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**IKATAN NOTARIS INDONESIA (INI)  
and  
THE INTERNATIONAL UNION OF NOTARIES (UINL)**

**INTERNATIONAL WEBINAR**

Friday, 15th of May 2020  
14.00 - 17.00 PM (WIB/GMT+7)  
*Via ZOOM Meet*

**SYNTHESIS REPORT**

**Munyati Sulam, S.H., M.Kn (Master of ceremony)** welcomes all participants. More than 970 people registered for the Webinar; they represent 15 countries : Argentina, Democratic Republic of the Congo, Ecuador, France, Germany, Indonesia, Italy, Republic of Korea, Lithuania, Mongolia, Netherlands, Peru, Puerto Rico, Russian Federation, Ukraine.

**Foreword Speeches:**

**Dr. Cristina N. Armella (UINL President)** gives her opening speech.

She thanks the INI and President Yualita Widyadhari for this excellent webinar, gathering national authorities and notaries from all over the world.

President Armella recalls her goal to incorporate new technologies in the UINL, with the aim of dissemination, communication and training. She confirms that the pandemic is having a strong impact on notarial practice. Such an international Webinar is very important to deal with the crisis.

President Armella explains that she is currently visiting Member Notariats virtually. In many countries, the notariat of Latin type is considered an essential service, even if the ways of giving the service are themselves restricted. Therefore, technological development of notaries in each country should be examined. This requires investment and training.

Technologies must be tools that help notaries in the exercise of their public function. They must also guarantee the same values and fundamental principles than the paper document. International Webinar is a practice that we must increase in the future. We must also implement the use of safe technologies in the exercise of the Latin notariat.

**Yualita Widyadhari, S.H., M.Kn (INI President)** gives her opening speech.

She thanks UINL President Armella for her support and for joining at such an early time for her being in Argentina; the General Direction of General Law Administration, Ministry of Law and Human Rights of Indonesia and all the speakers. She congratulates all participants to the Webinar. Many lessons can be drawn from the COVID-19 pandemic. One of them is the awareness that we are truly one and that physical distance is not a barrier in creating. Mr. Tri Firdaus, General Secretary was also elected as a member of the UINL General Council. A lot of

UINL meetings and work are planned this year in Asia. Fully supported by UINL, this international webinar is the first of its kind for both INI and the UINL. In the midst of the COVID-19 pandemic, we see the function of a notary as essential and strategic. This webinar will address three important questions:

- Why should notarial public services be considered essential and strategic?
- How should notaries carry out their duties and how do other countries in the world deal with notarial function in times of COVID-19?
- How should the notarial fundamental principles be implemented after COVID-19 and why do they stay relevant?

The results of this discussion become important input and basis for INI, UINL and especially for the Government in considering the essential notarial services during and after COVID-19 and later if there are similar situations. Notaries are given the authority to make authentic acts that provide legal certainty for the community.

#### Speakers:

##### *Moderators:*

- *Prita Suyudi, S.H., M.Kn (Vice President Asia of CCNI UINL and Notary)*
- *Albert Richi Aruan S.H., L.L.M., M.Kn (Legal Review Task Force of INI and Notary)*

**Hendra Gurning, Director of Civil Law Affairs, Directorate of Legal Administration Affairs, Ministry of Law and Human Rights of Indonesia, representing the Director General:** The notaries play different roles, they provide different services and they can act as backbone for the continuation of economy amidst this difficult time of Covid-19. Physical attendance must be interpreted carefully. Consultation, explanation, reading of the authentic act and all the process related and status related actions, including the signing, shall be adjusted. Consultations can be done remotely online. If physical attendance is required, a strict health protocol shall be followed: physical distancing, masks, hygiene, etc. Notaries shall support lock down policy but their services must be open to the public because the function of notary is essential. They can continue work but respecting the health protocol for clients and employees. We should be able to adjust to changes in the situation. Production of electronic act can provide faster and better service. We need to keep up with the development of the time. It is inevitable. We could discuss changing the legal framework, revisiting the requirement of physical attendance, providing servers, encryptions in order to avoid forgeries. All of this require further discussion. This pandemic shows us that electronic act can be a solution.

