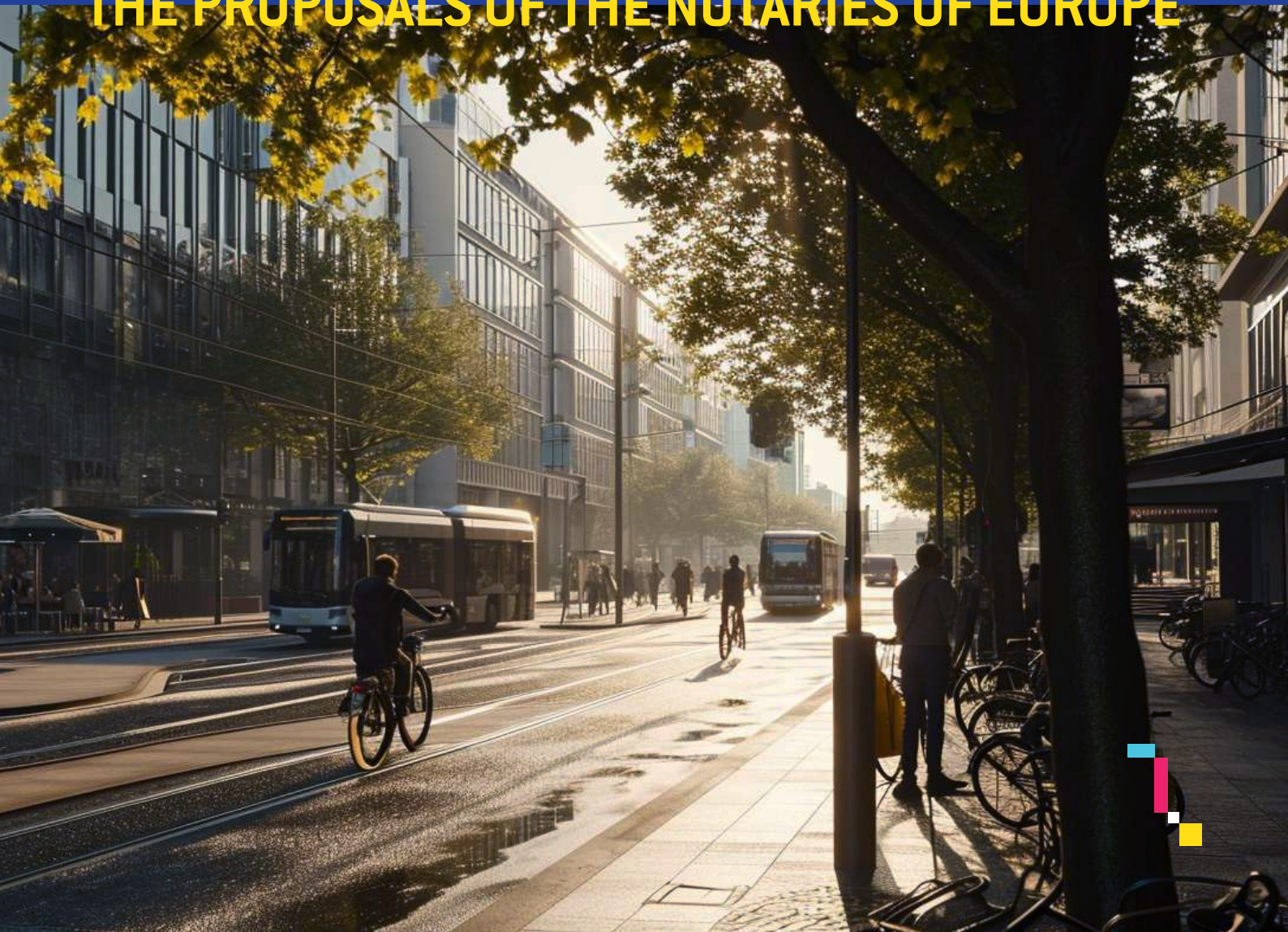




2024

EUROPEAN ELECTIONS

THE PROPOSALS OF THE NOTARIES OF EUROPE



PROVIDING LEGAL CERTAINTY FOR ALL EUROPEANS

Currently, citizens in Europe are confronted with a rapidly changing environment and uncertainties, such as geopolitical developments, environmental challenges and digitalisation in particular with artificial intelligence. Institutions which deliver stability, mutual trust and legal certainty contribute to strengthen citizens' trust in European policies. The Notaries of Europe pursue these goals. As legal advisors to citizens and businesses, they accompany them throughout the major stages of life: marriage contract, purchase of real estate, settlement of a succession, creation and amendments of company statutes, etc. Every month, several million clients come through the door of a notary's office.

Faced with a constant increase in the number of cases with a cross-border element, the Notaries of Europe have resolutely committed to working alongside the European institutions to provide legislative and practical solutions to the problems of citizens whose lives are now part of the European area.

While economic borders have been abolished thanks to the single market, too often legal borders remain. That is why the Notaries of Europe have implemented concrete solutions in recent years such as the European Directory of Notaries (www.notaries-directory.eu), the European Notarial Network (www.enn-rne.eu), and the European Network of Registers of Wills Association (ENRWA, www.arert.eu), which works to interconnect registers of wills and European Certificates of Succession.

The Notaries of Europe are also involved in improving knowledge of European law and the law of other Member States by providing thematic websites such as [Couples in Europe](#), [Succession in Europe](#), [The Vulnerable in Europe](#) or [Buying property in Europe](#).

THE CNUE IN A NUTSHELL

The CNUE (Council of the Notariats of the European Union) now represents the notariats of 22 Member States of the European Union, as well as 7 notariats with observer status, to the European institutions. The CNUE's mission is to promote the notariat and its active contribution to any decision-making processes of the European Union that affect the legal aspects of citizenship and running a business, access to justice and consumer protection.

