

## **NOTARIES AS “PUBLIC GOOD” INTERMEDIARIES: ANALYSIS OF THEIR FUNCTIONS USING OECD PMR AND THE WORLD BANK B-READY INDICATORS**

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**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.

### **1. Introduction**

The notarial profession represents a distinctive case among regulated professions. In civil law countries, notaries are integral to the administration of justice and perform delegated public functions aimed at ensuring legal certainty, protecting

contracting parties, and preventing negative externalities for third parties. Unlike purely market-oriented professional services, notarial activity combines private service provision with the exercise of public authority, notably through the authentication of legal acts and the production of enforceable titles. Despite this institutional specificity, notaries are assessed within the OECD Product Market Regulation (PMR) framework, which is primarily designed to evaluate barriers to competition in product and service markets. At the same time, the World Bank's new Business Ready (B-Ready) indicators evaluate the efficiency and quality of legal and administrative processes relevant to property transfers and business incorporation, two core areas of notarial activity in civil law systems. This paper examines whether higher levels of regulation in the notarial profession, as measured by the OECD PMR indicators, are associated with higher costs and lower efficiency, and whether countries adopting civil law notaries perform differently from other systems when evaluated through the B-Ready framework. Using the most recent OECD PMR data and the 2025 B-Ready results, we show that stronger notarial regulation is not associated with higher transaction costs and that countries adopting Latin notaries systematically achieve better outcomes in terms of quality, time, and cost for property transfers and company incorporation.

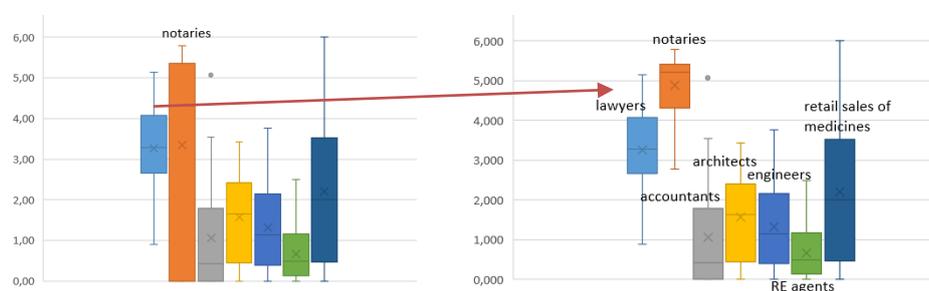
## **2. PMR Indicators and the Conceptual Limits of Competition-Based Assessment**

The OECD PMR indicators aim to measure how regulations affect competition by focusing on entry restrictions, conduct regulation (including fees and advertising), and exclusive professional competences. While this approach is appropriate for market-based professional services, it presents structural limitations when applied to civil law notaries. Notaries exercise public authority within a constitutional and legal framework that prioritizes *ex ante* legality, contractual certainty, and the prevention of disputes. Their regulation is therefore not a distortion of competition but a prerequisite for institutional trust and legal security. Evaluating notaries through indicators that penalize licensing requirements, fixed tariffs, or restrictions on advertising risks conflating rent-seeking regulation with rules designed to safeguard impartiality and universal service. As a result, notaries consistently appear as highly regulated outliers within the PMR distribution of professional services. This outcome reflects a categorical mismatch rather than inefficiency: PMR scores capture formal regulatory intensity but not the functional contribution of notaries to reducing transaction risks, litigation, and enforcement costs.

### 3. Evidence from the OECD PMR Data

When the PMR data are examined using a homogeneous sample of countries (fig. 1) adopting civil law notaries—excluding systems such as notaries public in common law countries<sup>1</sup>—the dispersion of PMR scores becomes markedly narrower.

