



**EUROPEAN NETWORK OF REGISTERS OF WILLS
ASSOCIATION (ENRWA)**

“EUROPE WILLS” PROGRAMME

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PRELIMINARY NOTE

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Introduction

The European Network of Registers of Wills Association (ENRWA) was founded in 2005 on the initiative of the European Notariats. It currently numbers 14 members¹.

The ENRWA obtained co-financing from the European Commission at the end of 2008 in order to implement the “Europe Wills” programme. The objective of this programme is to contribute to the creation of the European judicial area for citizens in the field of inheritances and to encourage, from a practical point of view, the mutual recognition of last wills and testaments, by making it possible for legal professionals but also for European citizens to search for wills or last wills and testaments throughout the European Union.

On 14 October 2009, the European Commission published draft regulations relating to jurisdiction, applicable law, recognition and enforcement of decisions and authentic acts in the area of succession and to the creation of a European Certificate of Successions². The explanatory memorandum for this mentions the matter of registration of wills as a subsequent Community initiative.

In this context, the objective of the “Europe Wills” programme is to provide the European Community with avenues of thought regarding the issue of registers of wills, while not, however, giving its opinion on the other aspects of the draft regulations. A questionnaire was thus drawn up and sent to specialists in the law of wills in the countries of the European Union and in Croatia, candidate country to join the European Union. The experts from 28 States answered (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania,

¹ The ENRWA members are the Belgian, Bulgarian, Croatian, Dutch, French, Italian, Latvian, Polish, Portuguese, Romanian, Slovenian, Swiss and Spanish Notariats and the Notariat of St Petersburg.

² Proposal for a regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession, 14 October 2009, COM (2009), 154 final, available at the address [http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com\(2009\)0154_/com_com\(2009\)0154_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2009)0154_/com_com(2009)0154_en.pdf)



Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom).

On the basis of the answers provided by the experts³, an inventory of the will registration and search systems in Europe was drawn up. **An interim report subsequently summarised the information contained in the inventory.** Those documents were used as a basis for thinking about the way the discussion workshops should be organised during which the experts met. **The results of these discussions appear in the final report** where it has been envisaged what the main lines of a European instrument for registers of wills might be (I), then the means of developing an effective will search system in Europe (II). Some aspects of the issue of the circulation of wills in Europe were then brought up (III). Lastly, the ENRWA envisaged avenues of reflection with a view to providing new services to tomorrow's European citizens (IV).

³ The list of the experts who answered the questionnaire is to be found in the annex to the document entitled *Inventories of the systems for registering and searching for wills in Europe*.



I. A European instrument for registers of wills

The possibility of tracing a will wherever it is to be found is particularly important for European citizens. This legal document, containing their last wishes, makes it possible for them to dispose of their entire assets in a single document. Furthermore, it will take effect after their death. The fulfilment of the deceased's last wishes therefore depends on the possibility of tracing the relevant document. Offering European citizens the possibility of searching for their relatives' wills wherever they are to be found in the European Union is therefore an encouraging contribution to the area of justice, freedom and security.

As part of this objective, Community institutions started work into the question of successions and wills. In the course of 2008, this matter was the subject of an impact analysis, carried out by a contractor on behalf of the Commission⁴. The summary of that assessment accompanies the proposal for a regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession, published by the Commission on 14 October 2009⁵. Item 1.1 of the explanatory memorandum of the proposal for a regulation refers to the registers of wills and stipulates that "In accordance with the impact assessment, the question of the register of wills will be dealt with as part of a future Community initiative".

In this context, in order to address the problems of identifying wills abroad, the impact assessment defines a "Commission recommendation on the establishment of interconnected national registers of wills and organisation of information campaigns".

