STUDY

Study by the Commission for European Affairs (CAE) of the International Union of Notaries · 2025

Notarial competences in non-contentious matters

What the notary does in 33 European countries, competence by competence

Under the responsibility of notary Bertrand Basseville (France) and the Presidency of the CAE, held by notary Valentina Rubertelli (Italy)

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Introduction

1 Settlements, mediation, conciliation, divorce without a judge, lasting powers of attorney (...): in barely a decade, notaries have been entrusted with many new areas of competence.

2 These new competences, in non-contentious matters, are the result of a phenomenon that began several years ago, known as “dejudicialisation” or the transfer of competences from judges to notaries, which has led to a new distribution of tasks between the two professions.

3 The aim is to relieve the courts of certain non-judicial tasks that can be performed by another public authority with the same legitimacy as the courts. To that end, notaries quickly proved to be a particularly suitable solution: as holders of a public office, legal professionals and impartial and independent third parties, they are perfectly capable of “replacing” the courts, provided there are no disputes to be resolved.

4 Notaries have therefore become actors in the out-of-court resolution of conflicts, mediators, court clerks and judicial officers in non-contentious matters, and the Commission for European Affairs wished to carry out a thorough study of these new functions taken on by notaries.

5 The aim is to draw up an inventory of notarial competences in the various European member countries of the UINL and, by comparison, to identify possible areas of development in non-contentious matters for each notariat.

6 **Thirty-three countries** responded to our survey, the results of which are presented in two ways.

7 The **first part** examines and summarises the results of the various questionnaires collected. It highlights the areas most suited to the transfer of competences to notaries (divorce, the law on vulnerable persons, company law, succession law, property law, the law of persons, etc.). The study distinguishes between:

- **The competences that notaries have long held**, in which they are the "natural" authority or the experts in the field. These include succession law (notaries draw up the deed of notoriety or the certificate of inheritance in 80% of European notariats), the matrimonial property regime (80% of European countries entrust notaries with the task of drawing up marriage contracts or changing the spouses' matrimonial property regime) and company law (in more than half of European countries, notaries are the authorities responsible for forming and registering legal persons).
- **These are more recent areas of competence for the notariat,** but ones in which more and more non-judicial tasks are being assigned to notaries. Divorce is an excellent example: 32% of European countries have already introduced divorce before a notary, whereas twenty years ago it was practically unknown. The law on vulnerable persons is also an area perfectly compatible with notarial competences. "Lasting powers of attorney", "powers of representation", *the "mandat de protection* future" or *"preventive* powers of attorney" have developed considerably over the last twenty years under the impetus of the notariat, and a growing number of legislatures, both European and non-European, are taking an interest in this model.
- **Notarial competences "under development"**: these have been given to notaries in only a few countries, but they are likely to develop, since they are particularly well suited to the notarial function. This is the case, for example, of marriage. In Europe, only the notaries of Spain and Andorra can marry spouses, whereas in Latin America notaries often share this responsibility with civil registrars. Few countries provide for notaries also to take on certain tasks relating to the law of persons or filiation. Yet notaries are particularly well placed to obtain the consent of the parties and to ensure that it is "free and informed" (in 23% of the countries surveyed, notaries are competent to obtain consent in matters of assisted reproduction; in 15%, they obtain consent to adoption; and in fewer than 3%, they carry out voluntary changes of first name, surname or gender in the civil register).

8 In these examples, notaries replace the courts or offer an alternative solution. The trend towards dejudicialisation has also given the notary another function, that of accompanying the judge as a legal assistant (the function of notary as "clerk", notary as "expert" before the court, etc.). Sometimes notaries also intervene before or at the same time as the dispute, in order to resolve conflicts: in 24% of the countries surveyed, notaries act as mediators or conciliators.

9 All these tasks assigned to the notary pursue the same aim: to allow the courts to concentrate on their main judicial function, by relieving them of tasks that can be carried out by an equally legitimate authority, since the State has placed its trust in it.

10 Lastly, the **second part** of the study takes the form of an Excel table [1] . It identifies, in each country, the competent authority that carries out each of the **66 non-contentious tasks** we have identified. The aim of this second part is therefore more pragmatic: it will be useful to notaries in their daily practice for identifying a European counterpart to whom they can turn for a specific matter.

11

A notariat that broadens its competences is a notariat that its users recognise as useful.

The aim of this report is to help all notariats to move in this direction.

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[13] Vice-President of the CAE

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[17] The Commission for European Affairs wishes to thank the delegates of *Albania, Andorra, Armenia, Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Estonia, France, Germany, Greece, Hungary, Italy, Kosovo, Latvia, Lithuania, London (United Kingdom), Luxembourg, North Macedonia, Malta, Montenegro, the Netherlands, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Switzerland, Turkey and Ukraine,* who responded to our survey and contributed to this study.

[18] Special thanks also go to the two students of the Master 2 in International Notarial Law at the University of Lyon 3 (France), **Mae Row and Jessica de Betono**, who took part in the data collection, the summary and the layout.

VULNERABLE PERSONS

Opening of a protective measure for a vulnerable adult

[19] The countries in which notaries are competent to adopt a protective or support measure for a vulnerable adult are:

- Austria
- Spain
- Romania

[20] In other words, in **9.1% of the European countries that responded to our survey.** This includes:

- The only country in which notaries have **exclusive competence**: Romania, that is, **33.3% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Austria and Spain, that is, **66.7% of the countries with notarial competence.**

[21] This competence is rarely "dejudicialised". It can, however, be removed from the court system, since some countries have entrusted the notary with shared competence, and one country has even given the notary exclusive competence.

[22] Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge.

Opening of a protective measure for a vulnerable minor

23 There is no country in which notaries are competent to adopt protective measures for vulnerable minors.

Appointment of a representative for vulnerable adults

24 The countries in which notaries are competent to appoint a representative or assistant for the vulnerable adult in order to perform the functions of guardianship or curatorship, when the protective measure is opened, are:

- Albania
- Austria
- Spain
- The Czech Republic
- Romania

25 In other words, in **14.7% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania and Romania, that is, **40% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Austria, Spain and the Czech Republic, that is, **60% of the countries with notarial competence.**

26 This competence is rarely "dejudicialised". It can, however, be removed from the court system, since some countries have entrusted the notary with shared competence, or even exclusive competence. Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge.

Appointment of a representative for vulnerable minors

27 The countries in which notaries are competent to appoint a representative or assistant for the vulnerable minor in order to perform the functions of guardianship or curatorship, when the protective measure is opened, are:

- The Czech Republic
- Romania

28 In other words, in **5.9% of the European countries that responded to our survey.** This includes:

- The country in which notaries have **exclusive competence**: the Czech Republic, that is, **50% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Romania, that is, **50% of the countries with notarial competence.**

29 It is very rare for this competence to be removed from the court system. It can, however, be removed from it, since some countries have entrusted the notary with shared, or even exclusive, competence.

30 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge.

Authorisation to execute a deed on behalf of a vulnerable person



31 Authorisation to conclude a document on behalf of a vulnerable person

- Exclusive competence of the notary / exclusive competence of the notary
- Joint competence of the notary and another authority/shared competence of the notary

32 The countries in which notaries are competent to authorise the execution of a deed on behalf of a vulnerable person (for example, sale, acceptance or renunciation of an inheritance, etc.) where such authorisation is necessary are:

- Albania
- Spain
- Italy

33 In other words, in **9.1% of the European countries that responded to our survey.** This includes:

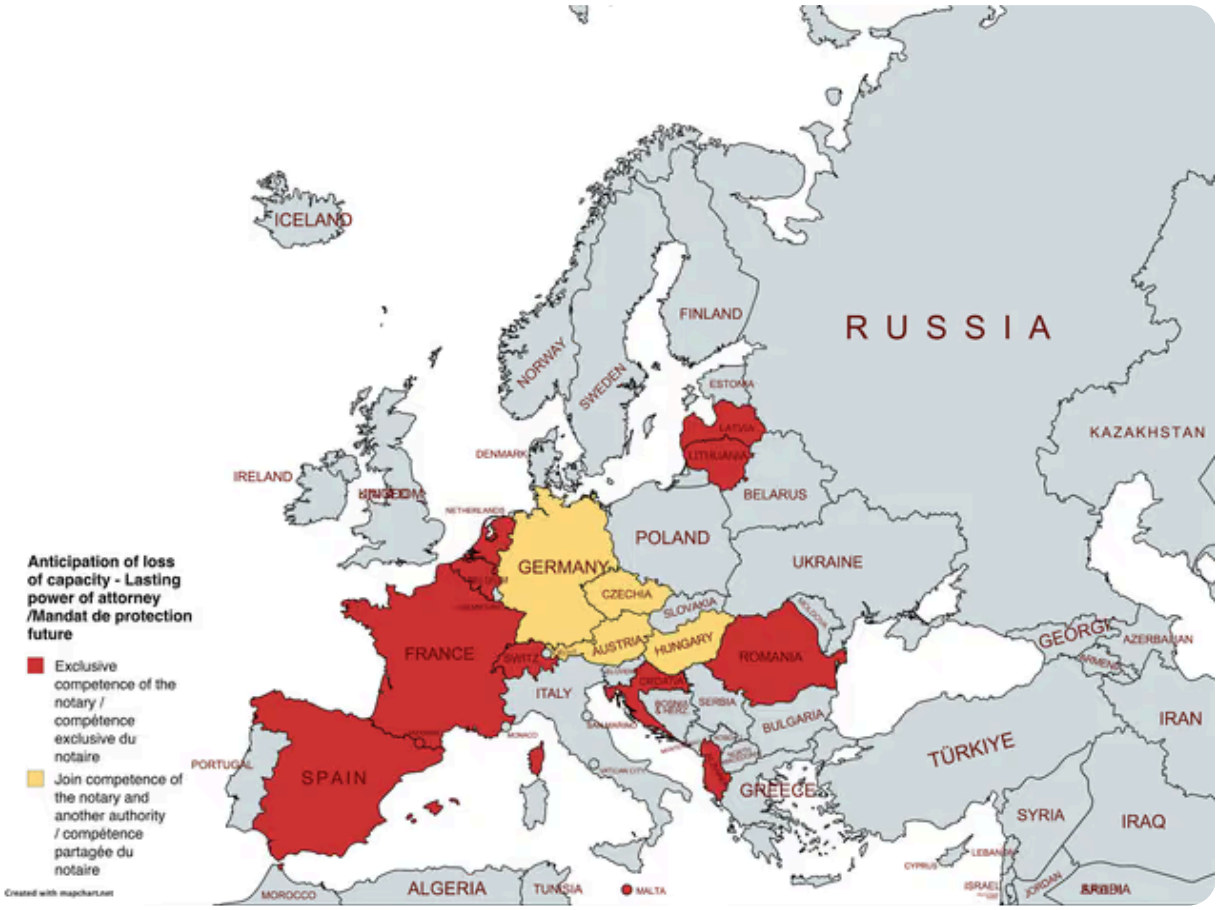
- The country in which notaries have **exclusive competence**: Albania, that is, **33.3% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Spain and Italy, that is, **66.7% of the countries with notarial competence.**

34 This competence is rarely removed from the court system. It can, however, be removed from it, since some countries have entrusted the notary with shared competence, and one country has even given the

notary exclusive competence.

35 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge.

Anticipating a future loss of capacity



36 Anticipation of loss of capacity - Lasting power of attorney / Future protection mandate

- Exclusive competence of the notary
- The notary's competence is combined with that of another authority.

37 The countries in which notaries are competent to adopt a preventive measure in order to anticipate a future loss of capacity (powers of representation such as the lasting power of attorney) are:

- Albania
- Germany
- Andorra
- Austria
- Belgium
- Croatia
- Spain
- France
- Latvia
- Lithuania
- Malta
- The Netherlands
- The Czech Republic
- Romania
- Switzerland
- Hungary

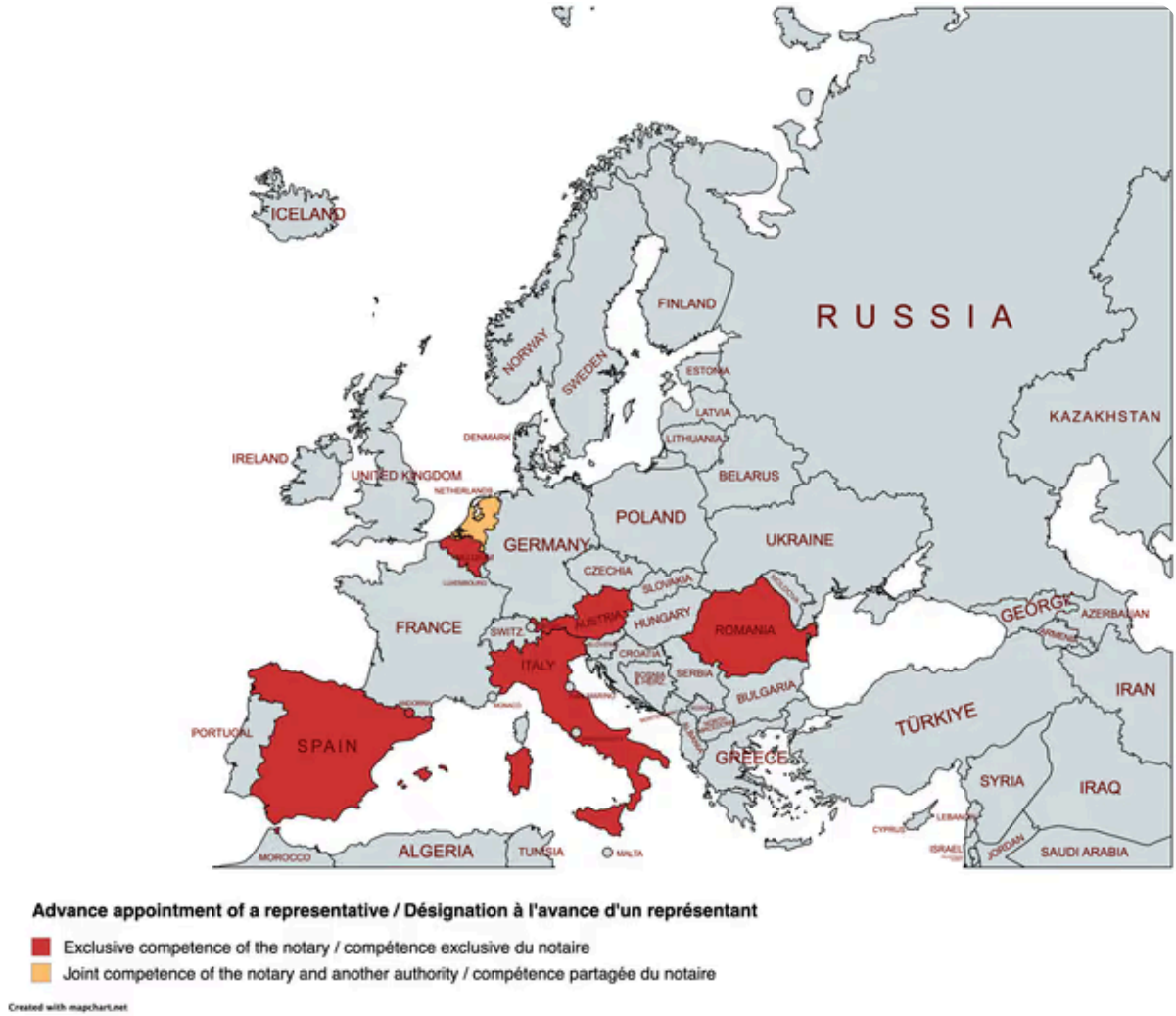
38 In other words, in **48% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Belgium, Croatia, France [2] , Latvia, Lithuania, Malta, the Netherlands, Romania, Spain and Switzerland, that is, **75% of**

the countries with notarial competence.

