ELECTRONIC SIGNATURES ON DIGITAL LEGAL ACTS

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Portugal

DECREE-LAW 126/2021, DECEMBER 30TH

- Video-conference used on digital legal deeds with electronic signatures
- April 4th 2022 Beginning of implementation
- 2 years term after that the Government will reavaluate it, in order to implement it's final and definitive consolidation in the legal order

WHO?

- Registrars Institute of Registry and Notaries
- Notaries Notaries Bar Association
- Lawyers Lawyers Bar Association
- Solicitors Solicitors Bar Association

WHAT?

REGISTRARS:

- Divorces by mutual consent;
- Inheritance Deed of Heirs (with or without registry of the inheritance assets);
- Procedure "Casa Pronta" special procedure of transmission of assets.
 The deed and the registry are signed in the same day, as well as the taxes obligations:

Acquisition of assets – purchase and sale contracts; Mortgage; Donation; Exchange/Permutation; Condominium; Financial leasing contracts.

NOTARIES:

All acts within its competence are covered.

• Exceptions: last will.

LAWYERS AND SOLICITORS:

All acts within its competence are covered.

• Exceptions: last will, inheritance deed of heirs, usucapio.

(in force since the Decree Law 116/2008, 4th of July)

► ELECTRONIC SIGNATURE

Three types of eletronic signature:

- Simple
- Advanced
- Qualified

Only the qualified electronic signature has the same effect as the manual signature.

Regulation (EU) N.º 910/2014 of the European Parliament and of the Council of 23rd of July 2014/ on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC – eIDAS Regulation

TO WHOM?

PORTUGUESE CITIZENS:

• with identity card and digital mobile key.

FOREIGN CITIZENS:

- Living in Portugal: the digital mobile key can be associated to the passport or to the residence card + portuguese fiscal number.
- Living abroad: any portuguese Consulate can associate the digital mobile key to the passport.

WHERE?

Article 1°, n.º 4:

" ... only in national territory"

Institute of Registry and Notaries – Legal Orientation n.º 003/CD/2023, de 22.02.2023: It is mandatory for the professional that celebrates the deed to be based in Portugal. It does not require the physical presence of the participants before these professionals.

CONTROVERSIAL ISSUES

Videoconference Legal Acts

- The presence of the parties can be simultaneous or not – article 6°, n° 7;
- Archive and conservation of documents: 20 years – article 9°, n° 1;
- Capacity for 20 users simultaneously presentation session.

Videoconference Legal Acts

<u>The professional must refuse the legal act if he</u> <u>has doubts about the following – article 7°:</u>

- The identity of the parties;
- ► The free will of the parties;
- The capacity of the parties;
- The authenticity or integrity of the documents presented;

COMPUTER SCIENCE AND THE ALGORITHM

- ► Geolocation systems
- ► Fingerprint reader
- ► Facial / eye recognition reader
- ► Face disruption / deepfake

VIDEOCONFERENCE LEGAL ACTS – PRESENTATION SESSION

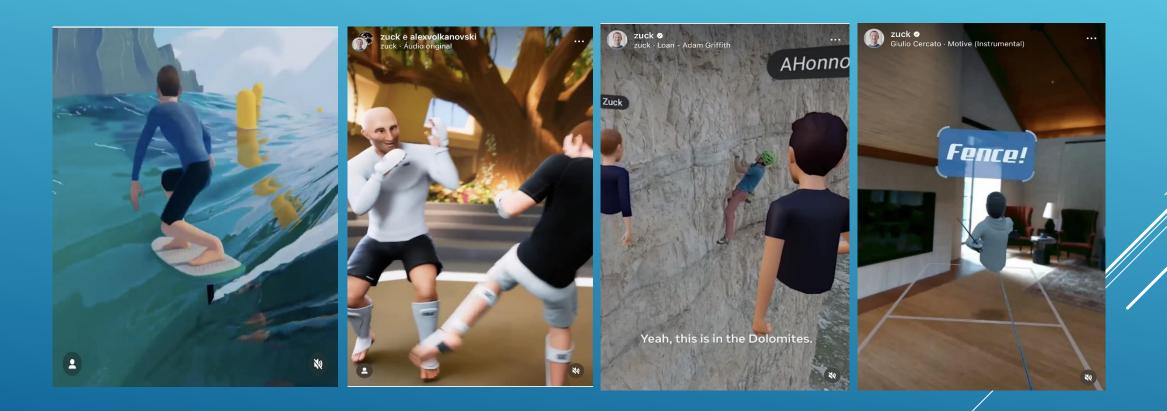
- "Great asset for years to come".
- "Digital channel for further products".
- ► "Free use".

Secretary of State for Justice

GENERAL SHAREHOLDERS MEETING IN THE METAVERSE



AVATAR



CIVIL RESPONSABILITY

- Responsability of the professionals:
- ► Civil
- Disciplinary
- ► Criminal
- <u>Responsability of the parts in the deed</u>
- <u>Responsability of the software creator</u>



VIRTUAL CAUSE

► <u>MAIN PRINCIPLE:</u>

Irrelevance of the virtual cause.

► <u>PROPOSALS OF THE EUROPEAN UNION:</u>

Civil liability regime for artificial intelligence

European Parliament resolution of 20th October, 2020 with recommendations to the Commission on a civil liability regime for artificial intelligence

 Proposal for a Directive of the European Parliament and the Council of 28th September, 2022 on adapting non-contractual civil liability rules to artificial intelligence (AI Liability Directive)

LACK OF RESPONSABILITY IN ARTIFICIAL INTELLIGENCE PROGRAMS





CONCLUSION



► M – M

Machine to Machine

► P – P

Person to Person

THANK YOU!