

XXIV INTERNATIONAL CONGRESS OF THE LATIN NOTARIAT

Mexico City, October 2004

THEME I

Impartiality of the Notary: ensuring certainty in contractual relationships

CONCLUSIONS

1. The impartiality of the notary, as a public officer, in all his activity, is the foundation of the Latin notariat, and protects not only those who participate in the act, but also third parties.

Impartiality implies a rigorous respect for the principle of legality and necessitates the provision of complete and global advice and information.

Impartiality demands active intervention from the notary, which goes beyond the simple recordation of the wishes of the parties.

2. The status of the notary, as a public officer, must guarantee his independence and irremovability and as a consequence, his impartiality.
3. The impartiality of the notary guarantees a new contractual order which is characterised by the search for balance between the parties and the protection of the consumer.
4. Impartiality must be rigorously guaranteed by the legal system. It is necessary to establish adequate limitations where there are conflicts of interest and prohibitions on acting. It is also necessary to ensure the material independence of the notary in the face of market pressures and in particular, as against large economic operators.
5. Impartiality demands that the notary has a solid legal training.
6. The instigation of criteria which regulate the notarial function in a balanced way across the whole territory and the remuneration for notarial services must allow all clients access to notarial services under the same conditions (amongst others, by regulated fees), also contributing to the notary's impartiality.
7. The impartiality of the notary in his activity imparts an added value from which derives the transparency, validity and efficacy of the notarial act.
8. The impartiality of the notary renders him an ideal legal officer to intervene in the prevention and in the non-judicial resolution of disputes. In this sense, the notary can be distinguished from other legal professionals, in particular from solicitors.

Editorial Commission

Not. Diego Simó Sevilla – International coordinator

Not. Manuel Díaz Salazar – Secretary

Not. Rolf Gaupp - Germany

Not. Francisco Javier Siri – Argentina

Not. Gastón Di Castelnuovo – Argentina

Not. Federico Jorge Panero (h) – Argentina

Not. Martín Garrido Medero – Spain

Not. Dominique Savaure – France

Not. Pierre Becqué – France

Not. Sirp J.J. Wiersema – The Netherlands

Not. Giuseppe Celeste - Italy