

# ELRA



A row of European Union flags on tall silver poles, set against a modern glass-walled building. The flags are blue with yellow stars, and the building's facade is a grid of glass panels reflecting the sky.

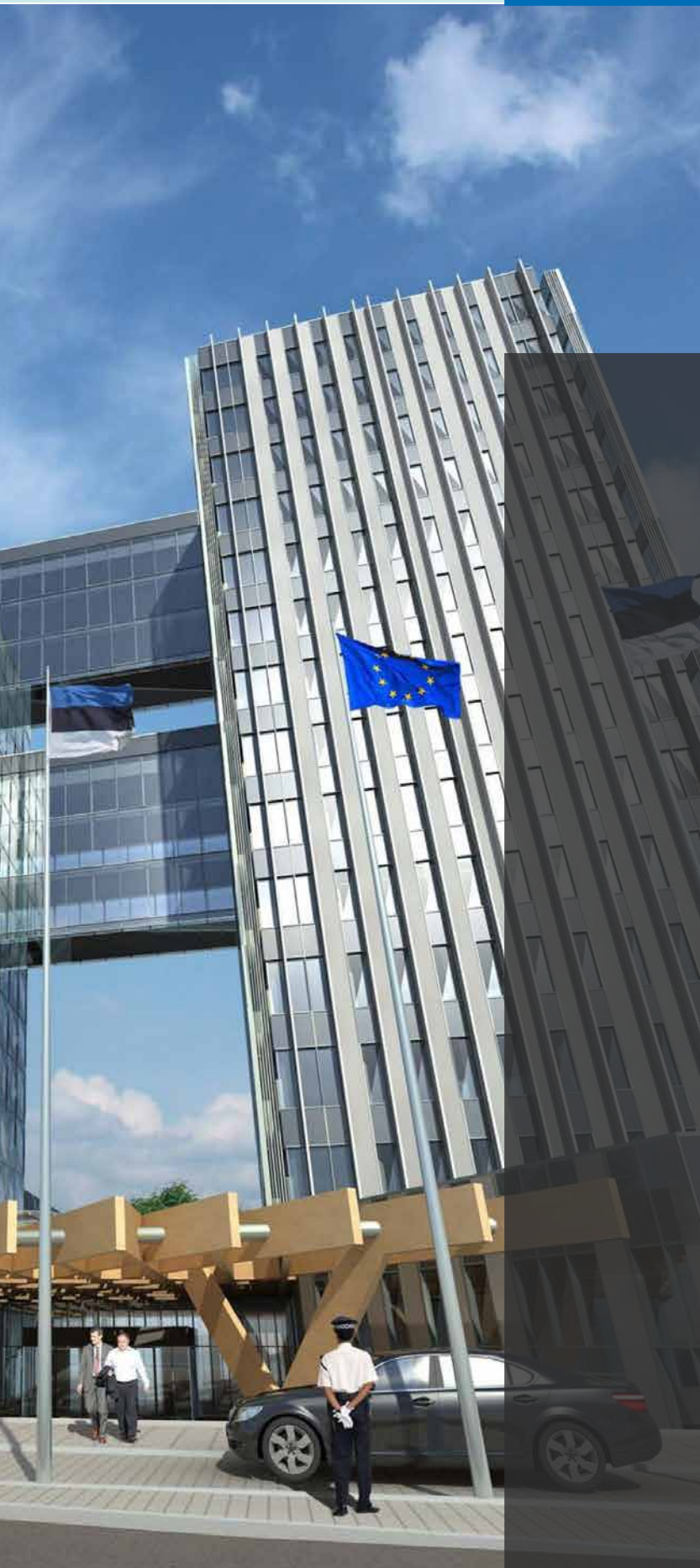
## EUROPEAN LAND REGISTRY ASSOCIATION



[www.elra.eu](http://www.elra.eu)



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# Welcome to the newsletter of the European Land Registry Association

ELRA represents 33 official land registry organisations from 26 European countries. The Association's primary purpose is to support the development and understanding of the role of land registration in real property and capital markets in Europe.



06

"The mission and primary purpose of the ELRA is the understanding of the role of land registration in real property and capital markets"

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# Jan MOERKERKE

## ELRA President



*Our main focus goes to the problems for land registries in cross-border conveyance matters within the European Union*

*Jan Moerkerke / ELRA President*



**It has been a year since your nomination as ELRA president, which activities would you say have been the most important ones?**

It has been a very busy year for ELRA. It was a year in which we made a lot of arrangements for the near future. Next to the normal meetings of the ELRN network and the members, in 2017 we had to appeal for acceptance of our activities in the 4 years framework partnership agreements program of the DG-justice of the European Commission, supporting European networks active in the area of facilitating and promoting judicial cooperation in civil and/or criminal matters. Thanks to the proposal carefully drawn up by our Secretariat and

by the Commission, an agreement was signed.

In close co-operation with our partner, the Colegio de Registradores, a lot of work has been done in order to present the Imola II project to the Commission. We are very proud to say that this application was also accepted. Following this a tender was released for the necessary IT developments in the Imola II project. A contract was signed with "Knowledge Centric Solutions Sociedad Limitada" a company related to the Carlos Tercero university of Madrid.

After all this we could start with the 2 years running Imola II project and on February 28th 2018 we had the kick off meeting, which was an important milestone for our activities in the near future. The results of Imola II will fit into the bigger scheme of the Land Registers interconnection program of the European Commission. The Commission assured us that it is not at all usual that an external organisation is given the responsibility for developing IT solutions that fit within an EC program. We see this as an approval of the importance of ELRA in the field of land registra-



Furthermore, together with the Board members, we try to assure an augmented presence at activities of organisations important in our field of work. In this way we try to give a visible touch to the relevance ELRA and also try to build up good personal contacts with people representing these organisations.

tion. But this trust also puts some weight on our shoulders. The quality of the results of our project will have to meet the required standards of the Land Registers Interconnection program of the Commission. To achieve this goal we work in close co-operation with their project team. We trust the approach of our project leader, Jesus Camy, and the team around him, who have already produced a lot of work, for which we are very grateful.

