

Minister,
Member of Parliament Mrs Winkelmeier-Becker,
Dear representatives of the member notariats,
Ladies and Gentlemen,

I too would like to welcome you all. Thank you for taking the time to celebrate this official ceremony together.

I am very pleased that this transfer of power (to use Brussels jargon) can take place at the representation of the Land of Hamburg in Berlin. And I think I can say as a Hamburg notary that it is in the spirit of our proverbial Hanseatic openness to the world that Hamburg's representation opens its doors to us for this pan-European event.

Because that is why we are here today – we are meeting to relieve you, dear José Manuel, after a year of successful presidency, of your responsibility for our European notariat and to entrust me with this task.

And I am deliberately referring to a "relief" that is taking place today, dear José Manuel, in the context of this transfer of power. Because, it must be said that you did not spare yourself during your presidency – your activity was marked by a very busy agenda, rich in the most diverse issues.

In addition to the themes that were in any case predefined by the Brussels legislative calendar, you set yourself a whole series of priorities. The highlight of your presidency was undoubtedly our fourth Notaries of Europe congress last autumn in Santiago de Compostela, which remains engraved in our memories.

Today, therefore, I would also like to thank you not only on behalf of all the notariats gathered under the auspices of our Brussels association, but also on my own behalf for our excellent cooperation, based on mutual trust, in the past and especially during this last year of your presidency.

But as the saying goes – recognition also means commitment. Obviously, I am particularly pleased to continue this close and trusting cooperation this year with the French vice-presidency and therefore, with you, dear Pierre-Luc.

But steering a ship requires more than a captain and helmsman – above all, you need a committed and motivated crew! That is why I am also counting on the active support of all members of the **new Board**, namely the representatives of the Belgian, Greek, Maltese, Austrian and Slovak notariats, to whom I would like to extend a warm welcome “on board”.

Without you, dear friends and colleagues, Pierre-Luc and I will not be able to make a successful crossing at sea, nor will we be able to bring our ship, the European notariat, to a safe harbour.

And yes, the sea that awaits us is far from calm:

In a few weeks' time, at the end of February, we will already face **a first test** with the announced publication of the European Commission's company law package.

In this context, the proposal on the **digital lifecycle** of companies will be of major political importance for the profession. Indeed, according to information obtained from high-level representatives of the European Commission, it is planned to require Member States to set up **purely electronic procedures based exclusively on web forms**.

In my opinion, the European Commission's reflections demonstrate one thing very clearly, namely that European company law is now more than ever at a crossroads.

One path follows the theory of **party autonomy in contractual relations** arising from **Anglo-Saxon law**, which views the law essentially as a model for facilitating the development of contractual solutions.

The other path is in line with the **tradition of continental Europe**, which is characterised by a regulatory policy of the State setting out essential protective standards which the parties cannot derogate from by means of private agreements.

In keeping with our tradition of continental law, the **notary's statutory mandatory involvement in company law transactions** fulfils a range of fundamental protective functions within the framework of the State's regulatory policy.

Thus, the notary provides comprehensive legal advice to partners and directors beforehand and informs them in particular of their civil and criminal liability risks.

The effectiveness and legality of transactions are ensured.

In addition, the notary's involvement guarantees the reliability of the commercial and company register, and at the same time, we relieve the workload of the courts in charge of the register on a permanent basis.

But let us not forget to mention another last aspect in the era of the Panama and Paradise papers:

The reliable identification of the people involved in company law transactions that we notaries carry out ex officio

contributes directly to the prevention of crimes such as **money laundering** and **tax fraud**.

Indeed, both when companies are set up and throughout their existence, an adequate and effective fight against money laundering is essential.

A closer look at the Panama phenomenon reveals that this problem is first and foremost closely linked to the way in which a State organises its company law and state structures with regard to public registers.

Purely electronic procedures based on the **use of web forms** without preventive legal control by the notary would therefore entail a dramatic loss of **legal certainty, transparency** and thus also **contractual freedom**, which is precisely the strength of **our continental company law** compared to the Anglo-Saxon model.

Standard forms presuppose a **simplification** of company law by laying down standardised cases. However, notarial practice shows that there is a high demand on the part of founders and companies for **individual solutions** which, unlike the Anglo-Saxon legal tradition, are not regulated in secondary agreements which produce effects solely between the parties,

but in the company's articles of association.

As a result, they are **published in the commercial register** and thus made **transparent to those involved in legal transactions**.

Dear guests, Ladies and Gentlemen, does this mean that I, that we notaries are opponents of new technologies, that we want to oppose progress? On the contrary!

In Germany, as in many other Member States, we have highly developed IT strategies for company law and the register:

In Germany alone, all communication between the notary and the commercial register has been carried out purely electronically since 2007 and at a very high level of security thanks to dedicated encryption technology. Registration of the incorporation of companies, of changes in articles of association of all kinds, dissolutions and liquidations is now easily carried out electronically for the benefit of consumers and entrepreneurs.

It therefore seems to me that a **responsible legal policy** – particularly at European level – must be designed to ensure that the tried-and-tested system of administering preventive justice in the legal systems of continental Europe can be

constantly and discerningly developed by making use of the existing infrastructures for electronic transactions. **Disruptive approaches** aimed at completely overturning company law structures must be avoided at all costs.

In view of the above, the European Commission's proposal should allow Member States to develop existing IT approaches for their registers and open them up to innovative remote communication solutions while maintaining contact with stakeholders in real time – without jeopardising the reliability and legal certainty of our registry systems, the pillars of our entrepreneurial and economic world.

As so often, **it is not revolution, but evolution** that must be our motto!

Of course, Europe's notaries have been asking themselves for some time now how further digitalisation could be implemented in the field of company law.

One thing is clear – such a procedure must transfer the essential functions of notarial involvement to the digital world adequately. In particular, the organisation of the procedure itself must continue to fall within the competence of the Member States.

This would allow Member States to ensure an adequate balance, adapted to their respective legal order, between the opportunities for digitalisation on the one hand and the need for individual solutions, legal certainty and the fight against abuses on the other.

Dear guests, dear colleagues,

Of course, company law will not be the only topic of concern for the European notariat and therefore my agenda this year. There are many other issues.

Whether it is the revision of the **Brussels IIa Regulation** on divorce law, the recasting of the **Money Laundering Directive** or the preparation of European notaries for the imminent **application** of the **new regulations on matrimonial property regimes** in the field of family law in 2019, to name but a few of the current topics of pan-European importance for notaries.

And, last but not least, we notaries also take very seriously the European Commission's **training initiatives** for the legal advisory professions. In recent years, we have raised the bar in this area very high, thanks to our training courses on the European Succession Regulation that came into force recently, particularly in the eyes of the European Commission, which

expressly congratulated us on our efforts in this area. It is therefore our duty to defend first place as a legal profession benefiting from the best continuous training (according to Commissioner Jourová's words in the spring of last year)!

Without wanting to put your patience to the test after these rather critical remarks, I would like to conclude on a positive and optimistic note that will respond better to the solemnity of this ceremony:

Because there is one thing that we, the notaries of Europe, have been able to learn in the last few years of successful work within our European association, and that is that Europe is not just what the European institutions impose on us. No! Ultimately, Europe is (and I am deeply convinced of this) what we – ascitizens, consumers, entrepreneurs or legal practitioners – are doing actively.

It is precisely in this direction that you can all expect us and me personally to continue to pursue our commitment to develop the European legal area in all areas of the administration of preventive justice constructively and, above all, enthusiastically!

Thank you all for your attention!