DOI https://doi.org/10.30525/2592-8813-2025-4-6

THE GENESIS AND EVOLUTION OF NOTARIAL PRACTICE: HISTORICAL AND LEGAL ASPECTS, CONCEPTS, ESSENCE, AND LEGAL NATURE OF THE INSTITUTION OF NOTARIAL PRACTICE

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Abstract. The article provides a comprehensive analysis of the genesis and evolution of the notarial institution, focusing on its historical and legal foundations, essence, and legal nature. It traces the development of notarial activity from ancient civilizations, particularly the Roman Empire, where functions were performed by tabellions and scribes, to the establishment of the classical Latin notariat model in medieval Europe. Special attention is given to the reception of Roman law, which laid the foundation for modern notarial principles such as public trust, preventive justice, and documentary authentication.

The study examines the main stages of the notariat's development in Ukrainian territories, from the influence of Magdeburg Law in the cities of the 14th–17th centuries to the codification processes of the 19th century within various state formations. The Soviet period, when the notariat was integrated into the state justice system, is analyzed alongside the post-Soviet reforms of the 1990s, which introduced private notaries alongside state notaries.

The article defines and reveals the essence of the notariat as a unique legal institution combining public-law and private-law elements. Its legal nature is explored through the lens of international acts, including the 1961 Hague Convention, and a comparative analysis of Romano-Germanic and Anglo-Saxon systems. The paper substantiates that the notariat is an integral part of the mechanism of a modern rule-of-law state, ensuring a balance between the protection of private interests and the implementation of public control.

The conclusions emphasize the need for further harmonization of Ukrainian notarial legislation with European standards, improvement of professional requirements and control procedures, and preservation of historical and legal heritage as the basis for the effective functioning of this legal institution in the context of globalization and digitalization.

Key words: notariat, historical and legal aspect, evolution, legal nature, public trust, Romano-Germanic system, private notariat.

Introduction. Ancient origins of notarial functions: ancient Greek and Roman law. The formation of notarial functions as a special institution of legal reality dates back to ancient times. Although the institution of notary in its modern sense was formed much later, some of its features were already present in the practice of ancient legal systems, primarily Greek and Roman.

Main text. In ancient Greece, as early as the 5th–4th centuries BC, there were officials – γραμματεύς (grammatevs) – who performed the functions of registrars and clerks, drawing up public decisions, contracts, and community resolutions. They certified legally significant documents within the polis. Although this mechanism was not strictly notarial in the modern sense, it performed an important function of legal legitimization of citizens' actions.

In classical Roman law, the function of certifying legal transactions and keeping public records became systematic. Already in the 3rd–2nd centuries BC, tabularii, actuarii, and scribae appeared, acting as official intermediaries between the will of citizens and the state. According to Titus Livius and Cicero, they participated in the drafting of wills, agreements, and assurances (UINL, 2020: 43).

The figure of the notarius, first mentioned in the 2nd century CE during the Principate, is of particular importance. According to Gaius, a notarius was a person who recorded legal acts using short

conventional symbols – notes (Tomaszek, 2020: 18). Over time, notaries began to form a separate class of officials who had delegated authority to draw up legal documents on behalf of the parties.

After the reforms of Augustus and during the reign of the emperors of the Antonine dynasty, legal transactions became significantly more complicated. In this regard, the official written form of legal transactions became mandatory for a number of legal actions, especially in the areas of inheritance, purchase and sale, and mortgages. Notary services became an integral part of civil transactions (SIGNO, 2023: 95).

The Digests of Justinian (Corpus iuris civilis) gave these officials legislative recognition. They stipulated that notaries who drew up a document were guarantors of the authenticity of its form and content, provided that their powers were confirmed by the state (Corpus Iuris Civilis, 1900: 204). This concept had a huge impact on the further development of notarial institutions in medieval Europe.

At the same time, notarial functions in Roman law were closely linked to the protection of public order, and not just to the confirmation of legal transactions. It was in Rome that the doctrine was established according to which an officially certified document has increased probative value, which became the basis for the subsequent tradition of Latin notarial practice.

In general, the ancient Roman notary system had the following features that became decisive for its further development: the official status of a notary, confirmed by the state; the certification of legal transactions in compliance with formal procedures; the mandatory maintenance of registers; and the legal validity of written acts concluded with the participation of a notary.

