

A decorative graphic on the left side of the slide consists of a grid of squares in various shades of blue and purple, arranged in a stepped pattern.

IMOLA WS1

GENERAL CONCLUSIONS



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IMOLA Guidelines

- IMOLA project is a research about land registers information at European level
- IMOLA pursues a proof of concept of a ELRD or a multisystem European template
- In accordance with **ELRA principles**
 - Mutual understanding
 - Respect to legal diversity
 - As association ELRA is aware of the diversity
- Main task carried out by **ELRN Contact Points**
 - Questionnaires about national responses
 - Seminars, discussions –and above all, conclusions-
 - Reference Information development



IMOLA Goals

- **LR output**: a standard template (ELRD, European LR document) for information from land registers
- **Bottom up** as approach: to map legal diversity of the European LR systems
 - The opposite of imposing a national solution;
 - By means of networking (ELRN), questionnaires and debates in seminars
 - Madrid (March 2014)
 - Athens (September 2014)
 - Vienna (March 2015)
 - Krakow (October 2015)
- **ABC structure** *first step* for a template
 - A** related to property
 - B** related to ownership
 - C** related to mortgages and other encumbrances
- **Semantics**
 - Important tool to develop the template and the reference information



Problems to face

■ Huge legal diversity

- ☐ Land register systems are rooted in the property law systems
- ☐ Property law *-lex rei sitae-* governs land registration matters

■ Choice of connecting factors of the information

- ☐ Whenever possible, LR units (registered properties);
- ☐ For some *personal folio* (deed registration systems), adaptation to the *person of the owner*

■ Usability and value of the template

- ☐ Highest aspiration: to facilitate judicial cooperation (Regulations UE)
- ☐ A common European background: To facilitate comprehension of national informations.
- ☐ Eventually (variable) possibilities of use with legal or evidentiary value in the event of easier acceptance of the scheme of the IMOLA template

■ Extent of the information: principles

- ☐ *Minimum common denominator* among the LR systems
- ☐ *Adequate extent* (selection of data): relevant information shouldn't be omitted in ELRD
- ☐ *Availability of data*: possibility of disabling data fields which are unavailable for some LR systems



Framework for IMOLA template

■ Potential fields of the ELRD or IMOLA template:

☐ *Judiciary Cooperation*

- ELRD may be a tool for requirements of LR information in the scope of Regulations (UE) on Successions, Recognition of judiciary resolutions and Insolvency; also for framework decisions in criminal matters

☐ *Cross border conveyancing*

- Exchange of information for contracts of sales and mortgages

☐ *Interconnection of Land Registers*

- A scheme for the information from a *legal* point of view



A draft of ELRD

THE THREE SECTIONS OF THE IMOLA TEMPLATE

“A” Land Register Unit

“B” Proprietorship

“C” Encumbrances

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SECTION “A”

LAND REGISTER UNIT

(L.R. UNIT)

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L.R. UNIT

LR Units are all properties or entities with individual register and/or LR Number or title number set according to every Land Register system:

1. **LR Unit—Property**
2. **LR Unit—Cadastral parcel**
3. **LR Unit—Property—Apartment**
4. **LR Unit—Special property**
5. **LR Unit—Property rights**

In **deed systems** (personal folio) connecting factor may not be a property because their information weren't organized in accordance with real folio criteria but personal folio. So, LR Unit to be considered should be the **person of the owner** (6).

L.R. UNIT

L.R. UNIT	ID – Numbers or codes of the properties	Data of suitable description (apart from location)
1. Property	<p>Properties in land registers</p> <ul style="list-style-type: none"> • Do have an individual register or title number • May have a cadastral number and similar description as title number • May have a cadastral number but different description • May have no cadastral number 	Description defined by parties, in the deed or title (private interest).
2. Cadastral parcel	Coincidence between legal boundaries and cadastral boundaries does not appear as the most widespread possibility	<p>Description generally made by cadastral authorities. Fiscal purposes remain (public interest).</p> <p>Parties often don't take part in cadastral description or not significantly</p>
3. Apartments	May have cadastral number or not but have often individual registers or title numbers	<p>Specific description:</p> <ul style="list-style-type: none"> – relationship with the block and location in it (e.g. storey); – main elements of the condominium (share or number).
4. Special properties	May comprise several cadastral parcels or plots, or spread over them	<p>Specific description:</p> <ul style="list-style-type: none"> – More complex description – Mapping – UTM coordinates
5. Excepcional property rights	Rarely have cadastral number	<p>Specific description</p> <ul style="list-style-type: none"> – About the object on which they fall on

