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**Unión Internacional Profesional de Auxiliares del Notariado**

## ***Quórum – English - Extract***



### ***PENSIONS: A GLOBAL PROBLEM***



***The right in rem of habitation***

***The active power of last will of older persons***

***Telematic corporate boards***

***Splendid International Forum in Bari***

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### **PENSIONS: A GLOBAL PROBLEM**

**The increased life expectancy** of people and the ensuing ageing of the world's population is leading to profound changes in societies and economies around the world. It is a fact that life expectancy since 1950 has increased by more than 25 years.

As a result, many states have to undertake reforms to ensure a sustainable pension system in the future.

In the case of Chile, it is expected that in 2060 the population over 65 years of age will be equivalent to 55 % of people of working age. In Spain, in 1960 the percentage of people over 65 years old represented 8.2 % of the total population, currently this percentage has reached 23 %. And in the European Union, the share of citizens aged over 80 was almost 6 % in 2020, while in 2001 it barely exceeded 3.4 %, an almost double increase.

Recent studies indicate that by the year 2060, pensioners will live on 23 more years since their retirement, which will lead, irretrievably, to a reduction in pension incomes.



Various solutions are being considered to alleviate the above consequences of greater longevity and, at the same time, to sustain a fair pension system that compensates for the work trajectory of many decades of workers.

One of the formulas that are considered, is that people save more at individual level, which will complement their future pension; for which, it would be no more for governments to provide such action with some tax reforms. Other governments are turning to plans for a decent and widespread employment so that there are many contributing members.

There is another plan, with which governments, in a consensual way, increase taxes for the payment of pensions, although in many OECD countries they are already high, so this is not estimated to be the solution.

**It is clear that we are facing a difficult and complex problem, a state problem.  
We must flee to ideological and hasty methods.**

In other countries, an increase in the retirement age is being applied in order to limit the funding gap, betting on favoring tax incentives for older people who continue in active employment. Retirement age in many countries is rising, for example: Bolivia 60 years old, France 64, Spain 67, Argentina, Brazil, Belgium: 65.

The current inflation that the world economy suffers from the post-pandemic and the war in Ukraine does not favor the current pensions, looking for many countries various current indices that move away from the CPI.

The notary world is constituted worldwide by more than two million two hundred thousand professionals – notaries and assistants – who are doing very remarkable legal work, guaranteeing the legal certainty necessary to establish private and commercial relations. Therefore, everyone deserves to be rewarded when they reach retirement age with an adequate pension that allows them to live their last years in dignity.

The work in the notarial sector is very stressful and, although it is not a strictly physical job, if it generates a high level of fatigue, tiredness and stress, which is causing, in many countries, experienced employees to request retirement to lead a quieter life, which is, without a doubt, a loss for the notary institution.

It is not enough just to make demonstrations. It is clear that we are facing a difficult and complex problem, a state problem. We must flee the ideological and hasty measurements.

No doubt, great consensus must be sought that will last over time, in order to secure the pensions of current retirees and current workers.

## ***IT'S TIME FOR THE ASSOCIATIVE TAKEOFF***

**After more than seven years** of work and establishment of the organic and corporate bases of our Association, UIPAN, the time has come for the definitive take-off.



UIPAN was born as a Spanish association, with an international character, with the clear intention of being useful for the millions of professionals who work in the Notaries where the Latin system prevails. The Association is currently open to all legal professionals, students and friends of the public faith; this is a large space that needs to be provided with information, services and training that satisfies them.

The international presence of UIPAN is easily apparent: from two countries in its foundation (Spain and Italy) today we have a presence in 32 countries on four continents. We are paying special attention to Ibero-America, Africa and



now, we are focusing our attention on China, an immense country that also needs legal-notary training.

In these working seven years, UIPAN has been at the side of the Notary and other social and academic organizations supporting projects and forums, contributing to the strengthening of the notarial institution. We have supported the publication of five books of legal and eminently practical content. We have improved our digital newsletter that already ranks among the world's legal-notary digital bulletins, and we have also changed our website to make it more dynamic and visible.

### **UIPAN is an exemplary organization that seeks excellence.**

Undoubtedly, UIPAN is an exemplary organization that seeks excellence. For this reason, surrounds itself with good people who encourage us every day to continue working with enthusiasm and joy: basic ingredients for the good end of any project.

Now, the time has come to strengthen this great associative project; to strengthen the cooperation we maintain with many collaborators from other parts of the world who give us their support and good work.

It is time to grow up, to join our ranks thousands of colleagues and friends who give their talent and intelligence for a positive end that is reflected in our statutes, such as: "The defense and promotion of the principles, rights and freedoms enshrined in the International Charter of Human Rights, and in particular the values of justice, freedom, equality, veracity and legal certainty, in the field of private legal relations".

**Only if we are a powerful organization, we can optimize resources and reach more people with our message of peace and fellowship.**

UIPAN is an open and free association, but only wants noble people among its ranks, with high doses of ethics and corporate coherence. Like any other association, membership is voluntary and free. For this reason, membership or not is a decision of each individual.

Only if we are a powerful organization can we optimize resources and reach more people with our message of peace and fellowship. Your participation, involvement and collaboration are more necessary than ever, in order to finally take off and set a course for the achievement of our marked ends: provide corporate and international training assistance to all professionals of the Notaries and Law, leaving behind the stage of construction.

## UIPAN CORPORATE NEWS

### **UIPAN COLLABORATES IN THE IV INTERNATIONAL CONGRESS ON EUROPE**

It has been an honor for our Association, UIPAN, to participate and collaborate in this IV international edition, held on 22 and 23 March, on Europe, in which continent we saw the light. It is clear that all members of the old continent of UIPAN have a clear European vocation.

Eminent figures from the European Union participated in this Congress, such as the former President of the European Parliament, Enrique Barón Crespo.

It is a pride, to collaborate with CEDEU, organizer of the Congress, in the good end of these stimulating events.

For its importance, we transcribe in the box the speech made by Enrique Barón Crespo, entitled "Europe: Future versus past".

**IV CONGRESO INTERNACIONAL**  
UN NUEVO IMPULSO A LA INTEGRACIÓN EUROPEA DESDE EL SUR CONTINENTAL:  
Perspectivas y desafíos  
de la presidencia española del Consejo de la UE

**22 y 23**  
**Marzo 2023**

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### *Europe: Future versus past.*

The construction of United Europe was a commitment to a future other than a past of struggle between one country and the others for hegemony. A quasi-permanent European civil war. The reason for state enshrined in the Treaty of Westphalia was the culmination of that nationalistic logic that led to the near destruction of the continent with global repercussions.

The Russian invasion of Ukraine gives more value to the initial assertion of the Schuman Declaration: World peace cannot be safeguarded without creative efforts comparable to the dangers that threaten it. Its fruit, in a patient work of weaving peace between old secular enemies, has brought us from the ECSC to the present EU. With a pending failure: the European Defense Community rejected by the French National Assembly in 1954.

The result is the longest period of peace since the end of the Roman Empire, with a continental jump in 1989 produced by the fall of the wall and the disappearance of the steel curtain, which split in two the continent. The German unity and implosion of the USSR, which had recognized the existence of the European Community only in 1988. Gorbachev's glasnost had exposed a dictatorial, economically obsolete and imperial political system under a federal label.

The Paris Charter on the Future of Europe was signed in November 1990 by the CSCE European States plus the United States, Canada and the USSR, which imploded a year later. Immediately, twelve European states from the Warsaw Pact voluntarily joined the Partnership for Peace launched by NATO in 1993. Ten of them are currently members of the EU, Ukraine joined the following year and also Russia in 1995. Facts that should be remembered.

Certainly, for much of the Russian ruling elite formed in the Soviet era this process represented a frustration that broke with the balance reached by the armies of the victors in 1945. What all the triumphant powers did throughout history.

Moreover, it broke with the vision of Russia as a bicontinental and multi-ethnic empire, the largest since Rome, with a continuity that came from Peter the Great, the creator of the Russian Empire as a European and maritime power. Stalin, passing through Emperor Alexander I in the Holy Alliance with a prominent weight in Europe and a paradoxical claustrophobic sentiment in his permanent search for access to the warm seas. Putin's cold delirium is to return to that past, to blood and fire in a cruel denial of reality, as has been seen in Chechnya, Georgia, Kazakhstan and even Syria.

In the present war, there is a difference, the existence of the European Union. Ukraine expressed from the outset its willingness to join this process of building a shared future that was taking shape in its society. For the Putin vision it meant breaking the very future of his project of rebuilding the past.

The Russian challenge takes us back to one of the biggest crises of European construction: the debate no longer arises at the theoretical level on the CFSP and European sovereignty. It is about the war on our continent, precisely in one of the key scenarios of the two world wars the fruit of a cold and massive attack by Putin's Russia on its neighbor Ukraine, breaking all the rules of international law, teaching itself to the population and trying to ignore the reality of the European Union.

In these months, the EU is taking decisive steps: as a political and economic protagonist, with shared firmness and broad support of its citizens to the





Ukrainian people. Germany has adopted the most important security and defense measures since the creation of the Federal Republic and France defends a strategic autonomy, key to European sovereignty, revitalizing and expanding NATO with the accession of Sweden and Finland. Switzerland has broken with its traditional neutrality, Japan reconsiders its policy on nuclear weapons and the UN General Assembly has condemned Russian aggression, as well as the repression of critics of its own people. It is a European and global crisis.

The conflict will be long and painful. Our response must be built on the impressive wave of European solidarity by creating the European Defense Union as we have been able to create that of states, citizens and the monetary one. So far, we spent more separately than if we did it together and the crisis in Ukraine shows us with a much lower outcome. The key decision is to add security and defense to citizens and currency. And it has a name since the Schuman Declaration of 1950: The European Federation. It is not just about our future, but about peace on our continent and in the world.

Following the Conference on the Future of Europe, culminating the constitutional process opened since the Maastricht Treaty, developed in the Conventions and the Treaty of Lisbon.

A critical point: never agree to return to the Europe that self-destructed in 1945

Consequence of the struggle for hegemony between nationalisms and the balance of powers based on arms and not on the will of the peoples. We have decided to share a destiny, we must manage it together, without reservations or vetoes to establish peace on the common values that have allowed us the longest and most fruitful period in the history of Europe. Ukraine's struggle is ours.

**Enrique Baron Crespo**

## ***SPLENDID INTERNATIONAL FORUM ORGANISED BY UIPAN IN BARI (ITALY)***

Splendid. Undoubtedly, this word defines the International Forum entitled **“The International Circulation of the Notary Document”** organised by the International Professional Union of Notaries Assistants (Uipan), in collaboration with the National Association of Employees of Italian Notaries Offices (Unic@), The Skill Group and Digital Hub, held in the beautiful city of Bari, Italy, on 29 April 2023.





The event, at an international level, was attended by first-level speakers on the notarial scene.



Notaries and assistants of notaries from various foreign countries discussed urgent issues related to the law and circulation of international notarial documents.

After the welcome speech of **Michele Regina** (Italy) member of the Executive Committee of **Unic@** and thanks to the colleagues from Apulia who collaborated in the event, Michela Crescentini (**Italy**) member of the Executive Committee of **Uipan** and after greeting the speakers, the notary Antonio Di Lizia, the notary Fabio Tierno, the notary Roland Krause, Annie Mellou, Luciano Piñera, Lucia Di Ruggiero and Gabriele Rossetti and all the participants reiterated the activities and objectives of Uipan, presenting Dina Nicosia, president of Uipan, who moderated the event.

The notary **Antonio Di Lizia de Potenza (Italy)** spoke about the characteristics that a foreign



power of attorney must have for circulation in Italy and those that it must have for use abroad; the difference between legalization and apostille; the procedure to be used by the Italian notary for the activation of a will from abroad in respect of

goods situated on Italian territory and the characteristics that a will draw up in Italy must have in respect of property situated in foreign territory or both.

- The notary **Fabio Tierno de Messina (Italy)** spoke about the conditions required by the Law, which the notary must verify, in case that there is a foreigner present in the deed or when all the parties are foreign; differences between EU and non-EU citizens, verification of reciprocity status, extraordinary checks to be carried out by the notary in the presence of a person residing in the Blacklist countries; on how the Notary proceeds in the event that one of the parties does not know the Italian language, the checks to be carried out by the Italian notary in order for a deed drawn up abroad to be used in Italy and how to proceed when the deed lacks the substantive requirements laid down by the Italian Notarial Law.



The notary **Roland Krause of Berlin (Germany)** spoke about the characteristics that the power of attorney must have for his transfer to and from Germany; the possibility of the German notary to publish a holographic last will which was drawn up by an Italian, containing property on Italian territory but residing and dying in Germany; the procedure adopted by the German notary in the event of publication of a will granted by a foreign notary; on the differences between documents drawn up by “civil law notaries” and “common law notaries”; on the possibility for the German notary to receive a donation certificate for goods located in Italy and Germany; on the procedure adopted by the German notary for the deposit and activation of a deed from abroad.



In the second part of the forum, the following interventions were made:

- **Anna Mellou**, assistant notary in **Thessaloniki (Greece)** and **Luciano Piñera**, assistant notary in **Gijon (Spain)**, who discussed the checks to be carried out in order for a diploma awarded abroad to be used in Greece and Spain respectively, how to proceed when the title lacks the substantial requirements required by the notarial legislation in force in Greece and Spain; under the conditions required by law, which the notary must verify, in the event that the document shows the presence of an alien or when all the parties are foreign; on the characteristics that a power of attorney granted abroad must contain for circulation in Greece and Spain respectively.







- **Lucia Di Ruggiero**, notary assistant in **Molfetta**, Italy, spoke about the notary powers of consular offices and the procedure for submitting a consular document or a document drawn up by a foreign notary with the Italian notarial deeds, the form and the obligations to be fulfilled.

