



# **EU civil and commercial law and its relevance to property registers**

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# Background I

- Citizens are growing increasingly mobile, requiring a guarantee of the Union as an area of freedom, security and justice
- 1999 Tampere Council Conclusions
- 2000 Council programme of measures for implementation of the principle of mutual recognition of decisions in civil and commercial matters
- The need for mutual recognition in the areas of:
  - **Maintenance obligations**
  - **Matrimonial and family situations arising through relationships other than marriage**
  - **Property regimes of international couples**
  - **Wills and succession**

## Background II

- Since the 2000 Council programme, the foreseen family law cycle has been completed with:
  - **Regulation (EC) No 2201/2003 – matrimonial matters and matters of parental responsibility (including the recast of the Regulation)**
  - **Regulation (EC) No 4/2009 – maintenance matters**
  - **Regulation (EU) No 1259/2010 – law applicable to divorce and separation**
  - **Regulation (EU) No 650/2012 – successions**
  - **Regulation (EU) 2016/1103 – matrimonial property regimes**
  - **Regulation (EU) 2016/1104 – property consequences of registered partnerships**

# Regulation (EU) 650/2012

- 450,000 international successions take place each year, valued at more than €120 billion
- Applying since 2015 to questions of jurisdiction, applicable law, recognition and enforcement of decisions in cross border succession matters
- Adopts principle of “one law, one authority” regardless of nature of assets (moveable or immoveable) and their location, one connecting factor to determine jurisdiction and applicable law – last habitual residence of the deceased
- Foresees possibility for testator to plan by choosing national law as the law applicable to their succession
- Establishes the European Certificate of Succession

# Regulations (EU) 2016/1103 and (EU) 2016/1104 I

- In 2002 more than 5 million foreign EU nationals lived in another Member State of the Union
- 14 million non-EU foreign residents were in the Union in 2000
- 2.5 million items of real property were owned by spouses and located in Member States different from that of their residence at the time
- There are approximately 170 000 international divorces in the Union each year, i.e. 16% of all divorces
- 2011 study has indicated that approximately 16 million couples in the EU have a cross-border element to them

# Regulations (EU) 2016/1103 and (EU) 2016/1104 II

- Applying as of 29 January 2019 in 18 Member States representing close to 70% of EU population
  - **AT, BE, BG, CZ, CY, DE, EL, ES, FI, FR, HR, IT, LUX, MT, NL, PT, SI, SV**
- Conclude the 2000 Council Programme
- The Regulations govern jurisdiction, applicable law, recognition and enforcement of decisions in matters of property regimes of international couples
- Enable the full operation of Regulations dealing with divorce and succession

# Regulations (EU) 2016/1103 and (EU) 2016/1104 III

- All civil-law aspects (i.e. excluding public law) concerning (i) the daily management and (ii) the sharing of the couple's property as a result of divorce or death of one of the couple's members
- Covers property relationships (i) between the couple's members, and (ii) the couple's relations with third parties
- Certain civil-law aspects linked to a couple's property excluded, such as:
  - **general capacity of spouses/partners**
  - **existence and recognition of a marriage/RP**
  - **maintenance and succession**
  - **pension rights**
  - **nature of rights in rem and recording in registers**

# E-Justice Strategy and Action Plan I

2014-2018 Action plan

***Importance of actions providing interconnected registers***

2019-2023 Action Plan

***Connect the national land registers to the application on the e-Justice Portal***

***Implement an ePayment solution for payment of fees linked with LRI***



# **E-Justice Strategy and Action Plan II**

## **2019-2023 Strategy**

***principle of a decentralised model at European level  
interconnecting the various systems already established in the  
Member States.***

***Further register and database interconnections to be established***

***work to continue to closely involve the legal practitioners, who  
have a role as users as well as those responsible for the  
implementation and operation of such registers and databases.***

# Future Perspective

ELRA as a key partner

- **Framework Partnership Agreement with EU-Level Networks:**
  - IMOLA I
  - IMOLA II
  - CROBECO

EJN-civil

- **The providing of information**
- **Continued monitoring of issues relating to property of EU citizens**



**THANK YOU FOR YOUR  
ATTENTION!**

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