##### *Moderator's notes (Prita Suyudi):*

*Notary is essential in keeping the economy going.*

*Social use as well activities can be adjusted.*

*Office should remain open with health protocol.*

*We should reconsider the law regarding new technologies.*

**Lionel Galliez (UINL Vice President for Europe of and Notary in France)** congratulates INI for the great achievement regarding the organization of this meeting. You show us the way. In France, notarial activities are essential, this is why the offices remained open during crisis.

Yet, notaries shall physically receive clients only in case of emergency. Else, most of the contacts have been remote. In France, the electronic authentic act is usual. And then, European eIDAS helped a lot to design solutions regarding contract signed remotely. The system is still far from perfect, but it shows that is possible. Moreover, employees of notarial offices can have complete access to files remotely and archives. Teleworking has been implemented widely and in large city like Paris, sometimes, it may make sense to have collaborators working from home (avoiding traffic jam, commute, etc.). Technology is the key factor but the main lesson to remember is that our mission to give authenticity to our contract must not rely on technology, it must rely on the notary him/herself. The state has delegated its authority not to a machine but to a person. The technology is here to help but the judgement of the notary is the main element of authenticity. Tech is a tool, but we must not become servant of the technology. We must own our tools and not rely on third parties (example of the American company DocuSign in France). Relying on third parties represents a great weakness.

*Moderator's notes (Prita Suyudi):*

*Authenticity is given to the notary as a person, not to the technology.*

*We should have control on technology not the other way around.*

**Richard Bock (President of the UINL Commission for International Notarial Cooperation (CCNI) and Chief Representative of the Federal Chamber of German Civil Law Notaries for International Affairs):** One is able to adapt to unexpected situation and one need not be discouraged by negative changes. They always offer a chance for further development. The current situation will help us to improve our work processes. Most Notariats continue their work that is essential. Richard Bock gives a brief overview of some countries. In Italy – notaries remain open; in Spain – same; in Kazakhstan (not a UINL member but on the list for admission) - complete lockdown even for notaries first, then the lockdown has been lifted for notaries but only 1/5 of notaries exercised the option; in Estonia, the Ministry of Justice give the choice to notary, they are mainly open and social distancing is respected, some electronic acts are possible but clients prefer to go to the notary; Lithuania : 90% of the offices are open with regulations (only necessary and urgent acts at the notary discretion); in Hungary, Poland and Greece, this is similar : the majority remains open, being limited to urgent authentication; in Czech Republic, there is a complete lockdown but notaries as still working, each notary decide. An important note to take: if the registers are not working, it is a great difficulty for notaries. In Romania – notarial activities continue as it is compulsory; in Germany, notarial offices must remain open. Some states like Slovakia and Slovenia has been barely attained by the virus and notaries offices remain open. Yet, the decrease in business everywhere is significant. This should demonstrate the notary relevance in the State, economic and legal system. They must not be shut down even during severe pandemics because they guarantee access to justice and they keep the economy alive. Our authentication procedure for a functioning legal system and reliable record, should be rigorous.

*Moderator's notes (Prita Suyudi):*

*Notaries are part of the preventive justice system.*

*Notarial principles will survive the pandemic.*

*Different situations in the world for notaries offices: mandatorily open/open at the discretion of the notary/ closed in total lock down.*

**Giovanni Liotta (Member of UINL Steering Committee and Notary in Italy):** A specific regulation has been ordained for the pandemic period. It regulates the necessity that notarial offices should be open. Protective measures and “smart working” are widely used. The government has introduced new regulations that directly or indirectly affect the notarial activity, such as suspension/extension of deadlines to pay tax. One important measure is that regarding shareholders meeting of LLC during the period of Covid19, the meeting can be held exclusively online, on a system where the identification of the participants is guaranteed. No need to be in the same place and the signing can be done only by the notary. In Italy, there is a project to launch an IT platform. Not. Liotta explains the EU Law project for constitution of some companies online.