That is why most modern models of continental notarial practice (France, Germany, Italy, Spain, Poland, Ukraine) are based on the Roman concept of public certification and "documentary evidence," where the notary is not just a witness or intermediary, but an active participant in legal regulation.

After the fall of the Western Roman Empire in 476 AD, the institutional development of the notary system did not stop, but transformed under the influence of the Christian church, city communes, and universities. It was in the Middle Ages that the institution of notaries acquired clear organizational features, its corporate structure was established, and the doctrine of independent legal authority was formed.

The first important center for the preservation of notarial functions in the early Middle Ages was the Catholic Church. Starting in the 5th century, the position of "notarius ecclesiae" (church notary) appeared in bishoprics, monasteries, and curias. Notaries recorded donation agreements, wills, acts of ordination, and marriage, and also gave legal force to documents through seals and the authority of the clergy (Brundage, 2008: 93).

The Church was the main bearer of literacy and legal tradition in the dark ages. It was through the church structure that the Latin understanding of form as a guarantor of legal significance was preserved. Already in the 8th–9th centuries, canon law actively used the institution of notarial certification in its procedural activities.

In the 11th–12th centuries, urban notarial corporations emerged, especially in Italy. Venice, Genoa, Bologna, and Florence became centers for the formation of a new type of specialist – the notarius publicus. This status was granted by local authorities or by imperial decree and allowed notaries to officially draw up documents that were binding on courts, banks, and churches (Reynolds, 1984: 77).

In Bologna in the 12th century, a school of notarial law emerged, associated with the names of Irnerius and Bartolus. For the first time in history, notarial practice became the subject of academic study, and the profession acquired clear educational and qualification requirements (Bellomo, 1995: 52).

1. In 1212, Emperor Frederick II, as part of the Holy Roman Empire, officially approved the imperial notarial system, which provided for the granting of licenses, the taking of oaths, and the jurisdiction of documents throughout the Empire (Kantorowicz, 1957: 19). Such a document was valid even outside the boundaries of a particular city, which became the basis for the cross-border recognition of notarial acts.

In the 13th–14th centuries, France developed a state notary system, where notaries became agents of the king. Their powers extended to the recording of agreements that were binding on all subjects. The decrees of Charles V (1372) and Louis XI (1471) clearly regulated the scope of a notary's powers and recognized a notarial act as having prima facie evidence (Beaumanoir, 1994: 109).

At the same time, university notaries operated in Auxerre, Toulouse, and Paris, providing document drafting services for students, teachers, employment contracts, and scholarship transfers. This further cemented the academic status of the profession.

At the same time, the municipal magistrate notary system developed. For example, in the cities of Prussia, Poland, and Bohemia, there were "consules notarii" who worked for city councils and were required to enter legal transactions into a public register.

The pan-European tradition of medieval notary practice had several characteristic features: the public nature of the notary as an official (even in private law), the certification of legal transactions in a strictly defined form, the recognition of notarial documents as legal evidence in court, the obligation of professional training and examination, and the transfer of notarial rights by license or imperial charter.

As a result, it was medieval Europe that laid the foundation for the Latin model of notarial practice, which has survived to this day in France, Italy, Spain, Germany, Austria, and was later adopted in Ukraine.

Notaries in the early modern period (16th–18th centuries): the emergence of national models and the reception of the Roman tradition. The period from the 16th to the 18th centuries was marked by a significant transformation of European legal systems towards centralization, formalization, and the reception of Roman law. It was at this time that the notarial profession finally crystallized as a legal institution of a public nature, with clear powers, formalized procedural rules, and professional ethics.

In France in the 16th century, the classical model of public notarial practice was formed, which has been preserved to this day. Francis I's decree "Ordonnance de Villers-Cotterêts" of 1539 established that notarial acts must be conducted in French, registered, dated, signed, and have evidentiary value in court (Ordonnance de Villers-Cotterêts, 1983: 112). Such an act was equivalent to a court decision in terms of facts.

In Germany (particularly in the southern Catholic states) in the 17th century, a mixed model was formed, where notaries acted as public servants but had private initiative. The statutes of the Imperial Chamber Court stipulated that a notary must be impartial, draw up a deed only with the consent of the parties, and be responsible for the legal correctness of its content.

