

# REAL ESTATE OPERATIONS AND NOTARY SYSTEM AT CIVIL LAW LEGAL SYSTEM

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*Civil Law notary system, also known as Latin notary system, plays an important role in the real estate operations in most countries of Civil Law legal system, as well as in some countries of Common Law Legal System. It has proven to be more efficient than the Anglo-American notary services model when considering the recent mortgage crisis in the United States (U.S.). The intervention of the notary improves the fairness, the overall quality of documentation, the overall safety and trustworthiness of the real estate operations. Facing to the evolution of the real estate transaction practices and the development of high-technologies (such as Internet technology, cloud technology etc.), some challenges are confronted with the Civil Law (Latin) notary system, such as some problems as to the e-conveyancing, the necessity to maintain the strict neutrality and independence and so forth and so on.*

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## INTRODUCTION

The present research is focusing on the characteristics of notary system at civil law legal systems of France, Germany and Italy and its role during the real estate operations such as sales or hypothecations/mortgages.

It needs to be particularly emphasized that the notary services model at civil law legal systems of Western Europe is also known as “lawyer for the situation”. This approach means such services are individually tailored and the factors such as cost, efficiency, and quality of participant advice are carefully considered. In addition, the American notary services model of

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optional advice and representation has proven to be less effective than these modern notarial systems of the countries like France, Germany, Italy and Spain when considering the mortgage crisis in the U.S (one of its reasons is the inefficient notary model).

A presumption could be made that the participation of the notary in real estate operations as it is suggested by the civil law legal systems is likely to make these operations more efficient. The structure of real estate transactions, as well as their fairness and overall quality of documentation will be improved as a result of influence of the following important factors: buyer awareness is increased as a result of independent notary counseling; the fear of notaries is higher because people are liable for participation in unconscionable transactions and consequently they behave themselves more carefully and more effectively comparing to they do in other legal systems.

#### I. THE IMPORTANCE OF THE NOTARY SYSTEM AND CIVIL LAW NOTARIES

Civil-law notary system (which is also known as Latin notary system) is based on Roman law and it is in force in the majority of European countries, which have the largest part of all notaries, because more than 30,000 notary professionals act in these countries; around 5,400 of them operate in Italy, approximately 11,000 notaries in Germany, around 7,600 of these specialists work in France and about 4,500 notaries in Spain. In addition, the Latin notary system is also adopted by some African and South American countries, as well as Japan and China. Some common law countries, such as Malta and Mauritius, use the Latin notary system as well.

It is important to note that civil-law notaries are important players of these legal systems.<sup>1</sup> The roots of the modern Latin notary system, however, are to be found in the values of humanism, of the search of justice and protection of the weakest subjects. Through this system, by using the notaries as qualified legal professionals, the State wants to guarantee certainty in the legal trading and commercial exchanges and protection of individuals.<sup>2</sup> Notaries are lawyers highly-trained and obligatory licensed practitioners of non-contentious private civil law who are responsible for drafting, taking, and also recording legal instruments for private parties. Their responsibilities also include providing legal advice and giving attendance in person. Overall, they provide full range of regulated legal

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<sup>1</sup> STEIN P., *ROMAN LAW IN EUROPEAN HISTORY* (England, Cambridge University Press 1999).

<sup>2</sup> *Responsibilities of the Notary* (n.d.), <http://www.notariato.it/en/italian-notaries/who-we-are/responsibilities-of-the-notary>.html (Consiglio Nazionale del Notariato website) (retrieved Nov. 15, 2012).

services and in most cases are paid on a fee-for-service basis. The power of notaries is authenticated by the State.<sup>3</sup>

Why is the role of notary so important and valuable? One of the key advantages provided by notary is the reliability of what is written in a document that basically serves as the written evidence. Another benefit for the public is the ability of notary system to make all the legal deeds and legal situations available for the public access. It makes the recorded data legally reliable. As a result, the operations which are arranged with the participation of the notary could be considered trustworthy.

