FOR 2020
THE NOTARIES OF EUROPE
COMM IT

to a European justice policy that rises

to the socio-economic challenges
As legal advisers for citizens and businesses, notaries provide assistance throughout the major events in life: marriage contracts, real estate purchase, settling a succession, company statutes, etc. Faced in their daily practice with an unprecedented increase in the number of cases with a cross-border element, the notaries of Europe respond to the expectations of citizens and businesses in the European Union.
Indeed, the freedom of movement leads to increasing numbers of Europeans working, setting up, bringing up a family or buying a home in a country other than the one they come from and with partners of other nationalities. This reality can be seen in European Commission figures:

- 8 million Europeans no longer live in their country of origin.
- 2.5 million properties belong to people living in a State other than the State in which these properties are situated.
- Each year, 450,000 successions with an international dimension are opened in Europe for a value of over 123 billion euros.
- 13% of new marriages concern bi-national couples.
- There are currently 16 million international couples in the European Union.
- 20% of registered partnerships in the EU concern bi-national couples.

With proven expertise, at the service of the free movement of citizens and businesses in the European Union, the 40,000 notaries of Europe and their 160,000 employees commit.
1ST COMMITMENT

Bringing new solutions for the daily lives of citizens

In their areas of expertise, the notaries of Europe will continue to respond to EU citizens’ expectations, whether this is through the implementation of new tools or the creation of adapted legal instruments.

• Unifying the conflict-of-law rules at European level for family and civil status law. As they have done by supporting the implementation of the European regulation on successions, they intend to act in the following areas:
  - Legal capacity and the protection of the vulnerable
  - Filiation
  - Adoption
  - Marriage
  - Absence (legal effects of the disappearance of a person beyond a certain length of time)

• Strengthening the protection of the vulnerable in the European Union. Through the Hague Convention of 13 January 2000, the European Union has potential tools for cooperation between Member States, ensuring the recognition and enforcement of protective measures. The notaries of Europe call on the European Union to encourage the Member States to sign and ratify the Convention. They also intend to set up a warning system for the vulnerable in the event of accident abroad. Finally, they will supplement the Vulnerable in Europewebsite (www.vulnerable-adults-europe.eu) with factsheets on minors.
• **Supporting mediation as an alternative means of dispute resolution.** Through their role as a public office holder involved as an impartial trusted third party in relations between private individuals, notaries practise mediation in their areas of competence: family law, succession law, real estate law and company law. The notaries of Europe intend to set up a common framework for notarial mediation. They will also work on setting up a network of mediator notaries identified in the European Directory of Notaries.

• **Promoting cooperation with other legal professions (magistrates, judicial officers, etc.).** Natural partners of other legal professions, the notaries of Europe intend to develop joint projects with a view to providing citizens who are mobile within Europe with better support.

• **Making it easier to obtain a mortgage in the EU.** The European Union recently adopted a new directive on credit agreements for consumers relating to residential immovable property. This directive seeks to create a mortgage credit market on an EU scale with a high level of consumer protection. The Member States will have to implement its provisions in their national laws by March 2016. The notaries of Europe wish to express their commitment to the State in supporting this implementation. Controls conducted by notaries will protect individuals in steps taken to acquire property. It will also guarantee a high level of legal protection in real estate transactions in order to avoid a crisis like that experienced by the deregulated markets.

• **Set up an information tool on real estate transactions.** The notaries of Europe intend to create a tool for consumers, enabling them to understand the steps involved in a real estate transaction depending on the national law.
Supporting business development in Europe

Ideally, businesses develop in an environment that guarantees transparency and legal certainty. The notaries of Europe are key actors in this development. They support entrepreneurs throughout their projects and help protect the company shareholders and creditors. The notaries of Europe have used their experience to identify the areas of priority action for 2020:

- **The adoption of a Fourteenth Company Law Directive on the transfer of seat.** The freedom to found companies is a crucial aspect for internal market development. Yet, to date, no European legislative proposal has succeeded in relation to the transfer of seat. This is a source of legal uncertainty for businesses and for their partners and creditors. A secure and reliable legal framework within the EU allows better economic development. This is why the notaries of Europe are calling for the implementation of a Fourteenth Company Law Directive that would cover this issue. They want an efficient framework that on the whole respects European Parliament resolution 2011/2046 (INI) adopted on 2 February 2012.

- **Strengthening legal certainty of third parties and creditors.** The notaries of Europe intend to support in the future any initiative seeking to enhance the transparency of companies and legal structures in order to reduce the risks associated with global financial crime. This will involve nota-
The notaries of Europe are key actors in the fight against money laundering. They are obliged to reveal to the competent national authorities any suspicions on the subject about their clients and report suspicious transactions.