In Italy, particularly in the Kingdom of Naples, notaries operated within a highly organized corporation controlled by the monarchy. The universities of Padua, Bologna, and Naples introduced special notarial courses, and the title of notary became an academic and licensed title.

At the same time, the Latin notarial system was adopted in Central and Eastern European countries through the influence of the Austrian Empire and the Kingdom of Poland. In 1588, the Polish Statute of Lithuania made written legal transactions mandatory for inheritance and land matters and required them to be certified by authorized clerks or notaries (Statut Wielkiego Xięstwa Litewskiego, 2001: 75).

In Switzerland in the 18th century, the notarial profession acquired autonomous status within cantonal law. Each canton independently issued licenses, register books, and rules of ethics. This became a model for decentralized notarial systems in future federal states.

In Great Britain, the development of the notarial profession took a different course: in the 17th–18th centuries, the functions of a public notary were limited to certifying foreign documents, maritime protests, and translations. This narrow specialization distinguished the English approach from the continental one.

In the early modern period, notaries acquired the status of official representatives of the state, were subject to strict licensing and institutional control, were required to have a legal education or special training, and kept notarial books (registers) that had the force of official sources of evidence.

These features became the basis for the formation of national models of notarial practice, which, although they had common Roman origins, gradually adapted to the legal, political, and social conditions of the respective states.

The institutional legitimacy of notaries became particularly important. During this period, the notary became not just a clerk, but a professional figure of legal regulation with high social prestige.

This became the foundation for the formation of the Latin model of notarial practice, which in the 19th–20th centuries would be officially codified in the legal systems of France, Germany, Italy, Austria, Spain, and later in Ukraine.

The notarial institution in Ukrainian lands: from Kievan Rus to the 19th century. The history of the notarial institution in Ukrainian lands has a unique trajectory of development, which was shaped by the influence of the Byzantine tradition, canon law, the Lithuanian-Polish reception of Roman law, and the Austrian legal system. In different historical periods, these factors interacted, creating a hybrid legal model, which ultimately led to the introduction of the notarial institution in a form close to the modern one.

In Kievan Rus, there was no notary in the modern sense, but certain notarial functions were performed by clerks, deacons, clergy, and princely officials, who drew up contracts, deeds of sale, mortgages, and "row letters" (Gavrilenko, Kolesnikov, Logvinenko, 1999: 41).

Sources of law – in particular, Ruska Pravda – record the need for written formalization of a number of agreements, accompanied by witness certification. Thus, according to the Short Edition, in the case of a loan agreement, the parties had to call on witnesses and draw up a written "row" (Ruska Pravda, 1193: 29).

Although these actions were semi-formal in nature, they performed the same social functions as notarial certification: ensuring evidential value, legal certainty, and conflict prevention.

With the establishment of the Grand Duchy of Lithuania and the adoption of the Lithuanian Statutes (1529, 1566, 1588), a regulated procedure for the registration of legal transactions through state clerks appeared for the first time. The Statute of 1588 required important legal acts to be registered in city and district courts, in the presence of witnesses and with proper written documentation (Lithuanian Statute, 2001: 91).

This period laid the administrative and procedural foundation for the further formation of the notarial profession, especially in the eastern provinces of the Polish-Lithuanian Commonwealth, including Volhynia, Kyiv, and Podolia.

During the period of Cossack statehood, clerks of military and regimental chancelleries appeared, who kept universal letters, letters of privilege, and land deeds, which had high legal force and were considered official documents. Their activities combined administrative, judicial, and notarial functions.

Regimental clerks certified agreements, deeds of sale, inheritance, and entered these documents into the books of the offices, which was in fact analogous to public registration.

After the final incorporation of Ukrainian territories into the Russian Empire, a system of "document certification" was introduced through provincial chancelleries, magistrates, and district courts. The decree of 1809 and the Civil Procedure Code of 1832 first established the possibility of certifying documents by special officials (Shevchuk, 2013: 154).

In the second half of the 19th century, the Austrian model of Latin notary was introduced in the Ukrainian lands that were part of Austria-Hungary (Galicia, Bukovina, Transcarpathia). According to Austrian law of 1871, a notary was an authorized representative of the state with mandatory legal education and had the right to certify agreements, conduct inheritance cases, and certify documents with probative value (Yasinska).