Gabriele **Rossetti**, notary assistant in **Bologna** (Italy) and president of Unic@ spoke about the practical aspects of being able to proceed with the

activation of a foreign last will, about the drafting of the declaration of open succession abroad in which the inheritance includes assets in Italy and abroad, finally about the European certificate of inheritance, when it is necessary to request it and how to write it.

The works were closed by **Alessandro Santarsiero (Italy)** member of the Board of Directors of **Uipan**, who thanked all attendees, underlining the importance of these events to face the new challenges of the law, understand the good practices to be implemented, increase the heritage of professional knowledge and training,

Numerous questions arose that led to a debate on the rules and regulations governing EU citizens and non-EU citizens, which regulate real estate transactions between foreigners.

From the comparison and exchange not only of theoretical notions, but also of daily notarial practice, important new professional elements always emerge that must always be explored in depth to keep up to date and with the rapid changes of modern society.

It is a fact, UIPAN is reaching more countries with its positive message of exchanging ideas, systems and legal projects.



The BARI Forum, which had to be postponed due to the pandemic, has been a welcome boost to our ends. We appreciate the help and willingness of all the speakers who, with their brilliant presentations, encourage us to move forward.



### ***SUCCESS OF THE FIRST UIPAN VIRTUAL MEETING***

UIPAN is an international association with members located in thirty countries around the world, whose main objective is the training and conduct of information courses and seminars that allow the growth and professional updating of the notarial assistants and legal professionals.

It would be nice to meet each one of our associates and not associates, talk to them, listen to their opinions, proposals or simply their career path. It would be very gratifying to know their working methods and their application within the notary office. This purpose would be a wonderful experience, but impossible to live it personally because of the limit imposed by the distance that separates us.

Therefore, the Board of Directors of UIPAN thought to overcome distances and borders, using the tools offered by technology, so we have decided to create a **“virtual living room”** to organize informal talks between colleagues and friends from time to time. However, the objective of virtual meetings is to allow these conversations to be maintained in time to offer an excellent way to exchange experiences related to our professional figure, to talk about situations or issues of a no-



tarial and non-notary character that we choose from time to time, to meet and confront each other.

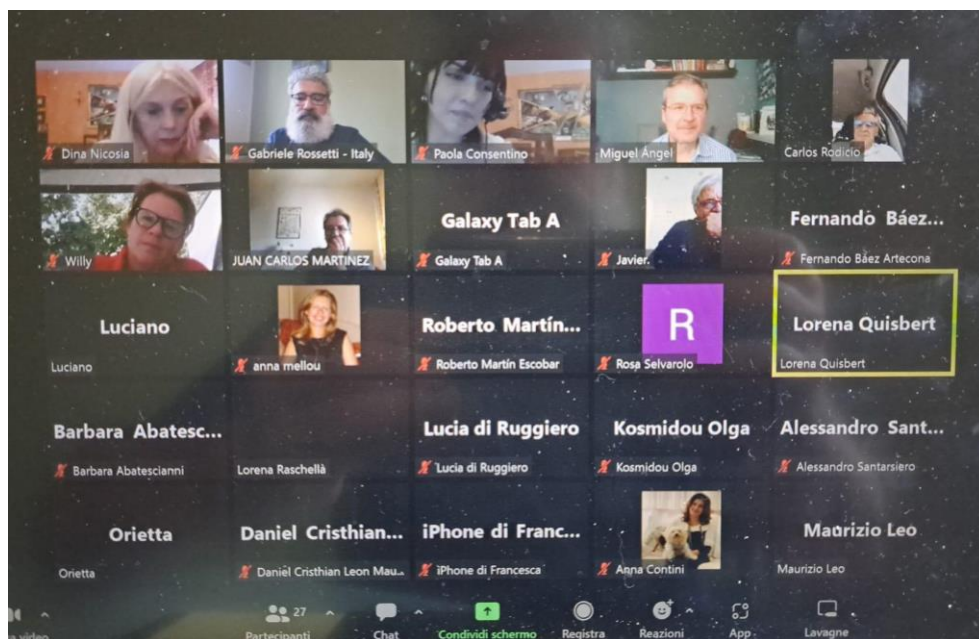
Meetings will not have training purposes, they should only be considered as a moment of leisure and exchange of ideas, but they can have a positive impact on the performance of our work, on its professional or work aspect.

For this reason, virtual meetings will be organized periodically through the zoom platform. They will last from 30 to 60 minutes, maximum. The meetings will be open to all those who wish to participate with free registration. They will receive the link to enter our zoom platform for that session. Of course, all participants must be polite in their opinions and respect the direction of the moderator. You can apply for registration at [info@uipan.org](mailto:info@uipan.org).

Do not wait to be informed, participate intensely in these meetings. Comparison always creates new enthusiasm to improve oneself, as a person and as a professional.

The first “UIPAN Corporate Meeting” was held on Saturday, June 10, with the

theme ***The function of a notary office***, was a success and served as a pattern for future meetings, correcting the technical anomalies and fixing the way to debate (Peru, Spain, Italy, Greece, Holland, Paraguay, Bolivia and Ecuador).



Thirty professionals of the notary world from eight countries who met enjoyed the various comments. We talked about the future of notarial studies, whether we are going towards a system of union of notaries or not; it also addressed the issue of family reconciliation and the schedules that exist in the different countries.

The moderator was our member from Asturias, Luciano Piñera. We continue to work internationally in peace and harmony for the collective.

**RESPECT FOR PUBLIC ORDER : AN ESSENTIAL MISSION OF THE NOTARY, A PERMANENT DE-FI FOR THE NOTARY.**

The 11st Edition 2023 of the Université of the World Notariat “Jean-Paul DECORPS” the courses are broadcaste by video conference, followed by a week of face-to-face courses in Rome from 03 to 07 July 2023.

Young notaries are invited to a unique training, the training cycle is organised around the theme : RESPECT FOR PUBLIC ORDER : AN ESSENTIAL MISSION OF THE NOTARY, A PERMANENT DEFI FOR THE NOTARY



This theme is covered through four (4) modules : family, person, heritage, and succession, each led by the professors :

Cristina Armella, Professor at the Faculty of Law, University of Buenos Aires, Argentine, and Notary



**Hervé Noubadoubaye and President UINL, Lionel Galliez**

Christine Morin, Professor at the University of de Laval, Québec, Canada, and Honorary Notary ;

Luc Weyts, Honorary Professor of Catholique University of Louvain, Belgium, Honorary Notary;

Michel Grimaldi, Honorary Professor, Université Panthéon-Assas, Paris, France.

Edition 2023 of the University of the World Notariat brought together in Rome eighty (80) young notaries from forty (40) countries and four (4) different continents (Africa, America, Asia and Europe). Throughout the week, participants took courses taught by distinguished professors, on the above theme, in three different languages (French, Spanish and English) and through the aspect of 4 subjects.

NOUBADOUMBAYE Hervé, Notary-trainee, Delegant Delegate of UIPAN in Africa, had participated in the university in the module THE PERSON directed by Professor Christine MORIN, from where he exhibited on the theme : wills in a possible notary form.

Participants also had the chance to attend a Conference on the topic of Diversion at the Italian Court of Cassation (Corte di cassazione), given by Magistrate Giacomo Oberto, Secretary General of the International Union of Magistrates, and Thierry Vachon, Scientific Director of the University. The Honorary President Valentina Rubertelli of the Italian Notarial Council also introduced them to the Italian notariat and its technological advances.

## ***DIALOGUES ON THE INTERNATIONAL NOTARIAL WORLD***

With great success was held on July 20, 2023 a program on social networks entitled “International Notary World,” led by Dr. Zaida M de Navas, from Venezuela Caracas, who is already part of the large UIPAN family, giving a dialogue with the delegate of the association in Ibero-America lawyer Jannyree del Carmen Holguín Sifuentes.

Notary technical and legal aspects of both countries were treated in a friendly and constructive manner: Venezuela and Peru, thus strengthening ties of friendship and solidarity between both nations.

Likewise, made at the public of Venezuela, notaries, lawyers and auxiliary staff of Notaries, the importance, benefits and academic activities that our Association provides.

It is clear that, UIPAN, continues in both countries, where we hope soon to give the course of REDACTION OF THE NOTARIAL TESTAMENT, a topic of tremendous relevance for all legal professionals.

Likewise, the event was used, to invite to membership each employee of notary office, lawyers, students of law, notaries to an international association with vocation of international public service, whose membership is free.

Without a doubt, legal dialogues bring us all closer.

## ***WE ATTEND CEDEU’S 2023 UNIVERSITY GRADUATION***

Three members of UIPAN, including its former president Juan Carlos Martínez Ortega, as well as Xiufang Zhi and Kai Li, had the pleasure of attending the public graduation ceremony of the students who have studied various university courses at CEDEU, a center attached to the Rey Juan Carlos University.

The graphic is a vertical rectangular poster with a dark blue background. At the top left, the word "Diálogos" is written in a large, white, serif font. Below it, in a smaller white font, is "sobre mundo notarial internacional". To the right of this text is a circular logo for "Mundo Notarial" with the tagline "La Excelencia en el Servicio" and a star border. In the center, the date "Día 20/07/2023" is displayed in a large, bold, white font, followed by "5pm hora de Venezuela" in a smaller white font. Below the date, the name "Dra. Zaida M de Navas" is written in white, with "Venezuela" underneath it and a small Venezuelan flag icon. To the right of the text are two portrait photos: the top one is of Dra. Zaida M de Navas, and the bottom one is of Abogada Jannyree Del Carmen Holguín Sifuentes. Below the photos, the UIPAN logo is visible, followed by the name "Abogada Jannyree Del Carmen Holguín Sifuentes" and the word "Perù" with a Peruvian flag icon. At the bottom left is a large white Facebook 'f' logo, and at the bottom right is a red rectangular box with the word "LIVE" in white, bold, capital letters.



The former president was at the presidential table as a research professor at CEDEU, along with the Faculty of Legal and Political Sciences of the Rey Juan Carlos University, Dr. MS. Maria Teresa Enciso.

They had the opportunity to share with the CEO of CEDEU, Dr. Alfonso Cebrián and many of the 500 people who met, the magnificent hall of the Pablo VI Space, Madrid.



The Center for University Studies (CEDEU), has always committed to excellence and has supported all our projects, a fact that we recognize and value deeply. For this reason, once again, UIPAN is at the side of the academic world, exploring new ways to reach with our message to all countries, also China.



**Doctors Chanyu Wang and J.C. Martinez, along with Xiufang Zhi and Kai Li**



## **UIPAN WAS AT THE BOOK FAIR IN MADRID**

On May 31, 2023, from 11.00 to 13.00 hours the former president of UIPAN, Juan Carlos Martínez Ortega, was at booth 53, of the publishing house Dykinson, presenting and signing the collective work: **Encyclopedia Notarial** of which he is author along with five magnificent Ibero-American notaries: Paul David Arellano Sarasti, Marco Reinaldo Delgado Peláez, Sergio Vinicio Jauria Cárdenas, Claudia Iris Varese de Chain and Ismael Vargas Aiza.

The Encyclopedia Notarial has had an extraordinary international reception and has been sponsored by UIPAN, being on the shelves

of hundreds of notaries and directors of the notary institution.



After the splendid presentation he had in Madrid, last February, at the Royal Academy of Legislation and Jurisprudence (you can see more about this act in the Quorum 14 newsletter on our website) to be in this very important fair in Madrid, has been a pride and an honor, both for the authors and Editorial Dykinson, as for our Association UIPAN.

In addition, the editorial through its media recorded an interview with Juan Carlos Martínez, in which he spoke about the Notarial Encyclopedia and the UIPAN Association, demonstrating, the international weight achieved in a few years. You can watch the video on our website and on Facebook.



### **WE DON'T FORGET OUR UKRAINIAN COMRADES**

Months pass and Russia's invasion of Ukraine continues to sow the fields of blood and horror. How long will this damn war that benefits no one last?

Our Association continues to uphold the values of justice and peace. We are with our Ukrainian colleagues and affiliates. Therefore, we do not forget them, until the end of the war we will continue to remember in positive terms our dear friends of that beautiful and today devastated country.

¿Deseas cointinuar con tu formación universitaria?

Uipan y CEDEU, Centro de Estudios Universitarios, adscrito a la Universidad Rey Juan Carlos, colaboran en la formación universitaria oficial para sus afiliados y familiares

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## ***VISIT OUR NEW WEBSITE***

It has been more than seven years since UIPAN had a website that, from the beginning, was open to the public around the world. As we announced in the previous issue, we have made a new website, more attractive and dynamic that is having a very positive reception among our friends.

We are still working on some profiles of it, but it already clearly exposes our corporate goals and projects in the short and long term. In addition, it exposes the training courses we are doing and, openly, there are all our QUÓRUM digital newsletters and the articles of professional interest that we periodically post.

Also, you can now acquire courses and publications by paying them directly through the website, thus facilitating the management and accelerating the processes.

We have a splendid team of professionals who help us keep it up to date, both in its content and technical aspect.

There is a lot of work after maintaining a website. It is the first reference, apart from social networks, to which anyone can go with a simple clip.

For this reason, take advantage of all the content tools provided by our magnificent website: [www.uipan.org](http://www.uipan.org).



## **ASK UIPAN**

On the new website of the Association, a banner with the name “Ask Uipan” has been created. The purpose is to be close to all notary assistants, legal professionals and citizens of the world.

Therefore, through a form you can ask us all kinds of legal and notarial questions from any country in the world to which we will try to answer.

You can also ask us for help to have professional contacts in the different countries where UIPAN has affiliates.

The questions and answers will be posted on the web.

All this service is totally free

Without a doubt, a new tool at the service of all.

UIPAN has a vocation for service.





## ***THE DIGITAL QUORUM NEWSLETTER IS RECEIVED WITH ENTHUSIASM***

We can affirm, without blushing, that each new issue of the digital newsletter QUÓRUM, edited semi-annually by UIPAN, entails gaining ground in the knowledge and appreciation of our Association, also increasing the number of affiliates.