A second very important milestone was the acceptance by the General Assembly, on December 1st 2018, of the modification of the statutes of ELRA, presented by the Board.

Our main focus goes to the problems for land registries in cross-border conveyance matters

within the European Union. The Brexit coming up was certainly a reason to take action now.

Due to practical situations full membership was and will be only possible for members of the European Union.

So we developed a possibility to become a "Partner" of ELRA for associations and agencies from outside the EU, as well as for universities that show some particular interest. This last opportunity was added because I strongly believe in cross-pollination between the academic and our professional world.

**Let's look forward and think about your next activities as president, which would you say are ELRA's main objectives for the year ahead?**

In this first year really much was set on rails. Now for the first time the management and the supervision of the ongoing Imola II project will be very important. We must assure a high quality release!

Next to that I see it as a personal duty to try to attract more members for the association, since by now not yet all European Union members are represented in ELRA. We have good hope to see progression in the field within a short period.

Furthermore, together with the Board members, we try to assure an augmented presence at activities of organisations important in our field of work. In this way we try to give a visible touch to the relevance of ELRA and also try to build up good personal contacts with people representing these organisations.

# ABOUT US

## ORGANISATION

The European Land Registry Association, ELRA, is an international non-profit organisation

## MISSION AND PRIMARY PURPOSE

The mission and primary purpose of the European Land Registry Association may be described as: "the development and understanding of the role of land registration in real property and capital markets".

ELRA wants to promote a mutual understanding of land registers, to help create an open and secure Europe, serving and protecting citizens.

We believe that Land Registries are a fundamental pillar of legal certainty and ELRA is committed to ensuring the incorporation of this principal into Community Law.

## ELRA STATEMENT

Land registration systems operate throughout the world as the legal basis for recording with certainty ownership and other legal rights in and over land. Such systems provide the machinery for confident property transfer, the operation of secure mortgage markets and protection for the citizen. Effective land registration systems are fundamental to successful market economies, providing confidence for private ownership and property transfer.

Land registration systems reflect the legal traditions of the territory in which they





# History

ELRA was created in 2004 by a group of Land Registry organisations, supported by Mr. Antonio Vitorino, the former Justice and Home Affairs Commissioner.

To date, ELRA's most important achievement has undoubtedly been its recognition by the European Commission and the European Parliament as the association representing land registries in the European Union.

## WHAT DOES ELRA OFFER?

Under the 4-Years Framework Partnership Agreement with EC, (2018-2021), ELRA is developing different activities, such as workshops, to discuss the impact of European regulations on land registries and their customers. ELRA publishes the results of these activities as a collection of Fact Sheets on its website. One of the main roles of ELRA is also

to provide expert advice to EU institutions on land-registry issues.

As part of the IMOLA project, ELRA has developed an electronic template (the European Land Registry Document or ELRD), which can be used to display land registry information from any EU country, together with explanatory material in different languages.

ELRA has also developed training courses to improve understanding of the different legal systems in different EU countries. With this project ELRA contributes to the achievement of the objectives of the European e-Justice Strategy specified in the Multiannual Action Plan 2014-2018.



## LAND REGISTRATION SYSTEMS REFLECT THE LEGAL TRADITIONS OF THE TERRITORY

operate and therefore vary from place to place. In some territories land registries register and, on behalf of the state, guarantee legal title, whereas in other territories land registries register deeds and do not purport to guarantee the deeds' validity. However in every jurisdiction the land registry is the official organisation responsible for operating the land registration system on behalf of the state. There can only be one official land registry for each territory.

Land registries determine property rights and, to be effective, their decisions need to be recognised by the courts. This means that, like the courts, although land registries act on behalf of



## Role of Land Registries

the state, they must be independent of it. The issues that land registries need to consider typically have a high legal content and, for land registries to be effective, their staff must be suitably trained and qualified.

Most states have, in addition to a land registry, a mapping agency and a cadastre. The functions of the land registry, mapping agency and cadastre are complementary but different. Mapping agencies exist to record topography whilst the cadastre's primary purpose is fiscal. Some countries have found it administratively convenient to combine the functions in a single organisation.

In recent years technology has changed how the information contained in land

The rules governing the Land Registration Systems are very closely related to those laws governing the property and real estate rights in every country. These rights are rooted in the tradition of every system which therefore explains the assertion of the European treaties that "Community law does not prejudice the Property System in every State".

registers is held, updated and published. Although new technology does not alter the core purpose of land registries, it is providing them with new opportunities.



# BOARD OF DIRECTORS

The Board of Directors is elected by the General Assembly for a term of two years. Currently is composed by:

MR. JAN  
MOERKERKE



## PRESIDENT

The President represents the Association before third parties, and is in charge of the administration of the Association, as well as the execution of the decisions taken by the General Assembly or the Board of Directors.

MS. NURIA  
RAGA



## SECRETARY GENERAL

The Secretary General must, among other things, draft the Minutes of Agreements and keep the Organisation's archives. She must file all legally required documents with the competent "Register of the Commercial Court" ("Greffé du Tribunal de Commerce").

MS. IOANNA  
TZINIERI



## TREASURER

The Treasurer must, among other things, keep the books up to date, file income tax returns, do all that's necessary to pay off asset taxes and, if applicable, file the yearly accounts to the competent "Register of the Commercial Court" or the National Bank of Belgium.

MR. MICHAEL  
CLARKE



MS. KADRI  
LAUD



## ADMINISTRATORS

The administrators will assist the President in the execution of his/her functions. Specifically they will supervise the tasks of the ELRA Working Groups.

