



.....● ELRA'S INTERVIEW WITH

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“We adopted a comprehensive legislative proposal to bring cross-border judicial cooperation into the digital age”

*Ana Gallego / Director General of DG Justice and Consumers
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In November 2022 you completed your first year as Director-General of DG Justice. Can you give an overview of the activities of your Directorate General and an assessment of how your first year of work has been?

The DG Justice and Consumers portfolio is wider than many people realise – we do not only deal with justice (civil and criminal) policy and consumer rights, but also with fundamental rights and equality- which makes it a challenge to manage it, but also very interesting and rewarding at the same time. My first year in my new role has been very intense. We were in

full swing of the mandate of the current Commission, with many deliverables. To name a few: we adopted legislative proposals on combating violence against women and domestic violence, Corporate Sustainability Due Diligence, minimum standards for equality bodies, digitalisation of justice, Artificial Intelligence liability, insolvency, empowering consumers for the green transition and on SLAPP.

In addition to legislative work, we also do a lot of policy work. Maybe one of the most prominent streams in this area is what we do on the Rule of Law, which is very topical now. Our annual Rule of Law mechanism assesses the situation in each Member State and presents the findings in an annual report adopted every July. Last year’s report introduced a novelty – recommendations addressed to the Member States, and in this year’s edition we will reflect how these recommendations have been addressed.

However, a lot of our energy and our time last year was dedicated



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to tackling the “unplanned” – dealing with crisis. We always have to be ready for the unexpected – we saw this already with the Covid-19 pandemic. Similarly, the illegal invasion of Ukraine by Russia required the Commission, and DG JUST, to act quickly. And we did – we quickly set up the Freeze and Seize Task Force to assist the Member States with the implementation

of EU sanctions and restrictive measures. We also presented an amendment to enable Eurojust to collect evidence of war crimes as well as a proposal to harmonise the definition and penalties linked to the violation of sanctions across the EU. These have been adopted in record speed for the EU processes and that the EU institutions could react so quickly and firmly

confirms and defines the value of the Union.

The European Commission’s strategic plan rests on several pillars, including the digitalisation of justice. In general, how are you approaching this work and, in particular, do you consider digitalisation to be beneficial for legal professions?

Digitalisation brings benefits for the general public and for legal practitioners. When the pandemic struck, Member States and their judicial authorities quickly realised that the emergency health measures were not optimising access to justice and made cooperation between judicial authorities of different Member States more difficult. Therefore, digital solutions were put in place to address the needs of citizens and the business world.

However, the use of digital tools in the justice area is helpful not only in times of crisis. Digital technology allows individuals and businesses to enjoy faster, more flexible, and

cheaper access to justice. Digital justice allows you to obtain an electronic certificate in a couple of mouse clicks or to file a claim electronically. They can also enable a witness or an expert from another country to be heard remotely.

In December last year, we adopted a comprehensive legislative proposal to bring cross-border judicial cooperation into the digital age. It introduces the concept of “digital by default”. From a strategic perspective, this proposal strengthens the rule of law and the protection of fundamental rights. Our expectation is that the co-legislators will adopt this ambitious proposal by the end of this year.



Is there any plan to enhance the free circulation of non-judicial documents and their digitalisation?

Our action plan on e-Justice includes the Land Registers Interconnection (LRI) project. Its main objective is to connect national land registers to an EU search engine on the [European e-Justice Portal](#). Our December 2020 Communication on the digitalisation of justice reiterated the importance of creating interconnection of registers, such as the LRI. We would like to see all Member States participating in the interconnection of land registers by 2024.

Three Member States (Austria, Estonia, and Latvia) have already connected their land registers to the LRI service platform, even though the service is not yet publicly available. Once it goes live, the LRI will also allow Member States to use a harmonised European Land Registry Document for presentation of information from land registers on a voluntary basis. This document may be downloaded by users through the LRI – an achievement on which we worked closely with the ELRA.

The free circulation of certain public documents is already ensured by the Public Documents Regulation, which simplified or removed certain administrative formalities between EU countries. The Regulation also applies to electronic documents, but it is for the receiving State to decide whether, and under what conditions, an electronic public document can be submitted to its authorities. The Regulation has established an ad hoc Committee in charge of exchanging good practices. So, Member States are already exchanging information

on a voluntary basis to facilitate the circulation of electronic public documents.

Cross-border service of documents is governed by the Service of Documents Recast Regulation. This Regulation provides for mandatory digital transmission of judicial and extra-judicial documents between the authorities of different Member States for the purpose of service as well as for the admissibility of direct electronic service.

During the last few months, we have witnessed the invasion of Ukraine. The European Union has once again stepped forward and is having an exemplary reaction of solidarity and support towards the Ukrainian people. Within the European reaction, one of the courses of action is the confiscation of assets of persons and entities linked to the Russian oligarchy and, to achieve this, the property registries are giving their support. Do you consider that the objectives of the Union in this area are being fulfilled or is there still much to be done?