- The countries in which notaries have **shared competence**: Germany, Austria, Hungary and the Czech Republic, that is, **25% of the countries with notarial competence.**

Advance designation of a representative



39 Advance appointment of a representative

- Exclusive competence of the notary / exclusive competence of the notary
- Joint competence of the notary and another authority/shared competence of the notary

40 The countries in which notaries are competent to designate or exclude in advance a specific person to act as curator or guardian are:

- Andorra
- Austria
- Belgium
- Spain
- Italy
- The Netherlands
- Romania

41 In other words, in **20.6% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Andorra, Austria, Belgium, Spain, Italy and Romania, that is, **85.7% of the countries with notarial competence.**

- The country in which notaries have **shared competence**: the Netherlands, that is, **14.3% of the countries with notarial competence.**

42 This competence is rarely removed from the court system. It can, however, be removed from it, since some countries have entrusted the notary with shared, or even exclusive, competence.

43 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge.

Entry into force of the advance lasting power of attorney

44 The countries in which notaries are competent to decide on the entry into force of powers of representation (for example, the lasting power of attorney) at the time of the loss of capacity are:

- Andorra
- Austria
- Spain

45 In other words, in **9% of the European countries that responded to our survey.** This includes:

- The country in which notaries have **exclusive competence**: Andorra.
- The countries in which notaries have **shared competence**: Austria and Spain.

46 The notary is therefore rarely competent to "activate" the power of attorney at the time of the loss of capacity. This is usually done by the court ("greffe du tribunal" in France), the doctor or even the person who received the power of attorney (as in the Netherlands, for example).

Advance medical directives



47 Advance medical directives

- Exclusive competence of the notary
- Joint competence of the notary and another authority

48 The countries in which notaries are competent *to draw up advance directives on medical treatment* are:

- Andorra
- Austria
- Croatia
- Spain
- Hungary
- Italy
- Latvia
- The Netherlands
- Switzerland

49 In other words, in **27% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Austria, Croatia, Hungary, Latvia and the Netherlands, that is, **55% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, Spain, Switzerland and Italy, that is, **45% of the countries with notarial competence.**

50 Where the notary has been given shared competence, the other authority with which the notary shares that competence is usually the health-care staff, the hospital or the judge.

CIVIL STATUS

Change of surname or first name in the civil register

51 The country in which notaries are competent for the change of first name or surname in the civil register is:

- Estonia

52 In other words, in **2.9% of the European countries that responded to our survey.** This includes:

- No country gives the notary **exclusive competence**.
- The country in which notaries have **shared competence**: Estonia.

53 It should be noted that the notary is competent for the change of name only after a divorce. In other cases, competence lies with the civil registrar
and the judge.

Change of gender in the civil register

54 The country in which notaries are competent for the change of gender in the civil register is:

- Malta (in this case, the person may also change his or her first name in the same act).

55 In other words, in **2.9% of the European countries that responded to our survey.** This includes:

- The country in which notaries have **exclusive competence**: Malta.
- No country gives **shared competence**.

Emancipation of minors

56 The countries in which notaries are competent for the emancipation of minors are:

- Andorra
- Malta

57 In other words, in **5.9% of the European countries that responded to our survey.** This includes:

- The country in which notaries have **exclusive competence**: Andorra, that is, **50% of the countries with notarial competence.**
- The country in which notaries have **shared competence**: Malta, that is, **50% of the countries with notarial competence.**

58 It is very rare for this competence to be removed from the court system. It can, however, be removed from it, since one country has entrusted the notary with shared competence, while another country has entrusted the notary with exclusive competence.

59 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the court.

Declaration of absence

60 No country has entrusted notaries with the competence to issue declarations of the disappearance of persons.

Consent to organ donation



61 Consent to organ donation

- Joint competence of the notary and another authority
- Exclusive competence of the notary

62 The countries in which notaries are competent to receive consent to organ donation are:

- Andorra
- Armenia
- Bulgaria
- Croatia
- Kosovo
- Switzerland

63 In other words, in **18% of the European countries that responded to our survey.** This includes:

- The country in which notaries have **exclusive competence**: Andorra, that is, **17% of the countries with notarial competence.**

- The countries in which notaries have **shared competence**: Armenia, Bulgaria, Croatia, Kosovo and Switzerland, that is, **83% of the countries with notarial competence.**

64 Where the notary has been given shared competence, the other authority with which the notary shares that competence is usually the health-care staff.

LEGAL PERSONS

Formation and registration of legal persons



65 Formation and registration of legal persons

- Exclusive competence of the notary
- The notary's competence is combined with that of another authority.

66 The countries in which notaries are competent for the formation and registration of legal persons are:

- Andorra
- Austria
- Belgium
- Bulgaria
- Spain
- Estonia
- Germany
- France [3]
- Italy
- Kosovo
- Latvia
- Lithuania
- Luxembourg
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Slovakia
- Slovenia
- Switzerland
- Ukraine

- Hungary

67 In other words, in **66% of the European countries that responded to our survey.** This includes:

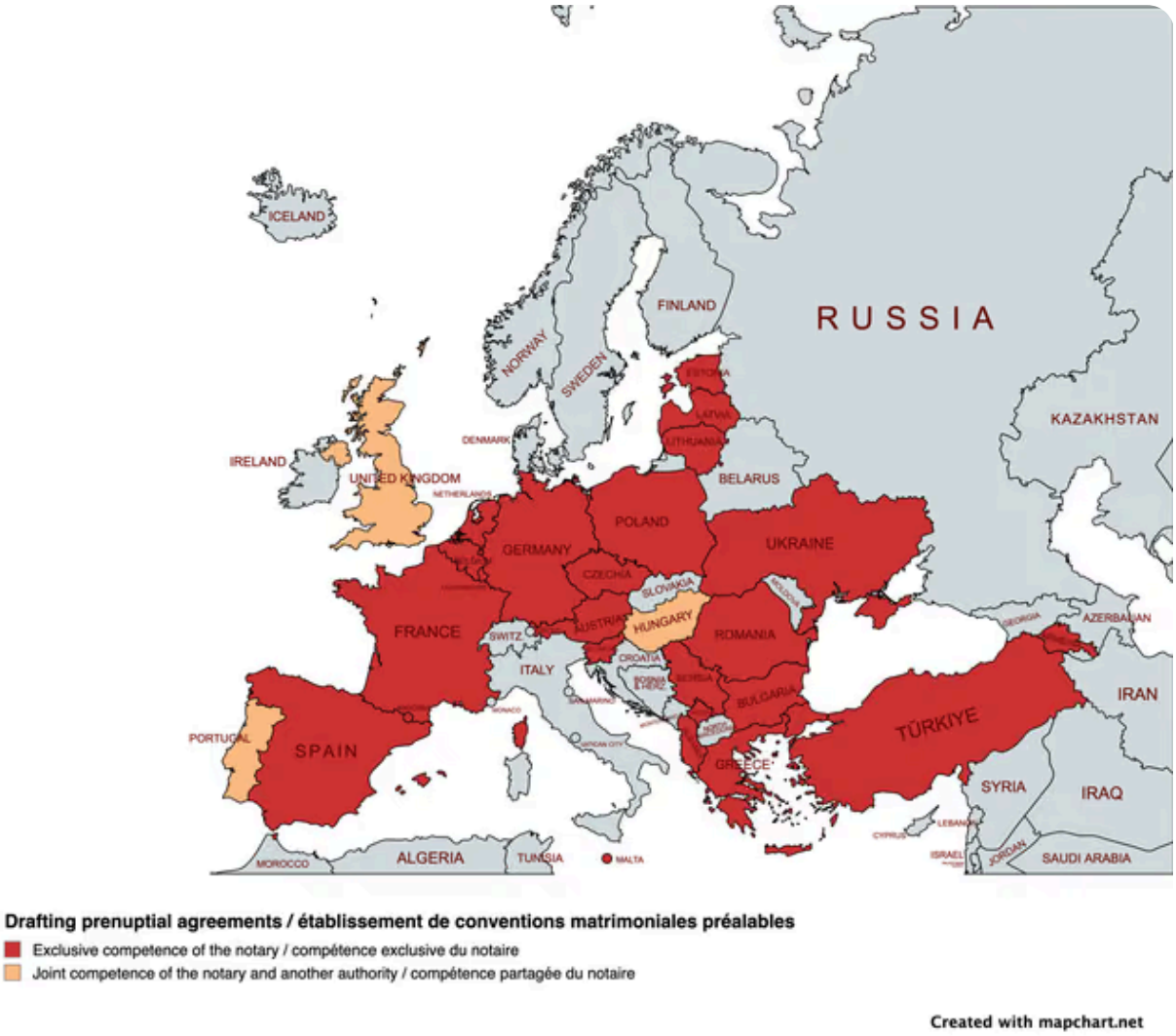
- The countries in which notaries have **exclusive competence**: Andorra, Italy, Germany, Belgium, Bulgaria, Spain, Slovenia [4], Kosovo, Luxembourg [5] and the Netherlands, that is, **45% of the countries with notarial competence.**
- The countries in which notaries have **shared or optional competence**: Austria, the Czech Republic, Estonia, Hungary, France, Latvia, Lithuania, Poland, Portugal, Slovakia, Switzerland and Ukraine, that is, **55% of the countries with notarial competence.**

68 This competence is fairly widespread and can therefore be removed from the court system, since some countries have entrusted the notary with shared, or even exclusive, competence.

69 Where the notary has been given shared competence, the other authorities with which the notary shares that competence are: the lawyer, the court, the party concerned and the commercial register. In many cases, the notary forms the company and the court registers it (Austria and Poland), or the notary forms the company and then sends the authentic instrument to the commercial register for registration (Germany). Where competence is shared with the party concerned, this may mean that it is the party concerned who forms the company and the notary who registers it (as in Ukraine), or that the notary is competent only if the party concerned is a foreigner (Estonia). It should be noted that in Latvia competence is shared, since the notary only has to authenticate the signature of the parties concerned. In France, notaries are competent for the formation of companies, but their involvement is optional.

MARRIAGE

Prenuptial agreements



70 Drafting of prenuptial agreements
--Exclusive competence of the notary

Joint competence of the notary and another authority/shared competence of the notary

71 The countries in which notaries are competent to draw up prenuptial agreements are:

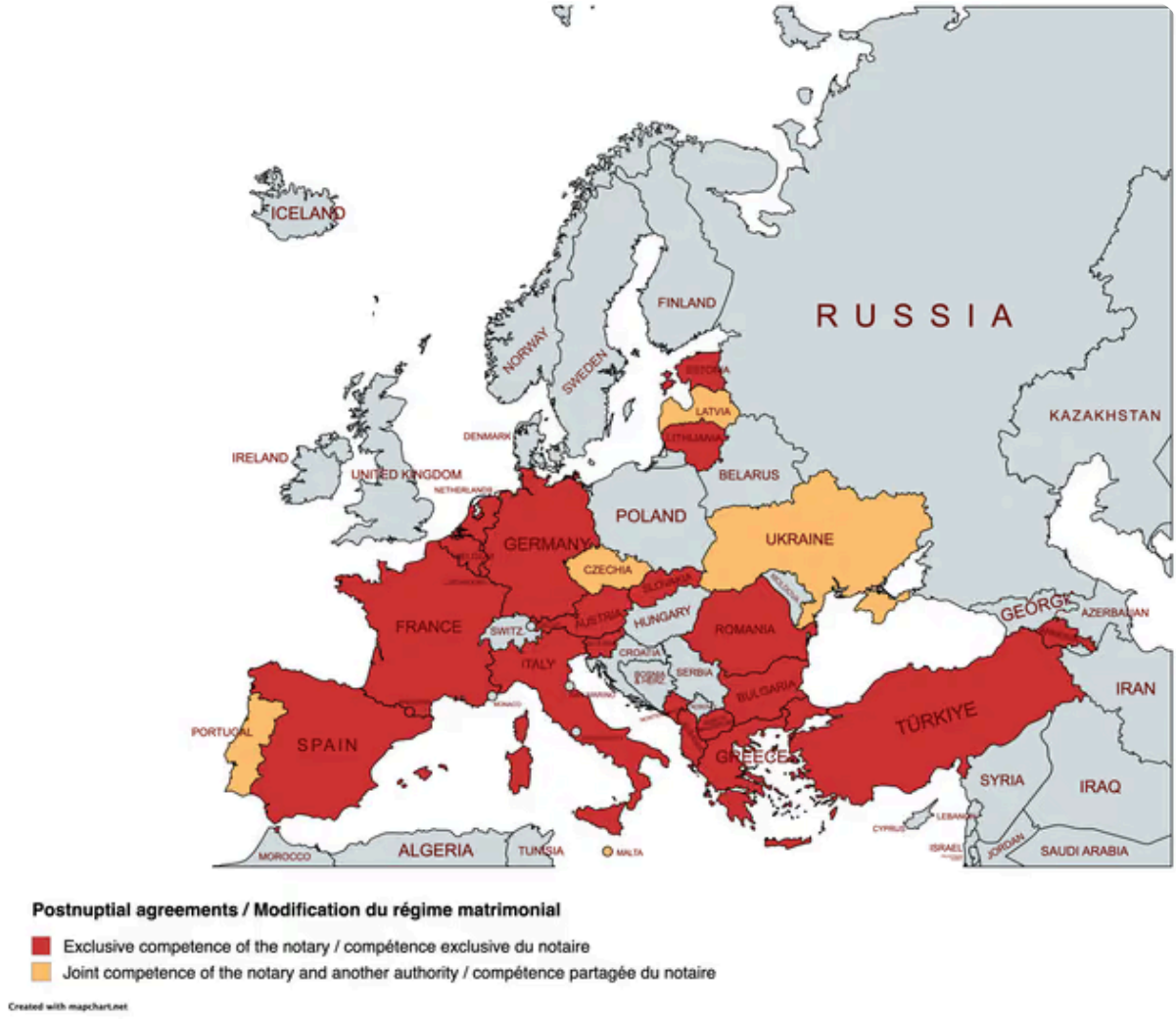
- Albania
- Germany
- Andorra
- Armenia
- Austria
- Belgium
- Bulgaria
- Spain
- Estonia
- France
- Greece
- Hungary
- Kosovo
- Latvia
- Lithuania
- The United Kingdom (London)
- Luxembourg
- Malta
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Slovenia
- Turkey
- Ukraine

72 In other words, in **79.4% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Armenia, Austria, Belgium, Bulgaria, the Czech Republic, Estonia, France, Germany, Greece, Kosovo, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Serbia, Slovenia, Spain, Turkey and Ukraine, that is, **88.9% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Hungary, the United Kingdom (London) and Portugal, that is, **11.1% of the countries with notarial competence.**