22
MEMBERS



7
OBSERVER
MEMBERS



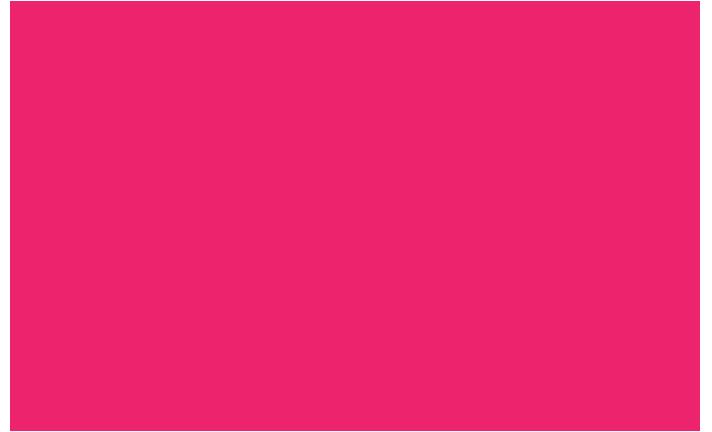
50 000
NOTARIES



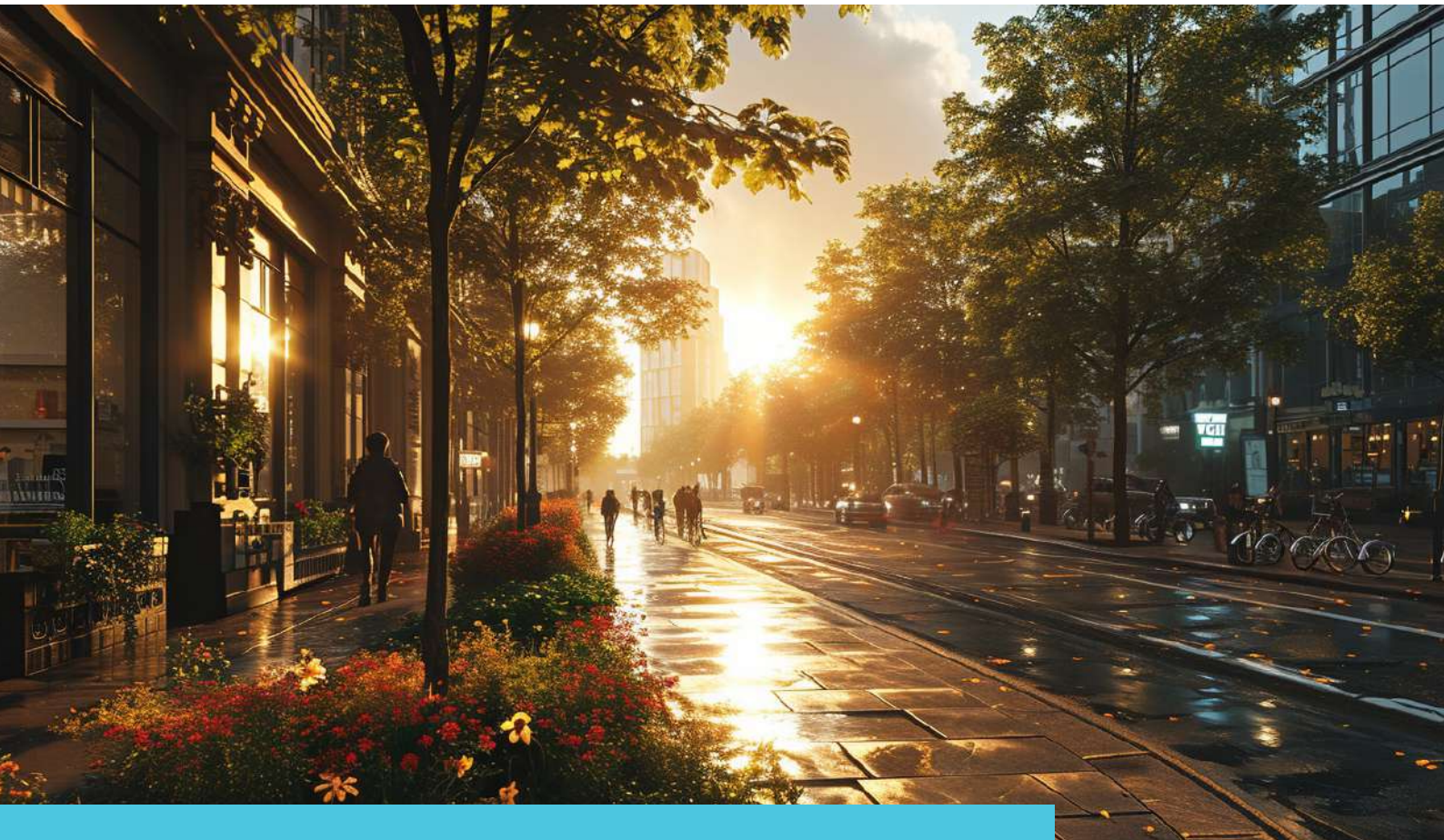
200 000
EMPLOYEES



In the context of the 2024-2029 legislature, the Notaries of Europe call on the European institutions to renew their support for an ambitious multiannual funding policy in the field of justice. They have also drawn up a list of priorities for future MEPs, members of the European Commission and the Council. Finally, as a revision of the Treaties is envisaged in the coming years, they wish to reiterate the importance of the heritage of Romano-Germanic law.



These proposals are the subject of this manifesto, unanimously adopted on 8 December 2023 in Brussels by the elected representatives of the 22 members of the Council of the Notariats of the European Union (CNUE).