This system was characterized by a high level of regulation, professional control, procedural integrity, and significant public trust.

Thus, by the end of the 19th century, two parallel notarial models were operating on the territory of modern Ukraine:

– Austrian (Latin) – in the western lands,
– Clerical-bureaucratic (Russian) – in the eastern and southern lands.

This predetermined the further complexity of the unification of notarial legislation in the 20th century and necessitated the reception of the most effective institutions from each system.

Notaries in the 20th and early 21st centuries: from Soviet centralization to the modern European model. The 20th century was a period of dramatic change for notaries. Its development in Ukraine took place in three key areas:

1. The Soviet centralized system.
2. The transitional period of post-Soviet reform.
3. The modern stage – integration into the European model of notarial practice.

1. The Soviet model of notarial practice (1917–1991)

After the October Revolution of 1917, the Bolshevik government abolished the institution of private notarial practice. The Decree of the Council of People's Commissars of the RSFSR of May 14, 1918, provided for the transfer of all notarial functions to state bodies – people's courts, executive committees, and justice departments (Decree of the Council of People's Commissars of the RSFSR "On the Abolition of Private Notaries," 1918: 43).

In the Ukrainian SSR, a system of state notaries began to take shape in 1922, under which notarial acts were performed by state officials according to approved models. In the 1930s, the functions of notaries were further centralized – state notary offices were established, which operated under the justice authorities.

The main features of the Soviet notary system were: a complete lack of private initiative, notaries were state officials, strict procedural regulation of each action, no advocacy or consulting functions, and documents had no evidentiary value without court approval.

Although this model ensured equal access to services, it deprived the notarial profession of professional flexibility and development, reducing it to the technical level of clerical work.

2. Transition to the Latin model (1991–2000)

With Ukraine's independence in 1991, a profound reform of the notarial profession began. The adoption of the Law of Ukraine "On Notaries" (September 2, 1993) was a turning point: private notarial practice was legalized for the first time, the institution of the notarial chamber was created, and the differentiation of public and private powers began (Law of Ukraine "On Notaries," 1993: 148).

A presidential decree in 2000 initiated the gradual delegation of functions from the state to a self-regulating professional environment. This was in line with the principles of Latin notaries, which recognize notaries as public officials who are independent and financially autonomous (NPU, 2020: 91).

Gradually, private notaries were granted the right to keep registers, certify inheritance cases, and conclude legally binding agreements, which brought them closer to European standards (Medynska, 2025: 56).

3. The current stage: digitalization and European integration (2000–2024)

At the present stage, the notarial profession in Ukraine is undergoing active reform in the direction of digital justice and European integration. The main areas of focus are: the introduction of a Unified State Register of Notarial Actions, the use of electronic signatures, QR codes, digital seals, notary access to state cadastres and civil status registers, and the participation of notaries in the registration of businesses and property rights.

Ukraine is officially part of the Latin notarial system. Since 2008, the Notary Chamber of Ukraine has been a full member of the International Union of Latin Notaries (UINL), which confirms its integration into the European space (Union Internationale du Notariat, 2023: 7).

However, there are also challenges: unequal access to electronic tools, a high risk of cyberattacks on notarial registers, and non-standardized practices in crisis situations (in particular, martial law).

The response to these challenges has been pilot projects for remote identification, a virtual archive, and the creation of the concept of a "digital notary," which is to be included in the Ministry of Justice's reform strategy for 2025–2030.

Thus, the notarial institution in Ukraine has come a long way – from ecclesiastical and judicial formalities to a digital legal institution that performs preventive, verification, stabilisation and human rights protection functions in the state's legal mechanism.

The concept of the notarial institution reveals the legal nature of notarial activity and its place in the system of legal phenomena. In scientific literature, a legal institution is usually understood as a set of legal norms that regulate a homogeneous group of social relations that have their own purpose, subject, and structure (Shemshuchenko, 2002: 11). It is through this approach that the notary system can be viewed as a specialized legal institution that regulates the procedure for certifying legal transactions, confirming legal facts, and executing documents that have legal force.

The Law of Ukraine "On Notaries" does not directly provide a general definition of the notary system, but it does contain characteristics that allow it to be formulated. Thus, Article 1 states that notarial acts are performed by notaries in order to protect the rights and legitimate interests of individuals and legal entities by providing legal certainty to documents and facts (Law of Ukraine "On Notaries," 1993: 3).