# Members

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## AUSTRIA

- ▷ Ministry of Justice of Austria

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## BELGIUM

- ▷ Royal Belgian Federation of Mortgage Registrars
- ▷ Agency of patrimonial documentation

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## BULGARIA

- ▷ Bulgaria Registry Agency

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## CROATIA

- ▷ Ministry of Justice of the Republic of Croatia

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## CYPRUS

- ▷ Department of Lands and Surveys of Cyprus

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## ENGLAND AND WALES

- ▷ HM Land Registry of England and Wales

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## ESTONIA

- ▷ Ministry of Justice of Estonia

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## FRANCE

- ▷ Direction Générale des Finances Publiques

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## GREECE

- ▷ Greek Land Registrars Association

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## IRELAND

- ▷ Property Registration Authority Ireland

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## ITALY

- ▷ Agenzia delle Entrate
- ▷ Servizio Libro Fondiario Provincia of Trento

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## LATVIA

- ▷ Court Administration, Department Of Courts And Land Registers

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## LITHUANIA

- ▷ State Enterprise Centre Of Registers Of Lithuania

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## LUXEMBOURG

- ▷ Administration De L'enregistrement Et Des Domaines De Luxembourg

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## MALTA

- ▷ Land Registry Malta

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## NETHERLANDS

- ▷ Cadastre, Land Registry And Mapping Agency

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## NORTHERN IRELAND

- ▷ Land Registries of Northern Ireland

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## POLAND

- ▷ Polish Association of Registrars

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## PORTUGAL

- ▷ Instituto dos Registos de Portugal
- ▷ Associação Sindical Dos Conservadores Dos Registos

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## ROMANIA

- ▷ The Romanian Land Registry Association
- ▷ National Agency for Cadastre and Land Registration

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## SLOVAK REPUBLIC

- ▷ Geodesy, Cartography and Cadaster Authority

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## SCOTLAND

- ▷ Registers of Scotland

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## SPAIN

- ▷ Colegio de Registradores de España



# Observer Members

## BOSNIA AND HERZEGOVINA

▷ Prosecutor's Office Of BiH

## ESTONIA

▷ Centre Of Registers And  
Information Systems

## FINLAND

▷ National Land Survey of Finland

## SLOVENIA

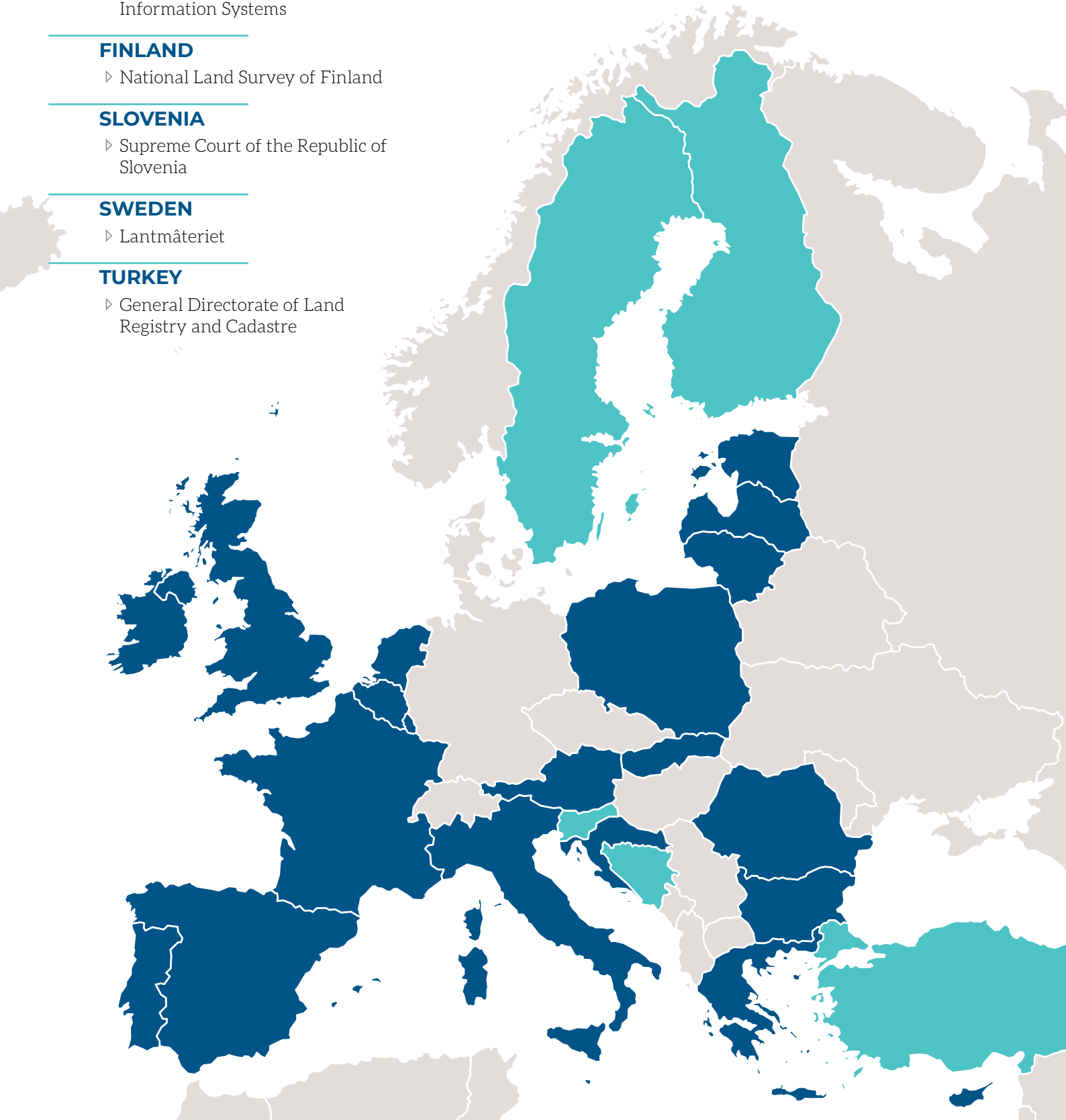
▷ Supreme Court of the Republic of  
Slovenia