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



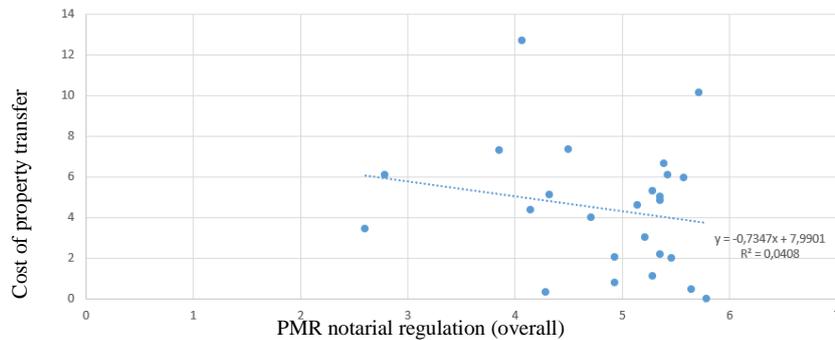
Source: elaboration of the authors on the OECD PMR report 2023

This compact distribution is typical of a profession exercising a standardized public function rather than competing in a liberalized market. More importantly, empirical analysis of OECD countries shows no positive correlation between the overall PMR score for notaries and the cost of real estate transfers as a percentage of property value (fig 2). On the contrary, the relationship is weakly negative: countries with higher levels of notarial regulation often display equal or lower transaction costs. This finding directly challenges the assumption that regulation necessarily increases consumer costs. In the notarial context, regulation contributes to cost containment by bundling legal verification, risk prevention, and enforceability into a single institutional process. Regulated and capped fees enhance price transparency and predictability, reducing search costs and protecting consumers in highly asymmetric information settings.

The same conclusion emerges when focusing specifically on the PMR sub-indicator concerning fees and charges (fig. 3). Countries with more stringent fee regulation do not experience higher property transfer costs. Instead, regulated tariffs often support universal access, cross-subsidization of low-margin legal acts, and systemic stability—functions that resemble public utility pricing rather than anti-competitive behavior.

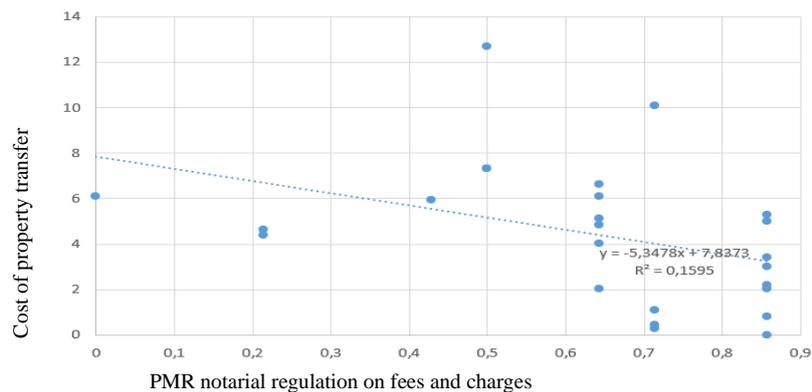
<sup>1</sup> The homogenous sample also excludes countries that do not fit the OECD definitions on notaries.

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



Source: elaboration of the authors on OECD PMR report 2023

**Figure 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

#### 4. The B-Ready Framework and Methodological Improvements

The World Bank's B-Ready report, introduced in 2024, represents a methodological evolution from the former Doing Business indicators. It adopts a broader perspective on the business environment, combining regulatory framework, public services, and operational efficiency across ten topics. Two B-Ready topics are particularly relevant for notarial activity: Business Location (including property transfers) and Business Entry (company incorporation). Unlike Doing Business, B-Ready places greater weight on qualitative dimensions of legal infrastructure,

which account for approximately two-thirds of each topic's score. A key methodological improvement concerns the measurement of time. Under the former Doing Business approach, the number of procedures mechanically increased the measured duration, even when procedures were completed simultaneously. This produced a paradox whereby highly efficient systems—such as those relying on notaries—were penalized. The B-Ready methodology now measures actual elapsed time, independent of the number of formal steps, correcting this distortion and better reflecting real-world efficiency. Hereafter a table summarizing some main improvements of the B-Ready methodology (tab. 1).

**Table 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 <sup>2</sup> 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 <sup>3</sup> , 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).
Scientific basis: the empirical analyses <sup>4</sup> (criticism to the methodology) were cited by the World Bank independent evaluation report of WB <sup>5</sup> (pp. 209 and 219) and now these claims become part of the parameters of the B-Ready <sup>6</sup> as concerns the efficiency pillar (see pp. 85- 86 of the article) which cited the article in reference literature of the handbook.