73 This competence is usually "dejudicialised" in favour of notaries.

Change of matrimonial property regimes



74 Postnuptial agreements

- Exclusive competence of the notary
- Joint competence of the notary and another authority / shared competence of the notary

75 The countries in which notaries are competent to change the matrimonial property regime are:

- Albania
- Andorra
- Austria
- Germany
- Armenia
- Belgium

- Bulgaria
- Spain
- Estonia
- France
- Greece
- Italy
- Latvia
- Lithuania
- Luxembourg
- North Macedonia
- Malta
- Montenegro
- The Netherlands
- Portugal
- The Czech Republic
- Romania
- Slovakia
- Slovenia
- Switzerland
- Turkey
- Ukraine
- Hungary

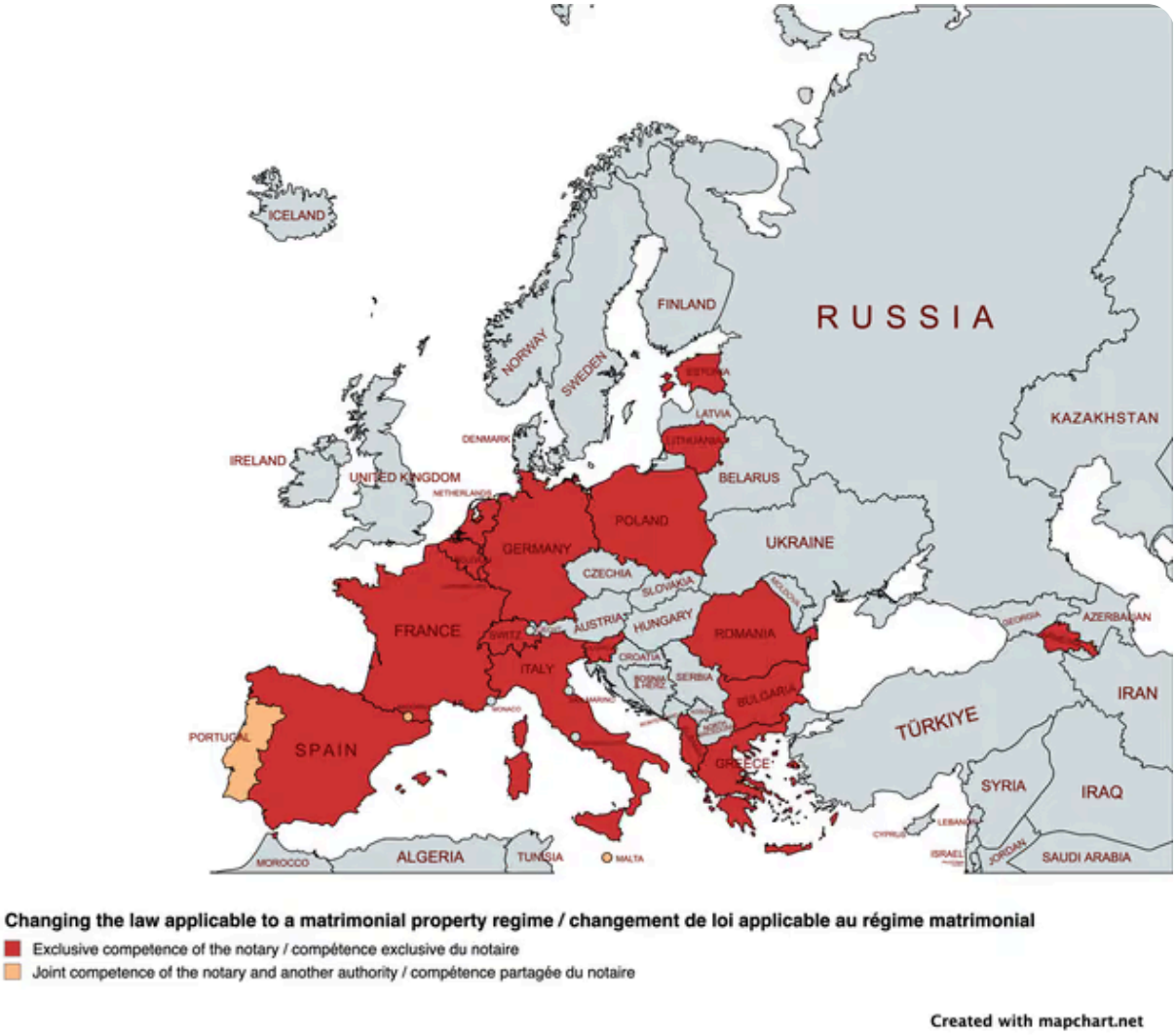
76 In other words, in **85% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Armenia, Austria, Belgium, Bulgaria, Estonia, France, Germany, Greece, Italy, Lithuania, Luxembourg, North Macedonia, Montenegro, the Netherlands, Romania, Slovakia, Slovenia, Turkey and Spain, that is, **78% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: the Czech Republic, Latvia, Malta, Portugal, Hungary and Ukraine, that is, **22% of the countries with notarial competence.**

77 This competence is usually “dejudicialised” in favour of notaries.

78 Where there is shared notarial competence, it is shared with the courts, judges and civil registrars. Where competence is shared with the judge, this may mean that the judge must approve the agreement (Malta)

Designation or change of the law applicable to the matrimonial property regime



79

Change of the law applicable to a matrimonial property regime

- Exclusive competence of the notary
- Joint competence of the notary and another authority

80

The countries in which notaries are competent to designate or change the law applicable to a matrimonial property regime are:

- Albania
- Germany
- Andorra
- Armenia
- Belgium
- Bulgaria
- Spain
- Estonia
- France
- Greece
- Italy
- Lithuania
- Luxembourg
- Malta
- The Netherlands
- Poland
- Portugal
- Romania
- Slovenia
- Switzerland
- Hungary

81 In other words, in **64% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Armenia, Belgium, Bulgaria, Estonia, France, Germany, Greece, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Romania, Slovenia, Spain and Switzerland, that is, **81% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, Hungary, Malta and Portugal, that is, **19% of the countries with notarial competence.**

82 This competence is usually "dejudicialised" in favour of notaries.

Celebration of marriages



83 Celebrating the marriage

- Joint competence of the notary and another authority/shared competence of the notary

84 The countries in which notaries are competent to celebrate marriages are:

- Andorra
- Spain

85 In other words, in **5.9% of the European countries that responded to our survey.** This includes:

- There is no country in which the notary has **exclusive competence**.
- The countries in which notaries have **shared competence**: Andorra and Spain.

86 In Europe, this competence is not usually entrusted to notaries.

87 Where the notary has been given shared competence, the other authorities with which the notary shares that competence are the mayor, the civil registrar
and the religious authority.

Formation of partnerships



88 Registering partnerships

- Exclusive competence of the notary
- Joint competence of the notary and another authority / shared competence of the notary

89 The countries in which notaries can form partnerships are:

- Andorra
- Spain
- Estonia
- France
- Greece
- Hungary
- Malta
- Latvia

90 In other words, in **24% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Spain, Estonia, Hungary, Latvia and Malta, that is, **62% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, France and Greece, that is, **38% of the countries with notarial competence.**

91 Where notarial competence is shared, the other authority is the civil registrars.

Dispensation in the event of an impediment to marriage

92 In no country are notaries competent to grant a dispensation in the event of impediments to marriage.

Certificate of the matrimonial property regime for the civil register

93 The countries in which notaries are competent to issue the certificate establishing the matrimonial property regime for entry in the civil register are:

- Andorra
- Belgium
- Bulgaria
- Spain
- Estonia
- France
- Hungary
- Latvia
- Luxembourg
- Malta
- The Netherlands
- Portugal
- Romania
- Serbia
- Slovakia
- Slovenia
- (Switzerland [6])

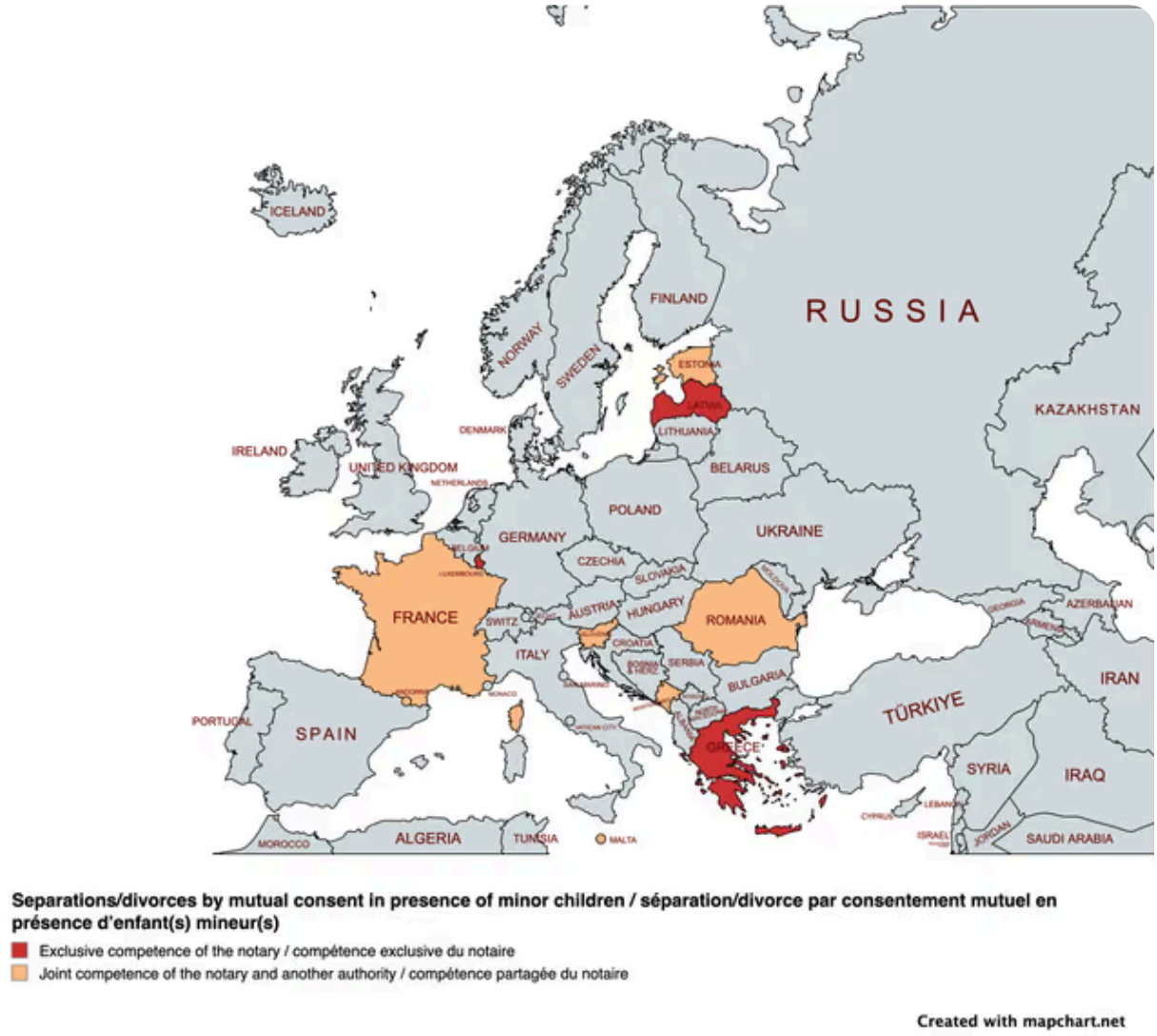
94 In other words, in **47% of the European countries surveyed.** This includes:

- The countries in which notaries have **exclusive competence**: Andorra, Belgium, Bulgaria, Estonia, France, Hungary, Luxembourg, the Netherlands, Romania, Serbia, Slovakia, Slovenia and Spain, that is, **81.25% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Latvia, Malta and Portugal, that is, **18.75% of the countries with notarial competence.**

95 This competence is usually “dejudicialised”

DIVORCE

Separation/divorce by mutual consent where there are minor children



96 Separations/divorces by mutual consent where there are minors.

- Exclusive competence of the notary
- Joint competence of the notary and another authority / shared competence of the notary

97 The countries in which notaries are competent for separations or divorces by mutual consent where there are minor children are:

- Estonia
- France
- Greece
- Latvia
- Malta [7]
- Montenegro
- Romania
- Slovenia

98 In other words, in **24% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Greece and Latvia, that is, **25% of the countries with notarial competence.**

- The countries in which notaries have **shared competence**: Estonia, France, Malta [8] , Montenegro, Romania and Slovenia, that is, **75% of the countries with notarial competence.**

99 This competence can be removed from the court system, since some countries have entrusted their notaries with shared, or even exclusive, competence.

100 Where the notary has been given shared competence, the other authorities that share that competence are the judge and the civil registrar
. In France, the notary is competent, but the judge will intervene if the minor so requests.

Separation or divorce by mutual consent where there are no minor children



Separations/divorces by mutual consent without minor children / séparation/divorce par consentement mutuel en l'absence d'enfant(s) mineur(s)

Exclusive competence of the notary / compétence exclusive du notaire

Joint competence of the notary and another authority / compétence partagée du notaire

Created with mapchart.net

101 Separations/divorces by mutual consent without minor children.

- Exclusive competence of the notary
- Joint competence of the notary and another authority

102 The countries in which notaries are competent for separations or divorces by mutual consent where there are no minor children are:

- Spain
- Estonia
- France

- Greece
- Latvia
- Lithuania
- Luxembourg
- Malta [9]
- Montenegro
- Romania
- Slovenia

103 In other words, in **32.4% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Greece, Latvia, Lithuania, Luxembourg, France and Slovenia, that is, **54.5% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Spain, Estonia, Malta [10] , Montenegro and Romania, that is, **45.5% of the countries with notarial competence.**

104 This competence can be “dejudicialised”, since some countries have entrusted their notaries with shared, or even exclusive, competence.

105 Where the notary has been given shared competence, the other authority that shares that competence is the judge or the civil registrar. In Romania, the civil registrar is competent for divorces by mutual consent only where there are no minor children; where there are minor children, competence lies with the judge and the notary.