## SWEDEN

▷ Lantmäteriet

## TURKEY

▷ General Directorate of Land  
Registry and Cadastre







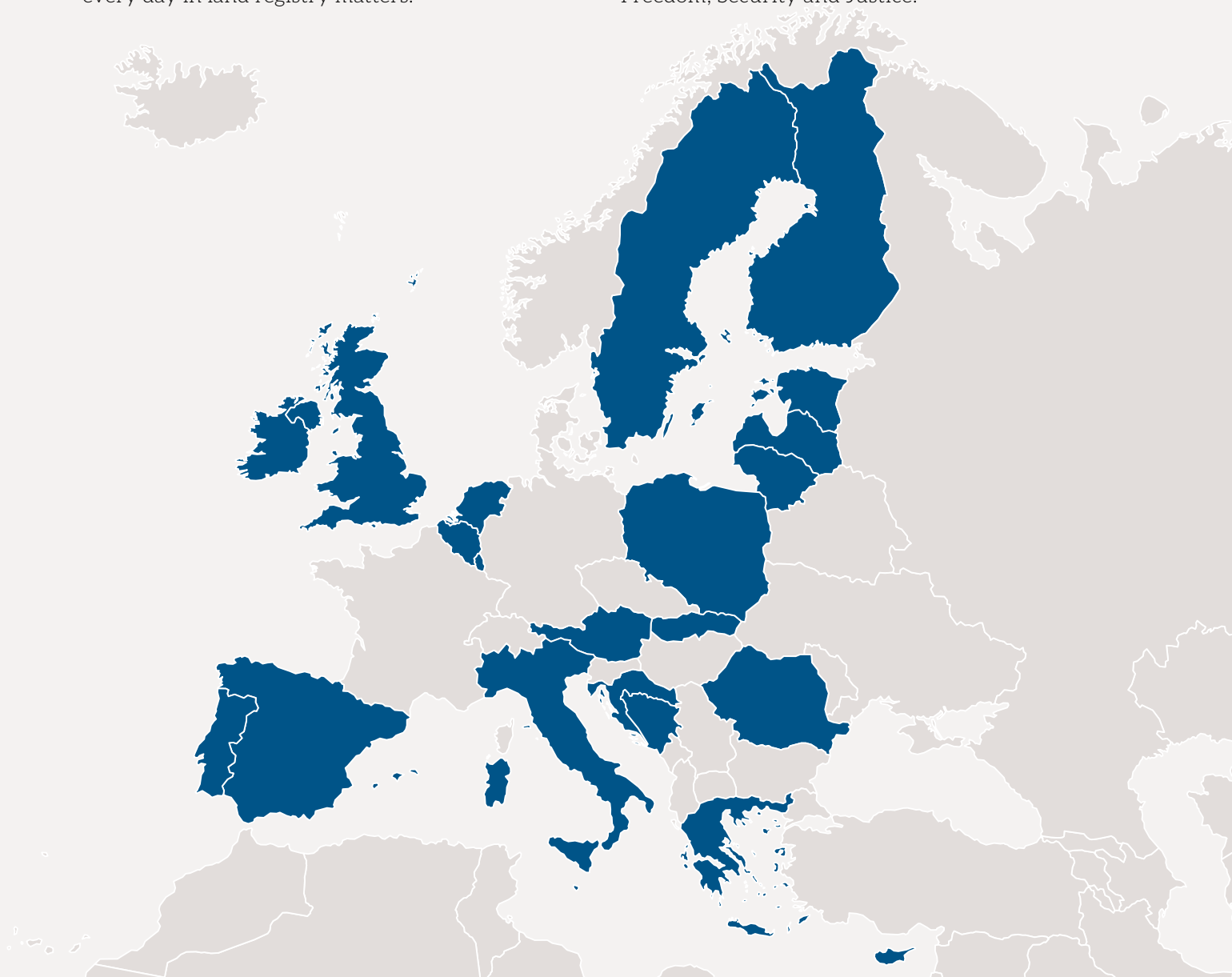
The ELRN is an ELRA initiative set up in 2010 to provide the tools that facilitate the access to Land Registry services at European level, useful information about land registration and information to better understand the registration systems of the different jurisdictions.

It is an essential cooperation instrument for the implementation of the regulation on succession and other European initiatives. However, the ELRN should also give assistance to other European legal networks made up of judges, bailiffs, lawyers, notaries and other legal practitioners who are involved every day in land registry matters.

Since 2012, it has also released a set of 10 information Fact Sheets explaining different topics.

Currently, 29 ELRA members from 22 European countries have joined the Network. Each organization appoints a registrar, that is, a land registry officer expert in property rights and land registration, as its contact point for the Network.

The **ELRN** is supported by the European Commission within the framework program on Civil Justice as part of the General Programme 'Fundamental Rights and Justice', in order to contribute to the strengthening of the area of Freedom, Security and Justice.



# ELRN Workshops

## TALLIN, 1ST JUNE 2018



*Neeme Lane, Head of Land Registry Department, Estonia*

Hosted by the Estonian Ministry of Justice, the last Workshop of the European Land Registry Network (ELRN) took place in Tallinn on Friday 1st June.

It was attended by the Contact Points of the ELRN and Judges from Portugal, Spain, Italy and Poland. Special mention should be made by the presence of Vivien White, President of the European Union of Rechtspfleger. The Workshop was divided into three main parts: the follow up of the

European concerning land registration matters, where the Regulation on Matrimonial Property Regimes was discussed, the study of some sentences by the Court of Justice of the EU, such as the Kubicka case (C-218/16), and Blockchain, one of the topics of greatest interest for ELRA.

## WARSAW, 28TH SEPTEMBER 2018

A European Land Registry Network (ELRN) workshop was organised in Warsaw on 28 September.

The workshop focused on the study of the Regulation on Matrimonial Regimes and the property consequences of registered partnerships through practical cases presented by four contact points providing different points of view, as well as the presentation of the application of the Brussels I Regulation

by judge Michele Cuccaro, from the Court of Rovereto (Italy).

In order to continue the debate on Blockchain and its influence on the legal panorama and more specifically on the land registry, Silvino Navarro, land registrar and expert on the topic, was invited as speaker.