Conscious of the challenges faced by Member States while implementing EU sanctions and more specifically EU restrictive measures, we rapidly set up a Freeze and Seize Task Force. This Task Force aims to enhance coordination with Member

States and to ensure efficient implementation of EU restrictive measures. So far, the EU has frozen more than EUR 20 billion of Russian assets, and more than 1500 entities and individuals are listed in EU sanctions lists.

Even though those results should not be underestimated, we can and must do better.

We know that the costs of the reconstruction of Ukraine are going to reach levels never seen before. According to a World Bank forecast, the reconstruction could cost between 500 and 600 billion dollars. The international community must mobilise funds now to finance this.

One solution could be to confiscate frozen assets. Nevertheless, owing to legal principles which we should be proud of, frozen assets cannot just be confiscated as such. We still need to design the mechanisms by which we could make use of these frozen assets to support the reconstruction. In December, we presented some options to Member States, and these are currently under discussion. Using property registers is just one tool

at the Commission's disposal, but the Commission needs to look at all available tools, also including information on bank accounts and Anti-Money Laundering provisions.

We are also working on strengthening and extending our acquis on confiscation, traditionally linked to criminal convictions. Thanks to the formal adoption by the Council of a decision to extend the list of EU crimes in the treaty to cover the violation of sanctions, we put forward a legislative proposal to harmonise the definition and penalties linked to the violation of sanctions across the EU. It would mean that, if individuals violate EU sanctions they could be prosecuted and convicted, which could lead to the confiscation of the proceeds used for this crime. The resources gained from this confiscation could be used for the reconstruction of Ukraine.

Another mission of your Directorate General is the adaptation of the European



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consumer protection legislation to the digital transformation. In this context, do you consider that progress is being made in parallel with digital evolution or is it ahead of the legal regulation?

Our objective is to ensure that consumers are well protected, online, and offline, and regardless of the technology. For example, with the Digital Services and Digital Markets Acts, the EU sets a comprehensive standard for regulating platform obligations. With the AI Act and AI Liability Directive, we aim to mitigate certain risks stemming from the use of artificial intelligence to allow for a broad uptake of this technology. We have strengthened consumer rules with recent adaptations –the Digital Content Directive, Modernisation Directive, and the revision of product safety legislation, for example.

We have made good progress in keeping up with technological developments and, in some cases, such as with artificial intelligence, we are also pre-empting future risks before they fully materialise.

The good news is that most of our consumer protection legislation is “technology-neutral” and “principle-based”, meaning the rules are usually general enough to capture various commercial practices, regardless of whether they take place in a physical shop or in the metaverse.

However, we do not take this for granted. Our Fitness Check of EU consumer law on digital fairness aims to check whether the current rules are adequate in the digital environment. It also looks at how all these new digital initiatives work together – are they consistent and sufficiently protective from the consumer perspective? We aim to have answers to these questions in 2024, when the Fitness Check is set



to conclude. Until then, I warmly invite all stakeholders to share their views until 20 February.

Finally, could you please give us your view on the short and medium-term objectives of the European Commission’s Directorate-General for Justice and Consumers?

We have just passed the halfway point of this Commission’s mandate, so my top objective this

coming year is to ensure that we have fulfilled the priorities announced at the start of the mandate; especially as time gets more limited to finalise our work. I will be steering the Consumer Enforcement Package through its adoption. This includes a legislative proposal to introduce targeted amendments to the Consumer Protection Cooperation Regulation. The EU framework for Alternative Dispute Resolution (ADR) for consumers also needs to be improved. ADR is not as successful and widespread as we had hoped, and the rules need to be adapted to take account of recent technological developments.

To further improve conditions for companies, including SMEs, we will put forward a legislative proposal on Upgrading Digital Company Law. This will be the second step of digitalisation of company law. One major aim is to make more company information available in business registers and/or on a cross-border basis through the Business Registers Interconnection System (BRIS). On gender equality, we will continue to support negotiations with the co-legislators on the legislative proposal on violence against women and domestic violence. We will also adopt a recommendation on harmful practices, such as female genital

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Photo: EU/Christophe Licoppe

mutilation; as well as a new initiative on the protection of vulnerable adults in cross-border situations.

To enhance mutual trust between Member States and facilitate judicial cooperation, we will adopt a revision of the Victims' Rights Directive and present a new proposal on the Transfer of Criminal Proceedings between Member States.

As far as free movement of persons is concerned, the adoption of the free movement guidelines in 2023, considering the latest case-law as well as lessons learned from the Covid-19 pandemic, will provide necessary legal clarity for both citizens and practitioners. It will also ensure that rainbow families will be able to rely on free movement rights in a cross-border context.

Of course, I will also continue working with the co-legislators to find agreements on the pending proposals such as the Regulation on the law applicable to the third-party effects of assignment of claims and the anti-SLAPP legislation. A solid cooperation with the European Parliament and Council is crucial in ensuring future-proof legislation to uphold EU citizens' rights.