FILIATION

Recognition of paternity/maternity



106 Recognition of paternity or maternity

- Joint competence of the notary and another authority
- Exclusive competence of the notary

107 The countries in which notaries are competent for the recognition of paternity or maternity are:

- Andorra
- France
- Greece
- Hungary
- Italy
- Lithuania
- Malta
- Montenegro
- The Netherlands
- Poland
- Switzerland
- Turkey

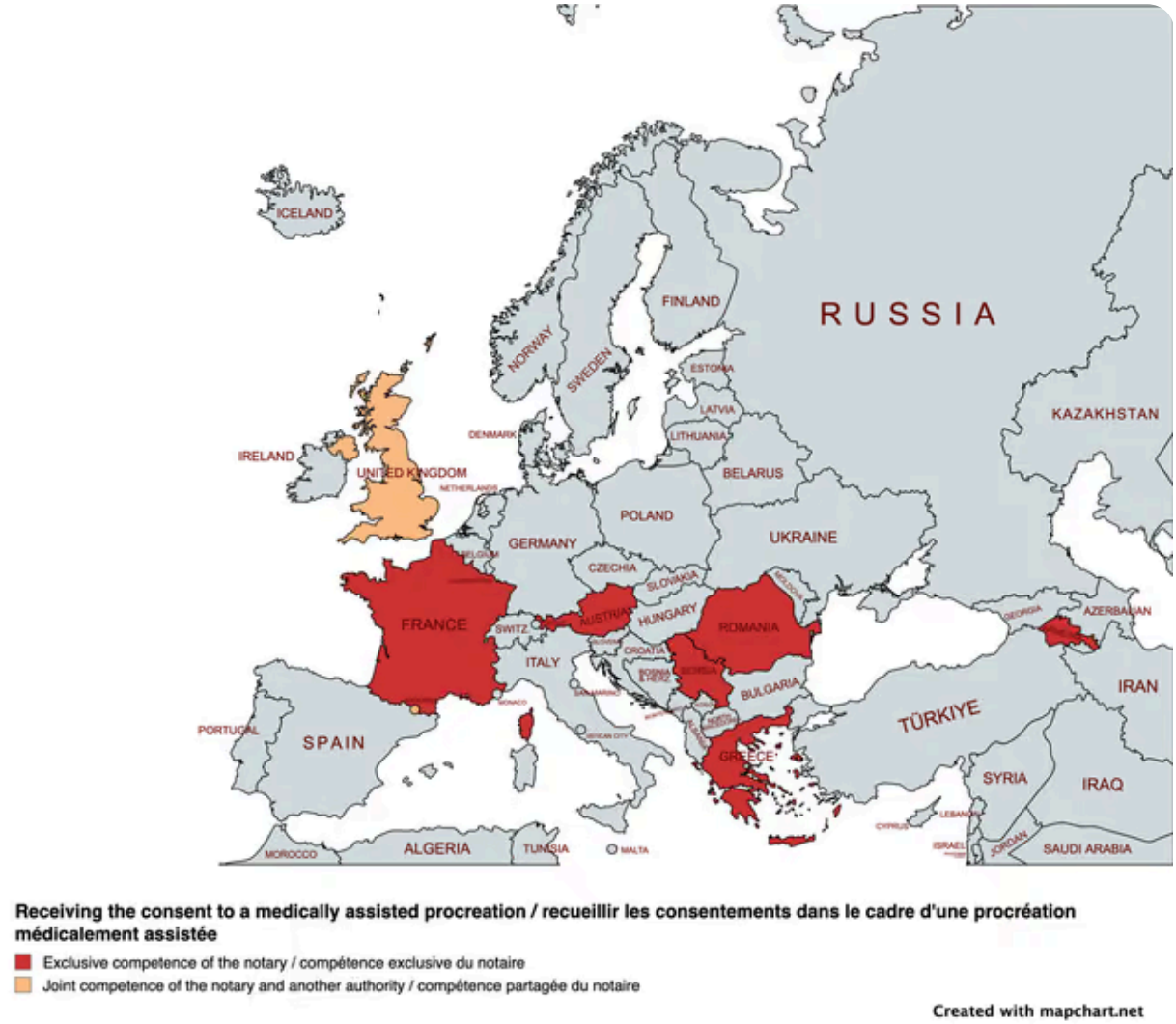
108 In other words, in **36% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Greece, that is, **8% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, France, Hungary, Italy, Lithuania, Malta, Montenegro, the Netherlands, Poland, Switzerland and Turkey, that is, **92% of the countries with notarial competence.**

109 This function can be excluded from the scope of the court system: some countries have entrusted it to the notary on a shared basis or have even given the notary exclusive competence.

Where competence is shared, the notary exercises it together with the judge, the civil registrar or the guardianship authority (Hungary)

Assisted reproduction



110 Obtaining consent to medically assisted reproduction.

- Exclusive competence of the notary
- Joint competence of the notary and another authority

111 The countries in which notaries are competent *to receive consent to medically assisted reproduction* are:

- Andorra
- Armenia
- Austria
- France
- Greece [11]
- The United Kingdom (London)
- Romania
- Serbia

112 In other words, in **23.5% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Armenia, Austria, France, Greece, Romania and Serbia, that is, **75% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra and the United Kingdom (London), that is, **25% of the countries with notarial competence.**

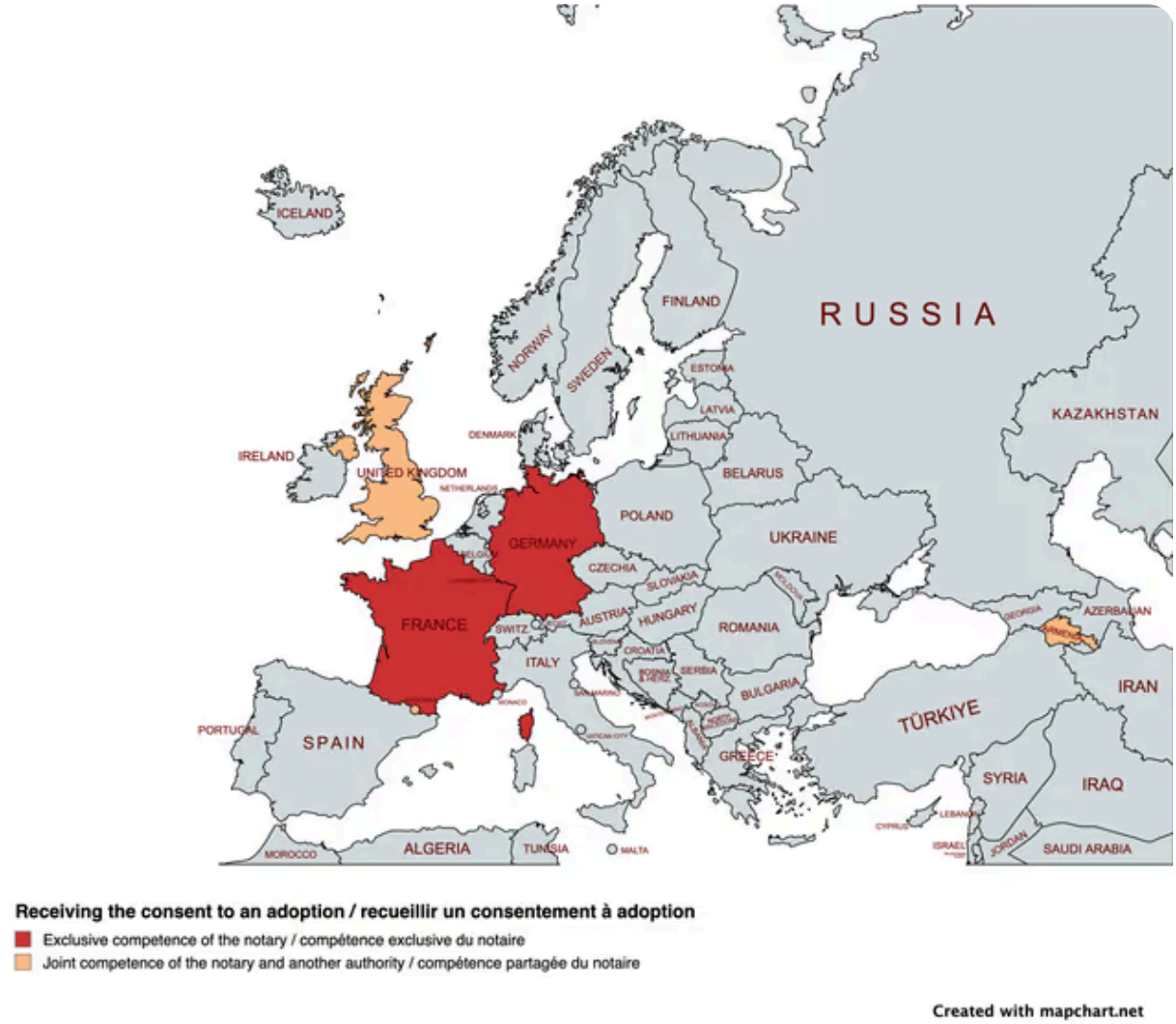
113 Consequently, this function can be excluded from the judicial sphere, and several countries have entrusted it to the notary, on a shared or even exclusive basis.

114 Where this function is separated from the court system, the notary shares it with the civil registrar or, for example, with the lawyer (in the United Kingdom).

Granting of adoption

115 There is no country in which notaries are competent to authorise an adoption.

Receiving consent to adoption



116 Receiving consent to adoption

- Exclusive competence of the notary

Joint competence of the notary and another authority/shared competence of the notary

117 The countries in which notaries are competent to receive consent to an adoption:

- Germany
- Andorra
- Armenia
- The United Kingdom (London)
- France

118 In other words, in **14.7% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Germany and France, that is, **40% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, Armenia and the United Kingdom (London), that is, **60% of the countries with notarial competence.**

119 This function is rarely excluded from the judicial sphere. It can, however, be excluded from that sphere, given that some countries have entrusted it — on a shared or even exclusive basis — to the notary.

120 Where this function is shared, the authority that shares it with the notary is the civil registry, the social services or the lawyer (in the United Kingdom).

Establishing de facto guardianship

121 The countries in which notaries are competent *to draw up a deed establishing de facto guardianship (in respect of a minor, a vulnerable adult...)* are:

- Albania
- Andorra
- Armenia
- Croatia
- Spain
- Hungary

122 In other words, in **17.6% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Croatia and Spain, that is, **66.6% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Armenia and Hungary, that is, **33.3% of the countries with notarial competence.**

123 Consequently, this competence can be removed from the court system and assigned to the notary, who may exercise it on an exclusive or shared basis.

Establishing possession of status

124 The only countries where notaries are authorised to establish possession of status are Spain and France, which represents 5.9% of the European countries that responded to the survey. Neither of these countries gives notaries exclusive competence.

125 In these two countries — Spain and France — notaries therefore share the competence.

126 It should be noted that 38.2% of the European countries that responded to the survey do not recognise possession of status. Where this concept exists, possession of status may be established by a notary or by

a judge.

Setting or changing maintenance

127 The countries where notaries are competent to establish, set and review maintenance are:

- Belgium
- Lithuania

128 This represents 5.9% of the European countries that responded to the survey. Neither of these countries gives notaries exclusive competence.

129 In Belgium and Lithuania, notaries therefore exercise shared competence.

130 Where competence is shared, the notary shares it with the judge or the court.

Decision on the administration of community property where one of the spouses lacks capacity

131 No country recognises notaries as competent to take a decision on the administration of community property where a spouse is unable to express his or her will.

SUCCESSIONS

Settlement of successions

132 The countries in which notaries are, in general, competent for the settlement of successions are:

- Andorra
- Armenia
- Austria
- Croatia
- Spain
- Estonia
- France
- Hungary
- Italy
- Latvia
- Lithuania
- Luxembourg
- North Macedonia
- Malta
- Montenegro
- Poland
- Portugal
- Romania
- Serbia
- Slovakia
- Switzerland
- Ukraine

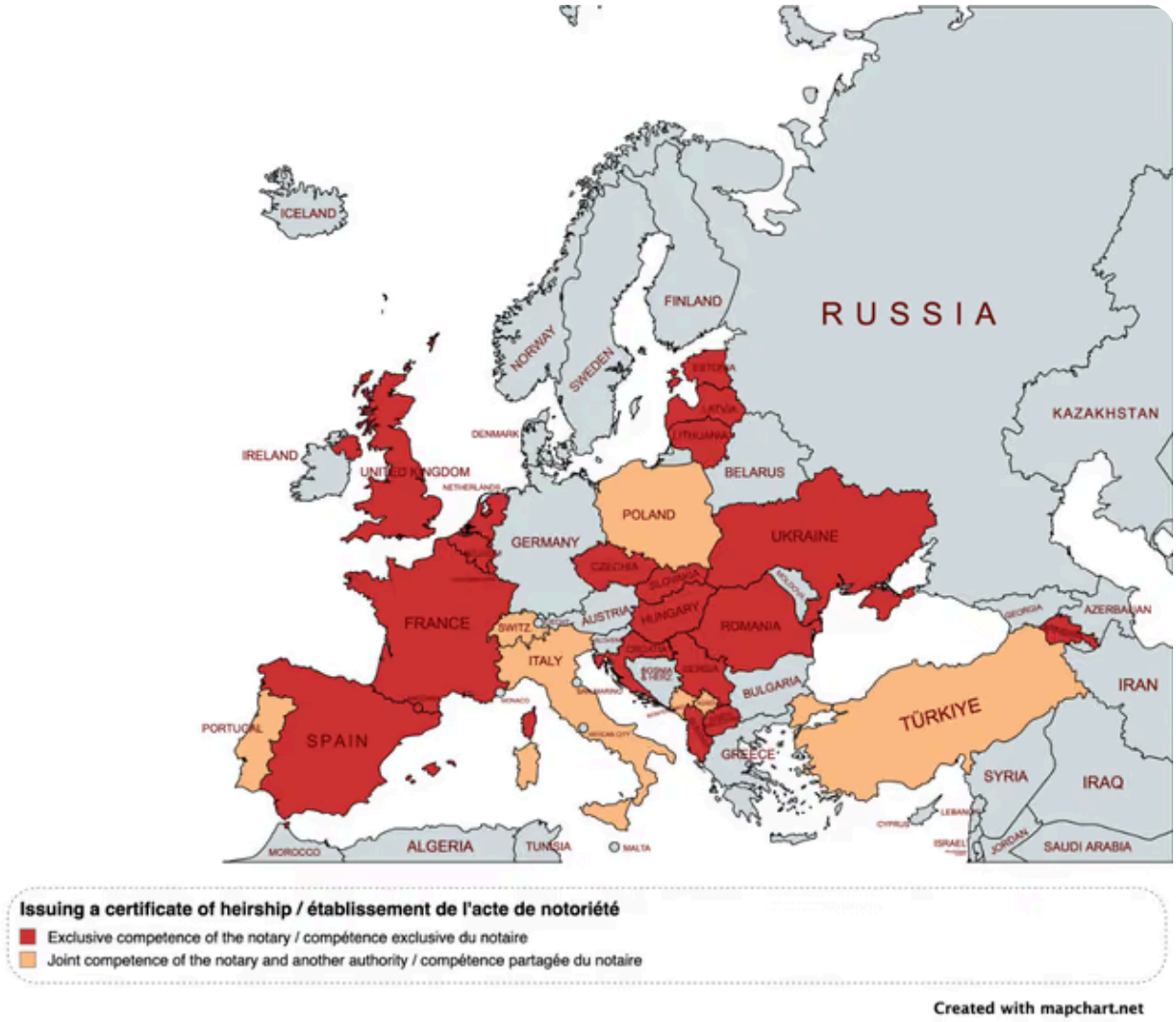
133 In other words, in **67% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Andorra, Armenia, Croatia, France, Hungary, Lithuania, Luxembourg, North Macedonia, Malta [12] , Montenegro, Romania, Serbia, Slovakia, Spain and Ukraine, that is, **73% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Austria, Italy, Latvia, Switzerland, Poland and Portugal, that is, **27% of the countries with notarial competence.**

134 Most of this competence has been “dejudicialised”

135 Where the notary has been given shared competence, the other authority with which the notary shares that competence is usually the judge or the civil registrar.