*Nuria Raga, ELRN Coordinator*



*Michele Cuccaro, Judge Court of Rovereto*



*David Fridh, Divisionsjurist, Lantmäteriet*



## BRUSSELS, 29TH NOVEMBER 2018



*Katerina Entcheva from  
DG Justice*

The last seminar of the Network in 2018 was held in Brussels last Thursday 29 November with the participation of the all Contact Points of the Network and a new member, the Registry Agency of the Ministry of Justice of Bulgaria represented by Teodora Georgieva.

Special mention for the presence of Katerina Entcheva from DG Justice of the European Commission and her participation in the panel concerning the Regulation on matrimonial property regimen.

Thanks to the cooperation of the ELRN with the EJM, we had the participation of judges from Portugal, Spain and Italy who qualified some aspects related to the practice of recognition

and enforcement of foreign judgments in the light of the Brussels I Regulation. At the afternoon session, two speakers presented the property as a fundamental right from two different perspectives: the European Court of Justice and the modern constitutionalism and we closed the Workshop with one of the demanding topics nowadays: Land Registry and new Technologies



*ELRN discussion forum*



*Judges: F. Mazuelos, P. Pott, M. Cuccaro*



*Teodora Georgieva Bulgaria CP*



# XXVI

## GENERAL ASSEMBLY

BRUSSELS, 30TH NOVEMBER 2018



*Slovak Republic,  
new ELRA Member*



*David Fridh  
Divisionsjurist , Lantmäteriet*

On the 30th November, ELRA celebrated the XXVI General Assembly in the Scotland House in Brussels and welcomed representatives from the 32 ELRA member associations around Europe.

On this occasion, the Slovak Republic became the 33rd ELRA member and we congratulated for this!

In addition, ELRA had also the pleasure of welcoming academics from the Universities of Carlos III (Madrid) and Utrecht, and representatives from Switzerland and Czech Republic, two interested countries in the activities of the association.

Special mention for Suzanne Wigard, ISA2 project manager who introduced the land registry information in the EU framework interoperability and the presence of Gösta Petri, from the DG Justice of the European Commission in the panel the nature of the land

registration data.

During the afternoon our speakers elaborated on the current challenges to be faced by Land Registries and discussed on the nature of land registration data.



*Panel Discussion*

# IMOLA Project



This project is co-funded by the European Union



## BACKGROUND

There is a need for a standard means of accessing basic land registry information within the EU. Differences in national legislation and divergences inherent to the practice of land registration are the main causes of this complexity. Therefore, common points do exist and offer the possibility of defining a structure of key information shared by the majority of land registry systems.

The IMOLA project, subsidised by the EC Civil Justice Programme, has performed in-depth research on these common key points, developing interoperability solutions that have made the differences understandable to the professionals participating in real estate transactions, and facilitate cooperation with other networks in order to contribute to the

development of a European real estate and mortgage market.

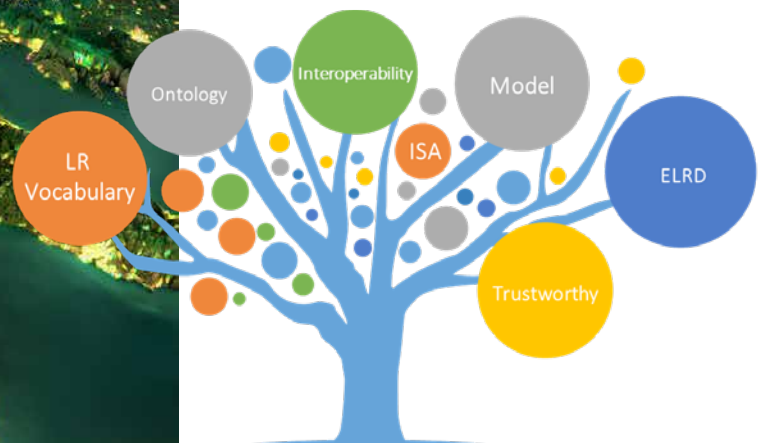
## AIMS AND OBJECTIVES

IMOLA's global objective is to increase the accessibility and transparency of land registry information and to facilitate the registration of cross-border documents. Varied legislation and practices of Land Regis-

tries hamper the exchange of information between them and the registration of cross border documents.

Any standard model has to take into account fundamental differences in national organisation. However, common points offer the possibility of defining a structure of key information shared by the majority of Land Registry systems.





## IMOLA VALUES

THE PROJECT AIMED TO PRODUCE A MODEL FOR STANDARDISED LAND REGISTRY OUTPUT, CONNECTED TO EXPLANATORY MATERIAL IN DIFFERENT LANGUAGES, AND TO PROVIDE TRAINING TO IMPROVE UNDERSTANDING OF THE DIFFERENT LEGAL SYSTEMS INVOLVED.

As part of the IMOLA project, ELRA has developed an electronic template, the European Land Registry Document or ELRD, which can be used to display land registry information from any EU country, together with explanatory material in different languages.

IMOLA II is an innovative follow-up project, developing in 2018 and 2019 which the objec-

tive to improve the clarity and interoperability of existing web information.

The output will be designed to fit within the scope of the currently under development Land Registers Interconnection

project (LRI), assuring the interoperability of data hosted in the IMOLA Knowledge Organisation System, (glossaries and thesauri). It will be accessible by means of a formal retrieval and visualisation system.



# IMOLA ACTIVITIES

BRUSSELS, 28TH FEBRUARY 2018

## IMOLA II Kick off Conference

According to the Governance Plan, the conference sought two main objectives:

- Highlight the growing importance of ELRA's collaboration with the EU authorities and the role of the ELRN within the framework of judicial cooperation.
- Present the objectives and results pursued with the IMOLA project, especially its complementarity with the Land Registers Interconnection Project (LRI) institutional action.

Both targets were fully attained with the presentations of the president and the IMOLA coordination team, European Commission authorities, European land registrars, contact points of the European Land Registry Network (ELRN) and professors. Jesús Camy, project manager, pre-

sented its integration on the LRI framework, Jorge López and Mihai Taus, explained the methodology to create the IMOLA Knowledge and the technical development of the needed software.