## 5. Property Transfers: Comparative Results

The 2025 B-Ready results show that countries adopting Latin notaries perform better on average in the Business Location indicator than countries relying on

<sup>2</sup> Meeting Capiello (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.

<sup>3</sup> Antonio Capiello *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\\_Capiello.pdf](http://www.sieds.it/listing/RePEc/journal/2014LXVIII_1_RIEDS_79_86_Capiello.pdf)

<sup>4</sup> See above note

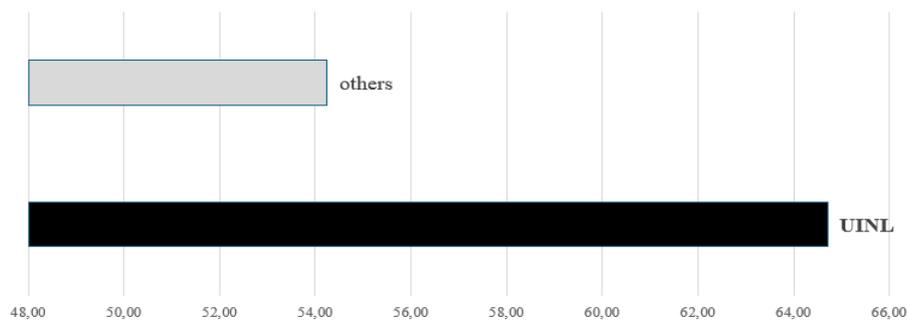
<sup>5</sup> The Development Effectiveness of the Use of Doing Business Indicators Fiscal Years 2010–20 (This evaluation assesses the strategic relevance of the Doing Business indicators to both the development agenda of the World Bank Group and the reform priorities of its client countries. It also 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>

<sup>6</sup> World Bank, Business Ready, Methodology Handbook, Second Edition, October 2024 p.33

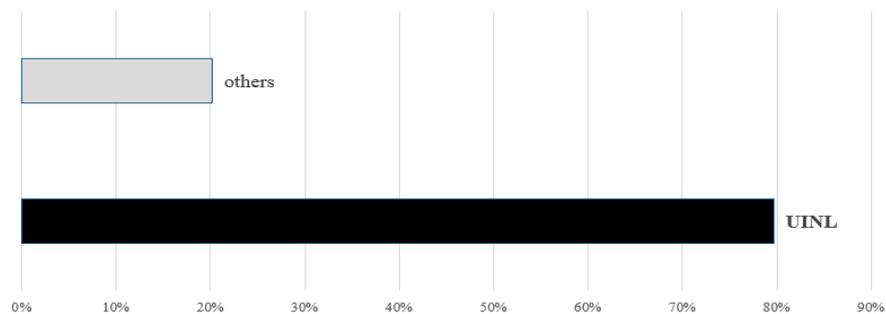
alternative systems (fig. 4). This advantage is not driven by isolated components but is systematic across most sub-indicators (fig. 5). Notarial countries achieve higher scores in legal quality, procedural transparency, cost predictability, and operational efficiency. From an economic perspective, notaries function as institutional intermediaries that internalize coordination costs and mitigate information asymmetries. Their involvement enhances the enforceability of property rights and supports market liquidity, particularly in real estate transactions where legal certainty is critical for credit access and investment.