⁴ http://ec.europa.eu/civiljustice/news/docs/succession_impact_assessment_summary_en.pdf

⁵ [http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com\(2009\)0154_/com_com\(2009\)0154_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2009)0154_/com_com(2009)0154_en.pdf)



Consequently, when the discussion workshops were taking place, the main lines of such an instrument were sketched out by taking as a basis of reflection the Basel Convention on the Establishment of a Scheme of Registers of Wills of 16 May 1972 (hereafter referred to as the “Basel Convention”), the only international text to deal in detail with the register of wills for the time being. It emerged that the main principles of this Convention are the subject of a broad consensus within EU Member States, including those that did not ratify it.

The discussions revealed that, if the European Community wished to adopt a text on the question of registers of wills, it should concern a non binding instrument (A), encouraging the interconnection of national registers of wills (B) and extending the scope of the types of documents that could be subject to registration (C). Like the Basel Convention, a system of registration and not deposition of wills should be established (D). Entry in the register should not take account of the testator’s nationality (E) and, above all, registration should not affect the validity of the will (F). The Member State should be free to choose the administrator of its register (G). All changes affecting the will should be the subject of an entry in the register so as to ensure compliance with the testator’s last will dispositions (H) and the States should be encouraged to establish an obligation to consult the register (I).

A. A non binding instrument

First of all, the experts emphasised that it was not desirable for the European Union to adopt a binding text concerning registers of wills, like a Community regulation. A Commission recommendation would be much better perceived by the Member States, because it would allow them greater freedom concerning the organisation of their scheme of registration. The spirit of the Basel Convention was moreover identical: those who drafted the Convention chose not to impose the registration of wills in a single register, but to allow the member



States to organise their own scheme⁶. In this context, the experts from Belgium emphasised that the Basel Convention provided a simple legal framework making it possible for each State to organise its scheme of registration of wills. Lastly, that recommendation is in keeping with the findings of the impact assessment conducted on behalf of the Commission⁷.

B. Interconnection of national registers

The future instrument of the European Community should explicitly encourage the interconnection of national registers of wills and not be aimed at establishing a European central register. Indeed, a European register would have several inconveniences:

- it could not comply with all the European domestic legislation of the Member States.
- it would not replace the national registers: each testamentary disposition would therefore have to be registered twice. Such a dual registration could be a source of mistakes and oversights and would be complicated to manage.

On the contrary, encouraging the interconnection of existing registers of wills respects the spirit of the Basel Convention⁸ while making it possible for States to organise their scheme

⁶ The explanatory report of the Basel Convention states that “ In pursuance of the committee's decision not to provide for a single international register but to allow each Contracting State to make whatever domestic arrangements it deemed the most appropriate” (No. 11).

⁷ http://ec.europa.eu/civiljustice/news/docs/succession_impact_assessment_summary_en.pdf

⁸ The explanatory report of the Basel Convention states that “The committee felt that it would not be appropriate to create a single international registry. The Convention therefore provides for the establishment of national registration schemes and contains supplementary rules governing the international co-operation between the different national authorities which will be entrusted with the registration.” (No. 5).



of registration of last wills and testaments according to the specificities of their own legislation.

The interconnection of the existing registers also has the advantage of developing co-operation among the legal professionals entrusted with the settlement of inheritances in the different States and so contributes to the construction of the European judicial area.

Consequently, there should be an explicit reference to the interconnection of registers of wills in the future European instrument.

C. The extension of the registration system to other deeds

Article 4 of the Basel Convention explicitly mentions the registration of authentic wills and holographic wills which have been deposited with a civil law notary, a public authority or any person authorised.

The discussion workshops made it possible to emphasise the inadequacy of this provision. The experts of the programme, and the British expert in particular, would like the registration system to be extended to all deeds affecting the devolution of an estate.