This overall vision was complemented with the speakers' presentations related to the state of play of LRI addressed by Gabriel Sima, LRI project manager, from the EC.

Academic analysis about the ontologies was done by the professor Nicola Guarino, Senior researcher at the Institute for Cognitive Sciences from Trento, who stood up for a practical application of the ontologies on Land Registers Domain.

Meanwhile professor Sjef van Erp, from Maastricht university and Vice- President of the European Law Institute, enhanced the value that may suppose IMOLA II from a European Law comparative perspective.

The Conference was a very profitable meeting in order to overview the vision to develop by IMOLA II, which arises from the need to promote and get an effective model of reference information integrated on the e- Justice Portal.



BRUSSELS, 1ST MARCH 2018

## 1ST Training Session

The first training session introduced the Land Registry experts of ELRN to semantic web technologies.

This training was lead by the professors of University Carlos III of Madrid, Juan Llorens and Anabel Fraga, who explained the basic principles of

the Knowledge Management System and methodology to build the Land Registry Domain Ontology, by means of IMOLA input system. A demo version built by a virtualized machine was tested by the Contact Points to get familiar with its use, providing feedback for future adaptations. In conclusion, Land Registry Experts were trained on how to introduce concepts and basic relationships among concepts to complement theoretical notions of Controlled Vocabulary and Thesauri, achieving a real collaborative environment to team up together providing a permanent and effective platform for training, and to develop a Land Registry semantic model hosted on specific Knowledge Repositories. To accomplish this goal, Land Registers Experts will be supported by web-based solution including the most frequently asked questions (FAQ) and best practices for creating knowledge in the project focused on Land Registry Domain.



TALLIN, 31ST MAY 2018

## 2ND TRAINING SESSION

On May 31st the 2nd IMOLA II training seminar was held in Tallinn. The new version of Knowledge Manager (KM) was presented, a technological solution, based on a web platform, that will allow the ELRN Contact Points to create and keep updated a thesaurus with the metadata to enrich the Land Registers information in order to enhance its understanding and transparency. This input system, developed by Reuse Company with the support of the Carlos III University of Madrid, has been engineered according to the European Land Registry Document (ELRD), a common template with a friendly structure to facilitate the work of ELRN Contact Points and the interaction among different con-

trolled vocabularies which are linked by means of thesaurus and aligned with ISA core vocabularies to assure its interoperability.

The training sessions brought out the importance of teamwork. This target was achieved by developing a collaborative environment that allows an active involvement of the Contact Points in the project with the aftermath of a mutual and efficient feedback between the Land Register experts, technicians and semantic engineers to accomplish this innovative and transversal approach in order to develop a Land Register juridical ecosystem. IMOLA II is an ELRA button up project at the service of European citizens.

IMOLA II -  
TEAMP UP  
TOGETHER!







..... **WARSAW, 27TH -28TH SEPT. 2018** .....

## 3rd Training Session

This seminar brought together a large number of national authorities designed as Contact Points (CP) of the European Land Registry Network, supported by the IMOLA coordination team and scholars in semantics and new technologies.

The objectives of the seminar were the following:

- To introduce the CPs to the use of attributes to determine the properties of concepts included as pivot terms.
- To analyse the data bases of national concepts in order to solve potential problems and to define next steps.
- To detail the improvements introduced in the new version of IMOLA Knowledge Manager (KM), for the management of distributed domain.

In the introduction session, the excellent presentation by Professor Elena Ioriatti (Trento University) which related to the use of “formant” methodology to define the attributes of concepts must be highlighted. Professor Sjeff van Erp (Maastricht University) also spoke about the influence of new technologies from the perspective of comparative law.

Conceptual and semantic issues regarding the use of attributes were dealt with by very clear and didac-

tic presentations carried out by the IMOLA coordination team.

One of the most important features brought to the new Knowledge Manager (KM) is the possibility of consolidating different national databases with multilingual mapping as a management tool for the Land Registry domain. Professor Anabel Fraga, from the Carlos III University of Madrid, and engineers Borja López and Miguel Téllez from the Reuse Company, delivered a very extensive explanation on how to manage it.

The second session was devoted to clarifying how to add new concepts to the list of pivot terms, (ELRD dynamic vision), for the sake of acquiring knowledge and experience to keep the repository and thesauri, (I. KOS) updated.

It is worth emphasizing the excellent collaborative environment achieved during the training seminar, which allowed CPs to take full advantage of the hands-on training and learning from the speakers and the feedback provided by themselves.

# ARTICLES

## Efforts, on a European level, in order to facilitate cross-border transfers of real estate

By **Jan Moerkerke**, ELRA President and former President of the Royal Federation of Mortgage Registrars of Belgium (Koninklijke Federatie der Hypotheekbewaarders van België – Fédération Royale des Conservateurs des Hypothèques de Belgique)

When an EU citizen wants to buy a house in another Member State, at first sight it seems to be easy. We live in an open market and presume no problems will occur.

Practically you easily get quite far. The internet provides us with all kinds of sites and apps presenting the properties as optimal as possible. A description, pictures and even a virtual tour might be available. Search machines are so powerful they detect every available property on the market. In fact, there is no need any more to make numerous visits before getting finally convinced to take the step.

Next to the seller's advertisement, one is able to collect a lot of information on the property through other resources. You can get practical information, often in geo-spatial form, as well from commercial as official sites. It is generally possible to detect a property that will suit you perfectly, without leaving your computer screen.

If it were movable property, in European market, no problem would occur. Possibly a contract might be signed, an invoice would be sent, followed by electronic payment and goods would be handed over, probably delivered by a courier at your doorstep. And that would be it.

But over the ages immovable property has for multiple reasons been treated differently by the states. First of all, if you want immovable property to become a marketable object, and become a factor of wealth, one has to search for substitutes. In general, it is reached by what we are used to call a "Title".

Since immovable generally represent a substantial part of the assets of persons, states always have been trying to offer extra security on them for its citizen. Special rules for the rights in rem have been elaborated and even specific ones have been organized for immovable property.