Certificate of heirship / Deed of notoriety



136 Issuing a certificate of inheritance

- Exclusive competence of the notary
- Joint competence of the notary and another authority/shared competence of the notary

137 The countries in which notaries are competent to issue a certificate of heirship or a deed of notoriety are:

- Albania
- Andorra
- Armenia
- Belgium
- Croatia
- Spain
- Estonia
- France
- Hungary
- Italy
- Kosovo
- Latvia
- Lithuania
- The United Kingdom (London)
- Luxembourg
- North Macedonia
- Montenegro
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Slovakia
- Switzerland
- Turkey
- Ukraine

138 In other words, in **79.4% of the European countries that responded to our survey.** This includes:

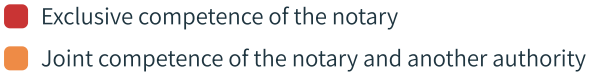
- The countries in which notaries have **exclusive competence**: Albania, Andorra, Armenia, Belgium, Croatia, the Czech Republic, Estonia, France, Hungary, Latvia, Lithuania, Luxembourg, the Netherlands, North Macedonia, Romania, Serbia, Slovakia, Spain, Ukraine and the United Kingdom (London), that is, **74.1% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Italy, Kosovo, Montenegro, Poland, Portugal, Switzerland (Vaud) and Turkey, that is, **25.9% of the countries with notarial competence.**

139 Very often this competence is dejudicialised and assigned to the notary.

Sometimes the notary shares this competence with a judge, a court or a civil registrar.

European Certificate of Succession (ECS)

140 Issuing European Certificates of Succession - European Certificate of Succession



141 The countries in which notaries are authorised to issue the European Certificate of Succession are:

- Austria
- Belgium
- Croatia
- Spain
- Estonia
- France
- Hungary
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Montenegro
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Romania
- Slovakia

142 In other words, in **76% of the European countries that responded to the survey and are familiar with the ECS.** This includes:

- The countries in which notaries have **exclusive competence**: Austria, Belgium, Croatia, Estonia, France, Hungary, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Romania and Slovakia, that is, **68.4% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Spain, Malta, Montenegro, Poland, Portugal and the Czech Republic, that is, **31.6% of the countries with notarial competence.**

143 This competence is usually “dejudicialised” in favour of the notariat.

144 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge, the court or the civil registrar.

Inventory

145 The countries in which notaries are competent to draw up an inventory of assets are:

- Albania
- Germany
- Andorra
- Armenia
- Austria
- Belgium
- Croatia
- Spain
- France
- Greece
- Hungary
- Italy
- The United Kingdom (London)
- Luxembourg
- North Macedonia
- Malta
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Slovakia
- Switzerland

146 In other words, in **72% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Germany, Armenia, Austria, Belgium, the Czech Republic, France, Greece, Hungary, Luxembourg, the Netherlands, Romania, Serbia and Slovakia, that is, **55% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, Croatia, Spain, Italy, Hungary, the United Kingdom (London), North Macedonia, Malta, Switzerland, Poland and Portugal, that is, **45% of the countries with notarial competence.**

147 This competence is usually "dejudicialised"; it is therefore capable of dejudicialisation.

148 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge, the court, the court clerk, the *solicitor*(London) or the bailiff. In Malta, for example, the notary is competent, but only with the prior authorisation of the judge.

Opening and registration of holographic wills

149 The countries in which notaries are competent for the procedure of opening and registering a holographic will are:

- Albania
- Germany
- Andorra
- Austria
- Belgium
- Croatia
- Spain
- Estonia
- France
- Hungary
- Italy
- Kosovo
- Latvia
- Lithuania
- The United Kingdom (London)
- Montenegro
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Slovakia
- Switzerland
- Ukraine

150 In other words, in **75% of the European countries that responded to our survey and recognise holographic wills.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Austria, Belgium, the Czech Republic, Estonia, France, Germany, Hungary, Italy, Latvia, the Netherlands, Portugal, Romania, Serbia, Slovakia, Spain and Ukraine, that is, **72% of the countries with notarial competence.**

- The countries in which notaries have **shared competence**: Croatia, Kosovo, Lithuania, the United Kingdom (London), Montenegro, Switzerland and Poland, that is, **28% of the countries with notarial competence.**

151 This competence is often "dejudicialised" in favour of the notary.

152 Where the notary has been given shared competence, the other authority with which the notary shares that competence is usually the court.

Opening and registration of mystic (secret) wills

153 The countries in which notaries are competent for the procedure of opening and registering secret wills are:

- Albania
- Germany
- Andorra
- Armenia
- Austria
- Belgium
- Bulgaria
- Croatia
- Spain
- Estonia
- France
- Hungary
- Italy
- Kosovo
- Latvia
- Lithuania
- The United Kingdom (London)
- North Macedonia
- Montenegro
- The Netherlands
- Portugal
- The Czech Republic
- Romania
- Serbia
- Ukraine

154 In other words, **75% of the European countries that responded to our survey and recognise mystic wills.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Armenia, Austria, (Belgium), Bulgaria, the Czech Republic, Estonia, France, Germany, Hungary, Italy, Latvia, Lithuania, Portugal, Romania, Serbia, Spain and Ukraine, that is, **76% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Croatia, Kosovo, the United Kingdom (London), North Macedonia, Montenegro and the Netherlands, that is, **24% of the countries with notarial competence.**

155 This competence is usually "dejudicialised" in favour of the notary.

156 Where this competence is removed from the court system, the authority that shares its competence with the notary is, as the case may be, the court, the *solicitor* (United Kingdom) or the judge. In the Netherlands, competence is shared between the notary and the judge, in that the notary registers the mystic will, but it is the judge who opens it.

Opening and registration of international wills

157 The countries in which notaries are competent to open and register international wills are:

- Albania
- Germany
- Andorra

- Austria
- Belgium
- Bulgaria
- Croatia
- Estonia
- France
- Hungary
- Italy
- Kosovo
- Latvia
- Lithuania
- The United Kingdom (London)
- Montenegro
- Portugal
- The Czech Republic
- Romania
- Slovakia
- Switzerland

158 In other words, **64% of the European countries surveyed recognise international wills.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Austria, Belgium, Bulgaria, the Czech Republic, Estonia, France, Germany, Hungary, Italy, Latvia, Portugal, Romania and Slovakia, that is, **71% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Croatia, Kosovo, Lithuania, the United Kingdom (London), Switzerland and Montenegro, that is, **29% of the countries with notarial competence.**

159 This competence is usually "dejudicialised" in favour of the notary.

160 Where the notary has been given shared competence, the other authority with which the notary shares that competence is usually the court.

Opening and registration of authentic/public wills

161 The countries in which notaries are competent to open and register authentic/public wills are:

- Albania
- Germany
- Andorra
- Armenia
- Austria
- Belgium
- Bulgaria
- Croatia
- Spain
- Estonia
- France
- Hungary
- Italy
- Kosovo
- Latvia
- Lithuania
- The United Kingdom (London)
- Luxembourg
- North Macedonia
- Malta
- Montenegro
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Slovakia
- Switzerland
- Ukraine

162 In other words, in **90% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Armenia, Austria, Belgium, Bulgaria, the Czech Republic, Estonia, France, Germany, Hungary, Italy, Kosovo, Latvia, Lithuania, Luxembourg, North Macedonia, Malta, the Netherlands, Portugal, Romania, Serbia, Slovakia, Spain and Ukraine, that is, **84% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Croatia, the United Kingdom (London), Montenegro, Switzerland and Poland, that is, **16% of the countries with notarial competence.**

163 This competence is usually “dejudicialised” in favour of the notary.

164 Where the notary has been given shared competence, the other authority with which the notary shares that competence is usually the court or the judge.

Opening and registration of oral wills

165 The countries in which notaries are competent to open and register oral wills are:

- Austria
- Hungary
- The Czech Republic
- Spain
- The United Kingdom (London)

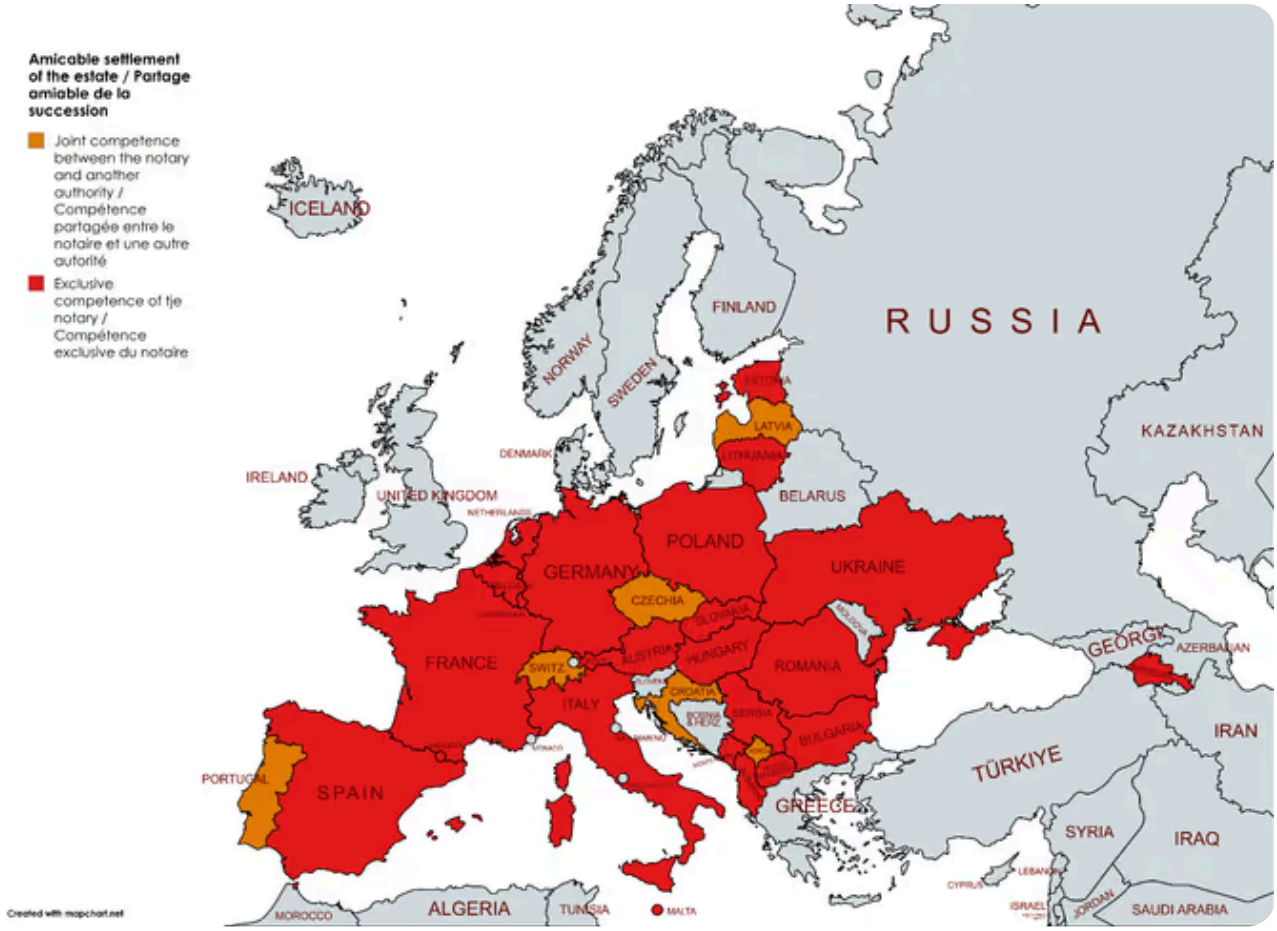
166 That is, in **31% of the European countries that responded to our survey and recognise oral wills.** Only **47.1% of the European countries surveyed are familiar with oral wills.** This includes:

- The countries in which notaries have **exclusive competence**: Spain, Hungary and the Czech Republic, that is, **60% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Austria and the United Kingdom (London), that is, **40% of the countries with notarial competence.**

167 This competence is rarely removed from the jurisdiction of the courts. It can, however, be taken out of the court system, since some countries have entrusted the notary with shared competence, or even exclusive competence.

168 Where the notary has been given shared competence, the other authority that shares that competence is the judge and the. In Austria, competence is shared between the judge and the notary, since the notary opens the oral will, but the judge decides on its validity.

Amicable settlement of the succession



169 Amicable division of the inheritance

- Joint competence of the notary and another authority
- Exclusive competence of the notary

170 The countries in which notaries are competent to settle amicably the division of the estate are:

- Albania
- Germany
- Andorra
- Armenia
- Austria
- Belgium
- Bulgaria
- Croatia
- Spain
- Estonia
- France
- Hungary
- Italy
- Kosovo
- Latvia
- Lithuania
- Luxembourg
- North Macedonia
- Malta
- Montenegro
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Slovakia
- Switzerland
- Ukraine

171 In other words, in **88% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence** (in some cases, only as regards immovable property): Albania, Andorra, Armenia, Austria, Belgium, Bulgaria, Estonia, France, Germany, Hungary, Italy, Lithuania, Luxembourg, North Macedonia, Malta, Montenegro, the

Netherlands, Poland, Romania, Serbia, Slovakia, Spain and Ukraine, that is, **80% of the countries with notarial competence.**

- The countries in which notaries have **shared or optional competence**: Croatia, Kosovo, Latvia, Portugal, Switzerland and the Czech Republic, that is, **20% of the countries with notarial competence.**

172 In many cases this competence is “dejudicialised” in favour of the notary

173 Where the notary has been given shared competence, the other authority that shares that competence with the notary is the court, the judge, the lawyer or the civil registrar.

Liquidation and division operations in the context of judicial division



174 Liquidation and division operations in the context of a judicial division

- Joint competence of the notary and another authority
- Exclusive competence of the notary

175 The countries in which notaries are competent to carry out liquidation and division operations as part of the judicial division of a succession are:

- Austria
- Belgium
- Spain
- France
- Italy
- Luxembourg
- The Netherlands
- Poland
- Portugal
- Slovakia
- Switzerland

176 In other words, in **33% of the European countries that responded to our survey.** This includes:

- The only country in which notaries have **exclusive competence**: Poland, that is, **9% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Austria, Belgium, Spain, France, Italy, Luxembourg, the Netherlands, Portugal, Switzerland and Slovakia, that is, **91% of the countries with notarial competence.**

177 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge, the court clerk and sometimes the lawyer. In Portugal, competence is shared between the judge and the notary, since the judge must approve the division of the assets and the liquidation is carried out by the notary.