Indeed, such a possibility of extending the registration system is already provided for in Article 11 of the Basel Convention⁹. However, a Community text should explicitly encourage the Member States to register all the dispositions having their importance at the time of the settlement of the inheritance. The list of deeds to be registered should not be previously determined but could vary according to domestic legislation. For example, some laws allow contracts of inheritance, i.e. contracts by which a person gives rights to another after his or

⁹ Art. 11: This article provides an option for Contracting States to decide whether to extend the registration system laid down by the Convention to wills not mentioned in Article 4 as well as to other deeds affecting the devolution of an estate.



her death. Such contracts should therefore be able to be the subject of a transnational search so that all the information useful for the settlement of the inheritance may be collected.

It is interesting to note that the registers of wills of some States already use the option provided for in Article 11 of the Basel Convention and have made possible the entry in their register of other forms of wills other than those provided for by this Convention (1) and/or other types of dispositions having importance for the devolution of the estate (2).

1. The registration of all forms of wills

Article 11 of the Basel Convention provides an option to register forms of wills other than only authentic or holographic wills deposited with a public authority. During the discussion workshops, a discussion took place as to whether an obligation should be set out requiring the registration of all the wills existing in each State. In actual fact, at the present time, many States acknowledge the validity of wills without it being necessary to deposit them with a civil law notary or with any other authorised public authority¹⁰. Consequently, such wills cannot be registered. Some experts then emphasised the risk of not finding them, or finding them late. However, it did not seem desirable to make the entry of wills in the register compulsory because that would lead to making registration of the will a validity requirement¹¹, thereby substantially changing most European national legislations.

¹⁰ For example, it is the case of holographic wills the validity of which is recognised in almost all the European countries. Such wills may be kept at the testator's home for example. Cf. *Inventory of the systems for registering and searching for wills in Europe and Interim Report*.

¹¹ Cf. *infra*. I.F, p.13.



So, there is no political consensus for making the registration of all types of wills compulsory. The onus will therefore lie with each State whether or not to introduce such an obligation into its domestic law.

2. The registration of dispositions affecting the devolution of an estate

The dispositions affecting the devolution of an estate may be registered in the actual register of wills or in another register, depending on the countries.

For example, in Belgium, the registration in the register of wills is extended to prenuptial agreements in which spouses allocate all or part of the inheritance among themselves, for the case of surviving spouse, to prenuptial agreements waiving the equal division of joint estate, and is also extended to contractual institutions between spouses. Moreover, a register of prenuptial agreements are going to be created. In Spain, a specific section of the register of wills is devoted to life insurance contracts. In France, the Central Register of Testamentary Dispositions (“*Fichier Central des Dispositions de Dernières Volontés*” - FCDDV) contains the references of wills but also some clauses of prenuptial agreements, donations *mortis causa* and, generally speaking, any disposition affecting the devolution of an estate. In Luxembourg, the register of wills also contains donations between spouses by death, marriage agreements by which husbands and wives mutually assign one another all or part of their property and contractual institutions between spouses (agreements where one of the spouses promises the other to leave him or her an item of property or all or part of the estate at the time of death). The register of wills of the Netherlands allows the registration of prenuptial agreements and cohabitation certificates (concubinage, cohabitation agreements, etc.), and more generally any deed affecting the devolution of an estate.

In Estonia, the register of wills is actually a “register of inheritances” containing wills, contracts of inheritance, information about the civil law notary entrusted with liquidating



the estate, and since 2009, information about legal heirs and about persons to whom a heredity certificate has been issued.

Lastly, in Poland, there is not yet a register of wills but there is already a register for certificates of inheritance.

These examples illustrate the specificities of each Member state and the impossibility of drawing up an exhaustive list of the deed to be entered in the register of wills. By contrast, many experts recognise the need to enter all the testamentary dispositions in the register. A Community instrument should therefore encourage the registration of all the dispositions affecting the devolution of an estate.

D. The registration and not the deposit of wills

The system organised by the Basel Convention is a scheme of registration of wills and not a system of deposit. The “ aim of the registration scheme being to make it possible to ascertain whether or not a deceased person has made a will and, if so, where this will can be found”¹². Consequently, the Basel Convention in its Article 7 draws up a list of minimum information to be included in the registration request. This information includes the family name and first names of the testator or author of deed, the date and place of birth, the testator’s address or domicile, as declared, the name and address of the notary, public authority or person who executed the deed or with whom it is deposited.