*Moderator’s notes (Prita Suyudi):*

*Activities are adjusted but offices remain opened with compliance of health protocols*

*We have to set up work from home structures.*

*Organization should mitigate burden for the notary.*

*Remote authentication can be used.*

**Christian Schall (CCNI UINL and Notary in Germany)** explains the German authentication procedure. First contact: e-mail or phone then we decide if a physical consultation is needed. If not, we can prepare the deed with the information we have. But advice is difficult to cover with digital means. We need to prepare the document and check the registers. We can do it electronically. After, we send draft by email. They send observation by same means. Up to this point, the notarial procedure is already maximally digitalized. Afterwards, parties appear in front of the notary for authentication: reading and signing. After the signature comes the execution: the notaries must execute the act in Germany i.e. collecting private and public approvals, notifications to financial authorities, entries in public registers. This process is almost entirely digitalized and there are only notaries that can send data to the register. What is the difference between (1) Authentication w/ physical presence of the parties vs. (2) remote authentication without physical presence of the parties? First one does not exist in Germany but it should be feasible in principle, from a technical point of view. We want to first finish the central archive of notaries. The (2) are authentication without the parties in the office but connected electronically. These light authentications are not an option for us, not secured enough, because as of today, the technical prerequisites are still lacking. Zoom, the market leader had some serious security issues. We need a secure and self-made software that we can completely rely upon. Not. Christian Schall exposes the changes in legislation and special procedure during the pandemic: stock corporations shareholder meetings are possible via videoconference. It is the sole exception. In Europe, one should be able to authenticate small companies remotely. The new technology shall be available by mid-2021. The main problem is the identification with security. We will use the e-id functions. For cross border authentication, biometrical data is necessary.

*Moderator’s notes (Albert Richi Aruan):*

*People have little appreciation of coming physically to the office but a real discussion is best made face to face and it is always preferable, particularly when several persons are involved.*

*Identification with new technologies do not work properly yet.*

*We should not lose sight of our function: quality of instrument, certainty of transaction.*

*We should only use IT if this too pillars are not compromised.*

**Mikhail Yuldashev (CCNI UINL and Notary in Russia):** In the Russian Federation, the volume of transactions has decreased but notaries offices remain open. A list of notaries on duty is determined in each region by notary chamber. They shall follow strict health protocol. There is an acute problem in expenses and remuneration and duty officers incur high cost because of sanitary measures. The electronic notary in the Russian Federation is a unified IT system and provide free legal assistance online. Notarial actions are important for individuals and businesses, notably regarding the circulation of documents. Notarial certification is affordable and guarantee legal protection. The situation itself is pushing to digital format, e-notary is our future while maintaining the fundamental principles of notarial activity. The advice function shall exist with digital tools.

*Moderator's notes (Albert Richi Aruan):*

*Notarial function is very relevant even with the emergence of new technologies.*

**Alwesius, S.H., M.Kn (Head of Notarial Education Program of the INI, and Notary):** Social restriction has brought some confusion. Notary profession is not among the officials exempted. Notaries offices must stay open because they are attached to the notary person. Electronic means allow to meet requirements according to the law: legal administration information system. About the notarial authentic act: can we produce them electronically? can we sign them electronically? Minutes means that the paper form stay with the notary. It is stored as part of the notary protocol. There is requirement to apply the relevant procedure as well as fingerprints on the minutes. So, it is for the moment impossible to have an electronic act. Even if this is something we wish.

*Moderator's notes (Albert Richi Aruan):*

*Importance of the role of the notary in supporting the government program in the economic field*

*Electronic acts are not possible for the moment*

### Questions & Answers

*Aside from Cov19, what are the threats to the authentic act (blockchain, etc)?*

**Lionel Galliez:** notary cannot be replaced, the link between physical persons, companies and the physical object. You need a gatekeeper between the digital and the physical word.

*What is the notary liability when s/he uses remote signing technology?*

**Lionel Galliez:** we must not rely on technology. The process of authentication is based on the person. The high level of legal certainty is represented by the professionalism, knowledge, and care taken by the notary. The notary must check as if the client was in front of him: capacity, information, judgement, and so on. Remote signing is not a reason to escape his liability. It must be the same. The reliability does not rely on the technology. The remote signing does not reduce liability nor authenticity.

