EU CITIZENS AT A LEGAL CROSSROAD

EVENT REPORT
https://eurac.tv/9R1y

With the support of
The Single Market has torn down the economic barriers all across the EU but the legal discrepancies still stand and citizens find themselves too often at a legal crossroad.

A strong EU justice system and legal cooperation across the bloc is key to help Europeans deal with their day to day problems.
Contents

EU cooperation needed to address cross-border legal issues

A Europe that is close to citizens is a Europe that needs its notaries

EU needs to focus on legislation in the digital sphere, MEP Angelika Niebler says

Opening ceremony of the Europe Enacted exhibition
As citizens have to deal more and more with cross-border legal issues, the EU needs to work towards ensuring better cooperation and harmonisation of laws between member states.

An exhibition in the European Parliament, commissioned by the Notaries of Europe, displays the will of Queen Isabella the Catholic or Giuseppe Verdi, or the power of attorney given by Miguel de Cervantes to take legal action against those who printed or intended to print “El Quijote.”

History can be traced through documents and legal issues were part of the daily lives of public figures back then as much as they are for ordinary citizens now. While some economic and physical barriers have been slowly torn down thanks to the European integration in this and the past century, legal borders are still an issue.

As a new political cycle begins, the Notaries of Europe, representing practitioners in 22 member states, call for more cooperation and working towards the harmonisation

Continued on Page 5
of certain legislations to ensure better management of cross-border affairs.

**ENHANCED COOPERATION**

“We have to look at all political fields, it is family law, succession law, real estate law...” Angelika Niebler, member of the European Parliament (Germany, EPP), told EURACTIV and insisted on the need for legal certainty in all these areas.

The EU has progressed in increasing legal cooperation and harmonisation across the bloc. Since 2015, there is a European Certificate of Succession and an EU regulation that determines the jurisdiction, applicable law and many other legal things related to the matter, making easier international successions.

But it is still not enough. “I think the harmonisation of inheritance laws in all countries is today a utopian dream, a long-term work,” Pierre-Luc Vogel, president of Notaries of Europe, told EURACTIV.

Being able to decide the applicable law, as established by the EU regulation, “is more pragmatic” and a big step forward.

Earlier this year, new legislation was secured to rule the property regimes for marriages and registered partners in the Union. However, as the regulation touches upon family law – a sensitive issue in all countries – the legislation was adopted through enhanced cooperation only by 18 member states.

However, many issues affecting the lives of citizens are still pending and legislation needs to be updated to face up to the new challenges.

For instance, digitalisation has created a vacuum and EU legislation to regulate digital assets is required but also the use of digital means to reduce paperwork and make procedures easier.

**PROTECTION FOR THE MOST VULNERABLE**

Another important piece of legislation still missing is the coordination between member states to recognise the regimes of protection for vulnerable adults.

The Hague Convention (2000) for the protection of vulnerable adults, meaning people “temporarily or permanently unable to manage their personal affairs or their property because of an impairment or insufficiency of their personal faculties,” is the existing international instrument to do so.

Only ten member states, Austria, Cyprus, the Czech Republic, Estonia, Finland, France, Germany, Latvia, Portugal and the United Kingdom, have so far ratified the convention. This has raised concerns over potential gaps in the protection of vulnerable adults in Europe, particularly in cross-border situations.

Both the Commission and the Parliament have been encouraging member states to proceed with the ratification process so that EU legislation can be further developed. So far, without much success.

“We need to make sure that when we are protected in our country of origin, we are protected all across Europe,” Vogel argued.

**NOTARIES AS GATEKEEPERS IN MONEY LAUNDERING**

Cases such as the Panama Papers have put money laundering in the EU at the core in the eye of the storm. Notaries claim to be “a central element” in the action of the member states in the fight against money laundry.

“It is their status as civil servants that make notaries so engaged in the fight against money laundering,” Pierre-Luc Vogel, president of Notaries of Europe told EURACTIV.

The Commission maintains that “it is essential that gatekeepers apply measures to prevent money laundering and terrorist financing.” An EU regulation obliges banks and other entities to identify and verify the identity of clients, monitor transactions and report suspicious transactions.

However, notaries demand better cooperation between member states and protection for those who come forward as such information is often very sensitive. “It is very important to make sure all notaries work the same way on this particular issue,” Vogel underlined.

