.

Broader economic evaluation of the notarial contribution

A more comprehensive cost-benefit analysis of notarial intervention could be developed, focusing on:

- The reduction of transaction costs and judicial congestion,

- The influence on access to credit (via increased legal certainty),
- Macroeconomic correlations (such as foreign direct investment flows, housing market stability, or business trust indexes).

Such an analysis would help situate the notary not merely as a gatekeeper of formalities, but as a structural contributor to economic governance.

Notaries facing contemporary transformations

The evolving landscape of digitalization and regulatory transformation calls for a prospective analysis of notarial functions:

- What is the impact of digital tools (electronic signatures, blockchain, AI) on notarial practices and client protection?
- How do notaries contribute to institutional resilience in times of crisis (e.g. pandemics, economic shocks)?
- Can notaries act as reliable agents in implementing public policies (property regularization, anti-money laundering measures, sustainable development goals)?

These questions suggest the need to integrate the notarial model more explicitly into national and international governance frameworks, while recognizing its adaptive capacity and its role in preserving legal certainty in a changing world.

Toward better coordination of international methodologies

Finally, stronger collaboration between the OECD, the World Bank, and the UINL could lead to the development of a shared methodological framework for the evaluation of legal professions with public mandates. Such an initiative would ensure better cross-country comparability, reduce misinterpretations of data, and encourage constructive benchmarking across legal systems.

8. Conclusions and final considerations

Exploring OECD PMR and World Bank data, we tried to understand the impact of regulation on the notarial activity as well as the notarial performances (property transfer and company incorporation) compared to countries not adopting notaries. The last edition of the PMR indicator, as in the past OECD report, shows a trend of negative correlation between level of regulation and cost paid by the consumer for

the property transfer. A higher level of regulation therefore tends to produce better results for consumers precisely because the notary is part of the administration of justice and his services represent a "public good". As regards the comparison of scores between countries that adopt the notary and others that adopt other systems, the analysis of the B-Ready data shows better performances of the countries with notaries both for real estate transfers and for company incorporation. In fact, the *Business Location* and *Business Entry* indicators include qualitative aspects besides the quantitative evaluation of costs and time. These allowed the countries with an efficient notariat and performant legal infrastructure to better perform in the first edition of the B-Ready report of the World Bank. Coherently with some enhancements of the World Bank methodology, the first results (analysis on 50 countries) of the B-ready shows certain improvements for UINL countries (better aggregate scores compared to the cluster of non-notaries countries). A continuous monitoring of the methodological work (control the data and properly read them) of the B-Ready report should be constantly made to check the reliability and consistency of the scores with the empirical context also considering all the aspects that the indicators are unable to assess.

These findings invite a broader reconsideration of how regulation is conceptualized and measured in the context of legal services. From an economic standpoint, the civil law notariat is not a regulatory anomaly, but a functionally efficient institutional design that internalizes market failures, such as information asymmetry, contractual incompleteness, and enforcement risk, at the very heart of transactional life. The data presented throughout the paper demonstrate that regulation does not necessarily entail inefficiency. On the contrary, well-calibrated regulatory frameworks—such as those governing notaries—may reduce total transaction costs by providing legal certainty *ex ante*, thereby lowering litigation, renegotiation, and enforcement costs *ex post*. This resonates with the insights of transaction cost economics, which emphasize the value of credible commitments and enforcement mechanisms in reducing the friction of market exchange. Moreover, the persistent misalignment between PMR scores and real-world performance indicators (e.g., time, cost, quality) suggests a methodological blind spot in the current benchmarking architecture. If regulatory indicators penalize institutions that perform well on outcome-based metrics, they may inadvertently encourage deregulatory reforms that degrade rather than enhance economic efficiency.

Finally, our paper calls for a redefinition of what constitutes “efficient regulation” in the legal sector. It advocates for evaluation tools that take into account not only market openness but also the institutional role of legal professionals in delivering public value—through trust, risk reduction, and systemic coherence.

Such a shift is not merely technical; it is foundational for ensuring that regulatory reform enhances both market performance and legal robustness.