ENSURING LEGAL CERTAINTY IN AN INCREASINGLY UNCERTAIN DIGITAL WORLD

Despite the impressive technical developments and possibilities offered by technology, citizens and businesses today are increasingly confronted with difficulties in identifying reliable or fake information which might also have an impact on legal transactions.

Digitalisation of notarial authentic instruments and performing notarial acts remotely via digital means can simplify and accelerate certain matters for citizens and companies. At the same time, however, this can sow the seeds of new forms of abuse and deception. If notaries suspect that such actions are taking place, they must be able to request their clients to meet, discuss and advise them in person.

This “emergency brake” in the digital process should always be available to a notary and needs to be regulated within the European Union.



As a key player in the digitalisation of justice in Europe, the CNUE strives to ensure trust and legal certainty in the digital world. To this end, it can rely on a solid foundation put in place by its members at national level: creation and interconnection of registers, dematerialisation of data transfer, setting-up of companies online, deployment of electronic signature, electronic authentic instruments and public videoconferencing procedures with highly reliable identification mechanisms.

The COVID-19 crisis proved to be a real stress test for all the Member States' legal systems and highlighted the need for a coherent legislative framework at European level. In response, the European institutions have been particularly active with numerous legislative proposals: digitalisation of cross-border judicial cooperation, revision of the European e-IDAS/e-ID Regulation, upgrading of digital company law, etc.



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In this context, the CNUE strives to make use of the new opportunities of digitalisation to continue the efficient and effective work of notaries in Europe. This new digital infrastructure will empower citizens and businesses and will make their daily lives easier.

While pursuing digital pathways, the CNUE will advocate to uphold also in the digital sphere the procedural safeguards, legal certainty and data security of the analogue world. It is essential that the development of digital solutions in a cross-border context, including artificial intelligence, does not undermine legal certainty and access to the law for our fellow citizens. It is important to take into account the situation of those who do not have the knowledge or the opportunity to use digital technology in their daily lives. Therefore, the CNUE endeavours to address the questions of the future, including the challenges that arise in this new digital context without compromising on legal certainty.

OUR PROPOSALS



- The Notaries of Europe are ready to shape the digital reality and future developments as front-runners.
- However, in order to include the entire population, but also to prevent fraudulent transactions, European legislation cannot exclude the possibility of in-person procedures.
- In terms of electronic identification and for the future European digital wallet, the highest levels of security need to be adopted, in order to secure the protection of privacy and confidential data within the EU.
- In developing a European framework on artificial intelligence, the CNUE supports a “human-based approach”: making the final decision should always be left to a human legal professional and not to an automated system.

2 - BETTER PROTECTING CITIZENS' RIGHTS

The European Union has set itself the objective of defining common rules in family law so that citizens are not hindered in the exercise of their rights because they live in different countries of the European Union or because they have moved from one country to another in the course of their lives.

Important regulations have been adopted over the past two decades to build bridges between national law systems, such as European regulations on international successions, matrimonial property regimes, registered partnerships and the circulation of public documents.





More recently, the European Commission has published a proposal for a Regulation on parenthood, as well as a legislative package to strengthen the cross-border protection of adults. Access to justice for vulnerable persons is another major social issue and a challenge for the European Union, which needs to pay more attention to this when developing its policies.

OUR PROPOSALS

- The CNUE calls for a swift adoption of the legislative package on the cross-border protection of adults.
- The European Union must consider unifying conflict-of-law rules at European level in new areas: adoption, celebration of marriage, cohabitation agreement, absence (legal effects of the disappearance of an individual beyond a certain period of time).
- Since all Member States have ratified the UN Convention on the Rights of Persons with Disabilities, it is now essential that its main principles guide the European Union's actions, in particular the right to autonomy and access to justice.
- For the proper application of European legislation, the training of legal practitioners, in particular that of notaries, must be encouraged and supported by the European Union.