- **Making it easier for businesses to move around Europe** thanks to the creation of tools to check the reliability of the business’s representatives and constituents.
Strengthening cross-border cooperation between notaries

Cross-border cooperation is a constant priority for the notaries of Europe that raises challenges both in practice and from a technological point of view. In order to respond, the notaries of Europe have implemented numerous tools and initiatives making cross-border cooperation between notaries a reality, in particular electronically thanks to the electronic signature tools developed several years ago by the notaries of Europe and used by them. Between now and 2020, the notaries of Europe will intensify their efforts on the subject. They thus commit to:

- **Rolling out the EUFides cooperation platform.** This secure notarial area is intended to make cooperation between European notaries easier when dealing with cross-border files such as the cross-border purchase of a property. With EUFides, the buyer of a property can contact his/her usual notary who will take care of the sale in cooperation with a notary from the Member State where the property is located, with full legal certainty.

- **Encouraging the creation of national registers and their interconnection.** Notaries are currently committed at Member State level to creating and managing registers of wills, marriage contracts and, very probably, inheritance certifi-
The notaries of Europe are also involved in the **interconnection of registers** of wills through the European Network of Registers of Wills Association (ENRWA). This interconnection provides a guarantee that last wishes will be respected. For 2020, the notaries of Europe intend to develop these registers, in addition to the business registers, registers of lasting powers of attorney and insolvency registers that will contribute to the legal certainty expected by citizens.

- **Strengthening the European Notarial Network (ENN).** The ENN is a tool intended for notaries faced with practical questions with a cross-border element. Through the contact point in each of the EU’s notariats, the ENN provides technical support for notaries by providing all the information necessary to resolve cross-border files.

- **Developing training opportunities for European notaries.** Training is a European Commission priority. It wants half of legal practitioners to have received training in European law by 2020. The notaries of Europe share this objective. They have themselves implemented the Notaries for Europe – Europe for Notaries training programme in 2013/2014 in partnership with the Commission. The notaries of Europe intend to intensify their efforts in this area, both at national and European level. With the adoption of the new regulation on international successions, **training on inheritance law at European level has begun.** Finally, a major exchange programme for young notaries is planned.

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Making justice more efficient thanks to the authentic instrument

Notaries draw up authentic instruments for their clients that are, according to Directive 2011/83/EC of 25 October 2011 on consumer rights, “contracts established, in accordance with the laws of the Member States, by a public office-holder who has a statutory obligation to be independent and impartial and who must ensure, by providing comprehensive legal information, that the consumer only concludes the contract on the basis of careful legal consideration and with knowledge of its legal scope.” Thanks to these attributes, the authentic instrument enhances the transparency of transactions by creating legal certainty, for both businesses and citizens, protects consumers, prevents conflicts and unburdens the courts. Consequently, the notaries of Europe, efficient actors of preventive justice, consider the promotion of the authentic instrument in Europe to be a necessity. They propose to:

- Make the movement of authentic instruments easier in the European Union. The notaries of Europe are working together to this end and support measures to make it easier to use the authentic instrument in the European Union. They are thus actors in many European regulations (European Enforcement Order, Regulation on international successions, etc.). The notaries of Europe there-
fore intend to contribute to further harmonisation of the conflict-of-law rules, particularly in areas in which there is not yet legislation (matrimonial property regimes, registered partnerships, protection of vulnerable adults, etc.).

- **Give the authentic form to new European legal instruments.** Owing to its attributes, the authentic instrument responds to European citizens’ needs in respect of legal certainty. The development of European law is at the origin of new tools, such as the European Certificate of Succession. The notaries of Europe are committed to working in cooperation with the European institutions so citizens find in these new European instruments the advantages resulting from authenticity.

- **Encourage the development of the electronic authentic instrument in the European Union.** The electronic authentic instrument and/or electronic archiving are already a reality for many notariats. Saving space and time and increasing security, their advantages, which go hand in hand with the presence and advice of a notary, are real for citizens and businesses. In order to systemise their use, the notaries of Europe are developing electronic tools (archiving of electronic documents, electronic signature, etc.) that will expand rapidly between now and 2020.
Working alongside the national administrations

Now more than ever, the European States are confronted with economic and budgetary difficulties leading them to reform their organisation. In this context, the notaries of Europe reaffirm their commitment to work in cooperation with the Member States and to:

- **Unburden national administrations.** The notaries of Europe intend to demonstrate the efficiency of a public service nominated by the State, controlled by the State and remunerated only by its clients without this costing anything for the tax payer and public finances. With their **general interest mission**, the notaries of Europe already make their contribution to the functioning of justice alongside the States: drafting and registration of enduring powers of attorney before a notary in Latvia, celebration of marriages before a notary in Estonia, amicable divorce settlement before a notary in Romania, etc. They are ready to enhance their action.

- **Contribute effectively to e-administration.** Having been committed for several years to digital exchanges, the notaries of Europe continue to develop working tools with the national administrations: tele-procedures for administrative matters, tele-payment of taxes, electronic recording of data in the public registers (incorporating companies, records of mortgages, etc.).