The Notaries of Europe are members of one of the working groups the European Commission has established to better address this challenge that costs EU taxpayers billions of euros, including through training.

Vogel welcomed the “strong willingness” in the upcoming Commission of having EU institutions “closer to citizens’ worries” and “one of the first concerns is to build a Europe that protects.”

“Our profession is the legal certainty,” the president of Notaries said, and therefore their objective is to make transactions and legal proceedings safe.

“A Europe that protects is a Europe that needs notaries,” the president said.
A Europe that is close to citizens is a Europe that needs its notaries

By Pierre-Luc Vogel | Notaries of Europe

What do the will of Queen Isabel la Católica, the award of the George Cross to the Maltese nation, the purchase of the Island of Herreninsel by King Ludwig II of Bavaria and the renunciation document signed by Archduchess Marie-Antoinette on the crowns belonging to the House of Austria have in common?

These facts relating to the history of Europe and various Member States are all recorded in a notarial act. These documents are also all part of the travelling exhibition “Europe Enacted” currently being held at the European Parliament, from 11 to 15 November.

Pierre-Luc Vogel is President of the Council of the Notariats of the European Union.

Through the history and stories it tells, this exhibition makes it possible to better define the identity of the notarial profession. The notariat is the profession of authenticity, truth, certainty and conservation of data on which the trust of States and our fellow citizens is based. At a time when false information, falsified data and money...
Continued from Page 6

laundering are growing, this truth and certainty are more than ever essential to society.

Notaries must also ensure the long-term preservation of the deeds they receive. They are a little, and this exhibition illustrates it, the memory of our civilization. Whether or not we are historical figures, notaries are involved in the most important moments in life: marriage, buying a property, setting up a business, settling a succession, etc. Thanks to the system of continental law, the property of our fellow citizens is protected, property relations are regulated, intergenerational transmission is valued and entrepreneurs benefit from an environment that is favourable to business. This Europe, the Europe of our fellow citizens’ daily lives, must remain a priority for the European institutions alongside the major societal, economic and climate challenges we face.

During the last legislature, important texts were adopted. I am thinking of the European regulations on international successions, matrimonial property regimes and registered partnerships, the circulation of public documents, company law and the fight against money laundering and terrorist financing. For the next five years, we must continue to build momentum together, European institutions and stakeholders.

The fight against money laundering is now a major priority. And the notary is an asset for the European institutions. In high-risk sectors, such as real estate transfers and the creation of companies, notaries have been cooperating with their government authorities for many years. Notaries therefore ask that legal professionals continue to be involved in European work on a subject of major importance for the European and world economy. In the future, we hope to be able to work with Mr Dombrovskis and his team with the same mutual trust that we had with his predecessor Ms Jourová.

For this new legislature, we also call on the European institutions to address the issue of the protection of vulnerable adults. More and more European citizens, due to old age or illness, are no longer able to express their wishes clearly and live or have interests in several countries. Protection regimes are not systematically recognised and a person placed under a protection regime in one Member State should be able to be protected in all Member States. A legislative proposal from the European Commission would therefore be welcome in this area.

The digitalisation of the activities of legal professionals is another reality. For notaries, it covers several aspects: creation and interconnection of registers, incorporation of online companies, rollout of the e-signature, authentic instruments on electronic media, videoconferencing and more. Today and in this field, notaries are at the forefront of the legal professions, providing a modern and efficient service for their clients and the States. Digitalisation must remain a priority, but always in constant consultation with the stakeholders concerned.

Our history, our willingness to adapt in order to serve better, allows us to say that if the notarial function must be earned, our studies are long, our practice demanding. If the notarial function obliges us, it must also be respected by the European institutions.

European funding for justice must also remain consistent with the issues at stake. At notarial level, European co-funding has enabled us to organise cross-border training courses on EU legislation, develop information websites (e.g. the Couples in Europe website and the European Directory of Notaries), set up the European interconnection of registers of wills and make the online platform of the European Notarial Network available to all notaries. This co-funding has made it possible to improve notarial practice and provide better legal support for citizens.