Civil law legal systems provide notaries with the rights to act in the areas of private law (which includes family law, estate and testamentary law, conveyancing and property law, the law of agency, and contract and company law). They are responsible for arranging residential and commercial registration, contract drafting, company formation, successions and estate planning, and powers of attorney.<sup>4</sup>

The relations between notary and the real estate sector are old and productive. First of all, it has to be indicated that the effectuation of transfers of real estate is the major competence of notaries at civil law legal systems.<sup>5</sup> Secondly, it also needs to be specifically pointed out that notary operations have been handled for hundreds of years in the following way: in the majority of civil law legal systems the transfer of real estate is arranged in a form of “public documents that can only be generated and authenticated by public officials—the notaries”.<sup>6</sup> These officials have an authority to generate and authenticate various public documents and this right is protected by the law. The notaries also follow special regulations and practices that were designed for the purposes of defining the professional status and regulating professional performance of these public officials.

The study of the characteristics of notary system at civil law legal systems of Western European countries is especially useful nowadays when the local and national licensing and regulation of professional activities in the different members of the European Union have been scrutinized. No

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<sup>3</sup> Baudenbacher C., *Some Remarks on the Method of Civil Law*, TEXAS INTERNATIONAL LAW JOURNAL 333 (34 (3), 1999).

<sup>4</sup> *Particularities of the German Notarial System (n.d.)*, <http://www.theworldlawgroup.com/files/file/docs/CMS%20HS%20Notary.pdf> (retrieved Nov. 15, 2012).

<sup>5</sup> Baudenbacher C., *Some Remarks on the Method of Civil Law*, TEXAS INTERNATIONAL LAW JOURNAL 333 (34 (3), 1999).

<sup>6</sup> *Particularities of the German Notarial System (n.d.)*, <http://www.theworldlawgroup.com/files/file/docs/CMS%20HS%20Notary.pdf> (retrieved Nov. 15, 2012).

wonder that the notaries, these public practitioners with exclusive competencies, attract particular attention of European Commission.

It has to be noted that probably the most valuable thing that is being brought by the notary to the real estate sector is the improvement of the quality and integrity of real estate operations, a high level of certainty and clarity of actions, and better protection of the participants of real estate operations. For instance, as an interesting example of the positive role of notary system at civil law legal system in the real estate operations the practice of entering cautionary notations in the German land register system could be mentioned. As a result, an efficient protection against intervening interests or other negative influences during transaction completion is provided.<sup>7</sup>

## II. NOTARY SERVICES IN FRANCE, ITALY, GERMANY AND SPAIN

France, Italy, Germany and Spain have very well developed notary systems. In these countries, authentic acts are vested with an increased value of probative force and with immediate enforceability.

For example, French notary system consists of 7,600 notaries (“the notaire” in French) and 40,000 assistants. These professionals have a right to operate in the areas of private law, such as family law, property law, contract law, company law and inheritance law, in accordance with the authority given by the Minister of Justice of France. Notaries are highly educated lawyers. They are named as judicial officers by the State to confer official character to private documents. The authentic acts have the same effect as a court order: they are binding for immediate execution and no further legal procedures are required. The acts are archived by each notary and are full equivalent of public record. French notaries play an important role in French life, because they provide the legal security expected by stakeholders who call upon the law. They are privileged advisors of families at life’s important moments, such as the moment of marriage, estate planning and probate and in the purchase of a house or the creation or incorporation of businesses. Like in other countries with the same legal system, notary in France has a monopoly right to draw up the deeds that have a relation to the following real estate operations: real estate property valuation, purchases, sales, exchanges, co-ownerships, land plots, leases, and mortgages. Other notary’s important functions are to guarantee the

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<sup>7</sup> *Particularities of the German Notarial System* (n.d.), <http://www.theworldlawgroup.com/files/file/docs/CMS%20HS%20Notary.pdf> (retrieved Nov. 15, 2012).

morality and the validity of real estate operations contracts and to provide the help in finding an amicable solution to various legal disagreements between private individuals because this professional serves as the impartial arbitrator and adviser.<sup>8</sup> In order to make all citizens to have full access to impartial legal services, the law requires notaries to be located throughout the country.