Formal demand to exercise the succession option

178 The countries in which notaries are competent to require the heir to accept or renounce a succession are:

- Albania
- Austria
- Croatia
- Spain
- Estonia
- France
- Hungary
- Kosovo
- Latvia
- The United Kingdom (London)
- North Macedonia
- Malta
- Montenegro
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Slovakia
- Ukraine

179 In other words, in **58.8% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Austria, the Czech Republic, Estonia, France, Hungary, Kosovo, Latvia, North Macedonia, Montenegro, Romania, Serbia, Slovakia, Spain and Ukraine, that is, **75% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Croatia, the United Kingdom (London), Poland, Malta and Portugal, that is, **25% of the countries with notarial competence.**

180 Most of this competence has been “dejudicialised” in favour of notaries.

Declaration of acceptance with the benefit of inventory

181 The countries in which notaries are competent to receive a declaration of acceptance with the benefit of inventory (up to the net value of the assets) are:

- Albania
- Andorra
- Armenia
- Austria
- Belgium
- Spain
- Estonia
- France
- Hungary
- Italy
- Latvia
- Lithuania
- The United Kingdom (London)
- North Macedonia
- Montenegro
- Poland
- The Czech Republic
- Serbia

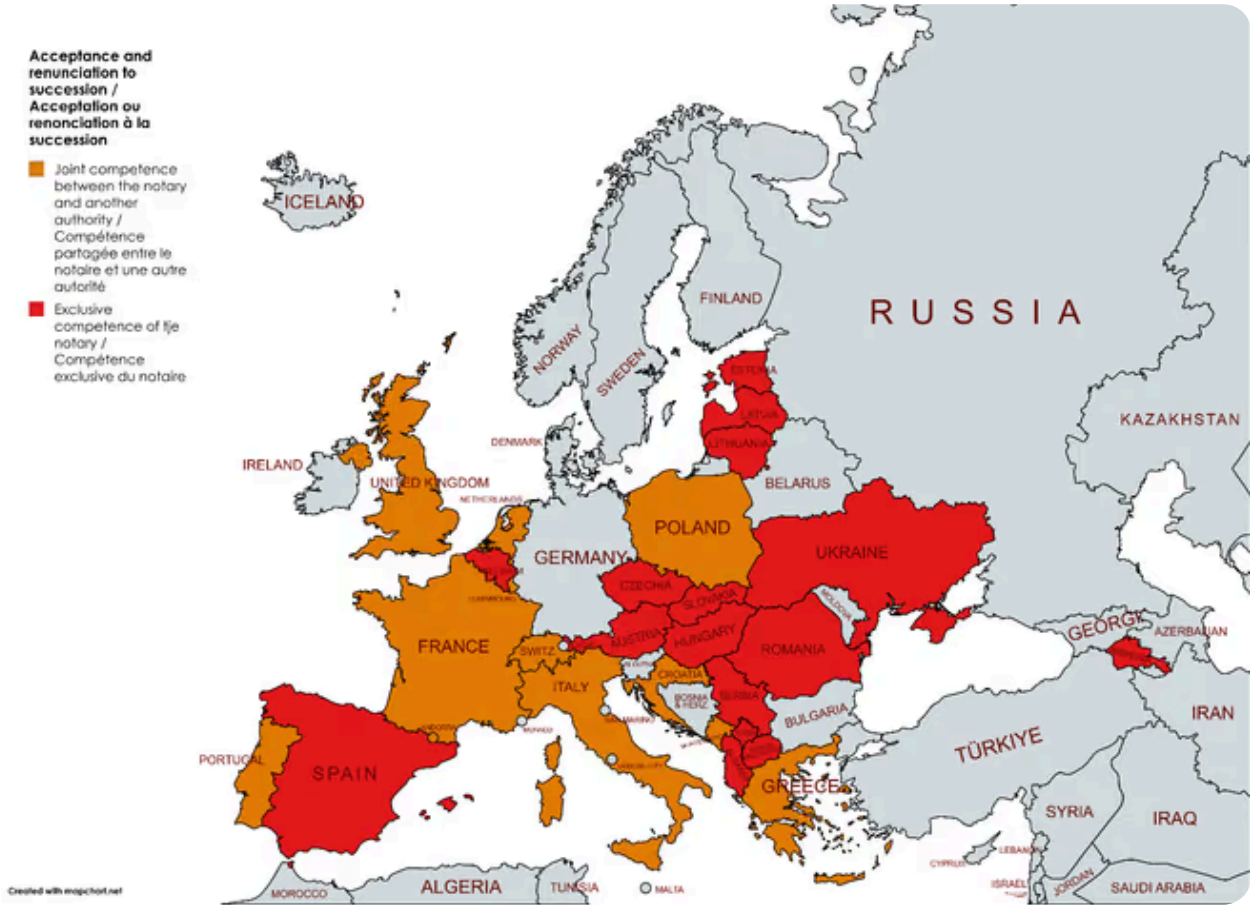
- Slovakia

182 In other words, in **55.9% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Armenia, Austria, Belgium, the Czech Republic, Estonia, France, Hungary, Latvia, Lithuania, North Macedonia, Serbia, Slovakia and Spain, that is, **78.9% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Italy, the United Kingdom (London), Montenegro and Poland, that is, **21.1% of the countries with notarial competence.**

183 Most of this competence has been "dejudicialised" in favour of notaries.

Formalising acceptance or renunciation of the succession



184 Acceptance and renunciation of the succession

- Joint competence of the notary and another authority
- Exclusive competence of the notary

185 The countries in which notaries are competent to receive a declaration of acceptance or renunciation of the succession are:

- Albania
- Andorra
- Armenia
- Austria
- Belgium
- Croatia
- Spain
- Estonia
- France

- Greece
- Italy
- Hungary
- Kosovo
- Latvia
- Lithuania
- The United Kingdom (London)
- North Macedonia
- Malta
- Montenegro
- The Netherlands
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Slovakia
- Switzerland
- Ukraine

186 In other words, in **85% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Armenia, Austria, Belgium, the Czech Republic, Estonia, Hungary, Kosovo, Latvia, Lithuania, North Macedonia, Romania, Serbia, Slovakia, Spain and Ukraine, that is, **57% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, Croatia, Greece, Italy, the United Kingdom (London), France, Malta, Montenegro, the Netherlands, Switzerland, Poland and Portugal, that is, **43% of the countries with notarial competence.**

187 This competence is often dejudicialised in favour of notaries.

188 Where the competence is dejudicialised, the authority that shares that competence with the notary is, as the case may be, the judge, the court, the civil registrar or the solicitor (United Kingdom). In Greece [13] and the Netherlands, competence is shared, since the notary is competent in the event of acceptance, but the judge or the court is competent in the event of renunciation.

Formalising acceptance or renunciation of the office of executor

189 The countries in which notaries are competent to receive the acceptance or renunciation of the office of executor are:

- Albania
- Andorra
- Armenia
- Austria
- Belgium
- Croatia
- Spain
- Estonia
- France
- Hungary
- Portugal
- The United Kingdom (London)
- The Netherlands
- The Czech Republic
- Romania
- Serbia
- Slovakia
- Ukraine

190 In other words, in **55% of the European countries surveyed.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Armenia, Belgium, the Czech Republic, Estonia, France, Hungary, the Netherlands, Romania, Serbia, Slovakia and Ukraine, that is, **72% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Austria, Croatia, Spain and the United Kingdom (London), that is, **28% of the countries with notarial competence.**

191 In half of the European countries that responded to the survey, this competence has been separated from the court system.

192 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the court, the court clerk or the lawyer (United Kingdom).

Supervision of the executor

193 The countries in which notaries are competent to supervise the performance of the executor's duties are:

- Albania
- Croatia
- France
- Hungary
- The United Kingdom (London)
- The Czech Republic
- Romania
- Slovakia

194 In other words, in **23.5% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, the Czech Republic, France, Hungary, Romania and Slovakia, that is, **75% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Croatia and the United Kingdom (London), that is, **25% of the countries with notarial competence.**

Revocation of the appointment of the executor

195 The countries in which notaries are competent to revoke the appointment of the executor are:

- Albania
- Croatia
- Hungary
- The Czech Republic
- Romania
- Slovakia
- Ukraine

196 In other words, in **20.6% of the European countries that responded to our survey.** This includes:

- The only countries in which notaries have **exclusive competence:** Albania, Hungary, the Czech Republic, Romania, Slovakia and Ukraine, that is, **85.7% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Croatia, that is, **14.3% of the countries with notarial competence.**

Opening of a vacant succession

197 The countries in which notaries are competent to open a vacant succession (an estate with no known heirs) are:

- Albania
- Andorra
- Austria
- Belgium
- Croatia
- Spain
- Estonia
- Latvia
- Lithuania
- North Macedonia
- Montenegro
- Romania
- Serbia

198 In other words, in **38.2% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Austria, Estonia, Latvia, Lithuania, North Macedonia, Romania, Serbia and Spain, that is, **76.9% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Belgium, Croatia and Montenegro, that is, **23.1% of the countries with notarial competence.**

199 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the court.

Authorisation of acceptance or renunciation where authorisation is required

200 The countries in which notaries are competent to authorise the acceptance or renunciation of a succession where such authorisation is necessary are:

- Albania
- Andorra
- Kosovo
- Latvia
- Romania
- Serbia
- Slovakia
- Turkey
- France (for an adult under guardianship if the assets clearly exceed the liabilities)

201 In other words, in **26.5% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Romania, Serbia, Slovakia and Turkey, that is, **55.6% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, France, Kosovo and Latvia, that is, **44.4% of the countries with notarial competence.**

PROPERTY LAW

Boundary demarcation of properties

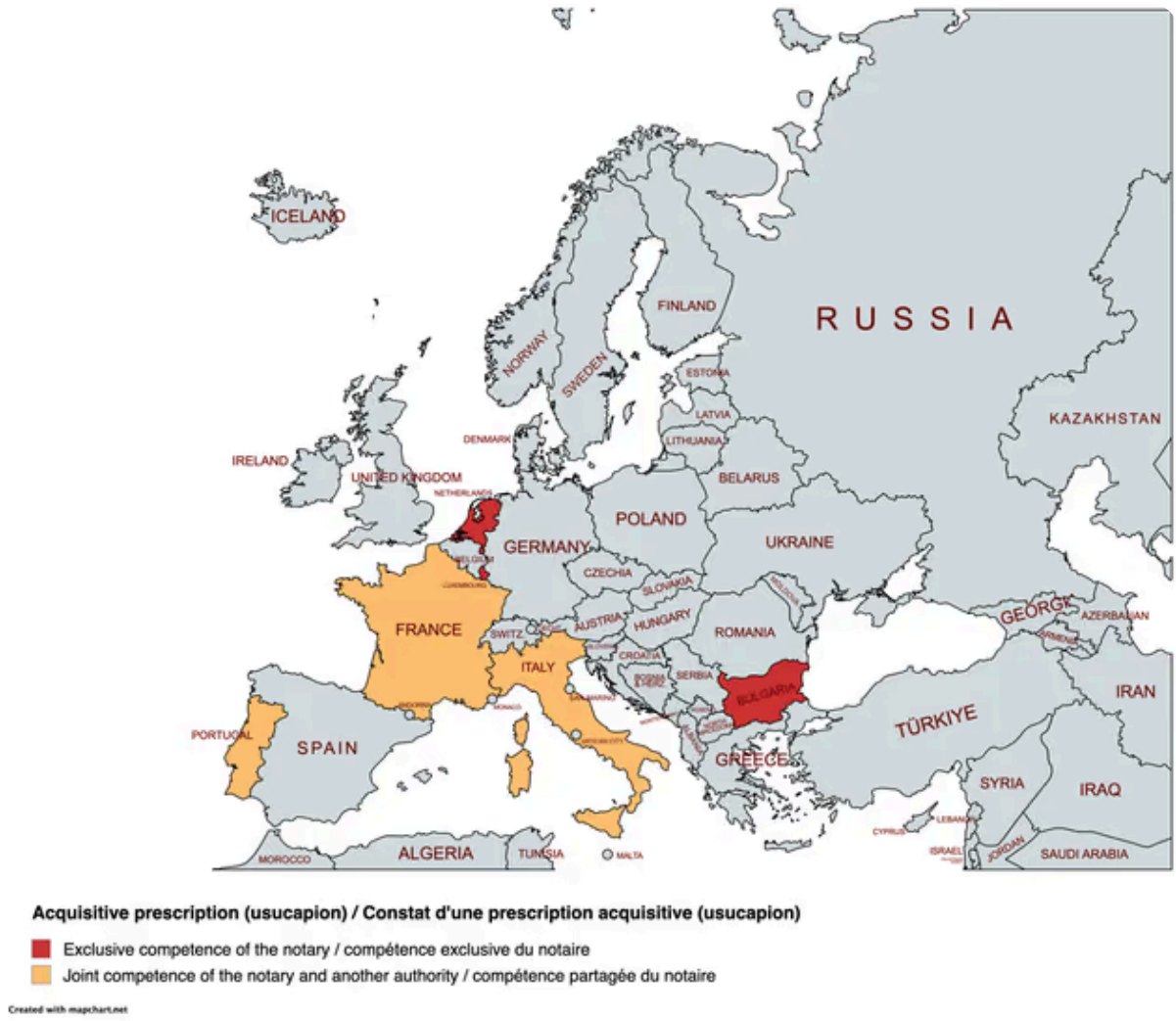
202 The countries in which notaries are competent for the demarcation of property boundaries are:

- Albania
- Andorra
- Armenia
- Greece
- The Netherlands
- Italy

203 In other words, in **18% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Albania, Andorra, Greece and the Netherlands, that is, **66% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Armenia and Italy, that is, **34% of the countries with notarial competence.**

Establishing acquisitive prescription (usucaption)



204 Acquisitive prescription (usucaption)

- Exclusive competence of the notary
- Joint competence of the notary and another authority/shared competence of the notary

205 The countries in which notaries are competent to establish acquisitive prescription are:

- Bulgaria
- Italy
- Luxembourg
- The Netherlands
- Portugal
- France

206 In other words, in **18% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Bulgaria, Luxembourg and the Netherlands, that is, **33.33% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Italy, France and Portugal, that is, **66.66% of the countries with notarial competence.**

Supervision of land registers

207 The only country in which notaries are competent to keep the land registers is Andorra. In other words, in **2.9% of the European countries that responded to our survey.** This is an exclusive competence.

Supervision of the registers of motor vehicles, ships, boats and aircraft

208 The countries in which notaries are competent to supervise the registers of motor vehicles, ships, boats and aircraft are:

- Slovakia
- Turkey

209 That is, in **5.9% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence** are Slovakia and Turkey (as regards motor vehicles)

210 *In Turkey, the Motor Vehicle Register for land vehicles is kept by the Union of Turkish Notaries. For this reason, all types of transactions relating to motor vehicles are carried out exclusively by notaries.*

211 *In the case of maritime vehicles and aircraft, the registers are kept separately by the State. Transactions relating to these vehicles are carried out by notaries, but competence is shared with those registers (depending on whether it is an aircraft or a maritime vehicle).*

COMMERCIAL LAW

Supervision of commercial account books.

212 No country has given the notary the competence to supervise commercial account books.

Supervision of commercial registers

213 No country has given the notary the competence to supervise commercial registers.

Issuing orders for payment



214 Issuing orders for payment (order for payment procedures)

- Exclusive competence of the notary
- Shared competence of the notary and another authority

215 The countries in which notaries are authorised to issue orders for payment (order for payment procedures) are:

- Austria
- Croatia
- Spain
- Hungary
- Latvia
- North Macedonia

216 In other words, in **17.6% of the European countries that responded to our survey.** This includes:

- Hungary, where notaries have **exclusive competence.**
- The countries in which notaries have **shared competence**: Austria, Croatia, Spain, Hungary, Latvia and North Macedonia.