*Would there be possible legal suits while using technology?*

**Lionel Galliez:** Regulations should prevent most of the causes of litigation. But you can never prevent all suits. Yet, it is very unlikely.

*On remote authentication (Italy): how do you execute the act? what is its evidentiary value, is it the same as the value of an act with physical presence?*

**Giovanni Liotta:** We can do remote act only for the meetings of companies. In this case, the act is signed only by the notary and the value is the same. We are working to have this model for other type of acts. When the system will be enforced, we will sign the constitution of LLC with e-signatures. There are different proposals at the moment: create a virtual notarial office, send a digital copy of the act. But as of now, real estate transactions or donations implies physical presence of the parties.

*How do you draft the will when the person is lying sick? In urgency?*

**Christian Schall:** If people are seriously ill, there is a provision that allows to have access to them. We may go and authenticate the last will, at home or hospital.

*What is the electronic process for the shareholders meeting (Germany)?*

**Christian Schall:** Stock corporation acts are allowed through e-meetings. Yet, for LLC and others, we do not have any legislation allowing the online meetings. But with the EU regulation, in 2021, we will have online general meetings for small LLC. We are still considering how to implement with the right technology and procedure. This can be applied in the future with bigger companies but this will still take some time. We must make sure we use the right technical means, that procedure is just and fair. This is a great task for the future. We need to translate everything that is physical into the digital world.

*Can you explain eIDAS (Europe)?*

**Christian Schall:** we have a notarial signature card, a password, a pin number. It includes all our notary's attributes. Once the document is signed, we can go to the register. Future authentication will look more or less like that (credit card format, card reader with biometrical information).

*Regardless the covid-19 pandemic, technology use is inevitable, how do you as a government foresee it (Indonesia)? Should the notarial law be revised? Should we increase the use of new technologies?*

**Hendra Gurning:** In general, the use of new technologies is something we must be able to implement in the future. E-deed is not impossible. Can we do it now? This is a different question. We do have to avoid some technological tools provided by third parties. If there is a policy to implement digital procure then we will have to prepare for everything, for secure and safe technologies. Can we use technology for shareholders meetings? It is a mere means of communication. As long as all the resolutions are agreed upon, there is no reason why I

could not be done. The government has to prepare for everything, we don't want the pandemic to make us rush into things without proper preparation. We need proper tools and infrastructure and see if they are adequate. We don't want any sovereignty issue.

*How will it work when we digitalize the profession?*

**Richard Bock** notes that there will not be big change because the notary himself/herself stays in his/her office. There are three different models:

1. the notary is appointed as a notary within a certain district. S/he may not leave the district when authenticating a document. This is the case in Germany. But the notary can authenticate a transaction on a real estate elsewhere in Germany.
2. In France, notaries are allowed to leave their district and to authenticate elsewhere in France.
3. Strict model: the notary is appointed in a certain district and may only deal with real estate transfer in his/her district.

*Can you explain what is the e-notary legal aid (Russian Federation)?*

**Mikhail Yuldashev:** the electronic notary in Russian federation is a notary unified electronic system. Every citizen can absolutely free of charge receive an information from the system, for example the legacy of a power of attorney. It is such a big and important part in our certification and what we do for the citizen.

*Do you apply cyber notary in your country (Argentina)?*

No. we have digital copy and digital signature but documents themselves are in paper form.

### Closing remarks

**Dr. Herlien Budiono, S.H (Honorary Notary; Lecturer at Law in Padjajaran University, West Java, Indonesia; author):** During the pandemic, we found several emergency laws issued by the authorities allowing notaries to work digitally. After the pandemic: we have to rethink things with the rapid development of IT. What if the essence of civil notaries (authenticity)? Will the use of technologies change this? Every country has his own provision and we need to find the best for each country. Indonesia is archipelago, technological means are not easy to put in place in our country. But UINL can focus on what is essential in the role of notaries and how they can be maintained and retained even with the emergence of new technologies. This is our grand homework.

**Tri Firdaus Akbarsyah, General Secretary of the Indonesia Notary Association (INI)** closes the Webinar.

All speakers and participants congratulate the INI for the organization of this international Webinar supported by the UINL and thank them.