3 - FACILITATING THE SETTLEMENT OF SUCCESSIONS IN EUROPE

Since 17 August 2015, Regulation (EU) No 650/2012 has been in force and greatly facilitates the settlement of international successions in Europe. In the majority of Member States, notaries are the main contact point for all matters relating to succession law.

Building on this practical experience, the CNUE published in March 2023 the results of the "[MAPE Successions](#)" project, the aim of which was to assess the application of Regulation (EU) No 650/2012 on international successions by notaries.

During this two-year project, more than 2,100 notaries contributed and shared their experiences on a wide range of topics covered by the Regulation: rules of jurisdiction, choice of applicable law, acceptance of authentic instruments, European Certificate of Succession, etc. All these data were analysed and discussed by a team of academics and notaries, who presented their recommendations. The data collected are particularly valuable to evaluate the Regulation by the European Commission, with a view to a possible revision.

The issue of digital assets is also a growing concern of European citizens. It is now necessary to define and regulate digital assets through appropriate EU legislation. The Notaries of Europe are committed to working on the drafting of digital clauses in the provisions of wills that can take into account the deceased's online presence and his or her assets: electronic contact details, passwords, account numbers, photos, videos, music, etc. Because the digital markets and services involved are cross-border, this is an issue that must be dealt with at EU level.





OUR PROPOSALS



- In view of an evaluation of the Regulation (EU) No 650/2012, the CNUE will make available to the European Commission the data collected under the MAPE Successions project.



- Considering the revision of the same Regulation, the CNUE calls for its recommendations to be put in place. In particular, via the European Network of Registers of Wills Association (ENRWA – www.enrwa.eu), the CNUE supports the creation and interconnection of registers of European Certificates of Succession and of open and closed succession proceedings.



- The CNUE calls for uniform European rules on digital assets.



- The CNUE supports the introduction of European legislation to limit double taxation in succession matters.



- The CNUE calls for a European portal to be set up to enable those responsible for settling successions to easily find the details of financial institutions where the deceased have bank accounts, employee savings accounts and life insurance policies.



4 - PROMOTING THE RELIABILITY OF REGISTERS

The quality and transparency of registers are key elements of a competitive European economy. For their activities within the internal market, economic operators must be able to rely on true, correct and reliable information. These are also essential components for the Member States in their fight against money laundering and the financing of terrorism as well as in support of the enforcement of sanctions.

More than ever, with the increasing digitalisation of procedures, it is imperative to ensure the reliability of registers. In particular, the creation and inter-connection of registers should not be achieved at the expense of legal certainty. For this reason, the CNUE calls on the European institutions to ensure that robust safeguards are in place to guarantee the reliability of registers.

