

Opening Speech JuWiLi Final Event 9/11/2022, Brussels

Dr. Michael Umfahrer, President of the Austrian Chamber of Civil Law Notaries

Dear President Marcoz,

Dear Speakers and Panelists,

Ladies and Gentlemen,

Let me start by thanking CNUE President Marcoz for his words and Secretary General Radoi and the CNUE team for having accepted to be a partner to the project. Hosting the event at the premises of the Council of the Notariats of the European Union in Brussels today is a strong expression of this partnership!

It is with great pleasure that I welcome you on behalf of the project coordinator, the Austrian notariat - be it here in the room or via livestream on the screens.

We very much appreciate the strong presence of representatives of the European Parliament, Member States Justice Counsellors and the European Commission. I thank you all for your participation. This is a rare, but excellent opportunity to discuss possible changes and improvements in national and EU law and policy in such rather small setting. I am sure that all participants in the room, but also those outside watching via livestream will follow with interest your contributions.

As I said, the Austrian Chamber of Civil Law Notaries was the coordinator of this in its size and scientific depth unprecedented project among the so-called “Hexagonal” notariats, the informal cooperation of the Chambers of Notaries of the Czech Republic, Croatia, Slovakia, Slovenia, Hungary and Austria. This informal cooperation exists already since 1998, notably in the form of regular meetings.

I am very happy that this project has achieved excellent results. These results will certainly continue to have effects in the long run and will – I hope - therefore outlast the project which ends this month.

At this point, I would like to thank my colleagues, the Presidents of the Chambers of Notaries of the Hexagonal countries, for their willingness to participate in the project despite the challenges posed by the pandemic situation. They made the project possible in such way.

The project made it obvious that in Central Europe there is a common legal culture that unites us. The JuWiLi project has deliberately built on these similarities, which are the lines of connection between our countries and which, in particular, are about the exercise of court functions by notaries mainly in succession matters. The potential for a further expansion of this proven concept has been recognised in the course of the project implementation. This became particularly evident in the case of Slovenia where our project has now created an excellent empirical and data-driven basis for the discussion on the possible introduction of a court commissioner system for

succession cases. The event of 12 May this year in Ljubljana has shown this very clearly. It can be considered as a starting point for an in-depth reflection on that matter in Slovenia.

Indeed, the takeover of court tasks by notaries plays an important role in the area of civil procedural law. The topic is of great importance especially in the current time, because it is ultimately about the question on how we can make our justice systems even more efficient, even closer to citizens, even more cost-effective for the State and thus overall make it fit for the future. The pandemic has shown, among other things that we need to make the systems even more resilient: this is where the partnership between the judiciary and the notary has been very successful.

Looking to the current challenges which our societies currently are facing in the context the situation which was unthinkable a few months ago, namely the war in Ukraine, these challenges are among others inflation and increase of living cost, I expect the outsourcing of non-contentious court tasks to become even more important. We all aim for a high efficiency in the justice systems. But there are threats: The budget of all EU Member States can be expected to be most likely more and more tightened (because of the need for other increased expenditures such as rearming) and this could at the end endanger the well-functioning of the judiciary.

Notaries can be of help as they are independent and impartial public office holders. And we are ready to support the courts even more.

In many cases, the notary's function as a court body is still not known enough at EU level, although the Czech Republic, Slovakia, Hungary and Croatia also know this institute as well as Austria. Therefore, against the background of the concept of "court" in various EU instruments, we launched the project with EU funds. In Austria, the court commissioner's system — i.e. the notary, who acts as a court body — has gained very good experience and has not only developed excellent cooperation with the judiciary for decades, but also developed expertise and know-how for the efficient handling of proceedings.

This allows courts to conserve resources and focus more on other areas of law. At the same time, Austria's notaries perform important local functions, even in regions where there are no courts or where they are further away. Thanks to these important functions, we are also present as court commissioners in remote or structurally weak areas. Otherwise, without these tasks delegated by the judiciary to notaries, this would be much more difficult to ensure.

Decisive success factors for a high-performing court commissioner system are a strict professional legal framework, in particular the impartiality and also the application of certain professional regulations of the judges, which are applied to notaries by analogy, as well as ensuring quality through control mechanisms and a high level of training and efficient procedures. Especially with this last point in the process, we want to take next steps when it comes to

digitalisation, so that court files no longer have to be carried physically back and forth. The notarial profession is constantly investing in digitalisation. In doing so, we are making investments that the State saves itself here. At the same time, we cooperate closely with the judiciary in the area of digitalisation and coordinate — also technically — with each other. One can speak of an Austrian model of success here, but it has even more potential, especially in the non-contentious proceedings.

In particular, the court commissioner has provided citizens with great advantages in accessing the non-contentious judiciary. We also see the trend in this direction at EU level and in our neighboring countries, who in many cases are familiar with this concept. We would like to see it, if the EU Justice Scoreboard could reflect this trend even more strongly. Because there are many arguments for the development of such a concept in a modern State based on the rule of law. This should feed into the measurement of the efficiency of justice systems in the future.

Finally, I would like to thank all those involved in the project who have contributed over the past two years to the common goal of a better understanding of the non-contentious court proceedings by notaries. My special thanks go to the scientific team of the Universities of Graz, Prof. *Brigitta Lurger* and Vienna, Prof. *Karl Stöger* and the Economica Institute for Economic Research, Prof. *Christian Helmenstein*, *Kalpana Scholtès-Dash*, *Christian Berrer* and the chairwomen of the

working groups *Alice Perscha, Berenika Wünschová* and *Verena Nothegger* for their coordination.

The Austrian Chamber of Civil Law Notaries will use the project results as a basis for further optimisation of the court commissioner's system and would welcome it if the cooperation of this kind could be continued within the framework of the Hexagonal and the Council of the Notariats of the European Union.