



STUDY ON THE FREE MOVEMENT OF PUBLIC DOCUMENTS IN THE EU LR

ONGOING TASKS

March 8th, 2023

ELRA ROLE

- 1^o Presentation of the subject (2021)
- 2^o Survey about national practice around EU (2022)
- 3^o Produced a paper about the state of play (2022)
- 4^o Suggestion on how to address this issue (2023)

◎CONCLUSIONS 2022

- ◎No general implication by EU authorities
- ◎No development of general rule in mutual recognition
- ◎No measures to avoid double documentation specially those caused by digital transformation
- ◎No foreseen action of introducing mutual recognition in transactions other than those already existing

◎BUT

IS IT REALLY SO DIFFICULT ????

- ☐ Austrian neighbours
- ☐ Purchase of a property in Spain from one to the other
- ☐ There is a notary practicing in their same building

FIRST AND ONLY EU RULE

LAND REGISTRY LAW APPLIES

MEANING...

IN PRINCIPLE

Origin, where the deed is produced

Destination, where the deed is registered

BUT

**INTERNATIONAL PRIVATE LAW IS
TRICKY**

Others FACTORS involved

THE RULE OF PUBLIC DOCUMENT

BUT

What is a public document?

Each state defines what it is and what's its purpose
but EU regulations

Jurisdictions with no such category. What to do?

Other problems arising:

Formal requirements, locus regit actum

Content, **LEX REI SITAE**, but...

minor
power of attorney
insolvency
others...

NATIONAL RESPONSES

**The land registrar as an expert with power
to decide even if foreign law is applicable**

Non acceptance of foreign documents, but

IT IS A TASK THAT MUST BE ADRESSED

EASIER THAN REG 650

WHY??

Applicable law: LEX REI SITAE not only to LR but also the contract. Rome I

Applicable law LEX AUCTOR. Deed. Reg 650

Applicable law, other issues out of scope as RG 650. Rome I

Jurisdiction: LEX REI SITAE. Brussels I, Reg 650

Mutual recognition and how to do it (translation, authenticity...

WHAT'S NEXT??

TECHNICAL QUESTIONNAIRE

Applicable law LEX REI SITAE

Applicable law LEX AUCTOR

Applicable law, OTHER ISSUES

Jurisdiction: LEX REI SITAE

Mutual recognition: public documents and others

THANK YOU !!!!



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