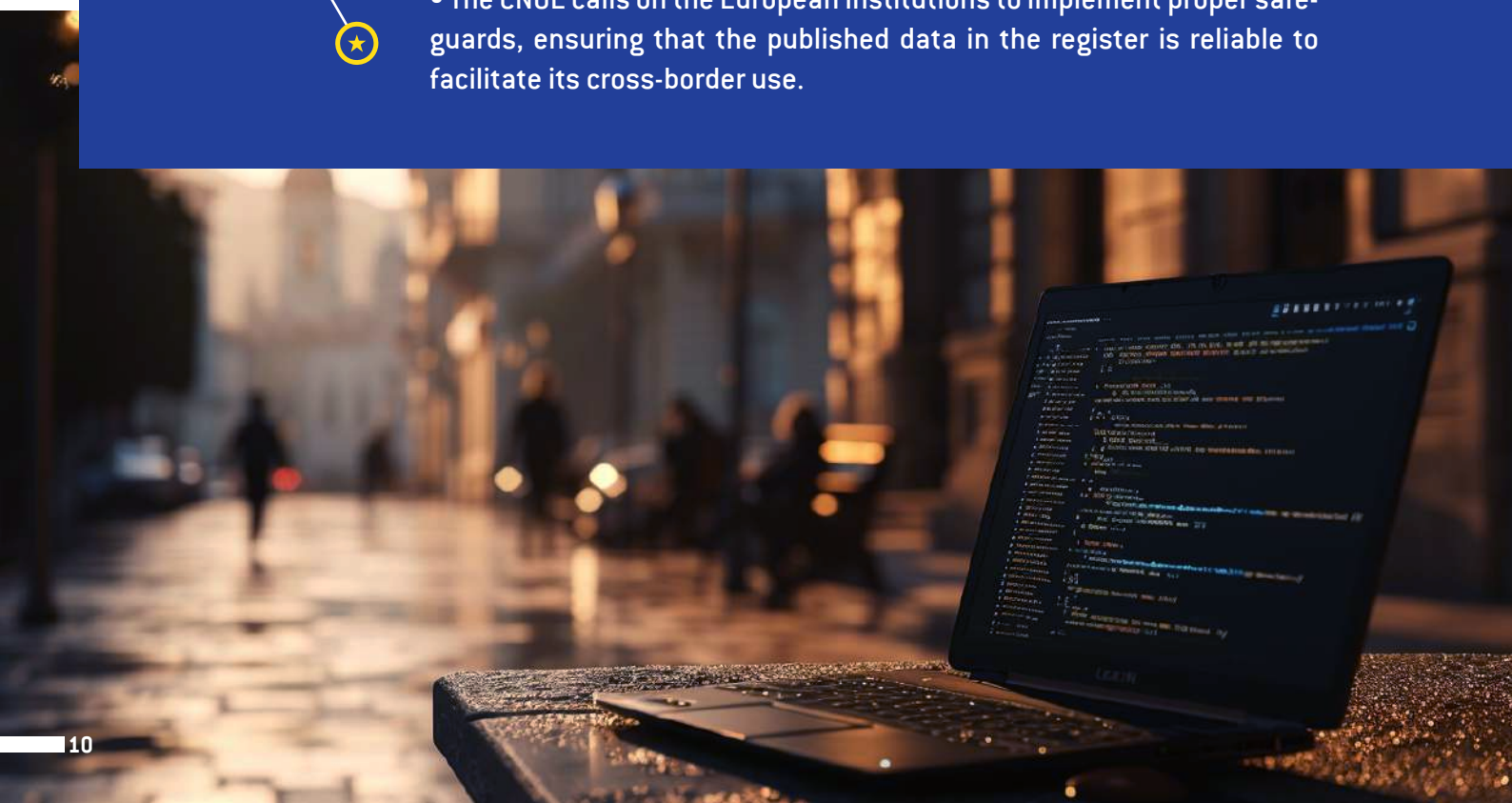
To achieve this, it is essential that register data are being checked by public authorities such as courts, administrative authorities or notaries that act in the public interest and are strictly supervised and adhere to special procedural law.



OUR PROPOSALS

- In the public interest, the CNUE supports the principle of preventive control by a public authority, including public office holders, of the data published in the various registers, so that everyone in Europe can rely on them.

- The CNUE calls on the European institutions to implement proper safeguards, ensuring that the published data in the register is reliable to facilitate its cross-border use.



5 - ACTING IN THE FIGHT AGAINST MONEY LAUNDERING

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The Notaries of Europe are a central element in the Member States' measures to combat money laundering. They have an obligation to inform public authorities of any suspicions they may have about a financial operation or transaction. They implement the recommendations developed by the Financial Action Task Force (FATF) and the resulting European legislation.

This is why the fight against money laundering is a real challenge for the authorities, requiring them - and also sensitive sectors - to be increasingly vigilant. In this context, the European institutions ensure that the legislative framework is adapted to the realities on the ground. In this respect, a new legislative package is expected to enter into force very quickly.

However, money laundering techniques are constantly evolving, using new resources and following the evolution of technologies. This phenomenon is also inherently transnational, not only disregarding borders, but using them to blur the tracks of successive financial operations carried out across the planet and thus obstructing the course of justice. According to a FATF estimate, the annual volume of money laundering operations represents between 2 and 5 % of global GDP.