Notary is an organized system of bodies, persons, and norms that provide legal certification of transactions, legal facts, documents, and actions and ensure their legal certainty.

Notary can be considered one of the mechanisms for implementing the principle of the rule of law, which functions at the intersection of public and private interests.

Within the continental legal system (in particular, in the Latin model of notaries), notaries perform functions similar to those of public officials, although they are not civil servants in the classical sense. This indicates the special nature of the notarial system as an institution that functions autonomously but with state legitimacy.

The International Union of Latin Notaries (UINL) defines the notarial institution as a guarantee mechanism of the legal order that ensures the legal authenticity of documents and legal certainty for citizens.

Based on scientific approaches and current legislation, we can formulate our own definition:

The notarial institution is an independent legal institution that encompasses a set of norms, subjects, and procedures aimed at officially confirming legal facts, legal acts, and documents, giving them legal force, with the aim of preventing legal disputes and ensuring legal certainty.

The following elements can be identified in the structure of the notarial institution:

– Regulatory framework – the Law of Ukraine "On Notaries," subordinate legislation, and international standards.
– Subjects – private and state notaries, judicial authorities, the Notary Chamber.
– Functions – certification of legal transactions, ensuring evidential value, protection of rights.
– Procedures – the procedure for performing notarial acts, maintaining registers, verifying the validity of documents.

At the same time, the notarial system is not a closed legal category – it constantly interacts with other institutions: civil, administrative, procedural, and registration. It is this inter-sectoral interaction that makes it dynamic and important for the functioning of the legal system.

As a result, the notary system as an institution is a fundamental guarantor of stability in the legal field, ensuring the prevention of conflicts, the protection of the interests of the parties, reducing the burden on the judicial system, and increasing trust in the law as a whole.

The essence of notarial activity: between public and private. Notarial activity occupies a unique place in the legal system, as it combines elements of public and private law. This dual nature is due to the fact that notaries, on the one hand, act in the interests of specific individuals in private matters, and on the other hand, are vested with public powers delegated by the state (Vdovichenko, 2024: 264).

In this sense, a notary is neither a fully state official nor simply a legal advisor. Their activities have legal force, officiality, and universal applicability, which is equivalent to the actions of the state in terms of certifying facts and documents (Fursa, 2001: 58).

This essential feature is emphasized by the International Union of Latin Notaries (UINL), which states that the notary profession is essentially "an instrument of legal stability that serves the interests of citizens but is exercised on behalf of the state" (Union Internationale du Notariat, 2023: 6).

From the perspective of public law, a notary: performs functions regulated by the state; acts in accordance with the law, in compliance with procedures; is responsible for the legality of actions; makes entries in official registers; ensures the legal security of document circulation.

These functions give notaries an official status that other lawyers – attorneys, consultants, mediators, etc. – do not have. In this sense, notaries become a "small-scale state" within the civil sphere (Schäfer, 2019: 36).

From the perspective of private law, a notary: acts only at the request of a person, does not represent the interests of the state in a conflict, works on a fee basis, protects the interests of the parties to a transaction, and advises on legal issues without favouring either side.

In this respect, he is closer to a trusted specialist whom a person voluntarily chooses to perform an important action with legal significance.

In practice, this manifests itself, for example, in the following situations:

– a person wants to sell an apartment – the notary checks whether all documents are legal, whether there are any encumbrances, and whether the transaction is valid;

– an inheritance is being formalized – the notary not only formalizes it, but also checks the order of succession, the existence of a will, and the correctness of the registration;

– a power of attorney is issued – the notary checks the legal capacity, scope of authority, and validity of the document.

These examples demonstrate that a notary always operates in a narrow corridor between the rights of the individual and the requirements of the law. This is the essence of notarial activity – verifying the legitimacy of an individual's will and giving it legal force through an official act.

The duality of the notarial profession (public and private) is not a contradiction, but a special feature that allows the notarial profession to function as an institution of trust: between the individual and the state, between citizens, between law and security.

Structural elements of the legal nature of the notarial profession. The legal nature of the notarial institution is revealed through its internal structure – that is, through structural elements that together form a single functional system. These elements are interconnected, interact with each other, and it is through them that the functions of the notarial system as a legal institution are realized.

