

TOPIC III

THE NOTARIAL CODE OF ETHICS WITH REGARDS TO HIS CLIENTS, HIS COLLEAGUES AND TO THE STATE

CONCLUSIONS

(Translation)

The intensive meetings held with reference to “The Notarial Code of Ethics with regards to his clients, his colleagues and to the state” have stressed the deep interest shown by a number of participating Notaries in the notarial code of ethics, which is not only apparent by the large number of countries present at the meetings, but also by the high scientific level of the interventions, the many questions formulated and the interest with which the subsequent debates have been followed.

- The conclusions which have been reached are the following:

1. Although the code of ethics in other professions can be considered a natural inherent element, in the case of the notarial profession, the code of ethics is an essential element, and the correct exercise of the notary’s role would be impossible without full knowledge of it. This is the consequence of the high ethical content of the notarial profession and this cannot be ignored when we value its importance and the need to ensure its enforcement.

2. Professional skill, a job well done and constant updating in legal knowledge, are important obligations for the notary for these will mean better service for his clients, the State and society.

3. Together with legal and technical preparation, the training of future notaries must include the study of deontological principles in all their aspects and which constitute the notary’s conduct in his work.

4. The correct exercise of the profession obliges the Notary to avoid, in his work and in his conduct, any type of unfair competition and he must respect other notarial jurisdictions, avoid lowering fees and the surreptitious contracting of employees, and personal advertising, when it is banned or plays against the image and prestige which it deserves.

With regard to professional secrecy, it is the duty of the Latin Notary to collaborate with the jurisdictional, administrative and tax authorities when this is expressed in a legal mandate or provision, and in his role there must be respect for constitutional rights and the principle of legality above all else.

5. Cooperation with corporative associations - essential in this profession - as well as holding managerial posts, far from constituting an optional right, represent an unrenounceable obligation which must be responsibly guaranteed by those notaries who are

elected by their colleagues. This obliges those elected to respect the principles of the code of ethics, and also to personally ensure that these are complied with.

6. The principles of impartiality, independence, non-discrimination and adequate information for the most needy who request notarial services, must always be maintained as essential and irreplaceable values. This will safeguard the freedom of the Notary and of those needing his services.

7. The Notary will guarantee the integrity of the document he authorises, its legality, its efficacy and its permanence in time, because he holds a public position granted by the state - public faith - and because he is the author of the public document requiring notarial services.

8. Within the sphere of their respective jurisdictions, notaries should promote the preparation of deontological rules, ensuring that they have the appropriate provisional efficacy and at any rate, summarise them and make them widely known among members. It is recommended that the application of deontological rules be accompanied in each country by an efficient procedure to guarantee and meet deontological duties and obligations. In this regard it is necessary to reaffirm the legal nature of deontological rules, which belong to the legal system characterised by its ethical content and its dependence on the laws of each member State, be they constitutional or ordinary.

9. It is also considered an adequate tool which can help in meeting deontological standards, establish Deontology Commissions within each notariat to regulate its enforcement oversee its efficiency and if necessary, propose the pertinent sanctions.

10. In order that the principles of deontology will remain safeguard within the Union for future generations, and taking advantage of the exceptional moment of celebrating the 50th Anniversary of the creation of the U.I.N.L. in Buenos Aires, we propose that they prepare some General Principles of Notarial Deontology, and that they commit themselves, as they deem pertinent, to advise the countries which request them, help the respective notariats in the implementation of deontological rules, and offer to be an impartial arbitrator in the solutions of any conflict arising between member Notariats.