OUR PROPOSALS

- The CNUE calls for swift adoption of the legislative package by the European institutions and for the new regulatory framework to be put in place without delay.
- To act even more effectively in the fight against money laundering, the CNUE calls on the European Union for greater support for the training of practitioners, such as notaries.
- The CNUE asks the European Union to work on the establishment of specific tools for cooperation between Member States and practitioners.

6 - FOSTERING THE DEVELOPMENT OF NON-CONTENTIOUS JUSTICE IN EUROPE

Notaries participate in the exercise of non-contentious justice which contributes to the prevention of costly litigation. This is why, the legislator calls on notaries to relieve the administrative, judicial, and financial burdens: in numerous Member States, notaries are empowered with non-contentious procedures such as successions. This transfer of tasks to notaries increases the efficiency of procedures and thereby benefits citizens' access to justice.

Other examples of such preventive justice are notarial functions in the area of the protection of vulnerable adults, the celebration of marriages before a notary, and the settlement of amicable divorces by the notary which is currently already possible in a growing number of Member States.

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In addition to saving time and money, transfer of powers from the courts and from the public administration to notaries contribute to the efficiency of justice and to the improvement of the functioning of States. Against this background, it is noteworthy to mention that notaries, as public office holders, uphold essential procedural standards such as impartiality, independence and hearing of the parties within the meaning of the requirements on fundamental principles of the rule of law.

Ultimately, this strengthens the rule of law for the benefit of all European citizens. In those Member States where notaries perform court functions, they also fulfil the requirements of Article 6 ECHR and Art 47 EU-CFR.



OUR PROPOSALS

- The CNUE calls for the use of preventive justice procedures in the adoption of future European legislation.
- The CNUE proposes to better include non-contentious justice in European activities on improving the efficiency of justice systems.
- The CNUE asks for notaries acting in non-contentious procedures to have access to all mutual assistance tools put in place to facilitate individual case handling (e.g. the European Judicial Network in civil and commercial matters).



7 - STANDING BY UKRAINE

On 24 February 2022, the international community was horrified to witness the Russian Federation's invasion of Ukraine, a free country, a democracy. In response to the brutality of these actions, the CNUE quickly mobilised to provide an institutional and on-the-ground response to the crisis.

On 1 March 2022, the Ukrainian Chamber of Notaries was granted observer member status of the CNUE. Within the framework of the European Notarial Network, the CNUE has developed and published a practical handbook on Ukrainian law for notaries, as well as a series of fact sheets on Ukraine for the general public.



In addition, the CNUE has published a multilingual electronic form to safeguard the interests of unaccompanied Ukrainian minors, who find refuge in EU countries with relatives and friends. Finally, the Notaries of Europe also play a leading role in the implementation of sanctions against Russia and Belarus.