Some notary institutions value it and wish to circulate it to its member notaries. We are making the arrangements to make it so.

The great legal content, especially delving into international notary issues, bring readers closer to different sensitivities on issues of tremendous legal, notarial and social relevance.

UIPAN is collaborating with other notary institutions to bring together notary assistants, notaries, lawyers, students, etc., publish articles of professional interest and, of clear human and social content, emphasizing those who deal with disability.

The authors who give us their works free of charge, are reputed professionals from the world of law and academia. From here, we express that the pages of the newsletter are open to all who want to publish their articles with us, provided they have a legal-notary or social content.

We are sure that the present issue of QUÓRUM, the 15, that you can see on your screen will be of your joy and interest. If so, we encourage you to invite others to benefit from its content and, why not, join the UIPAN family.

### **STYLE RULES FOR THE PUBLICATION OF ARTICLES IN QUORUM**

**Send.** All works must be sent by email to [info@uipan.org](mailto:info@uipan.org) and must be accompanied by a short c.v. of the author, as well as telephone and contact address. The Directorate will send receipt of its delivery.

They must be signed and send us a bust photograph.

**Extension.** The content of the articles published in the QUÓRUM newsletter must always be original, and not excessively long. It must be maintained between 1 and 3 conventional pages (type Arial 11, single line), equivalent to between 1,500 and 2,400 words (maximum 13.000 characters without spaces).

**Drafting.** Articles should use the style of journalistic collaborations: phrases and paragraphs happen naturally.

**Editing.** In the text, it is possible to use bold letters moderately and only for a word that is expressly desired to highlight, and italics for citations, references, etc.

We also ask you to emphasis within the article those paragraphs that you believe, because of their importance, we should lead to “highlights” (paragraphs that appear interspersed in the text with larger letters). These highlights should be brief.



**Evaluation.** The articles will be evaluated by the Editorial Committee. Whatever the decision taken, the authors shall be informed in writing.

## ***ARE YOU OR YOUR CHILDREN GOING TO TAKE A COURSE OR MASTER OUTSIDE YOUR COUNTRY? UIPAN HELPS YOU.***

We are aware that thousands of students are currently expanding their studies or degrees in other countries, even under the Erasmus programme. The challenge of sending our children to distant countries to parents worries us and gives us some fear.

UIPAN, with affiliates in more than thirty-two countries, puts at your disposal the contacts of our colleagues and friends in order to help you, provide you with accommodation, universities, etc.

We seek to be close to you and your family. We will do everything in our power to help you, to the best of our ability. Contacta with us at: [info@uipan.org](mailto:info@uipan.org).



## **ON THE FRONT PAGE**

### ***LIVING OFF RENTS.***

### ***HOW TO GET TO RETIREMENT***



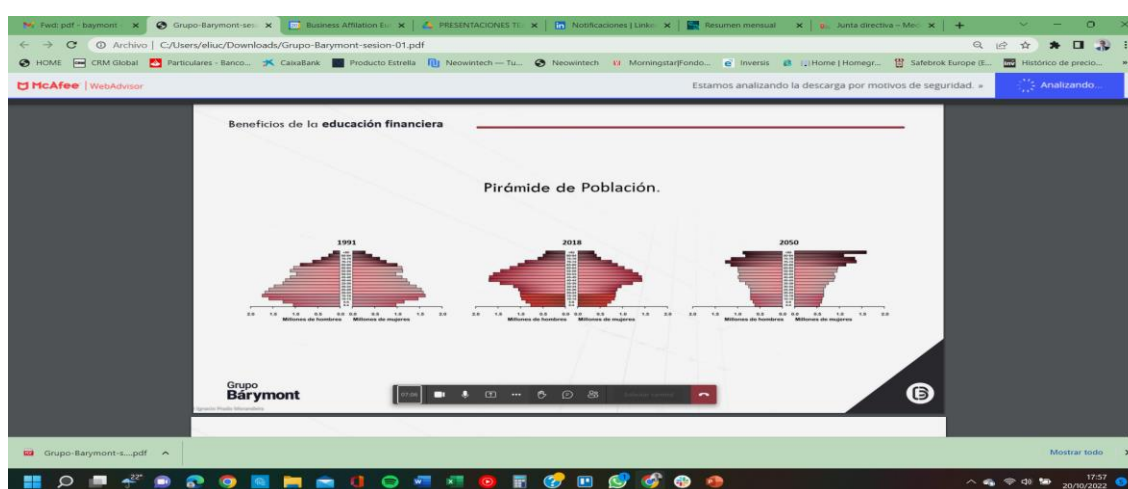
**Joaquín Escola García**

WealthTech Consultant Team Leader  
Safebrok Malaga  
EFPA Financial Adviser

We have been listening for years and talking about retirement, how and when to reach it, its amount and its revaluation, but, in reality, nobody takes the bull by the horns because the problem is of complex solution for public administrations. Obviously, these lines are not

intended to give a solution to public retirement but to provide solutions to meet this need, among others. That is not an obstacle to putting our pension system in the current situation.

We continue to suffer from the non-reform of the pension system because what has been implemented so far, are patches to the system. Raising both the retirement age and the years contributed will not solve the current problem of the system and is none other than the **population** factor. In 2009, the Replacement Rate (numbers of assets/numbers of inactive) was 10 assets versus 4.7 inactive (retired, unemployed and under 16). For the year 2049 the proportion will be 10/9. The disproportion of our population rate is the great problem in the short and medium term joining with the process that has begun in these years of the retirement of the “babyboomers” and that is reflected in the projection of our population pyramid.



This implies, the increase in pension expenditure and that the system is unsustainable in the long term by moving the Replacement Rate (relationship between the level of pension income and that of the last salary) in 2022 from 72.3 % in 2050 to a rate of 49.7 %.

And what solution can we give to this problem from our activity as financial advisor. During these years of professional activity, wealth managers have oriented our work more to the search for results (profitability) than to achieve broader objectives, in large part due to the demand of our clients. But in recent years, the mindset, both on our part and on the part of our customers, has evolved to achieve objectives that are not only focused on profitability.

And of course, my activity as a financial advisor has also evolved as well as the sector, from managing portfolios and investments of clients in search of profitability, to performing a 360° management with clients where my objective is to offer solutions to the needs of clients covering from the management of their assets, optimization of their investments and the planning of their retirement, because after this time we continue to have needs that we must cover.

There is a bad concept on behalf of clients to plan their wealth at the moment of retirement and the experience reveals that it is a gross mistake because not everything ends in that vital moment. We must plan this heritage by segmenting each of our moments of life because by increasing life expectancy the needs and objectives that we can have at the time of our retirement, enjoy that moment, travel, help children, etc., etc.; it may go on to need resources fifteen or twenty years later than with our public retirement it may not reach.

And in this 360° planning that I offer my clients I introduce the POGO procedure, where I ask you at our meeting to tell me about your personal situation (family situation, children, professional situation, property situation,...); how they organize this wealth (who manages their assets, in which they invest,...); what objectives it has both at present and in the future (studies, new investments, retirement,...) and, finally, what objections can have to change, if you have apprehension of change.

Once all the information is collected, my work begins offering the client a financial proposal always based on the concepts of Liquidity, Short, Medium and Long Term, where we include the asset and liability of the client, we study their debts and value the protection for the future (life-saving insurance).

|                                                                                                                                                                                                                        |                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;"><b>LIQUIDEZ</b></p> <ul style="list-style-type: none"> <li>• PENSION PUBLICA</li> <li>• CUENTA CORRIENTE (3/6 MESES DE GASTOS CORRIENTES)</li> <li>• SALARIO</li> </ul>                 | <p style="text-align: center;"><b>CORTO PLAZO</b></p> <ul style="list-style-type: none"> <li>• CUENTA REMUNERADA</li> <li>• PRODUCTO INTELIGENTE ( 1 AÑO/3 AÑO)</li> <li>• FONDOS DE INVERSION DE RF O MONETARIOS</li> </ul> |
| <p style="text-align: center;"><b>MEDIO PLAZO</b></p> <ul style="list-style-type: none"> <li>• FONDOS DE INVERSION MIXTOS Y RV</li> <li>• PRODUCTO INTELIGENTE ( 5 AÑOS)</li> <li>• UNITLINKED (EVA/SIRIUS)</li> </ul> | <p style="text-align: center;"><b>LARGO PLAZO</b></p> <ul style="list-style-type: none"> <li>• PLANES DE PENSIONES</li> <li>• PIAS</li> <li>• FONDOS DE INVERSION DE RV</li> </ul>                                           |

To finish, and what the customer always asks, what products I can offer. In previous lines I point out that the important thing is to mark the objectives at each vital moment for this planning. But if I would like to make a series of recommendations because there is always time to plan our retirement.

First, it would stop hiring or contributing to private pension schemes for two reasons, one, its profitability, on average lower than other similar investment assets. And second, his lack of tax appeal. In the 90s and early 2000s they had this incentive that many participants were interested in their high emoluments but that today do not exist and whose future fiscal impact would be very burdensome. For this case, my recommendation to clients within the planning that I propose is that they leave this product, as long as there is more wealth, for its rescue at the end of their life, that is, when our vital needs may be reduced and the fiscal impact will matter us less. Where these funds will only be used for our maintenance (residences, caregivers, etc.). And with the pension funds that we have contracted, try to

seek maximum profitability with them by transferring their assets to long-term equity pension funds.

Secondly, it would propose long-term investments through other financial assets with more favorable tax implications than pension schemes, e.g., savings products such as PIAS, life/savings insurance or Investment Funds, all through regular contributions to optimize returns.

Third, in the market there are also assets to optimize the short and medium term to plan our financial assets, today very much in vogue such as Letras, Bonds, Investments in precious materials or newer products such as Crowdfunding. All this helps us to prepare our heritage for each objective that we consider.

In conclusion, like everything in life, it is best to approach a professional to solve our doubts and solve possible problems. As I tell my clients, if I have a legal problem, I go to a lawyer, if it is health, a doctor, if it is financial, let yourself be advised by the independent professionals of the financial sector.

## ASSOCIATIVE HORIZONS

### ***CONSOLIDATION OF THE III UNIVERSITY COURSE OF NOTARY UPDATE***

It is clear that, after three years of experience, the hundreds of participants in these courses taught by notaries, lawyers and university teachers are proving very positive to extol the notarial action and, above all, to emphasize the need to be up to date with the new legal, national and international regulations.

On this occasion, as can be seen in the attached program, the teachers came from Argentina, Spain, Peru, Bolivia and Ecuador. The course was opened by the president of UIPAN, our Italian colleague Dina Nicosia.

Next, the Argentine scribe, Claudia Iris Varese de Chain, addressed the theme “The Convivial Unions”, a situation every day more common in the countries.

The Spanish notary, María Amanay Rivas Ruiz, continued, who updated us on the “News in the regime of incorporation of limited companies” and masterfully drew the new digital panorama that is presented in Spain for the formation of this type of companies.

The presentation of our Peruvian companion, Janyré Holguin Sifuentes, who talked about “Marriage in Notary Headquarters”, highlighted the notarial intervention in this new task assigned to public federations in Peru. It was magnificent.



Regina Tuero, notary of Bolivia, dazzled us with her expert and dynamic exhibition on “The role of the notary in sweepstakes and other games of chance”.

The next day, Dr. Tiffany Sánchez-Cabezudo Rina took the floor, who dealt with a not well-known topic entitled “Delimitation of the rights of use, usufruct and habitate”. He brilliantly emphasized the details of the right-of-room.

The act was closed by our friend and distinguished Ecuadorian notary, Paul David Arellano Sarasti, who masterfully discussed the theme “Criminal responsibility in the notarial service”. He emphasized the responsibility of notaries and workers who assume in this profession of risk.

Both the chosen topics and the outstanding dissertation led participants to take good note of some legal institutions and how to advise clients of notarial studies on these aspects. From these pages we appreciate the disinterested lectures of the speakers and we trust that in the year 2024 we can teach this university course again.



CENTRO DE ESTUDIOS UNIVERSITARIOS



**III CURSO UNIVERSITARIO DE ACTUALIZACIÓN NOTARIAL**

**ONLINE**

**5, 6, 7, 12, 13 y 14 Junio**

Duración 10 horas

**COORDINADORES**

**Victor Talavero Cabrera**  
**Juan Carlos Martínez Ortega**  
Profesores de CEDEU

**APERTURA**

5 de junio de 2023. 19.00-20.15 h.  
**D<sup>a</sup>. Dina Nicosia**  
Presidenta de la Unión Internacional Profesional de Auxiliares del Notariado.