In Italy, there are around 5,400 professionals working as notaries. They are public officers appointed by the state for authenticating and attesting legal acts. They are particular specialists in private law, such as family law, businesses law, property law, to provide appropriate legal solutions that satisfy both the law and the aims of both parties, thus discouraging any future litigation. The following matters normally fall into the domain of the Italian notary services: sales and purchase of real estate; formalizing a mortgage with an Italian bank; preparation of power of attorney for a third party; changes to property ownership between spouses; court application pertaining to authorization regarding a minor; donation of assets; last will and testament; formalizing legal documents to set up or make changes to a company; confirming acceptance and use of foreign public documents in Italy.<sup>9</sup> As in France, property transfer contracts in Italy must be signed with the intervention of a notary, who conducts formal document checks as well as confirms the identities of buyer and seller. Also, notaries check that the respective parties have the power and are entitled to be part of the transaction. The notary is often chosen and paid by the buyer, but he/she is an Italian officer fulfilling an official role and does not work on behalf of the buyer or the seller, but serves as a neutral party. Besides, Italian notaries are also responsible to calculate the taxes applicable to the transaction, to collect them from the parties on completion (closing) of the property transaction and timely pay them on behalf of the involved parties.

In German, the notaries' role is complementary to the role of a judge within the German system of "preventive justice". Germany features three types of notaries which may differ depending on the federal state (Bundesland). These types include lawyer-notaries (mostly in northern part of the country, it is known that there are approximately 6,900 professionals practicing dually as attorney-notaries); single-profession notary's offices when the notary is not a lawyer (this type prevails in southern part of Germany, there are around 1,600 German notaries practicing exclusively as

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<sup>8</sup> LAPIER T., COMPETITION, GROWTH STRATEGIES, AND THE GLOBALIZATION OF SERVICES: REAL ESTATE ADVISORY SERVICES IN JAPAN, EUROPE, AND THE UNITED STATES (London, Routledge 1998).

<sup>9</sup> *The Role of a Notary in Italy*, <http://www.italybuyingguide.com/content/italy-role-notary-italy> (retrieved Nov. 15, 2012).

notaries); the third type that could be found only in the federal state of Baden-Württemberg is the state-employed notaries (there are around 500 notaries who are employed by the State). The intervention of a notary is legally required in cases of important transactions with long-term effects or a particular economic or personal importance for the interesting parties. Therefore, notaries play a key role in real estate law, the law of real securities, the contract law as well as the family and succession law. Like in other countries mentioned in this research, one of the major functions of German notaries (called Notar, pl. Notare, fem. Notarin) in the area of real estate law is to draw, execute, and retain legal instruments transacting or governing no contentious matters as to real estate, such as conveyancing, servitudes, real securities.<sup>10</sup> German notaries, who should act as independent, impartial and objective advisers to all parties to a transaction, should examine the intent of the parties concerned, draft the contracts and other legal instruments necessary for carrying out the intended transaction and ensure that the contractual terms are in full compliance with the German law. Besides, they should also verify that the parties concerned have full capacity to enter into the involved transaction and that they have fully understood the legal implications of their commitment.<sup>11</sup>

In Spain, the notary is considered as one of the key figures of traditional Spanish society, along with others notables such as the doctor and the priest. Nowadays, they continue to enjoy a prestigious position in society. Though the Spanish notaries make money from private individuals and companies, they are essential public officials within the Spanish law system who play a neutral and impartial role in drafting and witnessing many types of contracts in Spain. Generally speaking, the Spanish notary's main function is to give faith to private legal agreements. They have the competence and obligation to:

- participate in forming the correct procedure of legalizing documents such as agreements and contracts, using their authority and signature, which is defined as a public authority by the Law for Notaries.

- legalize contracts and any kind of extrajudicial acts in order to ensure that these acts are in accordance with the corresponding laws.

- confirm the identity and other personal information of all the parties present and ensure that both parties to an involved transaction have understood the terms of the contract and ensure that the relative taxes

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<sup>10</sup> *Particularities of the German Notarial System* (n.d.), <http://www.theworldlawgroup.com/files/file/docs/CMS%20HS%20Notary.pdf> (retrieved Nov. 15, 2012).

<sup>11</sup> *What Do You Need a Notary for?*, [http://www.bnotk.de/en/what\\_for.php](http://www.bnotk.de/en/what_for.php) (retrieved Nov. 15, 2012).

generated by the transaction have been paid.

—if a property operation is concerned, they should have request a property registry filing before the signing to confirm the vendor's title, and that the property concerned is free of any unexpected encumbrances. In other words, the intervention of a notary is a title-insurance for the buyer of the property concerned.

