



Unión Internacional del Notariado
Union Internationale du Notariat
International Union of Notaries



30th International Congress of Notaries Cancun, Mexico – 1 - 3 December 2022

Theme I:

« The exercise of the notarial public function in the virtual sphere ».

International coordinator: Not. Carlo Alberto Marcoz (Italy).

CONCLUSIONS

The 30th International Congress of Notaries was held immediately after the outbreak of the great Covid-19 pandemic and at a time of major and rapid innovation in all areas, both economic and social, from the production of goods to the provision of services, from communication to the way people interact with each other.

Today, the digitisation of society and dematerialisation are a significant challenge for the notariat too in all countries.

1. In almost all countries, notaries use digital tools in the exercise of their function.

The dissemination of systems to draft acts on digital support can facilitate the management of dossiers and allow notaries to work more easily. Direct access to public registers by electronic means speeds up procedures, both for clients and institutions. The direct management of certain registers allows for quick and complete information.

The exercise of the notarial function using new technologies allows for faster and more efficient data management and improved outcomes for citizens; the role of the notary, as an impartial public officer who attributes fundamental security and force to acts in the most important socio-economic areas, remains unchanged.

The use of digital systems can also facilitate the relationship of the notary with his clients and give the notary advantages in terms of efficiency of his work and modernisation of his image.

Society has moved towards the digitisation of human relations. This socio-economic phenomenon creates a divide between the digitally literate and the digitally illiterate, either because of vulnerability or lack of infrastructure. All citizens, but especially the latter, require agents who listen and respond to them and provide preventive legal certainty. It is in the nature of the notaries to accompany vulnerable persons and they will have to adapt their methods to retain a relationship of trust and proximity.

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2. The greatest innovation that notaries are facing is undoubtedly the development of systems for the conclusion of authentic instruments with "online" appearance of the parties.

The question is no longer whether an "act with online appearance" can be made, but how it can be made with all the guarantees that are typical of the exercise of the notarial function.

Biometric systems can facilitate notarial checks, which are not limited to identification alone: the notary verifies the will, capacity and free consent of the parties.

The identification of the parties has to remain under the responsibility of the notary; the various technical solutions adopted should support the activity of the notary, who is ultimately responsible for identification and guarantees it.

The verification of the parties' will, capacity and free consent remains the fundamental element of the exercise of the notarial function; if there is the slightest doubt, the notary has to be able to refuse to conclude the act by videoconferencing.

Notarial involvement in electronic transactions can offer flexibility without undermining legal certainty.

For the exercise of the notarial activity with online identification systems, access to national databases with verification of citizens' biometric information should be allowed.

The issue of territorial competence arises at domestic level in all countries where limited competence is provided by law for the exercise of the notarial function. The question also arises at international level: there is a risk of conflict between the different national legal systems.

It will be necessary to propose new rules at international level: a classification of notarial acts according to the strongest connection applying to the nature of the act can be proposed as a basis for connecting factors.

UINL will have the task of putting forward solutions and promoting international agreements for the mutual recognition of digital authentic acts, in order to facilitate the circulation of our acts electronically.

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3. Responsibility is also the added value that the notary can provide to online transactions: a third party, who through his presence guarantees the security of the data (identity of the parties, verification of their will and checking legality) and, thanks to this responsibility, assigned and administered by the State, which trains and controls the exercise of the notarial function, gives acts special probative force and enforceability.

Every notary must learn to manage digital tools efficiently and keep up with ever-changing modern society.

Notaries and notarial institutions must show that the notarial function cannot be substituted by technological procedures: the notarial profession must provide concrete answers to the demand for data security with an offer that, beyond the means employed, reflects their role as guarantors of legal certainty.

Cancun, Mexico, 3rd December 2022.

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