**D<sup>a</sup>. Claudia Iris Varese de Chain**  
Notaria-Escribana pública de Argentina  
*Las Uniones Convivenciales (Uniones de hecho)*

6 de junio de 2023. 19.00-20.00 h.  
**D<sup>a</sup>. María Amanay Rivas Ruiz**  
Notaria de Madrid-España  
*Novedades en el régimen de constitución de sociedades limitadas.*

**POENCIAS Y PONENTES**

7 de junio de 2023. 19.00-20.00 h.  
**D<sup>a</sup>. Janyré Holguín Sifuentes**  
Abogada y asistente notarial en Perú  
*El matrimonio en sede notarial*

12 de junio de 2023. 19.00-20.00 h.  
**D<sup>a</sup>. Regina Tuero**  
Notaria de Bolivia  
*El rol del Notario en sorteos y otros juegos de azar*

13 de junio de 2023. 19.00-20.00 h.  
**D<sup>a</sup>. Tiffany Sánchez-Cabezudo Rina**  
Dra. en Derecho. Profesora de Derecho civil en CEDEU  
*Delimitación de los derechos de uso, usufructo y habitación*

14 de junio de 2023. 19.00-20.00 h.  
**D. Paul David Arellano Sarasti**  
Notario de Ecuador  
*Responsabilidad penal en el servicio notarial*

**CARACTERÍSTICAS**

- Curso online
- Días 5, 6, 7, 12, 13 y 14 de Junio
- 6 días, dos semanas, 3 días/semana
- De 19.00 h. a 20.00 h. (10 horas)
- Horario de Madrid
- Después de cada conferencia se abrirá un debate para que todos los participantes puedan discutir y aportar sus comentarios
- Diploma emitido por CEDEU

**CRÉDITOS**

1 crédito ECTS

**TITULACIÓN**

A los participantes se les expedirá el correspondiente diploma del Curso Universitario de Actualización Notarial 2023, emitido por CEDEU Centro de Estudios Universitarios

**BECAS**

Se concederán, en su caso, 4 becas, dos a instancia de CEDEU y dos a instancia de UIPAN

**IMPORTE DE MATRÍCULA**

- Gratuito para alumnos de CEDEU

**Inscripciones en:** [info@uipan.org](mailto:info@uipan.org)

En colaboración con







# **THE ROLE OF THE NOTARY IN DRAWS AND GAMES OF CHANCE IN BOLIVIA: GUARANTOR OF LEGALITY AND TRANSPARENCY**



***Dr. Paola Regina Tuero Paniagua  
President of Association of Notaries of Public Faith of Santa Cruz -Bolivia***

## ***Introduction and Legal Framework***

The development of sweepstakes and games of chance, widely known as effective marketing strategies and as a form of entertainment, are strictly regulated in several countries, Bolivia being one of them. In this context, the notary stands as a fundamental figure that guarantees the transparency and legality of these acts, validating each stage of the process. Law No. 483 on the Plurinational Notary and Law 060 on Lottery and Random Games, together, form a legal framework that provides clear guidelines for the role of the notary in such events (Act No. 483, 2014; Act No. 060, 2010).



## ***Notary and its Insertion in Draws and Contests***

The role of the notary, defined by the Bolivian legal framework, is intrinsic to the reliability and legality of sweepstakes and games of chance. Its presence, dictated by current regulations, ensures that the rules and regulations established for these activities are respected, allowing the event to run with transparency and fairness for all participants. The Law No. 483 distinguishes between protocol and extra-protocol documents, with the Notary Deeds of intervention in drawings and competitions being a palpable example of the last category (Art. 67, Act No. 483).

## ***Business Promotions and Notary***

Business promotions have solidified as a vital tactic in marketing strategies for companies in Bolivia and around the world. Law 060 specifically institutes regula-

tions for these acts of sweepstakes and awards given by entities, dictating that a Notary of Public Faith must be present, and thus ensuring that the promotions are fair and equitable for all consumers involved (Law No. 060, 2010).

### **Modalities and Regulatory Resolution**

The various modalities of participation in sweepstakes and games, such as chance and other means of access, are clearly specified in the Bolivian regulations, and most recently in Regulatory Resolution No. 01-00002-21, in force since June 2021, adding additional layers of supervision and control over how these activities should be managed and supervised.

The task of the notary is, therefore, to ensure that these regulations and modalities adhere precisely, providing faith in the observance of them.

### **Final Reflections**

The role of the notary in Bolivia, in the context of sweepstakes and games of chance, is clear evidence of a system that seeks to protect the interests of participants and ensure that entities comply with legal and ethical requirements. This symbiotic relationship between legality and business ethics helps to build a commercial and entertainment environment that enjoys public trust and operates in line with national laws.



### **Bibliographic references**

Law No. 060. (25 November 2010). Lottery and Random Games Act. Official Gazette of the Plurinational State of Bolivia.

Law No. 483. (25 January 2014). Law of Plurinational Notaries. Official Gazette of the Plurinational State of Bolivia.

Regulatory Resolution No. 01-00002-21. (10 June 2021). [Regulatory Entity]. Bolivia.



## HISTORIC TRAINING DAY IN PARAGUAY



**Fernando Báez Artecona**  
Scribe – lawyer Paraguay

The Notary Testament Writing Course, organized by UIPAN, held on Saturday, September 23, 2023, aimed at students, legal professionals and notaries of the Republic of Paraguay (South America), has exceeded expectations with a resounding success in the attendance of more than 70 people – both Paraguayans and abroad – as well as the quality of the development of the proposed contents.

It has been a great challenge, since in the international orbit of the UIPAN we were the first in Latin America to carry it out, and that required the Paraguayan faculty to provide to the maximum all their knowledge on the subject according to Paraguayan legislation, which has allowed a thorough analysis of the issues raised by the issue in Paraguay and the imperative need for legal modifications that allow greater employment and better access to the notarial will. Simply, our fellow teachers: Gladys T. Talavera de Ayala, Rodrigo Guerrero Sanabria and myself, we are extremely grateful and honored by the UIPAN for having chosen us to carry out this activity that was the first of many others that we will carry out in the future.

**PARAGUAY**

**CURSO**  
**REDACCIÓN DEL**  
**TESTAMENTO NOTARIAL**

Fernando Báez Artecona  
Prof. -abogado- escribano

Rodrigo Guerrero Sanabria  
Prof. Escribano

Gladys T. Talavera de Ayala  
Profesora Doctora

uipan

CEDEU  
CENTRO  
DE ESTUDIOS  
UNIVERSITARIOS

Sábado, 23 septiembre.  
9,00 horas (horario Paraguay)  
Precio: 30 euros.  
Diploma: UIPAN-CEDEU  
Inscripciones: info@uipan.org



## GET THE DIPLOMA “PROFESSIONAL TECHNICIAN IN NOTARIAL LAW”

Like hundreds of other professionals from more than 28 countries you have the opportunity to obtain the diploma of **Professional Technician in Notarial Law**. This title is of international scope, since the topics addressed are related to notarial law according to the Latin notarial system- and is currently taught in Spanish.

Being totally online allows you to manage your time adapting to your schedules. The student must only have an internet connection and a computer, smartphone or tablet to be able to view the sessions from anywhere: work or anywhere else and download the contents with access 24 hours a day.

The modules available are as follows:

### “INTRODUCTION TO NOTARIAL LAW”

### “PRACTICAL APPLICATION OF NOTARIAL PRINCIPLES”

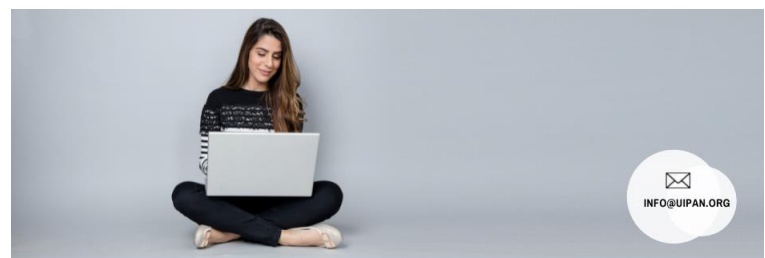
### “THE NOTARY PUBLIC INSTRUMENT”

### “NOTARY ACTS”

### “MANAGEMENT OF PROFESSIONAL WORK IN THE NOTARY OFFICE”

After the completion of the 5 modules, you will receive a Diploma issued by the CEDEU University Center, attached to the Juan Carlos University of Spain, paying the mandatory fee of EUR 150 with 6 credits.

The training program is aimed at auxiliaries, officers, copyists, technicians, administrators, practitioners, managers, assistants, secretaries, registrars, advanced students, graduates, lawyers, and notaries.



TÉCNICO PROFESIONAL EN DERECHO NOTARIAL  
CURSO A DISTANCIA



Payments can be made with CREDIT, TRANSFER or PAYPAL CARDS from one’s own card.

Each module has a cost of only 100 dollars or euros depending on your country, and can be taken from one in one or several at a time, depending on the availability of each person.

## ***SOCIAL NETWORKS SPEAK DAILY ABOUT UIPAN***

It is evident that UIPAN's activity and projects are reaching all corners of the world. Every day we are receiving inquiries and questions from many professionals, some of them have already joined our organization.

Certainly, we want to be close to our affiliates and friends, whatever their nationality or language. Therefore, almost every day, we publish content on our Facebook page, Instagram, Twitter and LinkedIn pages.

We are aware that the present and the future is in the network and we want to be part of your daily life, providing you with news, legal notes and corporate communications.

Keeping in mind, that in any country there are friends who follow us, give us comfort and encourages us to continue betting on UIPAN, the International Association of Notary Assistants and friends of Law.

## ***AT THE DOOR OF THE FIRST INTERNATIONAL FORUM IN PORTUGAL***

When you read this fifteenth newsletter, we will be about to celebrate the first event that UIPAN organizes in Portugal, in its emblematic city of Porto. It will be held on October 21, 2023, in the ESCOLA DO PORTO DA FACULDADE DE DIREITO DA UNIVERSIDADE CATÓLICA PORTUGUESA, in the auditorium CARVALHO GUERRA.

The International Forum will tour under the title: Notarial Acting in Digital Writings.

### PROGRAMA

ESCOLA DO PORTO DA FACULDADE DE DIREITO DA UNIVERSIDADE CATÓLICA PORTUGUESA  
AUDITÓRIO CARVALHO GUERRA

**9,15 horas** – Entrega de documentação:

**9,30 horas – 10,00 horas** – Abertura.

- Director da Faculdade de Direito: Prof. Doutor Manuel Fontaine
- Bastonário da Ordem dos Notários: Dr. Jorge Silva
- Presidente da UIPAN: D<sup>a</sup>. Dina Nicosia.

Primeira mesa: "O exercício da função notarial à distância"

Moderador: Mestre João Ricardo Menezes (notário no Porto)

- **10:05 horas** – Prof. Doutor D. André Almeida Martins (docente na UCP)
- **10:30 horas** – Doutor. D. Isidoro Calvo Vidal (notário na Corunha)
- **10:55 horas** – D. Paul David Arellano Sarasti (notário no Equador)
- **11:45 horas** – Pausa para café.

Segunda mesa: "O papel do notário na proteção das pessoas vulneráveis"

Moderador: Doutor Juan Carlos Rodicio Rodicio (oficial de Cartório Notarial e Vicepresidente da UIPAN)

- **11:40 horas** – Prof. Doutora. D<sup>a</sup>. Marta Rosas (docente na UCP)
- **12:05 horas** – Mestre João Maia Rodrigues (notário em Lisboa)
- **12,30 horas** – Prof. Dr. D. Juan Carlos Martínez Ortega. (docente na CEDEU)

Encerramento.

Given the quality of the speakers and the topics to be discussed, we are convinced that the Forum will be a success. It will serve to extend the circle of associative friendship of UIPAN, which gradually reaches more countries with its message of peace and legal integration.

As we have said, UIPAN wants to focus all its efforts in the coming months on Spanish-speaking, French-speaking and Portuguese-speaking countries.

We appreciate the support of our Portuguese comrades and friends for their support so that this noble formative event will see the light.

***If you can put the Thessaloniki double column it would be fantastic with the photography that comes in 3 languages***

**International Seminar on “SOCIEDADES OUT OF BORDERS”  
Thessaloniki (Greece), 11 November 2023**

UIPAN has organized this international seminar that tours under the title of “**Societies beyond borders**”. The main theme is that of companies that want to extend their activities beyond their national borders, especially when it comes to a notary, i.e. buying a property or being part of a company. What documents should be delivered to the notary, how a notary can validate their authorization, how a notary obtains these documents online, and many other topics. The seminar is divided into two parts, the first part will analyze the existing forms of enterprise (new companies, transformation, dissolution, etc.) and in the second part the presentation of companies in other countries.

The seminar will take place on **11 November 2023** in **Thessaloniki, Greece**, at the Mediterranean Palace Hotel (Salaminos 3, Thessaloniki, Greece) at 10 a.m.

Attendance is free of charge, although confirmation of attendance is requested. Do so by email to the contact person for the organization of the event, Ms. Anna Mellou, [annamellou@yahoo.gr](mailto:annamellou@yahoo.gr)

Do not hesitate to contact Ms. Anna Mellou in the above e-mail or telephone number 00306984604846 for any necessary information.



## ΔΙΕΘΝΕΣ ΣΕΜΙΝΑΡΙΟ «ΕΤΑΙΡΕΙΕΣ ΕΚΤΟΣ ΣΥΝΟΡΩΝ»

ΘΕΣΣΑΛΟΝΙΚΗ, 11 ΝΟΕΜΒΡΙΟΥ 2023

Ο Διεθνής Σύλλογος Βοηθών Συμβολαιογραφείων (UIPAN) διοργανώνει διεθνές σεμινάριο σχετικά με τίτλο «**Εταιρείες εκτός συνόρων**». Το κύριο θέμα του σεμιναρίου είναι η δραστηριοποίηση των εταιρειών εκτός των εθνικών συνόρων, ιδιαίτερα όταν συμβάλλονται σε συμβολαιογραφικές πράξεις, π.χ. κοινοπραξίες με άλλες εταιρείες, αγορά ακινήτου κλπ. Ποια έγγραφα πρέπει να καταθέσουν στο συμβολαιογράφο, πως ελέγχεται η εγκυρότητά τους, πως μπορεί ο συμβολαιογράφος να αιτηθεί αυτά τα έγγραφα. Το σεμινάριο διαχωρίζεται σε δύο μέρη, στο πρώτο μέρος θα γίνει αναφορά στις μορφές εταιρειών (σύσταση εταιρειών, μετασχηματισμοί, λύσεις εταιρειών), στο δεύτερο μέρος θα αναλυθούν οι εταιρείες που υπάρχουν σε άλλες ευρωπαϊκές χώρες και η νομιμοποίησή τους.

