Key note speech
and
panel debate
28th Conference of European Notaries
not@r 4.0 – The digital agenda of the notaries

22/04/2016, 09:00
Salzburg Congress (Europa Hall), Auerspergstraße 6 - 5020 Salzburg
Dear Professor Bittner,

Dear Mr Kathrein,

Honorable Members of Parliament,

Ladies and Gentlemen,

I am delighted to be back in the charming city of Salzburg today and I wish to thank the Austrian Chamber of Notaries, for giving me that opportunity.

Back in 2008, on my first visit, we discussed Succession law and Family law. They are still top priorities in Commission's political agenda for justice and I will brush on them later on.

I have returned today to address a very timely issue: "the Digital Agenda of the notaries".

And what better place than Salzburg to talk about it!

In the late 90's already, Austrian notaries put in place an electronic archive, the CyberDoc.

CyberDoc has paved the way for digitalisation of notaries'
work across Europe. It has also become a building block of the Austrian e-government system.

Austria understood then what was to become a matter of course for all of us today: "Thinking digital is not an option anymore! It is a must.

Why does it matter at European level?

To us, it is clear that no Member State on its own could ever seize all the opportunities and deal with all the challenges of the Digital Single Market!

This is why the Commission has made the Digital Single Market one of its top 10 political priorities.

President Juncker said in 2014: "We must make much better use of the great opportunities offered by digital technologies. By creating a connected digital single market, we can generate up to EUR 250 billion of additional growth in Europe in the course of the mandate of the next Commission - thereby creating hundreds of thousands of new jobs, notably for younger job-seekers, and a vibrant knowledge-based society".

Figures speak for themselves: The digital economy is
growing at **seven times the rate** of the rest of the economy. It could grow faster still, if it was not held back by a patchy pan-European policy framework.

We can't afford to lose this race!

**[The digital agenda and the notary]**

But what does it mean to notaries more concretely?

How will the Digital Single Market change your daily work?

To answer these questions, I have chosen to update you on the **latest and practical** developments on four of our initiatives:

- the e-Justice Portal,
- the Succession Regulation,
- Company Law and
- Societas Unius Personae, or S.U.P in short.
[The European e-Justice Portal]

I like to think of the **European e-Justice Portal** as a cogwheel that makes the Digital Single Market go round. Not only does it answer cross-border legal questions in all EU languages, it also brings judicial authorities together.

I also consider the e-Justice Portal as a tool that every notary should mark as a favourite in his computer.

As a one-stop-shop for information on foreign law and foreign procedures, the Portal can make your day-to-day work easier.

**What’s the latest on the e-Justice Portal?**

First of all, the "Find a Notary" search engine has proved its worth by connecting many citizens and notaries across the EU.

We took your advice on board and upgraded the search engine so that users are immediately informed whether they can find notaries in the country of their choice.

The e-Justice Portal is also connected to a number of ongoing projects that can have a direct impact on your work. Let
me tell you about five of them, namely,

- the e-Codex,
- the regulation on public documents,
- e-Government,
- the interconnection of business registers and
- the interconnection of will registers.

First, the e-Codex pilot project for small claims.

It is the first time that EU citizens and companies can contact competent courts and file their small claim online. The court’s answers use the same channel. More importantly, the electronic signature ensures the authenticity of the message.

Day after day the e-Justice Portal becomes a single entry point where citizens and practitioners, including notaries – can launch cross-border procedures.
Secondly, the Council adopted last March a law for free movement of public documents related to civil status.

Because this law scraps administrative formalities, such as the Apostille stamp on birth or marriage certificates, it will help citizens save time and money when they settle in another Member State. The multilingual forms that can be attached to public documents will also make translation costs a thing of the past!

Next on our list, we will develop digital multilingual forms and make them available online.

I wish to emphasise that we want the authentic instruments issued electronically to move freely across the EU.

This is why we must build on the future Public Documents Regulation and promote the cross-border use of electronic public documents within the Union.

This brings me to my third point, on eGovernment and the role of the e-Justice

A survey we conducted in 2015 on eGovernment services shows that in over 50% of cases, citizens are requested to provide once again data that is already available to administrative services.

So much for the “once only” principle!
Citizens and businesses are waiting for us to take action and boost e-Government!

This is why the European Commission has decided to launch a pilot project to bolster "the once-only" principle for businesses and citizens, as well as explore the possibility to create a safe EU-wide online repository for documents.

► Fourth, we are also working on the interconnection of business registers. As of mid-2017 the European e-Justice portal will give access to certain information on companies available in business registers. This will enhance transparency and confidence in the Single Market.

The interconnection will provide you with a wealth of information filed in business registers across the EU, such as company names and their legal forms, their registered office, as well as their registration number. It will also provide access to documents, such as instruments of constitution or accounting documents.

All this, and much more, will make your life easier.

► And last but not least, we also support the ongoing interconnection of registers of wills, a project run by the European Network of Registers of Wills Association. To date, 16 national registers are interconnected. I believe Slovakia was last to join, last March.
This network enables you to check the existence of wills in other Member States in a matter of minutes! I can only recommend that you make the most of it in your daily practice.

