

## History

2008 Call for proposals action grants, EC DG Justice.

Priorities:

Law choice involving:

- contractual obligations (article 3 Rome I, EC 593/2008);
- non contractual obligations (article 14 Rome II, EC 864/2007).

Choice of forum (article 23 Brussels I, EC 44/2001)



## **Project : CRoss Border Electronic COnveyancing**

- Choice for legislation of home country of foreign buyer involving (non) contractual obligations.
- Choice for jurisdiction of home country courts.
- Contract of sale in home country language.
- Contract of sale by home country conveyancer (only possible when submission of foreign deeds is allowed).



Two laws are applicable:

- obligations related to the transfer of property rights, law of foreign buyer;
- property rights, law in country of the plot of land.

Different systems of conveyance (deeds -, title -, common law systems).

Different property units:

- civil law property units;
- public law property units (cadastral parcels).

CROBECO involves civil law property units.

Different electronic systems (electronic lodging, electronic registration, electronic conveyancing).

Solution: frame work suitable for different systems.





Benefits CROBECO



Confidence in legal protection against pitfalls a foreign buyers could encounter.

Incentive for prospective foreign buyers.

Promote European real estate market.



### Description of:

- differences and similarities EU Member States;
- framework for cross border conveyancing process that provides confidence in sufficient legal protection;
- IT governance good practice.

### Findings:

#### CROBECO approach is possible when:

1. contracts from foreign conveyancers are accepted;
2. foreign conveyancers are specialized in cross border contracts and supported by local assistants;
3. electronic communication conveyancers and local assistants.



Desirability of EU legislation is out of scope registrars.

Foreign prospective buyers should be informed about:

- the ways to make the choice for Rome 1, 2 and Brussels 1 without obstructing registration;
- legal requirements for registration of foreign deeds (possible in about 50 % of the EU, among else in Portugal and Spain, see Supreme Court of Spain, STS 998/2011 19 June 2012).



## Follow up CROBECO 1

Develop generic platform for foreign conveyancers to:

- collect legal information;
- hiring local CROBECO assistants;
- drafting services agreement between foreign conveyancer and CROBECO assistant;
- developing electronic communication tools between foreign conveyancer and CROBECO assistant.

Result: NETPRO.



- N** Request for NETPRO admission
- L** Authorization by Land Registry
- N** Select CROBECO Assistant
- N** Create project
- A** Upload signed draft contract to projectbox
- N** Download contract/Sign/Upload to projectbox
- A** Provide information
- N** Prepare deed
- N** Submission of deed

**N** = Foreign Notary

**A** = CROBECO Assistant

**L** = Land Registry of country of the plot of land



## Admission by Land Registry

Foreign conveyancers have to request the ELRA contact points from the country of the plot of land ( see <http://network.elra.eu/>). Only persons, who are allowed to submit deeds (notaries public) are accepted.

CROBECO assistants are selected because of their expertise and reliability.

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The conveyancer/CROBECO-assistant is authorized by providing a software certificate that allows direct access to NETPRO