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



Source: elaboration of the authors on the B-Ready report 2025

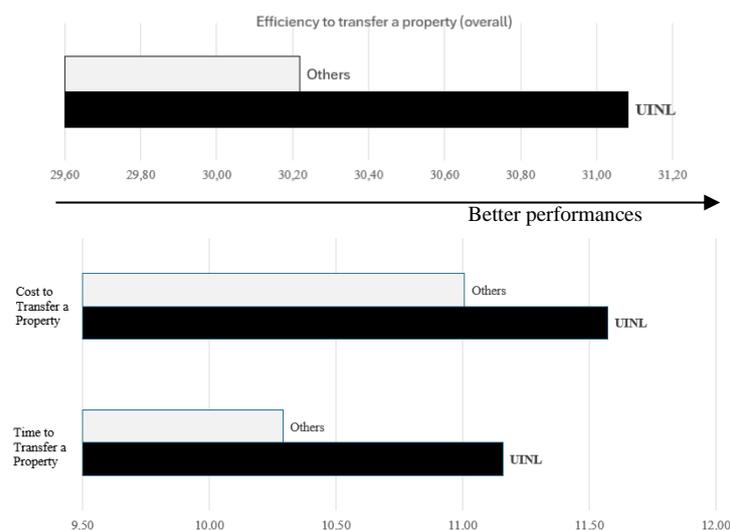
**Figure 5 – Percentage of Business Location sub-indicators where UINL perform better than other countries systems.**



Source: elaboration of the authors on the B-Ready report 2025.

Notes: UINL countries, in average (black histogram), perform better in 80% of the Business location sub-indicators.

**Figure 6** - UINL countries average performances (black histograms) as concerns efficiency (with details on time and costs) for a property transfer (higher score means less time and costs).



Source: elaboration of the authors on the B-Ready report 2025 N.B. higher scores correspond to better performances in terms of time and costs

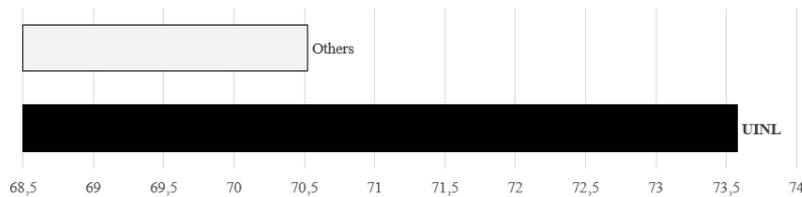
With the corrected time measurement, they also complete property transfers faster and at lower overall cost (fig. 6). These results indicate that notarial intervention reduces legal friction by consolidating procedures, ensuring completeness and legality at the source, and minimizing the need for ex post corrections or litigation.

## 6. Company Incorporation and Business Entry

A similar pattern emerges for company incorporation. B-Ready data show that countries where notaries are involved in the incorporation process outperform other systems on average in the Business Entry indicator (fig. 7).

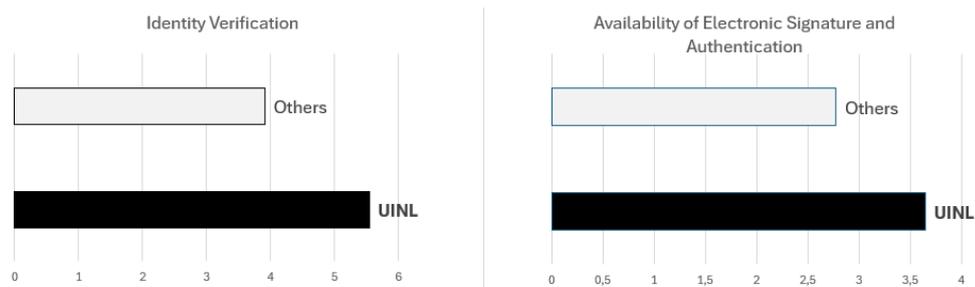
Notarial countries achieve higher scores in identity verification, beneficial ownership requirements, availability of digital services, and electronic authentication (fig. 8 - 9). Contrary to deregulation-based expectations, the involvement of a regulated legal professional does not slow down business creation. On the contrary, notarial systems often match or outperform alternative models in terms of time and cost (fig. 10).

