



**International Union of Notaries
28th International Congress of Notaries
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THEME II CONCLUSIONS

***Electronic notarial acts and paperless processes: technical
and legal issues***

**RECOMMENDATIONS FOR NATIONAL CHAMBERS AND NATIONAL
BOARDS OF NOTARIES MEMBERS OF THE UINL**

I. THE ORIGINAL ACT: ON PAPER OR DEMATERIALIZED.

1. In the context of the UINL three possible methods of certifying and keeping archives of notarial acts are currently observed:
 - a. Paper document and handwritten signature.
 - b. Electronic document with the parties' simple or qualified electronic signature and the notary's qualified signature.
 - c. Electronic document with the parties' signature on a digital pad and encryption by means of the notary's qualified electronic signature.
2. In any case, whichever of these three methods is used, it is essential for the notary to be physically present in order for the document authentication process to be fully carried out (identifying the parties, verifying their capacity, assessing their powers, informing as to consent, checking that consent is not flawed, controlling that the subject matter or substance is lawful, controlling administrative licences and authorisations, preventing money laundering, collecting and communicating data for tax, cadastral, town planning, housing policy and land occupation, agricultural protection, environmental protection, exercise of public or private pre-emptive rights, and other purposes) and for the contents of the document to be certified.
3. It is recommended that, in preparing original acts, the methods used ensure the notary's and the parties' physical presence, such as paper documents and electronic documents involving pad signature and encryption by means of the notary's electronic signature.
4. It is also recommended that, in line with the directions of the Meeting of UINL Member Notaries held in Budapest on 10 October 2014, all execution and certification systems that do not ensure the notary's physical presence at the place and time of signing, be rejected.



5. It is further recommended that, in countries opting for paper documents, a separate matching electronic archive or protocol be created to expedite the issuance of copies, submission of parameterised data, and the search for and, as the case may be, verification of the validity of documents using the Secure Verification Code (CSV) method.

II. ELECTRONIC COPIES AND THEIR ENTRY ON REGISTERS.

1. It is recommended that use of electronic copies be encouraged and that all appropriate statutory changes be pursued in countries where electronic copies are not recognised.
2. In order to prevent the possibility of multiple copies of an electronic copy being made *ad infinitum*, which, far from providing transaction certainty would generate an uncontrolled flow of copies in the hands of persons who might not be the holders of the powers or rights provided for therein, it is recommended that electronic copies legally enforceable as an authentic document equivalent to copies issued on paper may only be submitted to other notaries, court authorities or civil servants, and that any such electronic copies may only be issued on paper by the certifying notary, the receiving notary or as part of the extracts of administrative proceedings.
3. The recommendation for persons entitled to a copy is that they be provided with a simple electronic copy including a Secure Verification Code.
4. It is recommended that the Secure Verification Code system be put in place in order to supplement the electronic archive or protocol or the electronic counterpart of the paper protocol to prove the existence and validity of an authentic act.
5. It is also recommended that the Secure Verification Codes of authentic acts contained in the electronic protocol or in the electronic counterpart of the paper protocol be used to establish traceability as to the life of the rights or powers therein contained to expedite and improve the indispensable legal certainty that a notary must afford.
6. It is recommended that parameterised copies of acts be used and that the data be taken to the relevant registers, the notary being solely responsible therefor, observing national laws.

III. EXPEDITING THE ELIMINATION OF DISTANCE.

1. It is recommended that, whilst observing the need for physical presence and the rules and regulations altogether applicable to their practice, notaries use telematics in order to make it easier for parties located remotely to be able to enter into transactions without having to travel.



2. It is also recommended that the creation of shared electronic platforms for notaries to work together internationally, such as EUFides, be encouraged.

IV. ELECTRONIC ARCHIVES AND MANAGEMENT THEREOF.

1. It is recommended that, in countries where the decision is made to replace the paper protocol, which has proved reliable for centuries, the electronic archive of notarial acts meet the following requirements: a) a minimum period of duration shall be established; b) providers shall give assurances regarding the duration established; c) approved migration procedures shall be established in such a way that information cannot be either lost or altered or challenged in court; d) the same rules shall be observed in regard to confidentiality and professional privilege as with paper archives.
2. It is recommended that: a) notarial organisations collectively undertake the task of putting in place electronic archives; b) using a shared infrastructure, each notary's archives are independent and may be accessed only by the certifying notary or his or her replacement or successor.

V. SERVICES PROVIDED BY NOTARIES TO THEIR CLIENTS.

1. It is recommended that electronic media be used in all exchanges between notaries and their clients in matters of procedure or services other than the certification proper offered by notaries to their clients.