Το σεμινάριο θα διεξαχθεί στις **11 Νοεμβρίου 2023** στη **Θεσσαλονίκη** στο ξενοδοχείο **Mediterranean Palace Hotel** (Σαλαμίνας 10, Θεσσαλονίκη) στις **10.00 π.μ.**

Η παρακολούθηση του σεμιναρίου είναι δωρεάν, ωστόσο θα εκτιμηθεί ιδιαίτερα αν μας στείλετε αίτηση συμμετοχής προηγουμένως. Παρακαλώ, όσοι επιθυμούν να το παρακολουθήσουν να στείλουν τα στοιχεία τους και το τηλέφωνο επικοινωνίας στον υπεύθυνο διοργάνωσης του σεμιναρίου κ. Άννα Μέλλου στην ηλεκτρονική διεύθυνση [annamellou@yahoo.gr](mailto:annamellou@yahoo.gr)

Για περαιτέρω πληροφορίες ή απορίες παρακαλώ επικοινωνήστε στο παραπάνω email ή στον αριθμό 00306984604846.

## NOTARY WORLD

### *The Venezuelan Notary and the Defense of Human Rights*



**Zaida Marcano de Navas.**  
Lawyer, teacher, human rights specialist.

The notary, by giving certainty and confidence with the documents he writes, authenticates, advises and reviews, in such a way that every client feels safe with



his act or public deed. Moreover, the notary, daily is always in contact with customers in order to resolve their conflicts and needs.

It must take into account ethics and professionalism when providing its services, prioritizing conduct that respects and strengthens human rights, which are established in the constitution of each country, as well as the observance and application of international treaties.

In the specific case of the notary, it is also explained and detailed in the law of the Venezuelan notary. In 1995, the twenty-first Congress of the International Union of Notaries was held in Berlin, in which the theme “Notaría y Protección de los Derechos Humanos” was discussed and the Commission on Human Rights was created at that Congress, which is why history refers to the origin and international recognition of human rights.



***Notaries have a duty to watch over the weakest, ensuring that no one violates their rights and seeking legal avenues to protect them.***

It is of the utmost importance to enrich ourselves and seize the opportunity of neighboring countries that set an example of the notarial service with excellence and efficiency. The protection of the dignity of the person in the notarial function does not escape this; making special axis in its autonomy and respect for the diversity that differentiates the human being.

In short, we must once again carry out the noble task of revising our right in the light of international treaties.

Notaries, as public officials, have a duty to watch over the weakest, ensuring that no one violates their rights and seeking legal avenues to protect them. Also work on cooperation in the fight against economic crime and money laundering. The legal certainty provided by notaries is a guarantee in the exercise of human rights.

It is a fact that public notaries do not make jurisprudence, but their daily work in notarial studies enables them to implement custom as a source of law, including clauses aimed at promoting the human rights of all individuals, including the most vulnerable or with different sensitivities.

Are notarial behaviors appropriate to human rights standards? Undoubtedly, the notary is called to be a protector of the dignity of the person or an institutional support.

Therefore, when drafting a public instrument, it must verify that the applicant's powers are sufficient; advise a vulnerable or disabled client, it is necessary to study in depth what is the consequence of the opinion or evaluation of each case, such as: Disability, children and adolescents, seniors, foreigners etc.

Accordingly, the following should be analyzed:

- a) Role of the Notary.
- b) Protection Systems.
- c) Constitutionality and conventionality control by the notary?
- d) National and international regulations.
- e) Notary principles against the exercise of human rights.
- f) New paradigmas.
- g) The concept of vulnerability in the light of Comparative Law.

Indeed, the notary, every day with his good work, with his example that must be soaked in ethics and deontology, favors the conquest and implementation of human rights.



***“AI enables the transcendence of post-mortem personality as a digital legacy” New technological challenges impacting fundamental rights***



**Karina Vanesa Salierno<sup>1</sup>**

Summary: Over the last few years we have seen the exponential growth of AI and its diverse applications that forecast a present and near future full of innovation and ethical, social, cultural and professional questions. We are facing a universe where the personality is represented and coexists in three dimensions, physical, psychic and digital, which demands the guarantee of treatment in uniqueness. Evidenced in its complex unity, a person finds the limits of his freedom and dignity.

The digital ecosystem constantly challenges the legal system through the risks it poses to the defense and guarantee of fundamental rights. It has been only three decades since the first manifestations of the Internet; however, we can see the great impact it caused on people’s lives and also after their death.

The massive use of social networks that allows the storage of an intangible amount of data embedded in personal privacy, warns us of an accumulation of private information that in case of death, allows an intrusion into privacy of dimensions unimaginable in the past: a lifetime of private conversations maintained through messaging services or the most intimate personal relationships maintained for decades through social networks or equivalent services would strip to third parties a whole personal existence, a digital identity, a digital self that, in life, would be

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protected by the secrecy of communications, personal privacy or the protection of personal data, but which after death represents a challenge of protection.

In Argentine law, article 51 of the Civil and Commercial Code of the Nation establishes the principle of the inviolability of the human person and affirms that in all circumstances the person has the right to recognition and respect for his dignity. For its part, Article 52 provides that a human person injured in his personal or family privacy, honor or reputation, image or identity, or who is in any way undermined in his personal dignity, may claim the prevention and reparation of the damage suffered. For its part, Article 53 concerning the right to the image, provides that in order to capture or reproduce the image or voice of a person, in any way, that is done, his consent is necessary, except in the following cases: the person participates in public events; there is a priority scientific, cultural or educational interest and sufficient precautions are taken to avoid unnecessary harm; it concerns the regular exercise of the right to report on events of general interest. In the case of deceased persons, consent may be given by their heirs or the one appointed by the deceased in a last-will disposition. If there is disagreement between heirs of the same degree, the judge decides. Twenty years after death, non-offensive reproduction is free. Article 55. Provision of very personal rights. Consent to the disposition of the most personal rights is not presumed, it is of restrictive interpretation, and freely revocable.

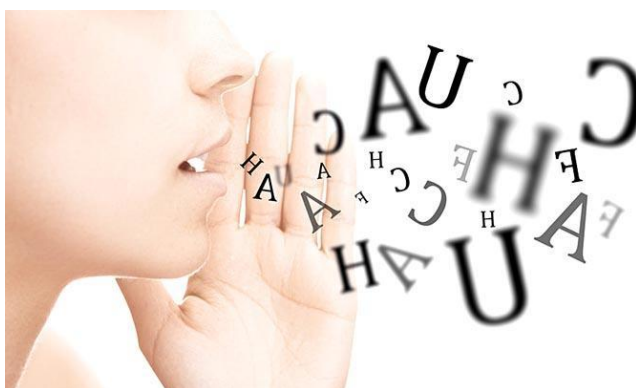
Likewise, the Argentine law on the protection of personal data, in its article 34, confers standing to bring the action for the protection of personal data or habeas data to the affected person, his guardians or curators and the successors of the natural persons, whether in direct or collateral line up to the second degree, by himself or through a proxy. In this normative framework, among the current challenges in the digital society, we find that of responding to the fate of the past digital personality accumulated in its different services by users after their death, let's think of videos and images uploaded online for years, or the participation of children and adolescents in blogs and video games, avatars or digital representations in the metaverse. To do this, in case of death of the person, internet service providers offer some type of solutions such as the so-called "digital executor" or "digital witness", or the "digital inheritance", the truth is that their use is scarce and unnecessary in the face of the existence of substantive law rules that regulate



the case. Spanish law has not regulated the figure of digital executor in a systematic way, although it is true that some regional laws, such as Catalan legislation, have already been advanced with Law 10/2017 of 27 June, which regulates, among

other things, the figure of the digital executor, allowing to designate a natural or legal person in charge of executing digital wills, specifying the concrete scope of its action.

It is important to make known the existence of tools such as acts of self-protection where you can include advance digital directives that order the will in case of loss of self-government, discernment or restriction of capacity or disability, as well as the introduction of digital commands in ordinary wills. Passwords, passwords, users, or electronic signatures may be included within testamentary orders, which will be guarded by the notary authorizing the act, and in case of death these passwords will be given to the heirs or to the person who has designated as their digital executor, so that they can manage their digital identity. Likewise, in the case of the existence of patrimonial assets, they will follow the fate of the deferral of the inheritance according to the order of succession *ab-intestate* or testamentary as the case may be. In this way, in the face of ignorance or uncertainty of the successors about the destination of the collection of personal data available, the owner of the data can express his will regarding the destination of the same, maintenance, deletion or deletion of their blogs, videos, subscribers, etc.



The protection also extends to the voice of a person, so that in order to capture or reproduce the image or voice of a person, in *any way that is done*, it is necessary to have his consent, and in the event of death, his or her heirs or the one appointed by the deceased may give consent in a last-willed disposition.

Image and voice are recognized as an extension of the human personality, beyond the protection of intimacy, and extends even into the digital ecosystem. The transcendence of digital identity is fundamental in some cases, as happens in teenagers *youtubers* or *instagrammers*. When these representations occur in the digital ecosystem, they constitute very personal data susceptible to pure protection regardless of the effect of another very personal right.<sup>2</sup>

In Spanish law, Article 96 of the Organic Law on the Protection of Personal Data and the Guarantee of Digital Rights enshrines the “right to the digital will” as the right of every deceased person to decide on the destination of the contents managed by information society service providers and to prohibit access to them by third parties, preventing them from deciding on their use, destination or deletion,

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<sup>2</sup> TOBIAS, gloss to art. 53, in Alterini (dir. gral.) and TOBIAS (dir. Tomo), ALTERINI, (coord.), in *Commented Civil and Commercial Code. Exegetical Treaty*. Thomson Reuters, The Law 2016.

except the right of the heirs to access content integrated in the relict flow. By default, in the absence of such a prohibition, this provision empowers persons linked to the deceased for family reasons or, in fact, his or her heirs, to contact information society service providers in order to access those contents and to issue any instructions they deem appropriate regarding their use, destination or deletion. In particular, this provision empowers to decide on the maintenance or removal of personal profiles of deceased persons on social networks or equivalent services, unless the deceased has decided on this circumstance.

There are applications that allow emulating a kind of “time machine”, where large amounts of data supplied by the user are compiled that can be visualized by friends or family beyond the death of the person. This data is processed, segmented and classified by AI and will be used to answer the questions of those who want to visualize images, stories and anecdotes of their loved ones who have left the physical universe but transcend in digital.

This evolution raises a series of questions that challenge us as legal operators can people be with us forever? How lucky will our personal data be in this international transfer of very personal data to the cloud? Who has the right to decide on such data? Can you name a sort of protector of this data or executor of the post-mortem will and who will pass after 20 years? Can those memories generated with AI be used to help diagnoses of progressive diseases affecting memory and brain cell connections?

Thousands of questions arise from the exponential applications of AI, that is why we are passionate and challenge us to continue asking questions and researching answers.

## ***ACTIVE POWER OF LAST WILL OF OLDER PERSONS***



**Fernando Carol Rosés**  
**Doctor of Law – Lawyer**

The increase in life expectancy and the progressive ageing of the population increase the number of people affected by physical-sensory deficiencies (which prevent the externalization of their will) – not simply lack of physical health – or psy-



chics (in their powers of understanding and wanting) who have an impact on their discernment (and consequently on the effectiveness of the wills granted) and who make them vulnerable, people who must be safeguarded their fundamental rights, because so contrary to them (dignity and free development of personality) it is to prevent them from exercising their legal capacity even if they require appropriate support, such as allowing them to do so when they lack the necessary aptitude. It is about avoiding the law of the pendulum, so rooted among us.

Article 662 CC provides: “They can make a last will all those who are not expressly prohibited by law”.

Law 8/2021 of 2 June 2021 amending civil and procedural legislation for the support of persons with disabilities in the exercise of their le-



gal capacity, in line with the New York Convention of 13 December 2006 on the Rights of Persons with Disabilities, rewords Article 663 CC, which reads as follows:

“They cannot make a last will:

1° Persons under fourteen years of age.

2° Persons who at the time of testing cannot conform or express their last will or even with the help of means or supports for it.

The age of fourteen has been discussed because it is an age at which it is easy for the child’s will to be captured. In fact, our Civil Code is one of those that fixes a minor age, so the French Civil Code (section 903) and § 2229 BGB require being 16 years old (for the holographer § 2247 BGB requires the age of majority); the Portuguese Civil Code (art. 2189) requires emancipation, which may not be before the age of 16; the Italian Civil Code (art. 591) requires the age of majority.

It has been proposed that just as there is a minimum age, a maximum age could be established from which it could not be granted will or could only be with certain cautions. We understand it’s not the same. A child under five years of age does not have the maturity that allows him to have the power to understand and want to imply the granting of a will, does not have sufficient discernment; the legislator has set at 14 years the age at which the maturity to test is reached. The same cannot be said, for example, of people over ninety-five years old, they will have suf-

ficient discernment and there will be no. It will be the task of the Notary to elucidate it. We cannot deprive the ability of making a last will or establish a specific precautionary regime from a certain age, it would be discrimination on grounds of age.

From the age of fourteen they can test all the people who at the time of testing can conform and express their will even with support.

***We cannot deprive of the ability of making a last will or establish a specific precautionary regime from a certain age, it would be discrimination on grounds of age.***

The legal system seeks that positive probate freedom, the autonomy of the testator, be as full as possible, so that he can give, with full discernment and freely, the destiny he wants to his patrimony. This is the spirit of the New York Convention that permeates the reform implemented by Act 8/2021 of 2 June 2021.

We start from two principles; *pro capacitate* and *favor testamenti*.

Full discernment and freedom. This is why the Notary and, ultimately, the Tribunals must watch over. That there is psychic aptitude and that the will has not been grasped or afflicted with any other vice.



Expressing the will requires physical or sensory fitness, forming it, psychic fitness. With whatever supports are needed. Regarding the two skills, the Notary will have to pronounce, on the understanding that if it is not possible the communication does not make sense to pronounce on the discernment, in the same way that the communication is initiated it may not be appreciated the sufficient discernment, then the Notary must refuse authorization.

Valuing aptitude and supporting, is what the Notary has always done.