Welcome to the CROBECO web

ACCESS WITH DIGITAL CERTIFICATE



**Here you can find useful information about electronic conveyancing of real estate in the EU.**

**Also available are tools for professionals to carry out this e-conveyancing.**

**To proceed you must be a registered user.**

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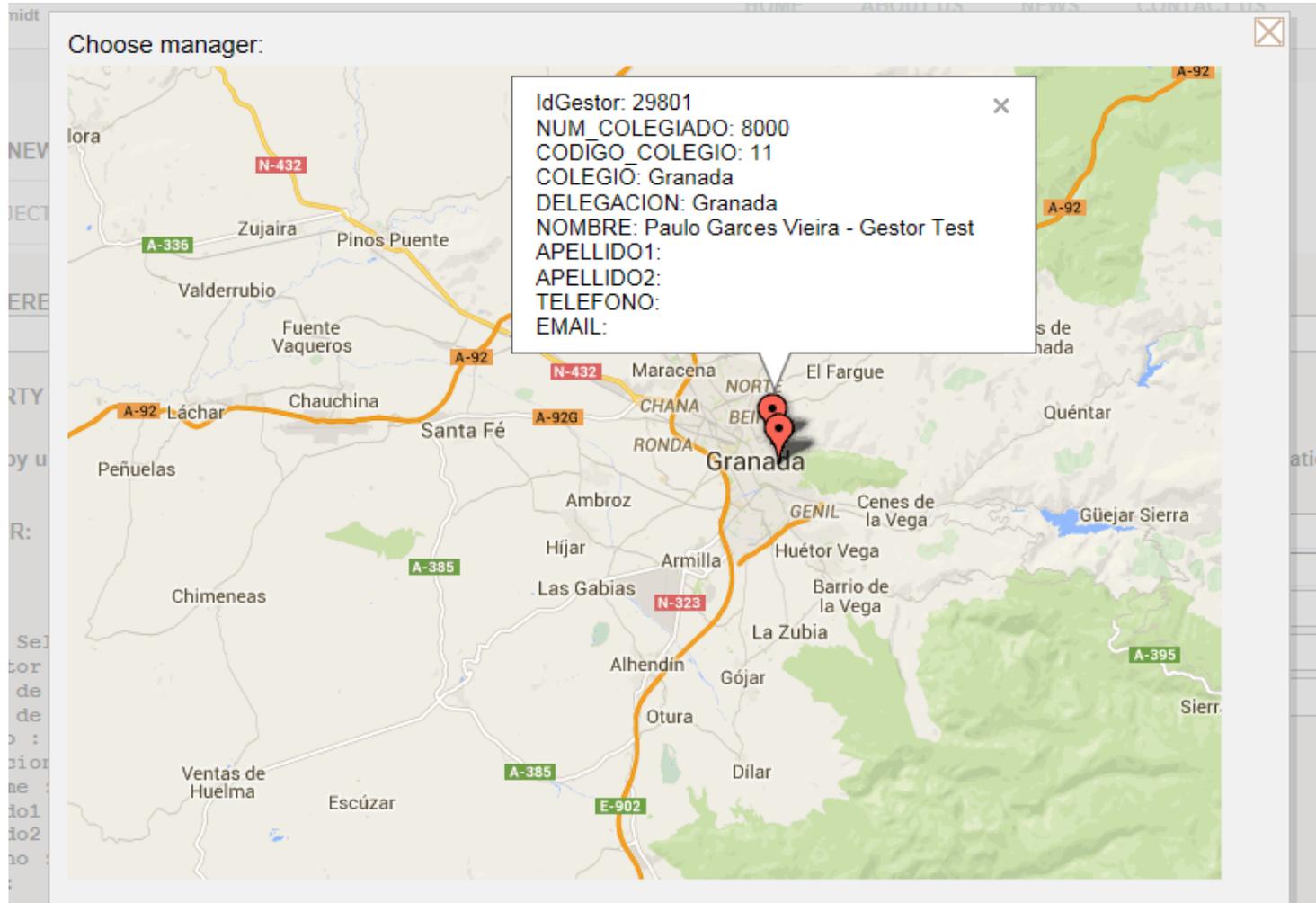
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Selecting the country by using the map..





Selecting the assistant by using the map..

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## Possible services CROBECO assistant

Apart from tailor-made services:

- provide official documents from the land registry with the latest registration;
- provide official documents from the cadastre involving the latest registration;
- provide official documents with all existing urban and environmental limitations;
- provide official certificates of habitability land;
- provide official documents that provide evidence of paid local and regional taxes;
- provide official documents with a tax number and of paying taxes.

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Example of contract developed by Professor van Erp University Maastricht.

Foreign notary remains liable.

Contract moves the obligation to pay compensation in case of mistakes to the transaction assistant.

Transaction assistant accepts the obligation to have an insurance with a cover of € 3.000.000 for each of these cases.

The amount of the fees and the moment and method of the payment is a matter between the two contracting parties (left out of the standard contract).

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## Providing of information by transaction assistant

- Provides official documents
- Adds reliability statement:  
*The information provided is correct and – to the best of my knowledge - complete.....*
- Signed with Qualified Electronic Signature

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Select country:

United Kingdom

Clauses' Repository

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## Presentation of applications

To get registration, deeds on properties are presented or lodged in the suitable Land Register Offices. Land Registries are organised by territorial principles as a general rule and different districts or jurisdictions may appear depending on the organisations of each Member State. There are different modalities of presentation. Some LR systems admit presentations of the deeds through electronic procedures. Fax or mailings are sometimes used.