LR UNIT

- ❑ **Choice of LR Unit** will be decided by each LR system in accordance with local criteria (plurality of connecting factors)
- ❑ **Minimum common denominator** for purposes of description should be
 - ❑ IDENTIFIER (ID) of LR Unit
 - ❑ LOCATION of LR Unit
- ❑ Completing description by means of **levels of information** :
 1. Basic
 2. **Supplementary**
 3. **Extended**

Basic data (Primary level)

1. **IDENTIFIER (ID)**

1. *LRID (land registry identifier)*
2. *CID (cadastral identifier)*
3. *KEY REG ID (key register identifier)*
4. *European ID (European Property Identifier)*
 - *MATCH PLACE HOLDER*

2. **LOCATION**

- *ISA CORE VOCABULARY (CLASS LOCATION, CLASS ADDRESS)*

Supplementary data (Secondary level)

- LAND USE
- NATURE
- BOUNDARIES
- SIZE
- PRICE/TAXATION VALUE
- PUBLIC LIMITATIONS
 - ☐ Urban planning
 - ☐ Environmental
 - 2000 Natura
 - Net Natural Park
 - Public Mount
 - ☐ Public Housing
 - ☐ Coastal Public Domain
 - ☐ Administrative
 - ☐ European Union Agriculture Policy

Extended/Associated information (Tertiary level)

- *Excerpts of national information*
- *Copy of LR files*
- *Copy of Cadastre files*
- *Cadastral Maps*
- *Key Registers Information*
- *Possibility of attaching different formats*

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SECTION “B” *PROPRIETORSHIP*

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PROPRIETORSHIP

Remaining the principle of the minimum common denominator, two options:

1. Only information data of the owner,
2. More complete information on the ownership, ownership *with attributes*

PROPRIETORSHIP

1. **Identification of owners (on the basis of identity data of them)**
2. **The extent of the ownership (as far as available):**
 1. Main right or class of title (ownership, freehold, leasehold, possession...)
 2. Information on proprietors
 - Individual owners
 - Community *with* shares (co-ownership)
 - Communities *without* shares
 3. Entitlement
 - Contract or act of acquisition (e.g. sale, swap, inheritance, donation)
 - *[Different level of LR protection in the event of valuable consideration]*
 - Deed of the acquisition
 4. Restrictions on ownership stemming from the person of the owner (e.g. incapacity, insolvency; due to a trust)

Also:

- Conditions (5) or deadlines (6) which may fall on the ownership or the persons of owners -assimilated to restrictions-
- Price of the acquisition (7)



Wrong ideas on the simplicity

- Ownership **with attributes** make sure transactions
 - For these purposes, land register systems may provide data insofar as available or possible
- Ownership **without them** may trigger inaccuracies and omissions potentially dangerous for legal traffic and public confidence, leading to confusion with respect to
 - Nature of the main right
 - Extent of the ownership or co-ownership
 - Level of legal protection of the registered right
 - Existence of restrictions (for instance, on the powers of disposal of the owner)



SECTION “C” *ENCUMBRANCES*

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Important questions within the most complex Section “C”

- Overview: huge legal diversity in encumbrances raising crucial questions for ELRN Contact Points:
 - Criterion for an **order** of the encumbrances
 - Requirements of the *principle of priority* so relevant in land registration
 - Organization of the encumbrances (**Semantics**)
 - **Extent** of the mortgages or encumbrances
 - So relevant data from the legal point of view

Main criterion: the date of registration

Mostly LR systems consider the **date of registration** as the main criterion for organizing the template

Main criterion of organization of the template



Categories for subdivision?