Non-contentious procedures in commercial law

217 The countries in which notaries are, in general, competent for non-contentious procedures in commercial law (presentation of accounts; appointment and removal of liquidators; audit; mediation, etc.) are:

- Andorra
- Armenia
- Belgium
- Spain
- Serbia

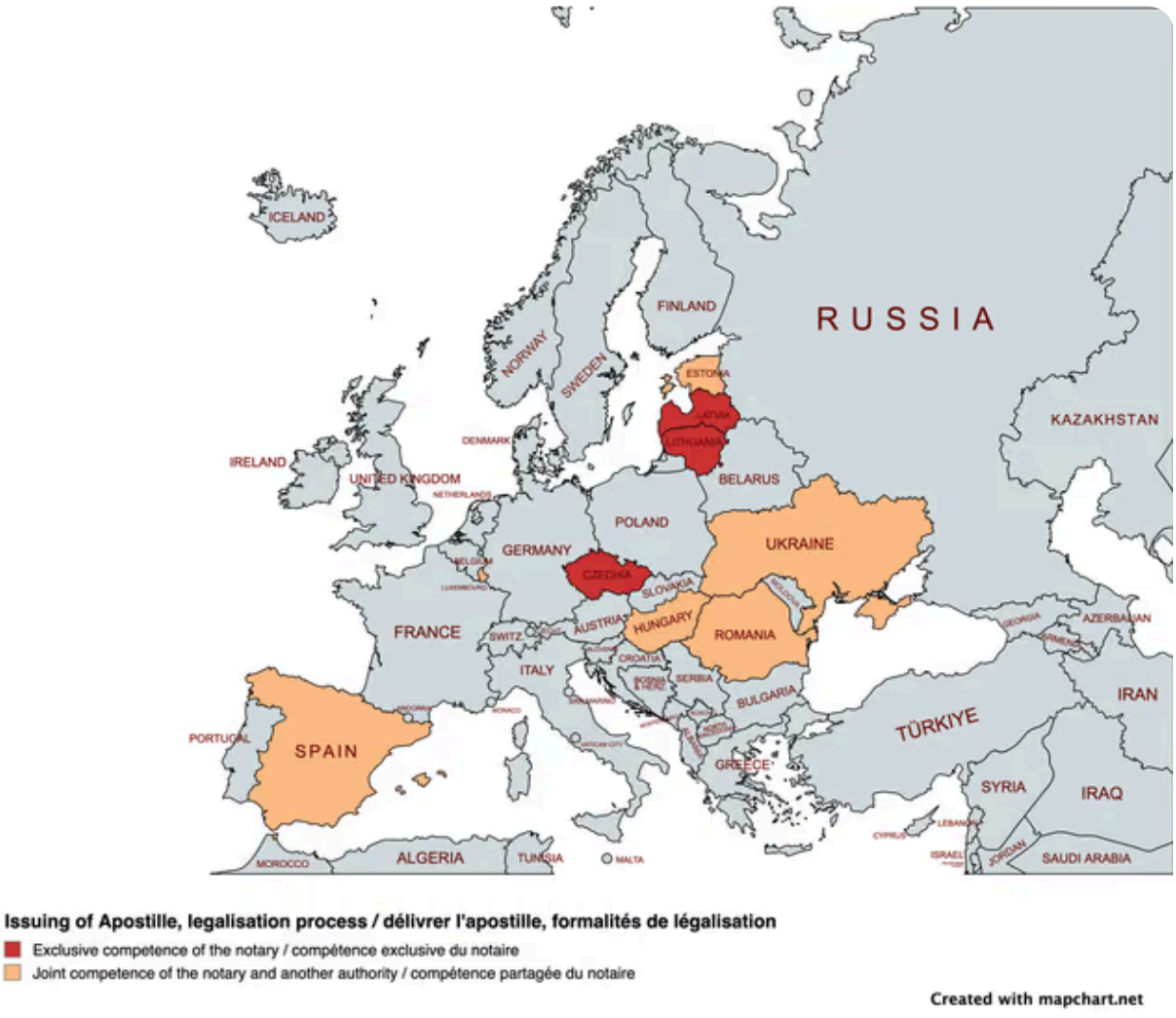
218 In other words, in **14.7% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Andorra and Spain, that is, **40% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Armenia, Belgium and Serbia, that is, **60% of the countries with notarial competence.**

219 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge, the court or the mediator.

OTHER

Legalisation / Apostille



220 Issuing the apostille, legalisation process

Exclusive competence of the notary

Joint competence of the notary and another authority

221 The countries in which notaries are competent to issue the apostille or carry out legalisation formalities are:

- Spain
- Estonia
- Hungary
- Latvia
- Lithuania
- Luxembourg
- The Czech Republic
- Romania
- Ukraine
- France

222 In other words, in **30% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Hungary, Latvia, Lithuania, France and the Czech Republic, that is, **50% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Estonia, Luxembourg, Romania, Spain and Ukraine, that is, **50% of the countries with notarial competence.**

223 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the Ministry of Justice, the Ministry of Foreign Affairs, the prefecture or the court registry.

224 Some details on the States in which notaries have **shared competence:**

- Estonia: legalisation by the Ministry of Foreign Affairs and apostille by the notary public
- Romania: the notary for notarial acts and the prefecture for civil status records
- Ukraine: the notary submits the documents to the Ministry of Justice
- Hungary: the apostille is issued by the Hungarian Chamber of Civil Law Notaries (the apostille for judicial documents is issued by the Ministry of Justice, and the apostille for documents of the tax administration is issued by the Ministry of Foreign Affairs)

Conciliation



225 Conciliation procedure

Joint competence of the notary and another authority/shared competence of the notary

226 The countries in which notaries are competent in matters of conciliation are:

- Belgium
- Spain
- Latvia
- Hungary

227 In other words, in **12% of the European countries that responded to our survey.** This includes:

- no country in which notaries have **exclusive competence**.
- countries in which notaries have **shared competence**: Belgium, Spain, Hungary and Latvia.

228 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the parties themselves, the lawyer, the court clerk, the “justice of the peace” (Spain) and the certified mediator.

Mediation procedures



229 Mediation procedures

- Exclusive competence of the notary
- Joint competence of the notary

230 The countries in which notaries are competent for mediation procedures are:

- Austria
- Belgium
- Greece
- Spain
- Italy
- Hungary
- Lithuania
- The Netherlands
- France

231 In other words, in **27% of the European countries that responded to our survey.** This includes:

- The only country in which notaries have **exclusive competence**: Austria.
- The countries in which notaries have **shared competence** are: Spain, Belgium [14] , Italy, Hungary, Greece [15] , Lithuania, France and the Netherlands, that is, **89% of the countries with notarial competence in mediation procedures.**

232 Although this competence is dejudicialised, the competent authorities are: the notary, the mediator, the judge or the lawyer. In Spain, mediation is free, but the agreement must be formalised in a notarial act in order to be enforceable.

Judicial auctions

233 The countries in which notaries are competent in matters of judicial auctions are:

- Austria
- Belgium
- Croatia
- Spain
- Greece
- Italy
- Luxembourg
- The Netherlands
- Slovakia

234 In other words, in **26% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Belgium, Greece and Slovakia, that is, **33% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Austria, Croatia, Spain, Italy, Luxembourg and the Netherlands, that is, **67% of the countries with notarial competence.**

235 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the court, the court clerk or the bailiff. In Luxembourg and the Netherlands, competence is shared between the notary and the bailiff, since the notary is competent for immovable property and the bailiff for movable property.

Enforcement of enforceable court decisions

236 There is no country in which notaries are competent to enforce enforceable court decisions.

237 However, in **Hungary,** if the decision or the deed — containing an enforceable order or undertaking — was issued by the notary, the notary is competent to issue the enforceable title.

Testimony, documentary evidence and taking of oaths



238 Taking of testimony, written evidence and sworn statements.

- Exclusive competence of the notary
- Shared competence of the notary

239 The countries in which notaries are authorised to take testimony, written evidence and sworn statements are:

- Andorra
- Armenia
- Belgium
- Croatia
- Spain
- Greece
- Kosovo
- Latvia
- Lithuania
- Luxembourg
- Malta
- Montenegro
- The Netherlands
- Romania
- Serbia
- Switzerland

240 In other words, in **48% of the European countries that responded to our survey.** This includes:

- The countries in which notaries have **exclusive competence**: Montenegro, that is, **6% of the countries with notarial competence.**
- The countries in which notaries have **shared competence**: Andorra, Armenia, Belgium, Croatia, Greece, Kosovo, Latvia, Lithuania, Luxembourg, Malta, Romania, Serbia, Switzerland and Spain, that is, **94% of the countries with notarial competence.**

241 Where the notary has been given shared competence, the other authority with which the notary shares that competence is the judge and the court.

Notary as "expert" appointed by the court?

242 **In 48% of the European countries surveyed,** the notary may be appointed as a court expert: Andorra, Belgium, Spain, France, Greece. Hungary, Italy, Kosovo, Latvia, Lithuania, Luxembourg, Malta, Montenegro, the Netherlands, Switzerland and Turkey.

Fees / Fee scale

243 Regulated fee scale:

244 The countries in which notarial fees are proportional are:

- Albania

245 In other words, in **3% of the European countries surveyed, notarial fees are proportional.**

246 The countries with fixed notarial fees are:

- Armenia
- Austria
- Croatia
- Kosovo
- Montenegro
- Slovakia
- Slovenia
- Ukraine (only for public notaries)

247 In other words, in **23.5% of the European countries surveyed, notarial fees are fixed.**

248 The countries in which notarial fees are fixed and proportional are:

- Germany
- Andorra
- Belgium
- Spain
- Estonia
- France
- Greece
- Hungary
- Latvia
- Lithuania
- Luxembourg
- Malta
- North Macedonia
- Poland
- Portugal
- The Czech Republic
- Romania
- Serbia
- Switzerland
- Turkey

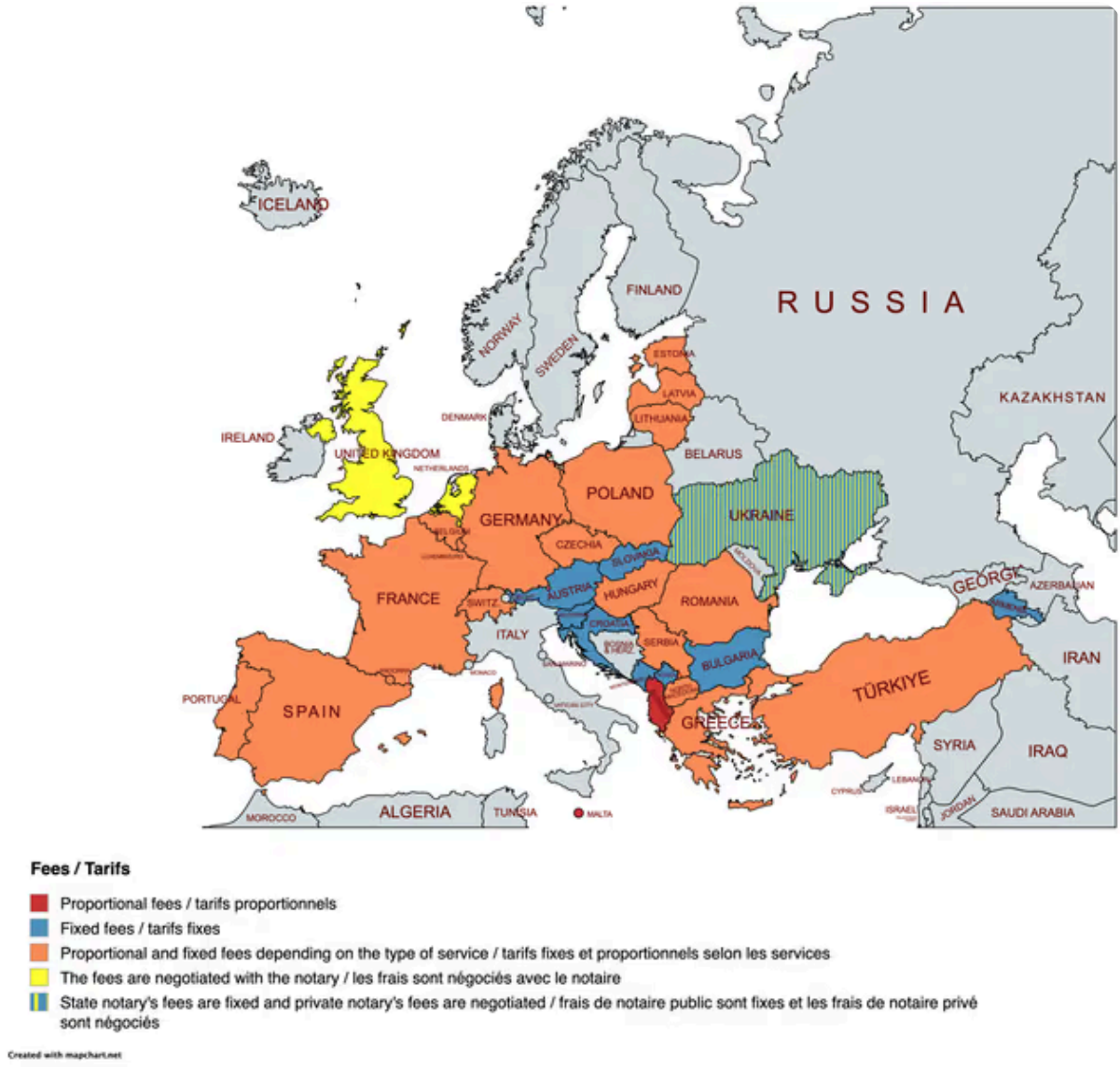
249 In **62.5% of the European countries surveyed, notarial fees are fixed and proportional.**

250 No fee scale:

251 The countries in which notarial fees are freely negotiated are:

- The United Kingdom (London)
- The Netherlands (fees negotiated with maximum limits set for workers on the minimum wage)
- Ukraine (only for private notaries)
- Italy

252 In other words, in **11% of the European countries surveyed, notarial fees are freely negotiated**



253 Fees

- Proportional fees
- Fixed fees/fixed tariffs
- Proportional and fixed fees depending on the type of service
- Fees are negotiated with the notary.
- The fees of State notaries are fixed, while those of private notaries are negotiable.

Other non-contentious legal acts. Observations of the notariats consulted

254 Germany: “It seems to me that German legislation imposes fewer judicial or State procedures than other legal systems. This is particularly striking in the field of succession law”.

255 Croatia: the parents of minors are their legal guardians. In the case of a major transaction affecting the property of a minor (real estate, a large sum of money, works of art, etc.), the transaction must be formalised by notarial deed.

256 Spain: deposit with a notary of notarial securities or commercial paper and their sale. Adoption of measures in the event of theft, loss or destruction of securities. Tender of payment and deposit. Notarial

files relating to the land registers: for the registration of real property; for the recovery of title deeds; for the verification of excess surface area; for the coordination and rectification of the property cadastre, etc.

257 Hungary: there are around 20 non-contentious procedures.

258 Lithuania: authorisation of deeds relating to the property relations of minors or to the family home, where the family has minor children.

259 The Netherlands: forced sale of immovable property, acknowledgment of debt, deed of procedural agreement.

260 Turkey: certificate of inheritance, handing over the key of a property to a tenant, notice to the spouse who leaves the family home [16] .

Conclusion of the study

261 After analysing the 33 replies to the 64 questions put to the member notariats of the Commission for European Affairs, it is time to take stock.