Normally, the following documents should be signed before a notary in Spain: acts regarding marital status; last will and testaments; marriage settlements; general contracts/agreements; declarations and applications/requests of heirs; foundations, modifications and separations of companies and partnerships; loans/mortgages and other debts; acquittals and discharge of obligations; any kind of power of attorney; objections to bills of exchange; declarations of heirs in intestacy cases; general declarations and so forth and so on.<sup>12</sup>

### III. THE ROLE OF NOTARIES IN THE REAL ESTATE OPERATIONS (SALE, HYPOTHECATION/MORTGAGE)

According to the civil law's general concept the notary is a third party with respect to both sides of the real estate operations who guarantees the interests of them both, taking upon himself the full, unconditional and, above all, extremely grave responsibility for ensuring a positive conclusion to the conveyance from every point of view.

Notary's abilities include the ability to provide all the information which is required for the successful conclusion of the transaction; the notary's ability to explain all the rights and obligations of the parties to the conveyance, guaranteeing the protection and complete satisfaction of the interests and expectations of both sides; the ability to inform of the pitfalls, for both buyer and vendor, that may be hidden beneath an (apparently) banal conveyance.

There is an obvious difference between European and American practices in the manner in which mortgage transactions are legally documented and completed. In addition, there are differences in the role of legal representatives in these procedures.<sup>13</sup> In most cases the real estate purchase and mortgage transactions that are held in the United States are documented by only one of the parties of the negotiations. The most interesting thing is that often there is no person with legal knowledge who

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<sup>12</sup> *The Public Notary in Spain*, <http://www.abacoconnect.com/articles/Property-Documentation-and-Information/The-Public-Notary-in-Spain> (retrieved Nov. 15, 2012).

<sup>13</sup> Deffains B. & Kirat T., *LAW AND ECONOMICS IN CIVIL LAW COUNTRIES* (Amsterdam, JAI 2001).

takes part in such transactions, who would be able to help in the examination of the documents and analyze the whole transaction in a legal context. On the contrary, the civil law jurisdictions of the majority of the countries of Western Europe mortgage transactions are legally documented by notaries. These experts represent the interests and care about the benefits of all of the parties of the real estate operations. It has to be noted that all transaction participants including notaries have the equal legal responsibilities. So the conclusion could be made that the form of participation of legal representatives in real estate operations in the countries with civil law legal system is really different in comparison with that in other countries. It is all about prevention and protection of the parties of the real estate operations from legal uncertainties, losses and abuses, as well as possible charges (caused by later restorative legal proceedings) by asking for an intervention of the legal representative at the time of operation's formation.<sup>14</sup>

The notary's work in the case of real estate operation starts with the review of the documents available before the operation; examination of title or ownership to the property, details of its location and supporting documentation. Also, the notary has to check the legal capacity of the vendor and his power to sell the property; in addition the following details are checked by the notary: taxes, home insurance. At this stage, the notary is able to prepare the Draft the Deed of Sale.

Notary's role also requires checking the Identifications (IDs) of all the parties of the process; this legal expert also has to explain the rights and obligations of the parties as well as to inform them about the adjustments and disbursements. Also, there is a requirement for the notary to arrange the removal of the pre-existing mortgage/rights on the property and to communicate with the financial institutions involved in the process and supply them with the appropriate documentation and reports on the property.

The notary's responsibilities include the need to provide the formal examination or substantive examination of the property. The notary has to be able to understand the basic elements of the real estate operation and to gather the trustworthy information about it to prepare the contract and mortgage for execution. Additionally, the notary's responsibilities involve the supervision of the papers and the disbursement and transfer of the funds, including the payment of taxes. The notary is also responsible for composition and transmittal of land transfer and mortgage documents. The original copies of the documents on the operation have to be datedly

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<sup>14</sup> Deffains B. & Kirat T., *LAW AND ECONOMICS IN CIVIL LAW COUNTRIES* (Amsterdam, JAI 2001).



recorded with a serial number. Notaries have an obligation to register conveyances and mortgages through their electronic access to their State's registration website.