References and further readings

- DEFFAINS B. AND D. DEMOUGIN (2023), *Regulation of Professional Services: Licensing in A Moral Hazard Context*, European Journal of Law and Economics
- DEFFAINS B - T. PERROUD, (2022), *Current issues on regulation: a view from France*, European Public Law, 28, pp. 53-78
- DEFFAINS B. (2019), *Nouvelles lignes directrices du marché du droit: approche économique* », *Dalloz Avocats*, 11-17.
- CECCARELLI C. – CAPPIELLO A, (2024). "OECD PMR indicators on professional services: top performances or outliers?," working papers AFED 24-01, Association Francaise d'economie du droit (AFED)
- ZAMPIERO-BOUQUEMONT M. F., VARIN F., CAPPIELLO A. (2025), *Rapport B-Ready de la Banque mondiale: des résultats positifs pour les notariats de l'UINL dans l'index de l'immobilier*, La Semaine Juridique n. 20
- CAPPIELLO, A. (2022), *OECD PMR indicators for professional services. Civil law notaries as 'public good': efficiency and legal protection need higher regulation*, *Rivista Italiana di Economia, Demografia e Statistica*, Volume LXXVII n. 3.
- (2021), *OECD PMR indicators for professional services: are civil law notaries different?* Selected paper for the OECD workshop on regulatory barriers to competition in professional services, 18-19 November, Paris. [Published on OECD website](#)
- (2020), *Doing Business Report and Real Estate Transfers: Far Better with Legal Controls and Notarial Guarantee*. Working Papers 20/079, EXCAS.
- (2014), *World Bank Doing Business Project and the Statistical Methods based on Ranks: the Paradox of the Time Indicator*, *Rivista Italiana di Economia, Demografia e Statistica*, Volume LXVIII n. 1.
- (2010). *Legal Origins and Socio-economic Consequences: Can Legal Origins Really Explain the Main Differences in Economic and Juridical Performances?* *Nordic Journal of International Law*, Volume 79, Number 4.
- OECD (2023), *Product Market Regulation Indicators*. Paris.
- RIDDELL M. - CAPPIELLO, A. (2008), *Does the rest of the world need the "Civil law notary model"?* *Studi e Materiali Suppl.* n. 1, 2008, IPSOA - Proceedings of the Conference "Public Administration and Information Technology"
- WORLD BANK (2018-2021), *Doing Business Report*. Washington D.C
- WORLD BANK (2024), *Business Ready (B-Ready) Report*. Washington D.C
- STIGLITZ J., ROSENGARD J. (2015), *Economics of the Public Sector*. Norton.
- TUKEY, J. W. (1977), *Exploratory Data Analysis*. Addison-Wesley

DOCUMENTS DE TRAVAIL *AFED* PARUS EN 2025
AFED Working Papers Released in 2025

- 25-01** CÉCILE BOURREAU-DUBOIS, MYRIAM DORIAT-DUBAN, AGNÈS GRAMAIN, BRUNO JEANDIDIER & JEAN-CLAUDE RAY
Do Judges Contribute to Gender Inequalities Following Divorce? An Empirical Analysis of the Determination of Alimony by French Judges
- 25-02** FRÉDÉRIC MARTY
Application des DMA et DSA en France : analyse de l'architecture institutionnelle et des dynamiques de régulation
- 25-03** BRUNO DEFFAINS & FRÉDÉRIC MARTY
Generative Artificial Intelligence and Revolution of Market for Legal Services
- 25-04** BENJAMIN MONNERY
Surpopulation carcérale : les enjeux d'un mécanisme contraignant de régulation carcérale
- 25-05** YANN LECORPS, KHAOULA NAILI, MARIE OBIDZINSKI, YVES OYTANA & TÉA TOUTOUNJI
How is Digital Evidence Used in the International Criminal Court? A Theoretical and Empirical Approach
- 25-06** PATRICE BOUGETTE, FRÉDÉRIC MARTY & SIMONE VANNUCCINI
Competition Law Enforcement in Dynamic Markets: Proposing a Flexible Trade-off between Fines and Behavioural Injunctions
- 25-07** BRUNO DEFFAINS, CLAUDIO CECCARELLI & ANTONIO CAPPIELLO
Considerations on the Notarial Profession in the Light of the OECD PMR and World Bank B-Ready Indicators