Two alternatives (no other suggestions)

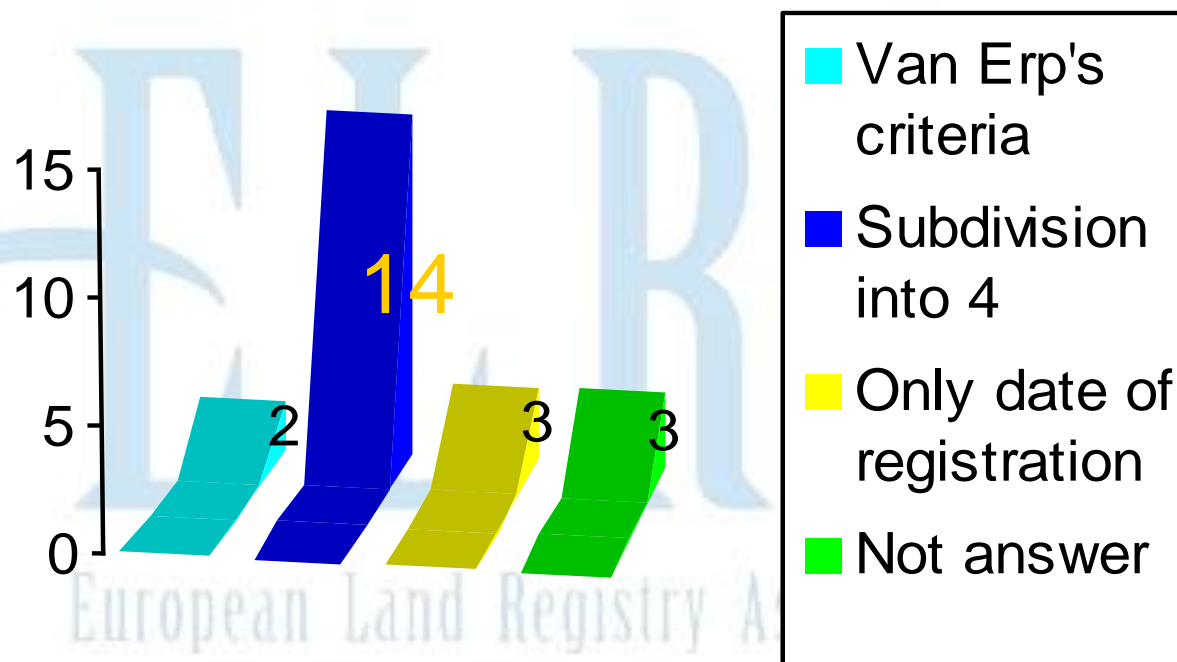
- **Professor Van Erp's suggestion (seminar of Vienna)**

- *Secondary rights*
 - ☐ *rights to use,*
 - ☐ *security,*
 - ☐ *pre-emption,*
 - ☐ *management*
- *[Tertiary rights]*

- **Simplified subdivision into 4 categories:**

1. *Mortgages*
2. *Property rights*
3. *Judicial restrictions or charges*
4. *Other restrictions*

ELRN: proposal of subdivision



Conclusions

- ***Date of registration*** as main criterion for organizing encumbrances
- ***Labels (and not subdivisions) for categorizing encumbrances, facilitating the work in Semantics:***
 1. Mortgages
 2. Property rights
 3. Judicial restrictions
 4. Other restrictions

1. Mortgages

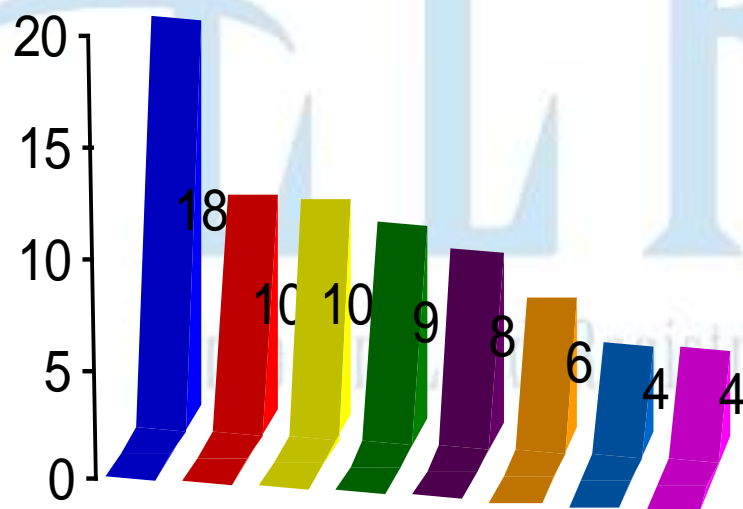
- Not a property right in all national legislations
- So important for Economy
- Suitable extent: for purposes of the completeness of the LR information, ELRD should reflect relevant legal data such as
 - Mortgage liability (sums of money guaranteed)
 - Rank or priority of the mortgages
 - Existence of foreclosure procedures based on the registered mortgages