Presentation of the deeds in the LR Offices may lead to specific entries or procedures that make sure the priority of the deeds and real rights which arrive firstly at the Land Register. Some LR systems develop these kind of entries for priority organizing its features, duration and effects.

Tax requirements are also remarked as prerequisite for registration.



**Belgium**



**Croatia**



**Spain**



**Estonia**



**Scotland**



**Portugal**



**Romania**



**Sweden**



**Bosnia Herzegovina**



**Netherlands**

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## CROBECO Repository of clauses

### Clauses selection

Document type:	<input type="text" value="Contract of sale"/>
Country of sender:	<input type="text" value="Netherlands"/>
Country of receiver:	<input type="text" value="Spain"/>

We endeavour to actualise and/or to add information to the web page regularly. In spite of this care and attention it is possible that the content is incomplete and/or clerical errors do exist. We provide the contents of the web page AS IS, without any guarantee concerning it's soundness, aptitude for a certain purpose or otherwise. We strive to keep the information on this website as compete and accurate as possible. We are not liable for damages of any kind, which has occured or may occur in connection with and/or results from the use of the web page or to the impossibility to use the web page.

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## CROBECO Repository of clauses

Document type: **Contract of sale**; Sending country: **United Kingdom**; Receiving country: **Spain**.

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Show status

- Below clauses are shown that are required for the receiving country (Spain) or applicable for the sending country (United Kingdom) for the deed type "Contract of sale".
- Clauses that are required for the receiving country are displayed in bold, clauses that are applicable for the sending country are displayed in normal font.
- You can inspect the clause text of the receiving country, the guidelines, adaptations and translations of the sending country by clicking on a clause title.

▶ **[INFORMATION ABOUT THE NOTARY]**

▶ **[SELLER, BUYER (NATURAL PERSON)]**

▶ **[SELLER, BUYER (CORPORATE BODY)]**

▶ **[POWER OF ATTORNEY (BOTH FOR NATURAL PERSON AND CORPORATE BODY)]**

▶ **[PARTIES STATEMENT]**

▶ **[PLOT IDENTIFICATION]**

▶ **[TITLE NON REGISTERED PLOT]**

▶ **[TRANSLATIONS]**

▶ **[EXHIBITS]**

▶ [POWER TO THE HELPDESK]

▶ [CHOICE OF LAW ON CONTRACTUAL OBLIGATIONS]

▶ [CHOICE OF LAW ON NON CONTRACTUAL OBLIGATIONS]

▶ [CHOICE OF FORUM]

▶ [PROTECTIVE PERSONAL CONDITIONS]

**Bold are mandatory**

**Regular is optional**

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Show status

▼ [CHOICE OF LAW ON CONTRACTUAL OBLIGATIONS](#)[Show clause history \(new window\)](#)**Guideline**

ACCORDING TO ARTICLE 4 TREATY ROME I, THE LAW OF THE COUNTRY WHERE THE PROPERTY IS LOCATED IS APPLICABLE TO ALL ISSUES RELATED TO THE PROPERTY RIGHT AND THE REGISTRATION. HOWEVER WITH AN EXPLICIT CHOICE THE PARTIES CAN AGREE THAT THE LAW OF THE COUNTRY OF THE FOREIGN BUYER IS APPLICABLE TO CONTRACTUAL OBLIGATIONS.

ALTHOUGH ABOVE MENTIONED LAW CHOICE NEVER CONCERNS THE ACQUIRING OF PROPERTY RIGHTS ITSELF (THIS IS GOVERNED BY THE LAW OF THE PLOT, THE SO CALLED "LEX REI SITAE"), A CHOICE OF THE LAW OF HIS HOME COUNTRY COULD HAVE AN IMPORTANT PSYCHOLOGICAL EFFECT ON A PROSPECTIVE FOREIGN BUYER. ALSO BECAUSE OF THE FACT THAT THE (BILINGUAL) DEED IS EXECUTED IN HIS OWN LANGUAGE BY A CONVEYANCER FROM HIS HOME COUNTRY, HE GETS THE FEELING OF BEING LEGALLY PROTECTED IN A FOR HIM FAMILIAR WAY.

CONSEQUENCE OF LAW CHOICE IS THAT A BUYER WHO DISCOVERS THAT THE SELLER HAS VIOLATED THE CONTRACT (FOR EXAMPLE BECAUSE OF A HIDDEN DEFECT) CAN CLAIM COMPENSATION AT HIS HOME COUNTRY COURT. (THE CONTRACT CANNOT BE DECLARED INVALID, BECAUSE SPAIN HAS A CONCLUSIVE TITLE SYSTEM).