According to "Responsibilities of the notary" issued by Consiglio Nazionale del Notariato (Italy), the notary plays a rather delicate and important role at the preparatory phase before the definitive contract: his task is to determine whether in fact the vendor is free to sell the asset and whether the purchaser in his turn may legitimately acquire it. The important part of the initial stage of real estate operations is preliminary agreements of the parties:

In the preliminary contract, both signatories undertake to stipulate the definitive sale contract by a certain date and on given conditions. The preliminary agreement (even if concluded privately), gives rise to commitments that are legally valid and binding for the parties (and may be enforced by a court).<sup>15</sup>

All of the searches and checks (such as mentioned above vendor's full right of ownership, property free of all encumbrances and covenants, land registry and town planning/regulatory compliance) have to be completed before signing the agreement to purchase. By immediately putting the matter in the hands of a notary, then, the purchaser gets a complete legal picture of the situation, obtains essential information and advice for the success of the conveyance and avoids the risk of signing a preliminary contract (with the consequent commitments and payment of monies) that he might not have signed at all if he had known the complete situation or in any case he would not have agreed on those terms and conditions.<sup>16</sup>

The notary's intervention brings his legal training to bear on both parties in an impartial manner (thus guaranteeing the interests of the vendor as well), advising as to the best solutions for the specific case, carrying out all the necessary searches and checks (these are in any case needed for the subsequent definitive contract), preparing the preliminary contract and in which way sometimes conciliating and arbitrating, where possible, the divergent positions of the parties exist (e.g. as to advances on the sale price, as to the fixing of the date for settlement—since he can evaluate, after reviewing the whole case, how much time is needed for the technical steps to arrive at settlement, as to the consignment of the keys, just to cite a few

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<sup>15</sup> *Responsibilities of the Notary (n.d.)*, <http://www.notariato.it/en/italian-notaries/who-we-are/responsibilities-of-the-notary.html> (Consiglio Nazionale del Notariato website) (retrieved Nov. 15, 2012).

<sup>16</sup> *Responsibilities of the Notary (n.d.)*, <http://www.notariato.it/en/italian-notaries/who-we-are/responsibilities-of-the-notary.html> (Consiglio Nazionale del Notariato website) (retrieved Nov. 15, 2012).

of the more delicate points that statistically cause most trouble between the parties).<sup>17</sup>

The following information needs to be included into the preliminary agreement by the notary: the precise description of the asset or assets; the exact identification of the owner or owners and of the purchaser or purchasers; the obligations of the vendor and of the purchaser; the price of the sale and method of payment; the conditions of the conveyance and relevant guarantees; documentation of the history of the asset or assets; indication of any encumbrances such as mortgages; the date of possession of the asset or assets; the deadline by which settlement must take place.

There are also some essential elements that have to be indicated in the preliminary agreement in any case: “the parties to the agreement; the subject of the contract, which will be the future transfer of the property in exchange for payment of the sale price; the deadline by which settlement must take place.”<sup>18</sup>

The formal agreement is concluded at the purchase/sale stage when one party (the seller) transfers the ownership of a given property against payment of the price agreed on to another side (the purchaser). As it is indicated in “Responsibilities of the notary” issued by Consiglio Nazionale del Notariato (Italy):

[T]he conveyance is the contract that transfers ownership of an asset or some other right in exchange for a consideration; more generically, one may say that a real estate conveyance is the formal agreement whereby one party, known as the vendor, transfers to another party, known as the purchaser, the ownership of a particular property in exchange for payment of the agreed price.

#### IV. CHALLENGES TO LATIN NOTARY SYSTEM

The institute of the civil law notaries has proven to be efficient in protection of the interests and rights of the parties of the real estate operations. The notary provides the formal examination or substantive examination of the parties of the process and the property itself; thus he confirms the capability of the parties to sell/buy it.

It appears that the notaries' participation in the real estate operations represents the low-cost solution for most residential real estate transfers and

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<sup>17</sup> *Responsibilities of the Notary (n.d.)*, <http://www.notariato.it/en/italian-notaries/who-we-are/responsibilities-of-the-notary.html> (Consiglio Nazionale del Notariato website) (retrieved Nov. 15, 2012).

<sup>18</sup> *Responsibilities of the Notary (n.d.)*, <http://www.notariato.it/en/italian-notaries/who-we-are/responsibilities-of-the-notary.html> (Consiglio Nazionale del Notariato website) (retrieved Nov. 15, 2012).

increases the overall safety and trustworthiness of such operations. On this point, the Council of the Notariats of the European Union (CNEU) made a study on The Role of the Notaries on the Real Estate Transaction which concentrated on 5 European Member States (France, Germany, Estonia, England and Sweden) and 2 jurisdictions of the U.S.. The results of the study shows that “in most smaller and average value residential transactions purchasers and sellers seem to be best and most economically served by public notaries.”<sup>19</sup> For example:

[T]he costs expended by transaction participants for conveyancing services in the 100,000 Euro, 250,000 Euro transaction and the 500,000 Euro transaction were lowest in Estonia...very low in Germany, and not really higher in France in comparison with the costs for such services in the less regulated England and the United States jurisdictions.<sup>20</sup>

Besides, the notarial fee structure based on transaction value tends to result in higher costs to participants in high-value transactions. “In the notarial jurisdictions there is an apparent up-charge on large transactions in order to balance out the more modest fees charged to parties buying and selling properties of lower and average value.”<sup>21</sup> Therefore, the notary system can also play a role in adjusting income distribution.

