

CIVIL NOTARY IS NOT A NOTARY PUBLIC



[Mr. Ernst Loendersloot](#)
Sr. kandidaat notaris te
Maastricht
Foto: [Harry Heuts](#)

Dear reader,

Every country has its own way to organize things. And if you move from one country to another you may notice that sometimes a (legal) term may seem familiar, but means something different on the other side of a border.

This is certainly true for the term “notary”. Therefore I would like to explain the responsibilities of a civil law notary in The Netherlands because these are very different from those of a notary public in for example America or Great-Britain.

I am referring you to the Dutch national organization of civil notaries in the Netherlands (Royal Civil Notaries’ Professional Organization, abbreviated KNB). This organization was founded based on the Civil Notaries’ Act. This law also describes the duties of a civil notary in The Netherlands.

I quote the English language version of KNB’s website:

*Society is composed of people with varying and sometimes competing interests.
Agreements are needed in order to ensure that business between them can be conducted smoothly. What is also needed is an independent official to record such agreements.
This is the notary (or junior notary).*

It must be underlined that Dutch notaries are civil law notaries, meaning that they are fully qualified legal professionals, and thus **entirely distinct** from the profession of notary public in the United States and other common law countries.

(Source: <http://www.notaris.nl/english/the-notary>)

More simply said: without a deed drawn up and signed by a civil notary, no real property or registered boats and ships, and planes can be transferred in the Netherlands.

Also, most agreements that are recorded in a deed with a civil notary may be executed without the intervention of a judge. Within the European Union (EU) it is actually under discussion whether the office of Civil Notary should be restricted to persons who are citizens of the country in question, because in that respect a civil notary is comparable to a judge. Such a requirement may certainly be demanded of judges according to EU rules, since this touches on the functioning of the State.

In order to become a civil notary, people need to successfully complete a four-year full time education for notarial lawyer at a Dutch university. After that, they have to do a three-year, part-time post-doctoral study. In the first and in the third year, an examination is administered which handles all study materials.

After that, one still needs to be appointed as public official by the Queen. This appointment is not forthcoming if one has not spent at least 6 years full-time in the notarial business. A positive decision by an Expert Commission is also required and such decision will under no circumstances be made if there is any (criminal) suspicion as to this person.

Even after being appointed civil notary, the office can be revoked if a notary violates the rules. Such a civil notary is then dismissed from the office by the Queen. For example, this is the case if the civil notary acts in any way that damages the notarial office's honor or respect.

Moreover, the civil notary is under oath of secrecy and has the right to remain silent. Also when faced with investigative officers such as the police or tax inspectors.

Only in exceptional circumstances, the civil notary may pass on to these agencies what he/she discussed with clients. An example would be laundering criminal monies.

(Ps. This article was part of a legal opinion I wrote for a court in New York. I thought this introduction into what the difference is between an Dutch civil law notary and an American notary public, would be of interest to you. Therefore I copied this part of the opinion. I wrote the article in Dutch and an official translation was made. Any faults in grammar, syntax or other use of English are not mine)

Mr. Ernst Loendersloot
Senior kandidaat notaris te Maastricht

Telefoon 043-3509950.

Kijk ook eens op www.ntrs.nl of scan de QR code hieronder.

Of schrijf je in voor mijn [gratis nieuwsbrief](#).

U kunt ook op de hoogte blijven via:

[LinkedIn](#) [Twitter](#) [Facebook](#)

[Brochures kunt u hier downloaden.](#)