The main structural elements include: the legal basis, organizational and subject composition, competence and functions, procedural form, instruments of control and responsibility.

Legal basis. Notarial activity is based on a set of regulatory and legal acts, among which the key one is the Law of Ukraine "On Notaries." In addition, the provisions of the Civil, Family, Commercial, and Land Codes, as well as international treaties, orders of the Ministry of Justice, instructions, and methodological recommendations are applied.

This regulatory framework guarantees a uniform procedure, provides for a uniform form of documents, and unified requirements for notarial certification.

Organizational and subject structure. The notarial institution includes: state and private notaries, judicial authorities (as a supervisory body), the Notary Chamber of Ukraine (as a self-governing body), notary assistants, and state registries (which serve notarial actions).

Each of these entities has clearly defined powers. A private notary is not a civil servant, but acts on behalf of the state, so his powers are public.

Competence and functions. The competence of a notary is a list of actions permitted by law that he or she may perform. These include: certifying contracts, conducting inheritance cases, imposing

restrictions on property, issuing certificates of ownership, maintaining unified registers, etc. (Fursa, 2020: 39).

The functions performed by notaries go beyond their competence–they include ensuring legal stability, preventing disputes, protecting rights, and providing legal expertise on documents. This confirms their role as an instrument of legal security in the state.

Procedural form. Each notarial action has a formal procedure: identification of the person, verification of documents, entry into the register, and execution of the deed. Without compliance with the procedural form, the notarial action has no legal force.

A distinctive feature of the notarial process is its unilateral nature – it is not adversarial, as in court, and does not involve the rendering of decisions, but only the recording of legal facts.

Control and responsibility. A notary is not completely independent – their activities are controlled by the state, in particular: inspections by the Ministry of Justice, mandatory maintenance of registers, compliance with documentation standards, disciplinary responsibility for violations of the rules (Order of the Ministry of Justice of Ukraine, 2022: 13).

In addition, notaries bear civil liability in the event of damage caused by unlawful actions. This creates a mechanism of balance between the independence of notaries and their responsibility for errors or abuse.

Thus, the legal nature of the notary system is manifested not only in a general description of its functions, but also in a specific, clearly structured model, where each element – from the regulatory framework to control – forms a balanced and effective legal mechanism.

Notaries as an institution of preventive law enforcement. One of the key functions of notaries, which defines their legal nature, is preventive. This means that notarial actions not only record legal facts or give documents legal force, but also prevent violations of rights, conflicts, and legal disputes in the future.

In this sense, the notary is a preventive legal institution – that is, one that acts before a dispute arises and aims to prevent it. This directly distinguishes a notary from a judge, who acts post factum (after a violation of the law), or a lawyer, who participates in the settlement of an existing conflict (Chernysh, 2021: 43).

The UINL (International Union of Notaries) defines a notary as “a public delegate of legal trust whose role is to establish reliable legal relations before a legal problem arises” (Union Internationale du Notariat, 2024: 4).

Preventive action in the content of a notarial act. When a notary certifies a transaction, they: verify the legality of the parties' expression of will, confirm their legal capacity and legal competence, verify the existence of rights to the object (e.g., real estate), and determine whether there are any encumbrances, disputes, or other risks.

In other words, the notary stops a potentially illegal or questionable action before it is committed. This is the essence of prevention – a proactive legal action.

Reducing the burden on the judicial system. Notaries take on some of the functions of the judicial system: resolving inheritance cases, certifying indisputable facts, certifying the authenticity of signatures, contracts, and documents.

Thus, a significant part of legal situations that could become the subject of litigation are settled directly at the notarial level. As A. Khrebtova notes, the notarial institution is a legal filter through which controversial or risky transactions do not pass (Khrebtova, 2025: 124).

Guarantee of legal certainty. The legal force of a notarial act provides the parties with a high level of trust in legal relations. When a contract is notarized, it: guarantees the authenticity of the parties' will, simplifies proof in court (if necessary), increases the legal "stability" of the document.

Therefore, notary publics contribute not only to the prevention of disputes, but also to legal predictability – which is one of the signs of the rule of law (Dolynska, 2012: 99).