But unfortunately, European countries have all acted in a different way. Next to

the fundamental differences we see in the countries with an Austrian– Hungarian tradition, the Civil Code system and the Common Law system, there are numerous other differences.

Nevertheless, a transaction generally follows the same pattern. One collects information on the holder of the right and on the property at the Cadastre and the Land Registry office. It comes to an agreement. A legal professional draws up or rewrites the contract in an authentic way. Afterwards official registration follows, amongst other administrative obligations.

The effects of registering differ already a lot. In some countries it is a constitutory demand for the transition of the property. In some countries it offers you absolute security of your right and title; others only guarantee the existence of a contract, opposable to third parties.

Next to registering, the right itself there generally is room to book all kinds of encumbrances (servitudes, mortgages...) and caveats on the property or limitations to the authority of the known owner to alienate. Generally spoken it are similar groups, mostly notaries, that perform these activities in the various countries.

So, theoretically there is an open market, but practically there are many obstacles which prevent a trouble-free transfer of real rights. This is often a very frustra-

ting situation as well for the seller as for the buyer. Cross border contracts and inheritances cause numerous problems due to different legislations and practices and discussions on what is the applicable law.

It is obvious that the European Union and actors in the market produce efforts to improve this situation. First of all there are legislative initiatives of the European Union itself. Often it are regulations interfering in private contract law that are applicable in the context of the transition of immovable property. Next to that there are several efforts made to support policies in a more practical way for example by offering information on electronic platforms. Several professional organizations are co-operative and are able to launch projects favorable to integration, granted by the European Union. A few of them have resulted in operational tools. Nevertheless we must admit that the situation is not optimal and a lot of improvement still is possible.

In the next review we will try to list up some of the most important initiatives that have been undertaken starting with the EU Regulations and other initiatives. Afterwards there will be an overview of the initiatives undertaken by the various private professional groups.

[READ THE FULL ARTICLE HERE](#)





# States with more than one legal system and UE REM regulation

By **Gabriel Alonso**, Land registrar from Spain and former ELRA president

## I.- PRELIMINARY REMARKS. THE DIFFERENT EXISTING SYSTEM TO ADDRESS THE ISSUE OF STATES WITH MORE THAN ONE LEGAL SYSTEM

There are certain states with more than one legal system, this is the case of UK or Spain. When a diversity of legal systems coexists in one single state, two different criterion are considered to define the scope and application of each legal system: a territorial or a personal criterion. Each different law is applied in certain part of the territory (English, Scottish or Irish law), or a different law applies in consideration to certain perso-

nal quality of the subject, which normally is referred to religious or ethnical features.

When an international Instrument refers to the law of those states, the issue of which of the different national legal system in force in that state is applicable must be addressed. In order to solve the problem derived from multi legal states the international private law deals with this question in different manners.

## II. THE SYSTEM ENVISAGED BY THE COMMISSION PROPOSAL REGULATION

The first draft presented by the Commission opted for a direct method to determine the applicable law in those states where more than one legal system coexist, by referring directly the applicable law to the relevant territorial unit. However, the final text of the regulation adopts a hybrid system, by using the so-called subsidiary method.

The system envisaged by the Commission proposal Regulation when it first came out, back in 2011 was very much in line with the Rome I and Rome II regulation,

and its main features were the following:

- 1º It only envisage a rule to solve the conflicts of law derived from territorial based different internal legal systems, omitting any reference to the personal based multi legal systems
- 2º It established a direct method based in the fiction to consider every territorial unit as a state, so the regulation identifies directly which of the existing laws in the designated state was to be applicable.
- 3º it does not contain any specific provi-

sion for the application of the regulation to purely internal conflicts of law which may arise in those states

with more than one legal system.

[READ THE FULL ARTICLE HERE](#)



## Regulation 1215/2012 and Land Registry

By **Francisco J. Martín Mazuelos**, Judge. Member of the European and the Spanish Judicial Networks in civil matters.

### INTRODUCTION

This Regulation 1215/2012, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) is known as Brussels I “bis” or “a”, because it succeeds the Brussels Convention of 1968 and the Brussels I Regulation (44/2001). It is the most important instrument in the sphere of private international law.

It has been discussed at the meetings held in Helsinki and Lisbon.

In Helsinki, 22 September 2016, with:

- an “overview”, by prof. Guillermo Palao
- a presentation on “exclusive jurisdiction”, by judge Michele Cuccaro
- another on “protective measures”, by myself.

In Lisbon, 16 March 2017, again judge Michele Cuccaro showed a presentation on recent case-law of the European Court of Justice on exclusive jurisdiction.

The scope of Regulation 1215/2012 excludes administrative liability of the State, capacity of persons, family, succes-

sion and insolvency proceedings.

This Regulation sets out rules on

- a) international jurisdiction of Member States, if any of the parties to the proceedings is domiciled in a Member State other than the Member State of the court seised or the subject matter is related to a different State; and
- b) recognition and enforcement of a judgment given in a Member State, in case it is meant to have effects in another Member State.

The land registry gives publicity to rights, encumbrances and limitations on immovable property, or to documents – including judgments- relating to them.

Let us summarise the Regulation rules on jurisdiction, recognition and enforcement of judgments that may be related to the land registry.

Article 24 of the Regulation describes situations that exclude the jurisdiction of any other Member State, that is, the **exclusive jurisdiction** in proceedings:

“(1) ... which have as their object rights in rem in immovable property or

tenancies of immovable property, the courts of the Member State in which the property is situated;”

“(3) ... which have as their object the validity of entries in public registers, the courts of the Member State in which the register is kept;”

“(5) .... concerned with the enforcement of judgments, the courts of the Member State in which the judgment has been or is to be enforced.”

Where **other actions** are involved (such as the existence or validity of a contract on immovable property), the rules set out by the Regulation on international **jurisdiction may be excluded** by sub-

mission to the court or “prorogation of jurisdiction”. This happens where the parties have agreed in writing which courts should have jurisdiction (Article 25) or the defendant enters an appearance and does not contest the jurisdiction of the court (Article 26).