The impartial and independent legal advice obtained by the parties of the real estate operations from the notary seems to be more helpful and efficient than similar help that could be provided by brokers or even jurists (who often represent the financing entity rather than the parties who purchase/sell the property). Therefore, a conclusion could be suggested that the notarial participation promises the best prospect of further streamlining real estate operations. Overall, the results depend on the discipline of the notaries and the legislative regulations which could be helpful or not in their work.

Obviously, among the weak places of notary profession it is the necessity to maintain the strict neutrality and independence from the parties involved into the real estate transaction which could be named. Another existing problem is the limitations on the ability of notaries to form or be

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<sup>19</sup> Peter L. Murray, *The Role of Notaries in Real Estate Transactions—Current Challenges and Perspective on the Future* (for delivery at the 20th Conference of European Civil-Law Notaries, Salzburg, Austria, April 25, 2008).

<sup>20</sup> Peter L. Murray, *The Role of Notaries in Real Estate Transactions—Current Challenges and Perspective on the Future* (for delivery at the 20th Conference of European Civil-Law Notaries, Salzburg, Austria, April 25, 2008).

<sup>21</sup> Peter L. Murray, *The Role of Notaries in Real Estate Transactions—Current Challenges and Perspective on the Future* (for delivery at the 20th Conference of European Civil-Law Notaries, Salzburg, Austria, April 25, 2008).

members of larger legal or notarial partnerships (“Particularities of the German Notarial System”, n.a.). On the other side, it is known that any factor that is able to bring any risk to the most valuable characteristics of the notary such as his independence and impartiality has to be avoided under any circumstances.

The attention of the European policy makers has been drawn to the notaries who were challenged to prove their traditional function of impartial and independent professional and official implementing of real estate transactions.<sup>22</sup> Another aspect of notary’s functioning that is being discussed is the possible combination of various roles, for example the notary who is also the real estate broker. These innovations may in fact harm the notary’s impartiality and independence.

There is also a discussion about the cost saving options, one of which is when the notary’s services are paid by the seller. In this case there is no confidence that the notary provides totally impartial and independent services because he financially depends on the seller.

Also, there could be an operation when the parties are accompanied by their “own” notary. It involves the participation of several experts, who divide the work and divide the fee, so that there is no prejudice to the interest of any party. But still there is some doubt, some concern about such transaction.

There are also discussions about the notaries fees. The majority of policy makers consider that mandatory fees help to support the impartiality and independence of the notaries and exclude the fee issue from the notary-client relationship.

One of the major challenges to the notaries today is the development of information technology, such as the rapid development of the paperless trading and e-conveyancing. In fact, the most costs and problems in real estate transactions are due to the delay between the points in time, because the points of actual transfer of title and payment of the purchase price are usually different. Electronic filing and communications have tremendous potential for reducing the time interval, particularly in delay attributed to communication, processing of filings and registrations, and so on, and thus bringing economies and greater certainty to real estate sales and purchases. The world changes and the real estate operations change too. As a result, the notaries are required to have good technical skills and to maintain and enhance themselves in the future.

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<sup>22</sup> Canivet G., *Is There Still Room for the Coexistence of Legal Systems in Today’s Global Economy?*, DEFENSE COUNSEL JOURNAL 254 (79 (3), 2012).

## CONCLUSION

Civil Law notary system (Latin notary system) plays an important role in the real estate operations in the most countries of Civil Law legal system and some countries of Common Law Legal System. It has been proven to be more efficient than the Anglo-American notary services model when considering the recent mortgage crisis in the U.S., because the intervention of the Latin notary improves the fairness, the overall quality of documentation, the overall safety and trustworthiness of the real estate operations. However, the Latin notary system has to make efforts at self-improvement for responding well to some challenges caused by the evolution of real estate transaction practices and the development of high-technologies (such as Internet technology, cloud technology etc.).