**Figure 7 – Business Entry (company incorporation) UINL countries\* performances (black histograms) vs other systems (average).**



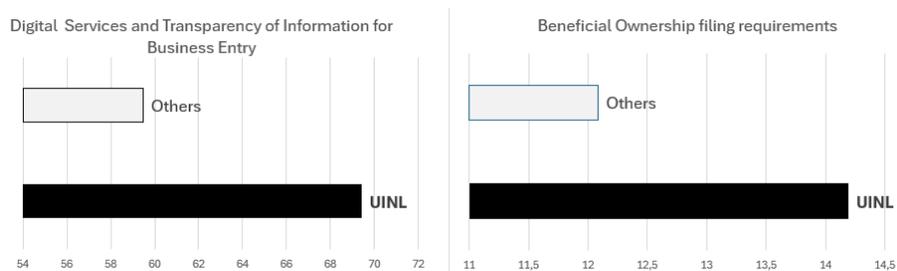
*\*if the notary is involved in company incorporation*  
 Source: elaboration of the authors on B-Ready 2025 N.B. higher scores=better performances

**Figure 8 – “Business Entry” average score (company incorporation: Identity verification and availability of electronic signatures), UINL (if notary involved in company incorporation) vs other systems.**



Source: elaboration of the authors on B-Ready 2025 N.B. higher scores=better performances

**Figure 9 – Average Business Entry average scores (availability of digital services and beneficial ownership requirements) UINL countries performances vs other systems.**

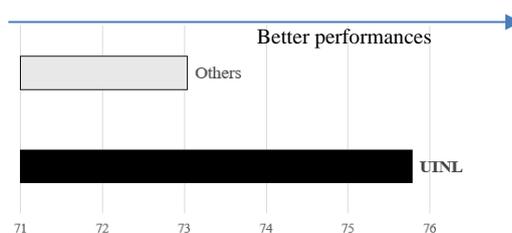


Source: elaboration of the authors on B-Ready 2025 N.B. higher scores=better performances

This outcome reflects process integration. In many civil law jurisdictions, notaries act as a single coordination point, ensuring legal compliance, authenticating documents, and transmitting validated acts directly to public registers. This reduces

errors, rejections, and subsequent amendments, leading to lower total transaction costs over the firm's lifecycle. Countries with notaries involved in company incorporation also perform better as concerns the availability of digital services and the filing requirements for Beneficial ownership (scores details in Fig. 9). 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. 8) as concerns the identity verification process (one of the core notarial activities).

**Figure 10** – *Business Entry Average Operational Efficiency indicator (=average including time and cost of the incorporation process) UINL countries performances (black histogram) vs other systems.*



Source: elaboration of the authors on B-Ready 2025  
N.B. higher scores=better performances

## 7. PMR Scores versus Real-World Performance

The comparison between OECD PMR indicators and B-Ready outcomes reveals a persistent divergence. Countries with highly regulated notarial systems tend to score poorly in PMR rankings while performing strongly in outcome-based measures of efficiency and quality. This divergence highlights a methodological blind spot. PMR indicators emphasize formal regulatory constraints but do not capture whether regulation delivers public value by improving legal certainty and reducing systemic risks. B-Ready, by focusing on actual performance and institutional quality, provides a more accurate assessment of how legal professions with public mandates affect economic activity. Using competition-based indicators alone to guide reform risks encouraging deregulation in areas where regulation is efficiency-enhancing. In the case of notaries, such reforms could undermine legal infrastructure and increase downstream costs associated with disputes, fraud, and enforcement failures.

## 8. Conclusions and Policy Implications

The analysis of OECD PMR and World Bank B-Ready data shows that higher levels of notarial regulation are not associated with higher transaction costs. On the contrary, countries adopting civil law notaries systematically perform better in property transfers and company incorporation when evaluated using outcome-oriented indicators. From a law and economics perspective, the civil law notariat should not be viewed as a regulatory anomaly but as an institutional design that internalizes market failures related to information asymmetry, contractual incompleteness, and enforcement risk. By providing legal certainty *ex ante*, notaries reduce litigation, renegotiation, and enforcement costs *ex post*. These findings call for a redefinition of what constitutes efficient regulation in the legal sector. Evaluation frameworks should distinguish between regulation that protects rents and regulation that delivers public value. For professions exercising delegated public authority, performance should be assessed in terms of legal quality, trust, and systemic coherence—not solely market openness. Greater coordination between international organizations, including the OECD and the World Bank, could support the development of tailored indicators capable of capturing the institutional contribution of notaries. Such an approach would improve cross-country comparability and help ensure that regulatory reforms strengthen, rather than weaken, the legal foundations of economic activity.

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