The Notary corresponds to the verification of the discernment of the testator, as follows from Art. 685.1 *in fine* CC: The Notary must also ensure that, in his opinion, the testator has the necessary legal capacity to test. In order to ensure the necessary legal capacity, he may refer to the opinion of physicians. It does not have the obligation (to move away from the medical model) but can, provided that it has the acquiescence of the person with a disability, unlike art. 421-9.1 CCcat which expressly allows it.

The discernment that is required is for that concrete testament. An elder may not have sufficient discernment for a very complex will but for a simpler will. In no case can old age and disability be equated.

***In no case can old age and disability be equated.***

The Notary's judgment of ability or discernment enjoys a strong presumption *iuris tantum*.

This judgement of capacity must be recorded in the will (art. 696 *in fine* CC), otherwise the last will may be void by default of form (art. 687 CC), although the jurisprudence is flexible in this regard.

The Notary is the ideal support, both because of his status as a public official and because of his character as a legal professional (Article 1 RN). It's institutional support. It should not be forgotten that the will is a very personal act, neither representation nor complement.

This support function results from Art. 665 CC: “[...] the Notary shall ensure that the granting person develops his own decision-making process by supporting him in his understanding and reasoning and facilitating, with the necessary adjustments, that he can express his will, desires and preferences”. What the reform does is strengthen the support function.

With regard to support for the expression of will, in line with the Convention and in order to enable communication, Law 8/2021 of 2 June 2021 has introduced a fourth paragraph to Article 25 NL, which provides that "in order to ensure the accessibility of persons with disabilities who appear before a notary, they may use the necessary instrumental supports and reasonable accommodations, including augmentative and alternative systems, braille, easy reading, pictograms, easily accessible multimedia devices, interpreters, oral communication support systems, sign language, hand language, tactile communication systems and other devices that allow communication, as well as any other that is necessary”.

Specifically, for the open notarial will, Article 695 CC provides that "the testator shall express orally, in writing or by any technical, material or human means, his last will to the Notary. Written by him the will according to it and with expression of the place, year, month, day and hour of its granting and warned the testator of the right that he has to read it for himself, the Notary will read it aloud so that the testator manifests if he is satisfied with his will. If it is, it will be signed in the act by the testator who can do so [...] When the testator has difficulty or inability to read the will or to hear the reading of its contents, the Notary shall ensure, using the appropriate technical, material or human means, that the testator has understood the necessary information and explanations and that he knows that the will faithfully collects his will.

In addition, there are the requirements that are required for wills granted by persons suffering from certain physical or sensory disabilities. For other persons, whether they are fourteen, fifty or 100 years old, have more or less cognitive abilities, have more or less expressive faculties, it is worth saying: that they can conform and express their will in the opinion of the notary, although support is needed for this. The Notary's will always have them as they have always been. Notarized support can be added to the support provided by technical means where necessary.

## ***TELEMATICS CORPORATE BOARDS.***



**Juan Carlos Hernández García**  
**Lawyer**

In the new economic and social framework in which we move in the wake of the COVID-19 pandemic suffered, there has arisen the urgent need to hold meetings of members or shareholders or other meetings of administrative or government bodies by telematic means, until then little explored, practiced and, consequently, regulated.

The only legal reference in Spain until March 2020 to a possible telematic participation in meetings of shareholders or members or other meetings of governing or administrative bodies was Article 182 of the Law on Companies of Capital (LSC),



of exclusive application to public limited companies that had provided for such possibility in their articles of association.

Article 182 on telematic assistance refers to:

*'If the statutes in public limited companies provide the possibility of attending the meeting by telematic means, which duly guarantee the identity of the subject, the call shall describe the deadlines, forms and methods of exercising the rights of shareholders provided by the directors to allow the orderly development of the meeting. In particular, administrators may determine that interventions and proposals for agreements which, under this law, intend to formulate those who will attend by telematic means, are referred to the company prior to the time of the formation of the board. Responses to shareholders exercising their right to information during the meeting shall be in writing within seven days of the end of the meeting.'*

Thus, attendance and remote voting in individual cases was contemplated, granting the possibility of determining to the administrators that the interventions and proposals for agreements that, according to the LSC, were intended to formulate those who would attend by telematic means, were referred to the company before the time of the formation of the board. However, the entire meeting was not expected to be held by digital or remote or telematic means.

It was not until 3 May 2021 that a new amendment to Article 182 of the LSC entered into force in order to extend the application of the same to all commercial companies, and not only to anonymous companies.

***In the new economic and social framework in which we move has arisen the urgent need to hold meetings of partners or shareholders by telematic means.***



This amendment was implemented by Law 5/2021, of 12 April, amending the consolidated text of the Law on Companies of Capital, approved by Legislative Royal Decree 1/2010, of 2 July, and other financial regulations, with regard to the promotion of long-term involvement of shareholders in listed companies, which also included a new article

and capital, 182.bis, **on** the holding of **exclusively telematic meetings, in order to** allow in the articles of association to be authorized by the board directors to be held without the physical assistance of the members or their representatives.

It literally states Article 182a:

*‘1. In addition to the provisions of the previous article, the statutes may authorize the convening by the board administrators to be held without physical assistance from the members or their representatives. In so far as is not provided for in this provision, the sole telematic joints shall be subject to the general rules applicable to face-to-face meetings, adapted where appropriate to the specialties derived from their nature.*

*2. The statutory amendment authorizing the convening of exclusively telematic meetings shall be approved by members representing at least two thirds of the capital present or represented at the meeting.*

*3. The holding of the exclusively telematics meeting shall in any case be conditional on the identity and legitimacy of the members and their representatives being duly guaranteed and that all attendees can effectively participate in the meeting by means of appropriate distance communication, such as audio or video, complemented by the possibility of written messages during the course of the meeting, both to exercise in real time the rights of speech, information, proposal and vote that correspond to them, as well as to follow the interventions of the other attendees by the indicated means. To this end, the directors shall implement the necessary measures in accordance with the state of the art and the circumstances of the company, in particular the number of its members.*

*4. The notice of call shall inform of the procedures and procedures to be followed for the registration and formation of the list of assistants, for the exercise by them of their rights and for the appropriate reflection in the minutes of the meeting’s development. Attendance may not in any case be subject to registration more than one hour before the scheduled start of the meeting.*

*5. Replies to members or their representatives exercising their right of information during the meeting shall be governed by Article 182.*

*6. The exclusively telematic meeting shall be deemed to be held at the registered office regardless of where the chairman of the board is located.*

*7. The provisions contained in this Article shall also apply to the limited liability company.”*

What regulates the 182a is, in short, that any company wishing to hold meetings of members in this way must proceed with the mandatory previous statutory amendment; all this, for the purpose of authorising the convening of these meetings. This requires approval by partners representing at least 2/3 of the capital present or represented at the meeting. The holding of the exclusively telematics meeting shall be conditional on the identity and legitimacy of the members and their representatives being duly guaranteed and that all attendees can effectively participate in the meeting by means of appropriate distance communication, such as audio or video, complemented by the possibility of written messages during the course of the meeting, both to exercise in real time the rights of speech, information, proposal and vote that correspond to them, and to follow the interventions of the other assistants by the indicated means. Administrators must implement the necessary measures to do so.



The notice of call must inform of the procedures and procedures to be followed for the registration and formation of the list of assistants, for the exercise by them of their rights and for the appropriate reflection in the minutes of the meeting's development. And finally, replies to members or their representatives exercising their right to information during the meeting shall be governed by the provisions of Article 182.

***The notice of call must inform of the formalities and procedures to be followed for the registration and formation of the list of assistants.***

In view of such little regulation, Article 521 of the LSC is also amended by the addition of a new paragraph 3 by Law 5/2021 of 12 April 2021, which enters into force on 3 May 2021, as follows:

*'Article 521. Remote participation.*

**1.** *Participation in the general meeting and voting on proposals on items on the agenda of any kind of general meeting may be delegated or exercised directly by the shareholder by means of postal correspondence, electronic correspondence or any other means of remote communication, in accordance with the terms laid down in the company's statutes, provided*

that the identity of the person participating or voting is duly guaranteed and the security of electronic communications.

**2.** *In accordance with the provisions of the statutes, the rules of procedure of the general meeting may regulate the remote exercise of such rights, including, in particular, some or all of the following forms:*

a) *Real-time transmission of the general meeting.*

b) *Two-way real-time communication so that shareholders can address the general meeting from a location other than that of its holding.*

c) **a mechanism** *for voting before or during the general meeting without the need to appoint a representative who is physically present on the board.*

**3.** *In the event that the general meeting of the listed company is held exclusively electronically in accordance with the provisions of Article 182a, it shall also be necessary:*

a) **shareholders** *may also delegate or exercise early voting on proposals on items on the agenda by any of the means provided for in paragraph 1 above; and*

b) **the meeting shall** *be drawn up by a notary."*

It is noteworthy, as from the year 2020 onwards, the subject that concerns us is regulated to a greater extent, through urgent and various Royal Decrees, being the following:

- Royal Decree Law 8/2020, in which article 40.1 established that the sessions of the governing and administrative bodies of commercial companies *"may be held by videoconference that ensures the authenticity and bilateral or plurilateral connection in real time with image and sound of the assistants remotely"*.

- Royal Decree Law 11/2020, which, in view of the vacuum left by the previous Royal Decree 8/2020 with respect to the general meetings, resolves this gap, modifying the mentioned article 40.1 of Royal Decree Law 8/2020 to include specifically this type: *'Even if the statutes have not provided for, during the period of alarm, the meetings or assemblies of associates or partners may be held by video or by multiple conference call provided that all persons entitled to attendance or those representing them have the necessary means, the secretary of the body acknowledges their identity, and expresses it in the minutes, which he shall immediately send to the e-mail addresses.'*

- Royal Decree Law 21/2020, which extended the possibility of holding the meetings of the administrative bodies and board of partners *"during the alarm period and, once it has ended, until 31 December 2020"*.

- Royal Decree Law 34/2020, which applied the previous measures *"exceptionally, during the year 2021"*, although its application was limited to limited companies and limited by shares.

In short, all legal operators, lawyers and notaries, we must take advantage of new technologies to facilitate the meetings of partners, with all the guarantees. The constant regulations in this regard are aimed at this end.



*This section is intended to explain legal terms and the scope of legal aspects and situations in a brief but didactic way.*

## THE RIGHT OF THE SURFACE



**Juan Carlos Martínez Ortega**  
Doctor of Law – Lawyer – Professor Civil Law

We can affirm that the right of surface, is a temporary right in rem, which empowers a person (surface) to carry out constructions or buildings on the ground, flight or subsoil, of an alien plot (surface)<sup>3</sup>.

This right of surface may also be constituted on constructions or buildings already made or on dwellings, premises or elements proprietary to buildings or buildings, assigning to the surface the temporary ownership of them, without prejudice to the separate ownership of the owner of the land. This implies, so to speak, a voluntary repeal of the principle of accession “superficie solo cedit”, whereby all constructions that are built on a farm belong by accession to the owner of the land.

This right has a double aspect: on the one hand, there is a limited right in rem to enjoy over something other than others which allows the building on other people’s land (surface right); and on the other, after the construction, the property of the plot is dissociated from the property of the building (surface property). Therefore, the surface right is the basis of the surface property and it only survives as long as it survives.



**The surface right is a right in rem, temporary, that is concrete in maintaining a building or carrying out a construction on separate property. Requires public deed and registration.**

<sup>3</sup> Art. 53 RDL 7/2015, of 30 October, Law of Soil and Urban Rehabilitation.

This right can be granted only by the owner of the land (grant), not by the usufructuary. It can be granted for consideration or free of charge.

It is a temporary right, its duration must be fixed in the deed, which may not exceed, in any case, ninety-nine years. Deed and registration is required in the Land Registry. The building is allowed to be constituted as a horizontal property regime. The surface right is extinguished by legal waiver, confusion, compliance with the deadline and by mutual agreement of the parties. After the extinction, the principle of accession is regained.

## MEDIATION SPACE

*With this window to mediation and other methods of out-of-court resolution of conflicts we want to highlight the key role played in this century by the culture of the pact and the agreement in avoiding judicial collapse.*

### **THE PROFILE OF THE MEDIATOR**

Attorney

Expert in Commercial Civil Mediation.

Trainer in alternative methods of conflict resolution

Professor at Universidad Udima and Universidad Camilo José Cela

Consultant in the prevention and management of conflicts in the company and families



Is a good mediator born or made?

I am a mediator thanks to a great professional transformation from the procedural lawyer to the mediating lawyer, I have trained and continue to train hundreds of future mediators and from that personal and professional experience I think I can say that both things have to be given to be a good mediator.

In my opinion, I think there are a number of skills that are innate, they are part of interpersonal intelligence, but of course a good training and training is necessary so that we can talk about the professional mediator, otherwise we would be talking about a mere intermediation between two people in disputes with the best of intentions, but without great results.

Therefore, if in addition to this natural predisposition to mediation, to the solution, to the agreement, to peace, we add all the training resources that exist then we will have achieved a true professional of mediation.

The natural or innate qualities that accompany the good mediator are undoubtedly the ability to listen, empathy, creativity, resilience and patience.

The good mediator has to listen beyond the words of his middle, he must understand and fit the meaning of the words in the context of the meeting, of the dynamics, to tune harmoniously with the message of his interlocutor, taking advantage of each gesture and every tone that is used to emit it. That is listening with the five senses put to get to understand better, if possible, the narrative that our client tells us.

You have to understand the lyrics without missing a single note of the music, for this you have to train in listening and communication techniques.

The mediators solve conflicts, disputes between parties, between groups entire communities, conflicts that have for sure a legal solution but that without a good emotional management then we will not reach the solution, that is why we must address the emotionality

that emerges in that conflict, sustain it, calm it, understand it, accept it and use it within the process, for this we must train in emotion management techniques, language techniques, assertive training, non-violent language that help improve the narratives and dominant discourses that bring the media to the process and that prevent them from addressing reasoned, efficient, effective and sustainable solutions for them and for their environment.