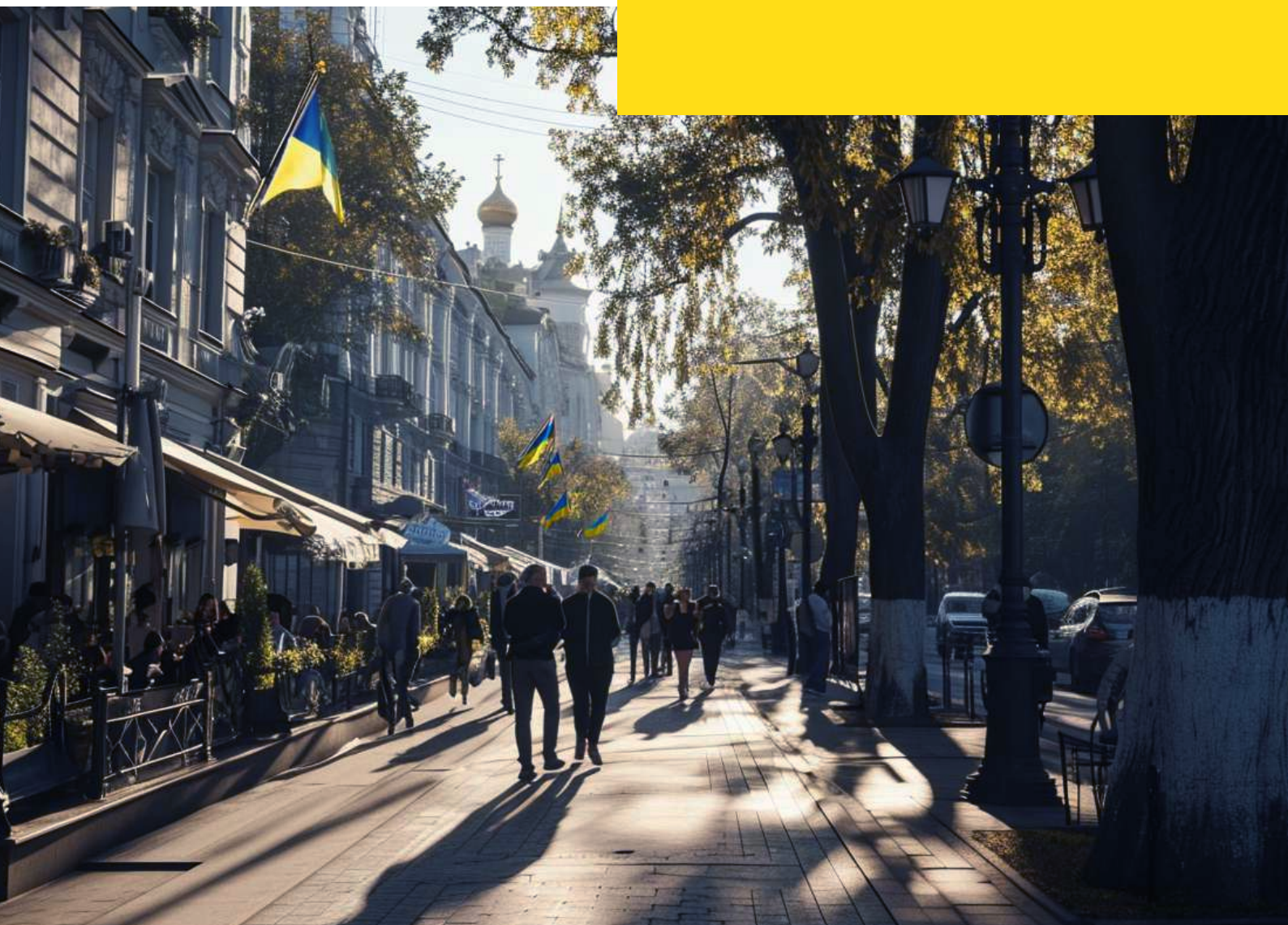
OUR PROPOSALS

- Given the important role played by notaries in company and real estate transactions, the CNUE wishes to step up its cooperation with the European Commission in order to better enforce sanctions against Russia and Belarus.

- An effective judicial system, based on prevention and legal certainty, is an essential component of the rule of law. Through financial support, the European Union must help practitioners and administrations to quickly preserve and rebuild the foundations necessary for a stable and predictable legal framework, which is a prerequisite for sustainable economic and social development.

The support provided for the rule of law, the preventive administration of justice in wartime and the reconstruction of Ukraine after the war is one of the CNUE's major political priorities. In view of this, providing legal certainty is of highest importance as is building trust when it comes to future investments in the Ukrainian economy.

In particular, the full guarantee of constitutional property rights, the legal settlement of family and succession procedures, the protection of the most vulnerable members of society and the restoration of public registers have to be taken into account in the process of reconstruction of the country.





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