The civilizational function of notaries. In developed countries of the world – in particular, France, Italy, Germany, Spain – notaries perform the function of legal stabilization of society.

This is especially important in periods of social instability – during war, crises, migration challenges.

In Ukraine, after 2022, notaries have become key links in protecting the rights of persons who have lost access to property, documents, and inheritance cases. It is the notary public that has retained its functionality in many critical situations where other institutions did not operate.

Therefore, the preventive role of the notary is its main functional difference among other legal institutions. It turns the notary into an active participant in legal protection, acting even before the dispute arises – that is, when legal risks are still only potential.

Differentiation of the notary from related legal institutions. The notary, as an independent legal institution, often overlaps in functional content with other industry institutions – in particular, the registration service, the court, the bar, mediation and local government bodies. In this regard, there is a need to clearly distinguish notarial activities from related legal mechanisms.

The notary and the court. The court resolves legal disputes – after the rights have been violated. The notary, on the contrary, acts before the conflict arises. He does not establish the truth, does not evaluate the behavior of the parties, does not apply sanctions. His function is to prevent a dispute through a legally formalized transaction. In court – adversarial, sometimes conflict. In the notary's – voluntariness and consensus. In addition, a notarial act is evidence in court, but the notary does not have the authority to establish the truth or resolve disputes.

Notary and lawyer. A lawyer represents one party, acts as its defender, consultant. A notary does not have the right to act in the interests of only one person – he is obliged to be impartial, even if one party addresses him (Chizhmar). A lawyer is a defender. A notary is an independent official who ensures the balance, legality and legal purity of a transaction.

Notary and state registrar. State registrars are officials who carry out the registration of an already concluded agreement (for example, the transfer of ownership). A notary: certifies the transaction itself, checks the completeness and authenticity of the documentation, imposes prohibitions or restrictions, enters data into registers. That is, the notary performs a broader legal function, and in many cases is also a registrar (for example, in the field of real estate) (Medynska, 2025: 121).

Notary and local government bodies. Until the 2000s, village and settlement councils could certify wills, powers of attorney, and inheritance. However, this practice gradually lost relevance – it was replaced by professional notary. Today, notarial actions can be performed by authorized officials of local government only in exceptional cases, mainly in the absence of a notary in the settlement (Order of the Ministry of Justice of Ukraine, 2022: 19). This performs a social function, but does not change the essence: the powers of a notary are narrower in scope than those of a local government body, but deeper in legal content.

Notary and mediator. A mediator is a third party who helps the parties reach an agreement. He does not draw up documents, does not check their legal nature. His work is a soft settlement. On the contrary, a notary is a formalization of an agreement: he gives it legal force, checks its compliance with the law, records it in documents and state registers. Thus, unlike other legal figures, a notary has a unique function: impartial, authorized by the state, prevents conflicts, gives legal force to acts, maintains legal security and trust in the document, acts according to the law, and not in favor of the party. This distinguishes the notary from all other institutions, making it an indispensable element of the legal order in the state.

Conclusion. Notary as a legal institution has deep historical roots, dating back to ancient times. Its formation began with the Greek and Roman legal systems, where the first signs of notarial functions appeared. The Middle Ages became a period of crystallization of notarial as a professional institution with clear organizational features, and the early modern era consolidated national models of notarial, which were adapted to local legal conditions. In Ukraine, notarial developed under the influence

of Byzantine, Lithuanian-Polish, Austrian and Russian legal traditions. After gaining independence, Ukraine switched to the Latin model of notarial, which involves a combination of public and private functions.

The essence of notarial lies in its unique role as a legal institution that combines elements of public and private law. Its main function is to ensure legal certainty, prevent disputes and protect the rights of citizens through official certification of legal acts and documents. One of the key features of notarial services is its preventive function. The notary acts before legal conflicts arise, checking the legality of transactions and documents, which significantly reduces the burden on the judicial system and increases the level of legal security.

In the 21st century, notarial services in Ukraine are actively reformed, integrating digital technologies and adapting to the requirements of the European legal space. The digitalization of notarial services, the introduction of electronic registers and remote work methods have become key areas of development. Notarial services are an important element of the legal system, which ensures stability, trust in the law and the effective functioning of civil proceedings. They act as a bridge between the private interests of citizens and the public requirements of the state.

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