The mediate needs a safe environment so that everything can emerge that has prevented him until that moment the solution to the conflict that brings, must have the confidence and reliability necessary in the process and in the professional, for this, we have to listen and understand without judgments, prejudices, beliefs that limit and hinder the healthy dialogue, from the freedom of the feelings of the client, that make him feel that he is understood, let him express himself from his deepest self so that we can rescue his needs, his interests, because from there we can map the conflict and approach it from a symbiotic perspective, from which it can move towards possible solutions.



***The natural or innate qualities that accompany the good mediator are the ability to listen, empathy, creativity, resilience and patience.***

Creativity, flexibility and adaptability as axes on which any solution postulates, must be present in the professional. The very dynamics of the conflict, the different phases through which the mediate passes, focusing the agreement from the satisfaction of both parties, make that we necessarily adapt and adapt the process to the dynamics of the parties themselves, be flexible to their responses and

creative in the forms and in the background, only from there can we move forward. The mediation process is dynamic, interacting mediate and mediator in the search for solutions that meet the expectations of the parties, that meet their needs, and that also meet their interests; all this enlivened with a high dose of patience.



Always work from ethics and ethics, knowing the legal framework that accompanies us as professionals who work with people who give us their problems, concerns, fears, anguish, and of course from the deep knowledge of our own

limitations as conflict managers, whose purpose is the agreement that must be framed within the law, law and public order, so in those conflicts that have a great legal component, the mediator must have sufficient legal knowledge in the matter that concerns him not only to avoid reaching agreements that go against the norm, but to avoid generating false expectations in clients, therefore, that ethics that must accompany the professional is the one that must establish the strategies of the process, sometimes including within the process tools that solve this type of deficiencies, such as recourse to comedy with expert mediators in the field, sessions with lawyers, expert experts, etc.

***You have to understand the lyrics without missing a single note of the music, for this you have to train in listening and communication techniques.***

The rigorous and continuous training of the professional mediator is essential, therefore, it is not only necessary to take care of primary training; University degree and expert course, but we must deepen the training, acquiring tools, techniques, trainings that help us face as professionals with the needs of our clients, and be able to offer a comprehensive service of management and solutions, that generate sustainable, efficient and effective agreements beyond the old paradigm of the application of the law by a Court that in the end solves the dispute but not the conflict.



## CURRENT WORK ARTICLES

### ***THE RIGHT IN REM OF HABITATION: A REAL RIGHT FORGOTTEN***

Prof. Joaquín Martínez Serrat, at CEDEU  
Prof. Dr. Tiffany-Milagros Sánchez-Cabezudo Rina, at UNIE



In this work we intend to make an approximation to a real right very little used today but that has a great importance within our Law, as is the right of habitation. A forgotten right that allows to resolve many legal conflicts of a social and family character, although it is not well known to jurists. It is regulated under the heading of the Right of Use and the Room in the Civil Code, specifically in Articles 523-529.

We must begin by making an approach to the concept of real law, in order to contextualize the right of room. The concept of real law has been quite conflicting, with different theories appearing around it. According to classical doctrine, it is about the power that a person has over the thing, a power of direct and immediate character. The obligations conception considers that there can be no relations between people and things, only relations between people, rejecting the previous doctrine.

Faced with these two opposing conceptions we find a more intermediate one that is that unifies and makes the classical and binding theory fit, defining the real rights as that direct and immediate power that a person has over the thing, together with the obligation that the rest of the people have to respect such relationships.

The characteristics of the rights in rem are:

- Immediacy, since the right in rem supposes an immediate power over the thing, although there are rights in rem in which it is not appreciated as much, as are the case of preferential acquisition rights.

- Exclusivity is another important characteristic of rights in rem, since they exclude other rights over the thing, unless we are in co-ownership, where they cooperate with other holders.

- Persecutions, is a characteristic referring to the power that the holder has to exercise his right against all, is what is called *erga omnes*.

- In addition, the rights in rem are public, allowing them to oppose third parties.

- Finally, we can point out that rights in rem are freely transmitted with a few exceptions.

Having put ourselves in context, giving a definition of the real rights and listed their main characteristics, let's now situate the right of room. According to article 524 of the Civil Code, the holder of this right has the power to occupy in a house of others, the pieces necessary for himself and for the persons of his family. It cannot be transferred or leased (art. 525). It is within the limited real rights, specifically within the rights of enjoyment, having a certain parallel with the usufruct, but more restricted than this one.

It is a right that the Regional Rights have regulated with characteristics similar to that recognized in ordinary law. We find the Catalan Foral Law, which distinguishes between the use of the house and the room. The use of the dwelling extends to all the units and their annexes, while the right of room is limited to occupying certain parts of the dwelling or annexes that are indicated in the title of constitution. In Navarre we find the reception of the house, considering the foral jurisprudence, which includes the right of room<sup>4</sup>. Since here we do not intend to carry out a study of the law of room in the legal systems, although it is recommended to take into account, we will not study this figure beyond the common law.

***The right to habituate may be constituted for consideration or free of charge.***

The right of habitation as well as the right of use, both rights in rem with similar characteristics, constitutes a special typology. The essence and reason of both figures is found in the Justinian work, whose purpose was to protect the property of *pater familias*, and that has evolved over time adapting to each historical moment according to the needs that were emerging.

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<sup>4</sup> Gómez PERALS, M. "Some Tools of Civil Law in favor of housing", *Annals of the Faculty of Law*, 2011, p. 34-35.

The constitution of the right of habitation can be carried out *inter vivo* or *mortis causa*, always with the express will of both parties. Something especially important is the lack of need for it to be performed publicly, since the contract where the will of the parties is manifested is sufficient as a means of proof.

The right of habitation may be constituted for consideration or free of charge. The use of this figure is frequent in those cases in which the interested party occupies the dwelling until the death of the constituent or even the holder of the right of room<sup>5</sup>. The right of room has also been used in the case where, a widow who holds the usufruct of the dwelling of her deceased spouse, allows the owner of the room to live with her in exchange for making repairs and personal attention. In short, there are several forms of constitution.

One of the issues that affects this right *in rem* is to establish as far as these right reaches, that is, which parts of the housing will have the owner of it. There are authors who consider that, the right of room does not imply that it has to cover the entire property, especially in complex cases such as buildings that are not susceptible to division and independent use.

For our part, we consider and taking into account Article 524 of the Civil Code, cited above, that it will be necessary to comply with the title of constitution, without prejudice to the fact that it is designated in the Common Law, the right of room, does not mean that it has to be limited to only one piece of the dwelling. This would not conflict with the right of usufruct, provided that we are clear about the differences between the two rights. It will be necessary to be in the capacity of constitution, and therefore, to what the owner of the dwelling and the holder of the right of room have agreed, because if we look at the aforementioned article 524, it is not exclusively delimited to a piece of the dwelling, but to those parts that are necessary for himself and for the persons of his family.



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<sup>5</sup> SAP Madrid 3 July 2000 (SRB 2000\277431).

***It does not detract from the nature of the right of habitation to understand that it is extended to the entire dwelling when it cannot be separated.***

A house formed by a room, a kitchen and a bathroom, left by the owner of the same to his son after his death, we consider it prudent to understand that it is all the house, since it is what is necessary for himself, unless the holder had provided in the constitutive title that the holder of the right is of the room of which the dwelling consists, exclusively.

We say that it does not detract from the nature of the right of room to understand that it is extended to all housing when it cannot be separated, and that it would not conflict with the right of usufruct because both rights, although they share similarities, also present differences. Thus, we can synthesize the contrasts that both rights have. In the right of room there is no possibility of being able to rent on the part of the owner of the room, the same. You can only live in it. For its part, in the right of usufruct it is allowed the lease by the usufructuary, taking into account that he may use the house for any purpose, either to live in it or to lease it. Thus, the holder of a right of room can only use it to constitute abode.

We now address the issue of registration in the Land Registry. As we have pointed out at the beginning of this work, since it is a right in rem the right of room, it is effective against third parties. Therefore, it is considered advisable that it can be registered in the Register because failing to do so would be unprotected, see article 32 of the Mortgage Law when it states that:

“Titles of domain or other rights in rem in immovable property, which are not duly registered or recorded in the Land Registry, do not prejudice third parties”.

Then the next problem arises, which is, what would happen if a right of room is not registered in the Registry and another person acquires the good. In order to resolve the issue, we have to turn to article 34 of the above-mentioned legal text, which reads as follows:

‘A third party who in good faith acquires for consideration any right of a person who appears in the Register with the power to transmit it, shall be retained in its acquisition, once he has registered his right, even if the grantor’s right is subsequently annulled or resolved by virtue of causes not in the same Registry.

The good faith of the third party is always presumed as long as it is not proven that he was aware of the inaccuracy of the Register.

Purchasers free of charge shall enjoy no more registration protection than that enjoyed by their deceased or transferor.’



As we can see, it will be necessary to take into account whether the acquirer was in good faith or not. For to know that in the house there was a person living in it, coming to know each other, the good faith of the acquirer is destroyed, which would allow opposing against him, the right of room.

With regard to the extinction of the right of room, the causes of extinction of the right of usufruct must be applied.

The right of room is used in different contexts. The most used is the donation or legacy of a right of room over a habitual residence, which is recognized to the person with disabilities with whom the legatee lives. It is recognized by law when the disabled person needs it.

On other occasions, the right of room has been used to avoid payments from a company, for example, the businessman who puts the house in the name of his children reserving the right of room over all the elements of it.

Other uses that allow use of the right of room is also a form of payment of a benefit in those cases where the right to maintenance is recognized, which according to article 142 of the Civil Code:

Food means everything that is indispensable for sustenance, room, clothing and medical care.

The possibility is recognized in Article 149 of the same legal text as:

The person obliged to provide maintenance may, at his choice, satisfy them, or pay the pension fixed, or receive and maintain in his own home to which he is entitled to them.

It is foreseen, as we can see, the payment of maintenance, or paying a pension or granting him the right to room, even if not exclusively, but carries with him other benefits.

Finally, we will proceed to expose the way in which the right of room is calculated, which has great similarities with the usufruct. The calculation is always carried out applying 75 % of the value of the good, the rules regarding the valuation of temporal and lifetime usufruct. When we are faced with the right of temporary room, we must apply 75 % of the value of the floor and the rules, in this case, regarding temporary usufruct.

If we have an apartment of EUR 200,000, 75 % is EUR 150,000. Then we apply the rules of usufruct, in such a way that, we must multiply the time that lasts the room by 2 %. If the room lasts 20 years, 2 % of those years would be a total of 40 %.

Having calculated 75 % of the value of the floor and subsequently applied the rules of the usufruct, we must multiply the EUR 150,000 by 40 %, allows us to know that the value of the room is EUR 60,000.

Assuming that the right of room is of life character, and keeping the same example, we have to take 75 % of the valuation value of the apartment, which is EUR 200,000. The calculation gives us EUR 150,000, then we apply the rules of lifetime usufruct. As we do not know the years, then we subtract as we would for the lifetime usufruct, 89 minus the years that the holder of the right of room, assuming that they are 40 years, gives us 49 %. Subsequently, the value that had given us of 75 % that was EUR 150,000, we multiplied 49 % which allows us to give a valuation of the property of EUR 73,500.

In conclusion, the right of room is a right in rem that if used correctly would solve legal problems. There was no clear definition<sup>6</sup> of this right until in the 1851 Project of the Civil Code García Goyena considered the right of room as the *ius alienas aedes inhabitandi, salva earum substantia*<sup>7</sup>. Thus, our Civil Code regulated it as a right to use the necessary pieces of a dwelling to meet the needs of the owner and his family.

It has a legal regime very similar to the right of use, even they are regulated together, the only difference is, that the right of use gives the right to acquire the fruits that are necessary, to meet the needs of the owner and those of his family. It was created more for a rustic purpose, in front of the right of room, which was aimed at satisfying a person's abode needs. The main difference that resides between these rights and the right of usufruct that we consider to be the right par excellence, and from which the other two derive is, that in the usufruct there is the possibility of taxing it, while, in the room, on the contrary, no. Although on this point there are doctrinal positions such as Fernández Campos, which point out that the right of room as well as that of use could, whenever the constituent title allows, carry out its transmission by its owner to a third party<sup>8</sup>.

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<sup>6</sup> Coca PAYERAS, Basic Legal Encyclopedia, Volume IV, Civitas, Madrid, 1995, p. 6759-6760.

<sup>7</sup> GARCIA GOYENA. Concordances, reasons and comments. Volume I, Madrid 1852, p. 415.

<sup>8</sup> Fernández CAMPOS, J. The transferability of royal rights of use and room, Annals of Law, University of Murcia, No. 17, 1999, pp. 38-39.

### ***Workers have the right to digital disconnection***

The majority of the work that is done in the Notary is digitized, you can connect from home or from the mobile itself, with the work email or with the computer program that is used in the office. I mean, it's hard to disconnect from work.

Therefore, in order to guarantee mental rest, the right to digital disconnection has been regulated in many countries.

But what is the right to digital disconnection? Spanish Law 10/2021 of 9 July 2021 on remote work provides for the following:

'1. People who work remotely, particularly in teleworking, have the right to digital disconnection outside their working hours.

The corporate duty to ensure disconnection entails a limitation of the use of technological means of business communication and work during rest periods, as well as respect for the maximum duration of the working day and any limits and precautions in relation to working hours provided for in the applicable legal or conventional regulations.'