There is a special rule on **provisional measures**: a party may apply for provisional or protective measures either to the court that deals with the main proceedings (Article 2(1)) or to the competent court in the State where the measure should produce its effects (Article 35).

[READ THE FULL ARTICLE HERE](#)



## Prevention of the use of the financial system for the purposes of money laundering or terrorist financing

By **Francisco Molina**, Land registrar from Spain

At the time of drafting these lines the institutions of the Union are working on two projects on money laundering. On the one hand, a Proposal for a Directive of the European Parliament and of the Council on combating money-laundering through criminal law and, on the other, the Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/849 on prevention of the use of the financial system for the purpose of money laundering or terrorist financing and for the

amendment of Directive 2009/101/EC. The Union institutions thus recognize the importance of an issue that goes beyond the free movement of people and capital or the freedoms and facilities for investment, and even beyond fiscal or judicial cooperation, to reach the very heart of the defense of democracy, justice and the rule of law, as an instrument against fraud and corruption. It's in this context, that we must understand Council Directive 2016/2258 of 6 December amending Directive 2011/16/EU as



regards the access of tax authorities to information against money laundering, and the opening of an enhanced cooperation procedure - involving Belgium, Bulgaria, Cyprus, Croatia, the Czech Republic, Finland, France, Germany, Greece, Lithuania, Luxembourg, Portugal, Romania, Slovakia and Spain - to create a European prosecutor's office to investigate, prosecute and bring to justice those responsible for crimes against the financial interests of the Union. Under EU law, 'money laundering' covers principally the conversion and transfer of property in the knowledge that such property is derived from any criminal activity, for the purpose of concealing or disguising the illicit origin of such property, or to assist persons who are involved in such activity to evade the legal consequences of their acts. (STJUE T187 / 11, 28-5-2013, Trabelsi and Lejri v Council of the Union). Further, Spanish case law defines money laundering as *"the process by which the assets of criminal origin are integrated into*

*the legal economic system with the appearance of having been lawfully acquired, so that the crime tends to get the subject to obtain a title, apparently legal, on property derived from a criminal activity"* (STS 265/2015, April 29).

Therefore, the offense of money laundering is characterized by:

- The existence of a basic offense capable of producing an economic benefit, including the avoidance of payment of tax debts - STS 974/2012, December 5;
- The concealment of the criminal origin of the assets obtained, and the identity of the perpetrator or offenders;
- The creation of a legal and legitimate title appearance for the holding of the assets;
- And the enjoyment of them within the framework of the legal financial system.

[READ THE FULL ARTICLE HERE](#)



***Any views or opinions expressed in articles appearing in this newsletter are the views and opinions of the author and do not necessarily reflect the views and opinions of ELRA.***

# SOCIAL MEDIA



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## EUROPEAN UNION OF RECHTSPFLEGER BRUSSELS



Vivien Whyte, President of the European Union of Rechtspfleger, invited ELRA to participate in their last meeting, held in Brussels on the 15th March. On this occasion, the EU of Rechtspfleger presented the White Paper for a Rechtspfleger/Greffier for Europe. Jan Moerkerke, ELRA President, and Nuria Raga, ELRA Secretary General, participated as speakers presenting an overview of our association and the IMOLA II project.

## WORLD BANK CONFERENCE WASHINGTON

From March 19-23, ELRA attended in Washington to the "Annual World Bank Conference on Land and Poverty 2018", organized by the World Bank. The ELRA President, Jan Moerkerke, took part in two panel discussions about Fraud and Data ownership.



WORLD BANK



## NEW ELRA MEMBER BRATISLAVA

Our President, Jan Moerkerke, has recently met with the representatives from the Geodesy, Cartography and Cadaster Authority of the Slovak Republic. Katarina Leitmannová, Head of Department of Geodesy and International Relations, welcomed him and showed the interest of the Slovak association in ELRA and the ongoing projects.



## IPRA- CINDER CARTAGENA DE INDIAS

ELRA President, Jan Moerkerke, acting as a speaker at the 21st World Land Registration Congress concerning the privatisation or outsourcing of registers



[MORE INFORMATION](#)



## IMOLA PROJECT IPRA-CINDER CONGRESS



Last day, Jesús Camy talked at the plenary session about the State of Play of Land Registers Interconnection in the EU.

## EC EXPERT GROUP BRUSSELS

ELRA intervention on the Land Registers Interconnection Expert Group Meeting, explaining the role of the IMOLA project. Thank you to the European Commission for the invitation.



## EUROPEAN LAW INSTITUTE ANNUAL CONFERENCE RIGA



ELRA will participate in the next ELI Annual Conference and General Assembly Registration for the ELI Annual Conference and General Assembly 2018 in Riga (Latvia) is now open! Click the following link to view the agenda of this event:

[MORE INFORMATION](#)





# SOCIAL MEDIA



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## SWISS REGISTRARS. HERISAU



Last 14th of September Ioanna Tzinieri with the new President, Philipp Adam in the annual meeting of the Swiss Registrars.

## EUROPEAN JUDICIAL NETWORK BRUSSELS

Studying practical application of the European Civil Procedures [#civilprocedure](#) [#Europeanjudicialnetwork](#)



## EU PRESIDENCY SOFIA

ELRA is attending #SEMIC 2018 Conference taking place in #Sofia.

A great conference organized by [#ISA2](#) about [Linked](#) [#Digital](#) [#PublicAdministrations](#)



## NEW ELRA CONTACT PRAGUE



Thank you to Vice President Karel Stencel, Lenka Vrzalova and Martina Herzegova from State Administration of Land Surveying and Cadastre of Czech Republic to introduce our association and projects. We looking forward to welcome you in Brussels!!

## ANNUAL CONFERENCE EU FAMILY LAW TRIER



We are currently working on the new EU regime on property regimes for international couples and the recent CJEU case law on Brussels IIa.

Thank you Mihai Taus for share our knowledge and expertise.

[#ERA](#)

## INFORM PROJECT • SOFIA

Mihai Taus on behalf ELRA is working in the #INFORM Workshop in Sofia which provides an exhaustive overview on [#GDPR](#)





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