262 First of all, the diversity of the competences assigned to notaries by the public authorities should be highlighted, which shows the great adaptability of the notarial profession.

263 Their special status as legal professionals and public officials allows the State to assign new tasks to notaries in response to the expectations of citizens and to changes in public policy.

264 These functions are extremely varied, since the legal training of notaries allows them to act in almost all areas of private law: family law, the law of persons, succession law, matrimonial property regimes, property law, contract law, company law, etc.

265 These functions naturally include the so-called “traditional” areas of notarial competence (1), where competence no longer needs to be demonstrated; the emerging notarial competences (2), closely linked to the trend towards dejudicialisation and to the need to relieve the courts of non-judicial tasks for which judges are not the only legitimate authority; and, lastly, the notarial competences “in the making” (3), which are not yet very widespread in Europe, but which meet a real need of society and are therefore destined to grow.

Traditional notarial competences

266 In these matters, notaries are the competent authority by nature and, often, the only one.

- Matrimonial property regime

267 In more than 80% of the countries studied, notaries are competent to draw up marriage contracts establishing the matrimonial property regime of the future spouses and to amend them subsequently at their request, with or without the approval of a judge.

268 These countries include Albania, Andorra, Armenia, Austria, Belgium, Bulgaria, Estonia, France, Germany, Greece, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Romania, Slovenia, Turkey and Spain. In these countries, notaries have exclusive competence in this matter.

- Succession law

269 In 63% of the countries surveyed, notaries are the authority to which citizens turn to deal with a succession (Andorra, Armenia, Austria, Croatia, Estonia, France, Hungary, Italy, Latvia, Lithuania, Luxembourg, North Macedonia, Malta, Montenegro, Poland, Portugal, Romania, Serbia, Slovakia, Spain and Ukraine) [17] . In almost 80% of European countries, notaries issue the deed of notoriety or the certificate of inheritance, as well as the European Certificate of Succession, where the State takes part in Regulation (EU) No 650/2012 on successions.

270 Similarly, European notaries usually take charge of the procedure for opening wills and of the liquidation and amicable distribution of the estate. In some countries, notaries may even be competent to carry out liquidation and distribution operations in the context of a judicial liquidation (Austria, Belgium, Spain, France, Italy, Luxembourg, the Netherlands, Poland, Portugal and Slovakia). In this case, the notary acts as an assistant to the judge and relieves the judge of what are usually long and complex operations. Beyond succession, these liquidation and division operations may also be carried out by the notary in the context of a contested divorce.

271 The exercise of succession options is also being increasingly dejudicialised in European countries. In 82% of the countries surveyed, it is not mandatory to go to court to accept or renounce the inheritance. It is possible to do so before a notary and, in 60% of those countries, the notary is even the only authority that can receive this declaration from the heir. This notarial competence sometimes extends to acceptance with the benefit of inventory (up to the value of the net estate): in 56% of the countries this can be done before a notary and, where that is the case, the competence is usually exclusive (78.9% of the countries with notarial competence in this field).

272 Lastly, it should be noted that the procedures for opening a vacant or unclaimed succession may also be assigned to notaries (38.2% of the European countries that responded to the questionnaire have this competence).

- Company law

273 Notaries take an active part in the formation and registration of companies in more than half of European countries (66%). In Germany, Italy and Spain, for example, notaries have exclusive competence to form limited liability companies and public limited companies, which underlines their essential role in the business sector.

274 In general, in Europe, where notaries are competent to form legal persons, they have exclusive competence in half of the countries.

275 Alongside these “traditional” notarial competences, new ones are emerging. Divorce law, the law on vulnerable persons and registered partnerships are areas in which dejudicialisation has advanced significantly.

Emerging notarial competences

276 The legal training of notaries and their role as family advisers have enabled them to acquire new competences in family law and the law of persons. These emerging notarial competences bear witness to the closeness of notaries to citizens and to the role they play at the important stages of their lives (marriage, divorce, situations of vulnerability…).

- Divorce by mutual consent

277 Over the last twenty years, many countries have turned to notaries to relieve judges of divorce by mutual consent proceedings. While 33% of the European notariats surveyed are, under the legislation in force, competent to draw up a deed of divorce by mutual consent, half of those that do not have this competence stated that they would like the legislature to grant it to them. The role of notaries in this field varies enormously, and not all countries give them the same function [18] . Their function may range from simply registering the divorce agreement already reached by the spouses [19] to drawing up an authentic instrument formalising the divorce, after verifying the agreement [20] . Their competence also varies depending on whether or not the divorce affects minors. The presence of minors sometimes means that divorce by mutual consent is referred back to the courts. In Spain, for example, the minor must be heard by a judge. In Romania, however, the notary is competent to assess the interests of the minor, and divorce by mutual consent where there are minors cannot be concluded before a civil registrar, but must take place before a notary or a judge.

- Protection of vulnerable persons

278 The legislation on vulnerable persons is an area particularly suited to dejudicialisation. In addition to reducing the workload of the courts, it gives vulnerable persons greater scope to manage their own affairs and to exercise their rights effectively. The international conventions (the New York Convention of 13 December 2006 on the Rights of Persons with Disabilities and the Hague Convention of 13 January 2000 on the International Protection of Adults) encourage systems of voluntary prevention and of support chosen by the person concerned. In this respect, notarial practice has developed instruments that allow adults, while they are still in full possession of their faculties, to establish in advance powers of representation, “preventive powers of attorney” [21] or “acts of self-protection or future protection mandates”, in which they designate a representative and/or organise the management of their personal and property affairs in anticipation of possible future vulnerability. In most of the countries that already use this instrument, notaries play a central role in creating it (Spain, France, Germany, Belgium, Romania, Croatia, the Netherlands, Latvia, Lithuania, etc.), and sometimes even in its application or entry into force (Andorra, Austria, Spain, the Netherlands). As a qualified, impartial and objective support authority, they are naturally chosen by the legislature or by citizens themselves to perform this new function as guardians of the fundamental rights of vulnerable persons. For example, in Spain, the Spanish legislature has designated notaries as institutional support for vulnerable persons, helping them to express their wishes and to exercise their rights [22] .

279 These foreign examples are a source of inspiration for other countries, such as Italy, which, driven by the notariat, is currently working on a reform bill that will introduce into Italian law a *“mandato di protezione per futura* incapacità” [23] . The inspiration is mutual, since many notariats are also interested in a specific competence recently acquired by the Italian notariat. This is the granting of authorisation to conclude an

act of administration or disposal on behalf of the protected person. In Italy, in order to authorise an act, such as the conclusion of a sale on behalf of a protected person or the acceptance of an inheritance, it is possible to apply either to a judge or to a notary. This is a notarial competence that is unique in Europe, since no other notariat among those studied currently performs this function.

280 Other countries have gone even further down the path of dejudicialisation. In Romania, for example, notaries have exclusive competence to initiate protective measures for vulnerable adults.

281 Lastly, it should be noted that notarial competences in the protection of vulnerable persons are not limited to property matters. In several countries, notaries are authorised to draw up advance medical directives (Andorra, Austria, Croatia, Spain, Hungary, Italy, Latvia and the Netherlands).

- **Formation of registered partnerships**

282 The other area in which the notariat is called upon to play an active role is that of registered partnerships and, more broadly still, property relations between unmarried couples [24] . The study shows that 24% of the European notariats surveyed are competent to form registered partnerships (Andorra, Spain, Estonia, France, Greece, Hungary, Malta and Latvia) and that, in more than half of these countries, notarial competence is exclusive (62%).

283 The presence of a notary when the partnership is formed, and sometimes even when it is dissolved, offers the partners security, legal predictability and legal advice on property matters; and, lastly, it provides an act that can be entered in the public registers, which makes the partnership enforceable against third parties.

Notarial competences under development

284 Some non-contentious competences are particularly well suited to the function and status of notaries, but they are not yet very widespread or exercised in Europe. The transfer of these competences would help to relieve the workload not only of the courts but also, in some cases, of the civil registry offices and of the public administration in general.

- Celebration of marriages

285 Like their American counterparts, Spanish and Andorran notaries celebrate marriages. As public officials present throughout the country thanks to a national network, notaries can easily replace civil registrars in this function. This competence also complements their more “traditional” function of drawing up marriage contracts.

- Change of civil status

286 In the field of civil status, Maltese notaries have been given a specific notarial competence to change gender (and first name) in the civil status registers. This is a notarial competence that is unique in Europe, since no other notariat among those studied currently performs this task. It could nevertheless develop in the future, since this non-contentious procedure is, in general, judicial or administrative in nature and consists in checking that the conditions for requesting a change of sex in the civil status registers are met and in making sure that the applicants have given their free and informed consent.

- **Obtaining consent for the purpose of establishing filiation**

287 Obtaining the consent of the parties and ensuring that it is given freely and in an informed manner lie at the heart of the notary's mission. That is why some European countries have given notaries the task of obtaining consent in the context of medically assisted reproduction (Andorra, Armenia, Austria, France, Greece, the United Kingdom (London), Romania and Serbia) or of adoption procedures (France, Germany, Andorra, Armenia and the United Kingdom/London). In the field of medically assisted reproduction, notaries have exclusive competence in most cases (75%), whereas, in the case of adoption, this competence is usually shared with another authority.

- Mediation

288 Often described as "officials responsible for out-of-court agreements", notaries may act as mediators in 39% of the countries surveyed. Their competence is rarely exclusive (except in Austria), but it could become widespread. As an impartial and independent third party, it is part of the notary's mission and natural role as mediator to help the parties reach an agreement. However, in the context of a conflict between the parties, this new competence usually requires additional specialised training.

- Issuing apostilles and e-apostilles

289 The formalities for the legalisation or apostille of public documents to be produced, which originally fell to the courts or the Ministries of Foreign Affairs, are increasingly being assigned to notaries (26% of the notariats of Europe have this competence). This transfer of competences generally responds to the need to shorten time limits and to speed up and modernise the issuing procedures. Indeed, several notariats can issue electronic apostilles (Estonia, Latvia and France). By assigning this procedure to notaries, States reduce the workload of the courts and public administrations, while maintaining the same level of legal certainty.

* * *

290 This overview of notarial competences in non-contentious matters pursues two aims.

291 First, the increasingly important role played by the notariat in the process of "dejudicialisation" should be highlighted. A true magistrate of non-contentious jurisdiction, the notary enjoys the legitimacy of public authority, which allows notaries to take on new non-judicial functions and to relieve the workload of judges [25] . However, these new functions are gradually transforming the role of the notary: in addition to checking legality, notaries are sometimes required to review appropriateness, with all the responsibility that this entails.

292 The second is to encourage mutual inspiration among European countries and even beyond.
The exchange of experiences, which lies at the heart of this report, is fully in keeping with this dynamic of anticipating future transformations.

293 This exchange, which lies at the very heart of the missions of the Commission for European Affairs (CAE), takes on its full meaning here.

294 We therefore wish to express our most sincere thanks to all the members of the Commission for their remarkable work over the last three years of the legislature.

295 This work, rich in reflection and exchange, lays the foundations for new perspectives and competences for the notariats of tomorrow.

296 The Commission for European Affairs and the International Union of Notaries will not fail to follow all these developments.

297 Bertrand Basseville

298 *Vice-President of the CAE*

299 *Head of the CAE study on dejudicialisation*

300 Sophie Potentier Ríos

301 *Legal adviser of the UINL*

References

Documents of the UINL and of the Commission for European Affairs

302 ***Divorce in Europe: the role of the notary in 33 European countries,*** study by the Commission for European Affairs, legislature 2020-2022.

303 ***The role of the notary in successions in Europe,*** summaries, conclusions and recommendations of the Academy of the Commission for European Affairs, meeting in Thessaloniki in June 2024.

304 ***Lasting powers of attorney and the protection of vulnerable persons:*** summaries, conclusions and recommendations of the Academy of the Commission for European Affairs, meeting in Rome in June 2023.

305 ***The regime of unmarried couples in Europe: de facto unions, civil unions, registered partnerships***; summaries, conclusions and recommendations of the Academy of the Commission for European Affairs, meeting in Barcelona in October 2024.

306 ***The prospects for dejudicialisation***, Recommendations of the International Union of Notaries on *the possibilities of transferring or sharing competences between judges and notaries in non-contentious matters,* presented in Brasilia on 9 November 2023.

307 ***Conclusions of Theme 2, "Non-contentious procedures", of the UINL Congress held in Berlin,*** by the international coordinator Valentina Rubertelli.

Notes

1 https://docs.google.com/spreadsheets/d/1x8LGHA1qutaWX2Ijd66v4niztbqf8N1d/edit?usp=drive_link&ouid=112165848355163960722&rtpof=true&sd=true

2 Exclusive competence of the notary only for the most important acts

3 Notarial involvement in the formation of companies is optional; registration takes place at the court registry (greffe)

4 Exclusive competence for public limited companies and limited liability companies

5 Exclusive competence for companies limited by shares (public limited companies, limited liability companies, partnerships limited by shares) and European companies

6 In Switzerland, prenuptial agreements are not entered in the civil register. However, a notary may draw up a certificate stating the matrimonial property regime.

7 In Malta, notaries have this competence only in the case of separation and have none at all in the case of divorce

8 In Malta, notaries have this competence only in the case of separation and no competence at all in the case of divorce

9 Notaries only in matters of separation and not in matters of divorce.

10

11 In Greece, the notary has exclusive competence to receive consents only in cases where the medically assisted reproduction concerns a single woman or a woman living in a de facto union. In other cases, the law requires consent to be given in writing, but not necessarily by notarial act (Art. 1456 of the Civil Code).

12 In Malta, exclusive competence is limited to immovable property only.

13 In Greece, since March 2024, heirs may also accept the succession before the clerk of the competent court, with the assistance of a lawyer (Law 5095/2024, published on 15 March 2024).

14 The notary may take a training course to obtain the title of mediator

15 Competence shared between the judge and the accredited mediator (who may be the notary)

16 A spouse who has left the family home for at least four months may be given notice to return home by means of a notarial demand, at the request of the other spouse. If the spouse does not return home, this will constitute justified grounds for divorce against him or her. This competence is shared with the family court judge.

17 For further details, see the summaries, conclusions and recommendations of the Academy of the Commission for European Affairs, meeting in Thessaloniki in June 2024, on “The role of notaries in successions in Europe”.

18 See the study published by the Commission for European Affairs on “Divorce in Europe: the role of the notary in 33 European countries”, 2023.

19 Example of France and Greece

20 Example of Spain and Romania

21 “*poder* preventivo” in Spanish

22 See the summaries, conclusions and recommendations of the Academy of the Commission for European Affairs, meeting in Rome in June 2023, on the theme “Lasting powers of attorney and the protection of vulnerable persons”.

23 In Poland, a reform bill to introduce the lasting power of attorney into Polish legislation is also under way

24 In this respect, see the summaries, conclusions and recommendations of the Academy of the Commission for European Affairs, meeting in Barcelona in October 2024, on the theme “The regime of unmarried couples in Europe: de facto unions, civil unions, registered partnerships”.

25 In this respect, see the *RECOMMENDATIONS of the INTERNATIONAL UNION OF NOTARIES* on the possibilities of transferring or sharing competences between judges and notaries in non-contentious matters, presented in Brasilia on 9 November 2023