Blockchain and notaries

Since the advent of computer science, the notary has been passionate about the means of transmitting information and the resulting changes. Dematerialization, digital, and artificial intelligence are all modes of transmission that notaries use in their initial training and daily practice.

In France, notarial acts are largely signed in a dematerialized way. The signature of the authentic act occurs at a distance, with each client being in the presence of his notary, who is deployed in his offices. The evolution of French notaries is taking place in the context of a larger, societal, digital paradigm shift. While some argue that, with the advent of blockchain technology, the notary will no longer be essential; notaries view this software as an inspiration for growth and an opportunity for the expansion of their profession!

The financial industry is the first to consider blockchain technology for the secure, anonymous transfer of funds. Additionally, blockchain software is being used for the transfer of legal, sensitive, administrative, and/or private documents.

Thanks to blockchain technology, a legal document can be signed and transmitted between the various parties with the guarantee of both its inalterability and its traceability.

Some see this technology as an alternative, or even as a substitution, to many of the professionals in the contract, including notaries, bailiffs, clerks, etc. Advocates of blockchain technology claim that its computer certification process supersedes the necessity of third party intervention, thereby replacing the notary’s authentication guarantee.

Does it mean, as information becomes readily available, the traditional top down transaction between notaries and their clients must be supplanted by a collaborative interaction thanks to blockchain technology?

However, blockchain software is unable to successfully replicate the experience of trained notaries. Their skill to confirm the reliability of legal documents, including third party consent, assume responsibility for such documents, and grant a balanced agreement, are qualities of service which blockchain technology can not reproduce. Additionally, the notary ensures the legality of the agreements and maintains regulatory compliance, thereby minimizing litigation. Therefore, documents processed by these professionals stand on a solid legal foundation.

The approach of every notary combines a commitment to the rule of law and sensitivity towards each individual client’s situation. Blockchain technology can not duplicate this standard of care.

The sealing aspect of blockchain technology does maintain some of this trust by making the information collected impossible to forge, but it can not take free and informed consent into account. Nor will it be able to identify the responsible parties in the eventuality of a lack of consent. In the event of a fault, who will be held responsible in these growing numbers of digitized transactions?

While notaries appreciate the advantages and opportunities of this tool, especially as a means of transmitting legal documents, the limitations of blockchain technology demonstrate that it is not an alternative to—or substitute for—the notary.

In 2018, The French notary thus developed a blockchain for the circulation of enforceable copies.

What is it about?
Today, the enforceable copy of a deed evidencing a claim is in the original paper format. It is certified by the notary and bears the executory form. It is then sent by the notary to the creditor via registered letter. The creditor will send it, if necessary, to the bailiff to obtain the execution of the contract.

Currently, enforceable copy has the following characteristics:

- It is written in a paper format or hard copy
- Its authenticity is certified by the notary
- The transfers between the various parties (notaries, banks, bailiffs) are done by registered mail
- Its uniqueness is guaranteed: only one enforceable copy can exist on a given claim. Only a court decision may allow the notary to issue a second enforceable copy.

Notary blockchain technology would change this process in the following ways:

- Allow all parties to verify the authenticity, integrity, and uniqueness of the enforceable copy issued by a notary in their possession, at any time.
- Trace the exchanges between notaries, banks, and bailiffs, so that any interested party can confirm the identity of the legitimate holder of the enforceable copy
- Transfer of the enforceable copy of the notary to the bank, anchoring the document imprint and any information necessary for the following blockchain software checks: A bank receives the enforceable copy. The proof of receipt is anchored by blockchain technology and the bank can verify the authenticity and uniqueness of the enforceable copy via an application that queries the software. At any time, the notary can verify and demonstrate, through the same application, that the enforceable copy has been delivered to the bank.
- The same operations (transfer, anchoring, verification) are performed between banks and bailiffs
- In the long term, this technology can be used to allow notaries to send any authentic copy to the customer or client.

This "consortium blockchain" technology thus enables all professional partners to track the document’s footprint and ensure its integrity. The profession sees this system as both a means to reach a wider audience, and as a tool to ensure the veracity and reliability of the original document prepared by the notary.

Notary blockchain technology will guarantee the digital exchange of documents and their inalterability. This new tool fits naturally into the notarial process of the creation of the authentic act and this "title insurance" allows the notary to fulfill his mission of public service, while adapting to the current needs of an ever evolving society.