Notaries guarantee this daily support throughout the European countries where they work. There are 40,000 notaries and their 200,000 employees who are present even in the smallest villages, where sometimes even the last café has closed. This daily support must be deepened through effective EU action. That is why, for this Europe, I propose a slogan: A Europe that protects, a Europe that is close to citizens is a Europe that needs its notaries.
The EU has proven to be successful in legislating in the digital age but it needs to keep up the work to avoid being left behind, because “the digital revolution has been moving faster than legislation”, MEP Angelika Niebler (EPP, Germany) told EURACTIV in a written interview.

**EU needs to focus on legislation in the digital sphere, MEP Angelika Niebler says**

**By Beatriz Rios | EURACTIV.com**

The EU can keep up its efforts to tear down legal barriers between the member states. The situation in this regard has been constantly improving over the past years. Nowadays, with the possibilities offered by

Continued on Page 9
the digitalisation of our everyday lives, these barriers are bound to fall even faster. Understanding those possibilities should be the EU’s top priority.

What are the main pieces of legislation missing? Is harmonisation a utopia? Should we ensure coordination at EU level instead?

Digitalisation already has and is going to have a huge impact on all parts of society. Big themes for the future will concern Europe’s digital sovereignty, access to data, artificial intelligence and much more – the list is long and getting longer by the day.

The legislation is dragging behind the rapid developments all around us and we need to focus more on legislation in the digital sphere. Harmonisation of our rules, especially on the internal market, is strengthening efficiency and this is what we need in this fast-paced world. However, I think there are some fields where the member states should be free to shape legislation according to their needs. In those fields, coordination is key. Therefore, it is not the question of instead but rather of the right balance.

Some of this legislation is often hard to agree due to national sensitivities. How to tackle this issue?

There is no way around this issue – this is Europe. Our slogan is “United in diversity”. Therefore, I think we should always be open to those national sensitivities. But in some cases, like foreign policy where we should be able to react quickly, I am in favour of a more flexible approach. In the end, I believe that unanimity on foreign policy decisions is not conducive to the EU’s aspiration of being a global player. In general, however, our strength clearly lies in our ability to speak with a unified voice on the world stage.

As MEP you have been involved in legislative procedures tackling the consequences of the digital revolution, are we behind on this? How can technology help to address these legal uncertainties across Europe?

It’s not a secret that the digital revolution has been moving faster than legislative procedures. But when I look at the current initiatives in the European Parliament I see that we are rapidly catching up: Artificial intelligence, e-privacy, smart grids etc. are dominating the discussions. Sometimes a slower pace can also be an asset. Sometimes you can only see where intervention is needed when a concept was tested and prevailed. I think with the GDPR and the Cybersecurity Act we have shown that EU legislation for the digital world can be a success.

One of the main pieces of legislation pending regarding legal issues affecting citizens is the recognition of protection for vulnerable adults. Do you see room for an impulse to this matter?

To date, the Hague Convention on the International Protection of Adults has been ratified by only 10 EU member states and signed by an additional 7. We need to urge member states to sign and ratify the convention in order to diminish legal uncertainties, especially in a cross-border-context. The new European Commission should take the initiative on this. There are sound arguments: a ‘Cost of Non-Europe’ Report estimated that costs linked with this legal uncertainty – and thus legal fees arising in cross-border transactions – and related “emotional” costs, amount to €11 million per year.

Regarding the fight against money laundering, what can the EU do better and how can it use the support of legal and bank professionals in addressing this pressing issue?

Since 1990, we have revised the Anti-Money-Laundering-Directive five times, always improving it a bit further. By January 2020 member states will have to transpose the fifth revision of the directive into national law. So, I believe the EU is already quite active but of course, we can always do better. I sometimes feel – and this is also directed at legal professionals and financial experts – that legislation – for example on money laundering – was actually introduced to make society better and fight crime. I wish this perspective was more acknowledged.

Do you consider it necessary to create anti-money laundering authority in the EU? Or do we need more competences and a single rule-book?

I do not think we need yet another EU agency. Through cooperation and integration, not the least through the banking union we are getting better and better at combating money laundering.
On 13 November, the Council of the Notariats of the European Union (CNUE) held the opening ceremony of the Europe Enacted exhibition at the European Parliament, in the presence of representatives of the 22 notariats of the European Union, the European institutions and the Member States. The exhibition highlighted notarial acts of major historical value and digital tools created by notariats. During the ceremony, the CNUE announced the winners of its first Innovation Prizes, awarded to the European notariats' most innovative projects.