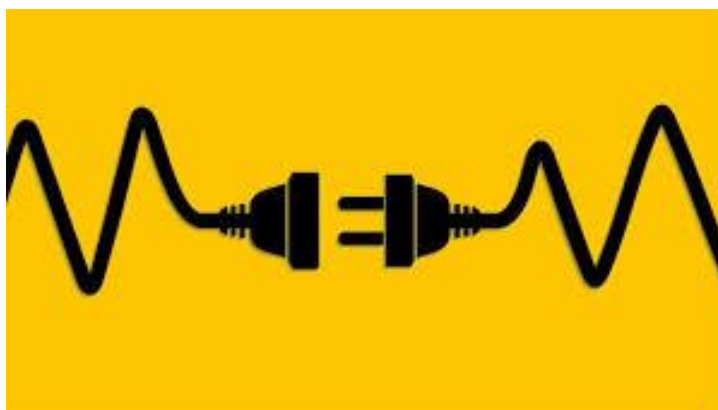
*The Judgment of the High Court of Justice of Madrid No. 549/2021 of 9 June 2021 stated in this regard:* During rest time the worker has the right to digital disconnection, that is, to keep his devices or media inactive, so that he does not receive messages from the company or his co-workers for work reasons.

This means that workers cannot be required to connect remotely for work purposes during their rest periods. That is, workers have no obligation to connect to meetings or answer emails/communications outside their working hours.

Although at present, the dividing line between the moments of providing our services in the Notary and those destined for rest are sometimes not very clear, both must be delineated, since the pressure on the part of the notary or employer can generate occupational risks such as stress or anxiety derived from mental overload that can imply excessive connectivity.

It is not enough to argue the urgency of an issue to call the employee or urge her to act on WhatsApp outside of her working hours. You have no obligation. The work in a Notary is not so important that it cannot be expected the next day to fix it. This does not mean that, if there is good harmony and communication, in exceptional cases, the notary or official who directs the office can call the worker in any case.

It is worth noting that the infringement of the right to digital disconnection by the employer may result in serious or very serious infringements depending on the type of non-compliance. In addition, it should be noted that the notary or employer cannot, in any case, penalize the worker in the event that he refuses to answer calls, emails, WhatsApp, etc. or refuses to attend meetings outside his working hours, among other behaviors, since the employee has legal support.



**Quorum team.**

### SPAIN

#### *Notary documents in easy reading*

With this initiative, the result of the collaboration between the AEquitas Foundation, the ONCE Foundation and Full Inclusion Spain, it seeks to improve the cognitive accessibility of notarial documents through the elaboration of explanatory texts and models in easy reading, to ensure that the information is easier to understand and that the right of people with difficulties of understanding to receive the useful and necessary information for their lives is fulfilled.



Almost 40 documents have been made in easy reading.

### HUNGARY

#### *Notariat warns about leaving our last will to ChatGPT*



As we know, the ChatGPT is an artificial intelligence chat system that has marked a new era, and that also has a paid version called ChatGPT Plus. He is able to respond to anything you ask of him, and to do many things that you ask him, giving the appearance of having answers for everything, which is not always so.

The Hungarian notary authorities have warned that, in legal matters, regardless of studying the topics, it is appropriate to have the specialized legal advice provided by the notary, especially when drafting a will.



AI can have irreparable consequences if we trust it without putting any qualms. Moreover, AI is not a phenomenon to which responsibility can be attributed. It is not an entity, it is an application, so everyone uses it at their own risk.

## **GEORGIA**

### ***Improved accessibility of notarial services for persons with disabilities***

With the support of the European Union and the United Nations Development Programme (UNDP), it is planned to create a guide document for notaries to provide practical assistance in the process of providing services to persons with disabilities. It seeks to train notaries in this regard.



We must adapt the notary studies.

Accessibility not only implies that Notaries have access and services for persons with disabilities, they must also have the appropriate means of communication so that people can be adequately served.

### ***AFFILIATE TO THE INTERNATIONAL PROFESSIONAL UNION OF NOTARY AUXILIARES (UIPAN).***

#### ***Membership of partners***

The Associations of employees of Notaries from anywhere in the world may subscribe to UIPAN (International Professional Association of Notaries Assistants), having to request it in writing and attaching the following information:

- Information of the Association, nationality, number of associates, location.
- Photocopy of all legal documents that justify their existence.
- Personal data of their legal representatives.
- Domicile, telephone and e-mail to contact us.



The fee of the Associations that are integrated will be the same as that of the numbering partners, that is, EUR 30, without prejudice to other sources of support that may be made.

**Membership of individuals:**

UIPAN understands that in most of the countries where the Latino notarised system is established, there are no associations of employees of Notaries. For this reason, UIPAN, opens its organisation wide to all the comrades of the world individually and to the friends of the public faith and professionals of law.

There are two modalities:

**Numbering partners:**

Members who pay a fee of only EUR 30 per year will have this consideration, who will have the right to vote in the Assemblies and may be elected in the management positions.

**Supporting partners:**

All other sympathizers shall be considered members, who will not have to pay any fee, benefiting from the same rights as numerary except that they may not vote in the Assemblies or hold managerial positions.

**Individual membership of UIPAN is completely free.**

**What are the advantages of being an affiliate of UIPAN?**

Each affiliate will get, among others, the following benefits:

- biannual digital newsletter that will be published by UIPAN.
- Informative and periodic reviews of the activities of the Association.
- Bimonthly newsletter of legal-notary news.
- Information on notarial issues with an international dimension.
- Articles and presentations of professional interest.
- The right to participate in seminars, congresses, conferences and colloquiums organized by UIPAN or its member associations at special prices.

**Do not miss the opportunity to belong to an international organization with a clear vocation of service, of which hundreds of professionals from more than 30 countries on 4 continents are part.**

**Find the affiliation form on the web: [www.uipan.org](http://www.uipan.org).**

**This is a memory and thanks for the presence at the national level in the Unic@ Association and for its presence since its constitution at UIPAN for the Italian Colega Piero Iannone, who died last May.**

**Dedicate to Piero Iannone,**

Assistant Notarile

Distretto di Salerno (Italy)

Trovare le parole Adatte per ricordare un Collega, il Collega per eccellenza, volato in cielo troppo presto non è semplice.

Sono andata indietro nel tempo, alla rincer of my incontro cousin with Piero Iannone, ma non l'ho ritrovato nella memory.



Non mi ha meravigliato: Lui ha fatto part per me ma per chiunque l'abbia conosciuto di quelle poche persone che ti sembra di avere conosciuto da sempre.

Piero è tra le prime persone che ho "incontrato" quando sono entrata nel Mondo Notarile e da sempre ho Ammirato la sua competenza, sua professionalità, sua Lealtà, sua discrezione, sua modestia, sua pazienza, sua calma, sua dedizione to lavoro and the sua costante disponibilità verso tutti.

Piero, è riuscito a costruire intorno a sé stima, amicizia, rispetto and so much affetto. Dalla sua scrivania fino ad arrivare nella nostra Associazione dei Dipendenti degli Studi Notarili Italiani – Unic@ quale Consigliere Nazionale ed essere present agli eventi europei ed internazionali della nostra Categoria, tra cui la costituzione della nostra amata UIPAN.

Lui, arrivava ovunque, with le sue alte doti umane with saggezza and sempre with il sorriso, riusciva ad essere ironico sempre anche dinnanzi alle difficoltà del nostro mondo notarile, davanti ai nostri "problemi giuridici" or innanzi alle problematiche connesse alla continua evoluzione informatica.

PIERO IANNONE: an Assistent notarile di altissimo livello, che ha has dedicated sua vita – oltre alla sua meravigliosa famiglia a cui mai ha fatto mancare sua presenza – al mondo notarile nella sua interezza, affianco ai Nota i con competenza , professionalità, serietà e saggezza quale prezioso ed insostituibile collaboratore e sempre vicino, with great altruism, alle necessitài Colleghi.

With Piero Iannone le distanze non hanno mai contato, è stato vicino al Collega di scrivania, Italian and European chello.

Grazie, Piero per averci insegnato così so much,

**I NOSTRI RICORDI DI TE NON SVANIRANNO MAI**

**Michela Crescentini**  
Consigliere Nazionale UNIC@ – Vocal UIPAN

## ***FROM ANOTHER ASPECT***

### **On the centenary of his death**

#### **JOAQUIN SOROLLA, THE PAINTER OF LIGHT**



**Juan Candela Cerdán**  
Notary Officer Jb.

Talk about **Joaquín Sorolla i Bastida** (Valencia, February 27, 1863, Cercedilla, August 10, 1923), is to talk about the Mediterranean light in all its splendor, light is the predicament of life, it is life itself, or as the poet Antonio Gala said, in the prologue of the work "Light of Painting", "I am", says the light. Without preaching any. It is the pure essence: the act of existence on which everything is based; the source of life that assumes every origin.



Sorolla was, without a doubt, the painter who originally did not have the idea of being “luminist”, and if he had to deal with commissions and presentations in contests that, to use, demanded obscurantism and drama, it was in reality what was styled at that time, what people demanded. This dramatic way of painting led him to observe and value Velázquez’s work, with its chiaroscuro. Sorolla wanted to imitate, in his own works, this way of painting after his vision of the Prado Museum of the work of that genius of painting, such as the canvas *Copy of the Horsehead of Velázquez* (1883), in which he began his stage of realistic formation. His vision of the Vulcan Forge with its chiaroscuros and that perfectionist way of framing and dispersing the light moved him.

In his time in Paris, he managed to get into the Impressionist circle that throughout his career did not leave, meeting at the Paris Universal Exhibition of 1889, the new Scandinavian painters Michael Ancher, Viggo Johanssen, Peder Severin Kroyer, the Norwegian Frits Thaulow, as well as the Swedish Ander Zorn, who was instrumental in his work, and to the Finnish Albert Edelfest, who shocked Joaquín Sorolla, with his ways of understanding the light and plasticity of his lines, undoubtedly, that way of expressing the Scandinavian light, dim and with a lack of luminosity but with strong presence, were the turning point to try to see with other eyes the Mediterranean light in its true expression of life and glowing radiance.



**Self-portrait (1904)**

His passage through Italy was equally fundamental in the way he painted, since he drank from the sources of Italian painting, and above all the current called “machiaioli” or “manchistas”, as the Italians used to call them that particular way of painting, based on a different treatment of light and chiaroscuro with a technique of very fast execution and loose brushstroke, beginning at that time to sign paintings with a costumbrist theme that both liked the public in general, as for example the painting signed as “*Selling melons*” exhibited at the Carmen Thyssen Museum in Malaga (Spain).





But what Joaquín Sorolla was really passionate about was painting outdoors, so he went on to say that “if he didn’t paint like this, it wasn’t painting, it was a hoax.” He wanted to look and see the light in the forms, take perspective, see the shadow and fold of clothing without rhetoric and in its purest simplicity. His painting was of juxtaposed colors and with densities designed for the upper layers of paint to interact with the previous layers or impregnation, resulting in effects of light or exalted shadow, depending on the image he was painting. He was the greatest painter of Spanish Impressionism when treating light, according to the canons of Impressionism, through his pictorial technique and looking for luminous phenomena mixing colors directly on the canvas so that, observed at a certain distance, he generated in the viewer the perception of secondary color.

A little-known facet of Joaquín Sorolla was that, for some time, he exercised as

a photographer which made him understand the alternation of darkness and light to reach the chiaroscuro that he was so passionate about. These layers of superimposed paint had different results, so he began to investigate the need to start the pictures with the lights in the daytime skies, the marinas or other paintings in which the waters appear as a background.



Drawing and painting light leads to vision and three-dimensional illusion and not only to the appearance of being lines on a plane, chiaroscuro is the way in which light imprints the vision of objects, so understood the master Joaquín Sorolla. The first Spanish Impressionists in which the great painter Francisco de Goya was his greatest precursor, designed the way to print clear and radiant light in his outdoor paintings such as the “*Quitasol*” or “*El Aquelarre*”.

He began his journey to capture everyday scenes especially from his native Valencia, costumbrista scenes, from that time are his paintings: *The guitarists*, *Valencian Costumbres* (1889), *El pillo de playa* (1891), *Still say that fish is expensive* (1894), *Sewing the Candle* (1896), *Food in the Boat* (1898), *Cordeleros de Jávea* (1898), among others.

In 1911 it was a fundamental date in life and perhaps the death of Joaquín Sorolla because he signed a commission from the Hispanic Society of America to perform, no less than, fourteen murals that would decorate the halls of this institution in New York, and with dedication to the regions of Spain and Portugal. He be-

gan this great work in 1913 and concluded it in 1919. These murals had gigantic dimensions because they were three and a half meters high by seventy meters long. The tycoon Archer Milton Huntington who met his work in an exhibition he saw in London fell in love with his painting, was who somehow wanted to take his work to the United States, and made him sign a contract that took several years between collecting data and translating it on his canvases. Sorolla was overwhelmed by such a huge work. He himself was aware of his state and so he reveals it in one of the letters he wrote to his wife Clotilde. In one of them, written in Seville in 1914, he even talks about resigning. I shouldn't paint anymore. It is too many years of struggle and I repeat the song, I should not have committed myself to this long and heavy work, when I am so worked. There are times when I feel cheerful and young, but these last little, they are sparks.

The last days of his life were dedicated to portraying personalities, going through his study historical figures of the Spanish high society such as the scientist Ramón y Cajal, the writers Benito Pérez Galdós or Vicente Blasco Ibáñez, the politician Emilio Castelar or King Alfonso XIII himself.



The problems of tiredness that caused him to paint in large formats of the Hispanic Society of America and that led him to climb and down a ladder between fifty and a hundred times throughout a session to paint and retouch his paintings, his problems of hypertension that dragged, to be a great smoker and perhaps, to paint oil using fetish colors for him like the vermilion, whose pigment was obtained through the cinnabar that is composed of 85 % mercury and 15 % sulfur, or the white of lead a pigment that would be replaced by the white titanium from 1919, or a third poison in the paint like Sheelee green, which is said to have killed Napoleon himself, would be several triggers of a stroke that would make, the last three years

of his life, were very painful for him, with strong headaches and constant headaches, which led to his death in Cercedilla on August 10, 1923, when he was only sixty years old.

His impressionist and luministic work permeate our senses when observing it, everything is light that blinds our sight and a radiant color. He was, without a doubt, a tycoon of the fast stroke, observer of the figure, of the air that flutters around us and gives movement to the forms and light, especially of light.