REGULATION ROME 1 (EC 593/2008).

DESPITE THE PROPERTY SOLD BEING LOCATED IN A FOREIGN COUNTRY, BOTH THE BUYER AND THE SELLER CHOOSE DUTCH LAW AS THE APPLICABLE LAW GOVERNING THIS PURCHASE CONTRACT, WITH THE PURPOSE OF AVOIDING THE APPLICATION OF ART. 4.1.C OF REGULATION 593/2008 (ROME I), REGARDING THE CONTRACT AND ITS EXECUTION. REGARDING THE ACQUIRING OF PROPERTY RIGHTS OR THE VALIDITY OF THE REGISTRATION IN THE LAND REGISTRY OFFICE, ONLY SPANISH LAW WILL BE APPLICABLE, IN ACCORDANCE WITH THE LEX REI SITAE RULE. INSOFAR AS THE TRANSFER AND ACQUISITION OF THE RIGHT OF OWNERSHIP AND LEGAL CONSEQUENCES OF THE REGISTRATION IN THE REGISTRO DE LA PROPIEDAD ARE CONCERNED, SPANISH LAW APPLIES IN ACCORDANCE WITH THE LEX REI SITAE.

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# Electronic Registry

## List of Interactive Services

User: Patrick Harris

### Accesses

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[Access with certificate](#)

[Services without identification](#)

[Statistics](#)

[How to subscribe](#)

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### » **Publicity Services**

- [Land Publicity](#)
- [Business Publicity](#)
- [Personal Property Publicity](#)

### » **Electronic Processing Services**

- [Electronic Document Submission](#)
- [Signing room](#)
- [CSV checking](#)
- [Record Status Query](#)
- [Bulletin board](#)
- [Instancias de presentación web](#)



## Future of CROBECO



ELRA will keep NETPRO available / discuss in user group/accept new CROBECO partners

New CROBECO partners.

Receiving countries (possible when documents from foreign conveyancers are accepted) have to:

- inform prospective CROBECO assistants;
- discuss conditions for participation (insurance);
- provide mandatory clauses for repository;
- provide names and location of CROBECO assistants;
- inform CROBECO user group.

Sending countries (possible when conveyancers fulfil demands in the receiving country) have to:

- inform prospective CROBECO conveyancers;
- provide list of CROBECO conveyancers;
- provide optional clauses for repository;
- inform CROBECO user group.

Individual ELRA members could consider applying for a grant to implement CROBECO, see:

[http://ec.europa.eu/justice/grants1/files/2014\\_jacc\\_ag\\_e-ju/just\\_2014\\_jacc\\_ag\\_e-ju\\_call\\_notice\\_en.pdf](http://ec.europa.eu/justice/grants1/files/2014_jacc_ag_e-ju/just_2014_jacc_ag_e-ju_call_notice_en.pdf)



Impact running projects to associate civil law property units (Land Registers) with public law property units (Cadastre).

No significance for CROBECO (civil law).

Public law property units could refer to the value of their source (see ISO certified Land Administration Domain Model, paragraph 6.2.4 LA Source), for example “only for public law purposes”.





More information



europaean-property-rights-and-wrongs by Diana Wallis

[http://www.elra.eu/wp-content/uploads/file/European Property Rights and Wrongs\\_Ms\\_Diana Wallis.pdf](http://www.elra.eu/wp-content/uploads/file/European_Property_Rights_and_Wrongs_Ms_Diana_Wallis.pdf)

cost /benefit analysis of CROBECO by Prof. Dr. Arruñada

[http://www.elra.eu/wp-content/uploads/2014/05/Costs-and-Benefits-of-Cross-Border-Electronic-Conveyancing\\_Prof.-Dr.-Benito-Arruñada.pdf](http://www.elra.eu/wp-content/uploads/2014/05/Costs-and-Benefits-of-Cross-Border-Electronic-Conveyancing_Prof.-Dr.-Benito-Arruñada.pdf)

CROBECO WEBSITES:

<http://www.elra.eu/support-for-notaries/>

<http://www.elra.eu/protected-buying-of-foreign-real-estate/>