[The Regulation on Successions and the European Certificate of Succession]

This brings me nicely to our second initiative: the Regulation on Successions and more specifically, the "European Certificate of Succession".

I call on you to make this Regulation work: in many member states, you are the first port of call for citizens planning their succession, and for heirs to better understand the process of cross-border inheritance.

In many Member States, you are also in charge of delivering the European Certificate of Succession.

This certificate is the first ever European authentic act. It enables heirs, administrators or executors of wills to prove their status and rights abroad.

And here again, we have taken on board another of your suggestions as we are currently developing an electronic
version of the European Certificate of Succession.

Things are coming along nicely. At the end of this month, national notaries and their professional bodies will implement the standardised e-certificate into their IT-systems and make it available to notaries.

[Digitalisation and Company Law]

As regards company law, we want companies to make greater use of digital tools - whether they interact with other companies or with registration authorities at national or cross-border level.

We will particularly focus on online registration procedures, the electronic filing of company documents and data entry in business registers. For instance, we will consider whether and how online registration could be made available for different types of companies, in order to slash set-up costs for new companies. Electronic filing in business registers could help companies save time and money through better use of digital tools, for example, when statutes need amending, or in case of transformation or dissolution of a company.

We could also devise a way to better organise company data in business registers, to make its digital processing easier.
Lastly, if there was one bone of contention today between the Commission and the Notaries of Europe, it would probably be this one: the proposal for a single member company - SUP for short.

The proposal for an SUP, if adopted, will allow a single member company to be formed online without the founder to be physically present before the national competent authority of the relevant member state.

Our point is obviously to make it easier and less costly to set up and run companies across the EU.

You have voiced your concerns regarding legal certainty of documents, the quality of business registers and risks of money laundering.

For my part, I believe that it is possible to establish the identity of the founder of a company online to a sufficient degree. We can do it using the existing EU legal framework of the EU Regulation on electronic identification, and using adequate technological means.

That said, fraud is always a possibility, as it is with any existing
non electronic system! The majority of member states already allow companies to be formed online and have various safeguards in place.

At this stage though, there is nothing set in stone. I am open for discussion on the matter.

[Civil Justice Policy Priorities 2016]

Finally, as is the tradition at Salzburg conferences, I will close this speech by taking a broader look at our justice policy priorities for 2016.

These priorities are not all related to the Digital Single Market. That said they probably apply to your daily work!

Let me start with the two proposals on matrimonial property and property effects of registered partnerships. These future laws potentially affect 16 million international couples in the Union. I know that you have always been in favour of common Union legislation in these matters. And indeed, once they are adopted, these laws will make it easier for you to handle cross-border property arrangements of couples who are either married or in a registered partnership. They will also improve legal certainty for
couples in Europe.

Where do we stand today?

I have to say that negotiations have been going on for quite a while. You know better than anyone that family matters are very sensitive. Therefore they must be adopted by unanimity.

Unfortunately, the proposals did not win unanimous support at the latest Justice and Home Affairs Council in December 2015.

This blockage led 18 Member States to request enhanced cooperation and press ahead with these two proposals as far as possible.

I am happy to say that Austria is among those 18 Member States and was always supportive for legislative action in this area.

The 10 remaining Member States are welcome to join the band if they wish to. In doing so, they will let their citizens benefit much faster from the legal certainty provided by both instruments.

As for the timeline, we hope to have both proposals adopted by the Council, possibly still under the Dutch Presidency before the
end of June.

Another major initiative is the Brussels IIa Regulation. Since 2005, this Regulation had helped to solve many cross-border family law disputes in Europe.

After 10 years, we had it reviewed. Results were mostly positive but some shortcomings came to light, such as the need for spouses to choose the court that would solve their dispute, or the need for a swift return of children abducted by one of their parents.

We are currently looking into how to best address these shortcomings. We intend to come forward with a proposal for changes in the course of 2016.

And last but not least, let me say a word on our upcoming proposal on insolvency.

There are more and more companies and individuals in the EU setting up business activities across borders. If they go bankrupt, this can have direct implications on the proper functioning of the internal market.

The proposal on insolvency aims at providing tools to rescue and restructure sound companies, as well as give honest but
bankrupt individuals a second chance, and strip out their debts in a reasonable period of time.

The Commission intends to present a legislative proposal on insolvency by the end of 2016.

[Conclusions]

Ladies and Gentlemen,

Across the wide-range of current, pending and future actions, our mission - yours and ours, is and remains to serve European citizens and companies, make their lives easier and promote Europe as a place we can all call home.

**With you, and thanks to you**, we have come a long way in creating the reliable legal framework that businesses and citizens need to benefit from the Single Market.

We have put rules in place that help companies trade cross-border, consumers to shop across borders, and families to live and move with minimum hassle throughout Europe.

With your many position papers and valuable observations, you have greatly contributed to these achievements.
Today, you have reaffirmed your commitment to helping us build a European Area of Justice together.

Epitectus once said “The key is to keep company only with people who uplift you, whose presence calls forth your best”

I am delighted to be in such good company today!

Thank you.