2. Property rights

- Property rights become also quite heterogeneous according to the European systems.
- For purposes of ordering information and refining the IMOLA template, steps may be:
 - Collect the most frequent quoted property rights registered (an attempt of mapping them is done)
 - Try to find categories among them, from a point of view from Semantics

Property rights in Europe

Frequent rights "in rem"



- Easements
- Usufruct
- Lease
- Rights to build
- Usus/habitatio
- Real encumbrance
- Emphyteusis
- Trust

3. Judicial restrictions

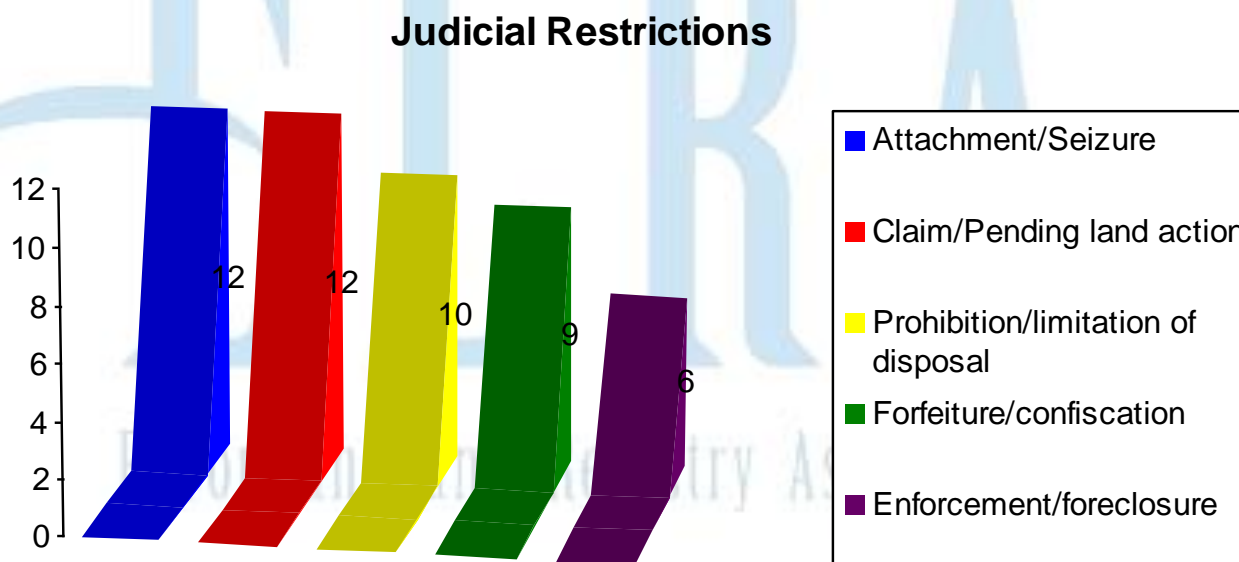
An approach to closest equivalent measures

- Judicial orders /judicial restrictions/ notices
- Proposal or approach for a taxonomy of LR notices
 1. *notices of seizure/ attachment;*
 2. *notices of claims or dispute, or pending land actions;*
 3. *notices of prohibition or limitation of the authority of disposal;*
 4. *notices of foreclosure/enforcement;*
 5. *notices of forfeiture or confiscation;*
 6. *notices of insolvency.*

Judicial restrictions

Closest equivalent measures

■ Types of judicial restrictions in LR systems



Judicial restrictions

The idea in the context of the European legislation

Closest equivalent judicial measures within the scope of the European regulations:

- Brussels I recast 2012
- Successions and wills
- Insolvency
- Framework Decisions in criminal matters

4. Other restrictions

1. For the event of encumbrances without more specific label (a hotchpotch at the moment).
2. The label for encumbrances and restrictions of different nature, so
 1. Fiscal burdens,
 2. Administrative restrictions,
 3. Rights of debatable nature,
 4. Personal rights exceptionally registered
 5. and so on
3. Mutual understanding has its limits but probably we could go ahead in search of more labels (Semantics)

REFERENCE INFORMATION

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Comprises the following **fact sheets** bound to the template:

1. Front page: data related to the organization issuing and value of the information
2. Section A: LR Units according to each LR system
3. Section B: Proprietorship according to each LR system
4. Section C: Encumbrances according to each LR system
5. Effects of the registration



*THANK YOU FOR YOUR
ATTENTION*

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