These experts emphasised that this system has the advantage of ensuring the confidentiality of the content of the will. In actual fact, in addition to the testator, only the person with whom the will is deposited may possibly be aware of its content¹³. Furthermore, the list

¹² Cf. *Explanatory Report of the Basel Convention*, No. 34.

¹³ Sometimes, the person with whom the will is deposited is unaware of the dispositions contained in the will. For example, in the case of a secret will, the testator’s testamentary dispositions are handed over to the civil law notary in a closed and sealed envelope.



given by Article 7 seems to satisfy the States insofar as it has been integrated into the domestic legislation of some countries that did not ratify the Basel Convention¹⁴.

E. No nationality requirement for registration in the register

Article 6 of the Basel Convention stipulates that registration is not subject to conditions of nationality or residence of the testator. This principle is almost always applied by the States that have set up a register of wills and should be retained in the event of the adoption of a future Community instrument on the matter of registers of wills. In that way, citizens would not necessarily have to travel to their State of origin in order to have their testamentary dispositions registered. Such an arrangement would contribute to the creation of the European judicial area.

F. No effect on provisions which relate to the validity of the deed

Article 10 of the Basel Convention lays down that “this Convention shall not affect provisions which, in each Contracting State, relate to the validity of wills and other deeds referred to in this Convention”. The experts of the “Europe Wills” programme emphasised that the validity of a will should not depend on its registration in the register. In fact, several types of wills may be valid without needing to be deposited with a civil law notary or an authorised public authority. Such wills include holographic wills and wills before witnesses¹⁵.

¹⁴ These States are Austria, Bulgaria, Romania and Slovenia.

¹⁵ The holographic will, a form of will recognised in most Member States of the European Union, is only required to be written, dated and signed by the testator’s hand in order to be valid. The requirements of a will before witnesses may vary but it is not compulsory to deposit it with a public authority.



It therefore seems important to differentiate between the validity of the will and its registration in a register so as to comply with the different bodies of domestic legislation. In this way, **registration of the will must not become a validity requirement.**

On the other hand, it is important to clearly communicate with European citizens about the advantages of the registration of their testamentary dispositions in a register. A communication campaign therefore seems more appropriate to warn testators of the risks involved in not registering their wills. First and foremost, there is the risk that the will is not found or found late. Their last wishes might therefore not be respected or the partition of the estate would have to be carried out again in order to take account of a will discovered late. In addition, from a legal point of view, the quality of the wills entered in a register is often higher than the quality of wills kept at home, or in any other place, because recourse to the services of a legal professional makes it possible for the testator to obtain legal advice and consequently to ensure that his last wishes comply with the laws in force at the time the will is drawn up.

Within this framework, the ARERT has prepared practical sheets aimed at European citizens which explain how to register and search for a will in each of the 27 member States of the European Union as well as in Croatia.

G. The choice of the administrator of the register of wills

Among the registers of wills existing in Europe, 10 are managed by the State and 11 by the Notariat¹⁶. The latter's role is explained by the preponderant position of the civil law notary in the settlement of inheritances in Romano-Germanic law countries. The Basel Convention is very flexible regarding the determination of the body entrusted with registering and

¹⁶ Cf. *Interim report*, p.11.



searching for wills insofar as its Article 2 stipulates that “each Contracting State shall establish or appoint one or more bodies responsible for the registration provided for by the Convention and for answering requests for information made in accordance with Article 8, paragraph 2”. In this way, each State has the choice between several solutions concerning the organisation and the management of the scheme of registration of wills¹⁷.

A Community instrument dealing with the matter of registers of wills should be just as flexible, because flexibility makes it possible for States not belonging to Romano-Germanic law systems to organise a scheme of registration of wills. The experts from the United Kingdom and Finland thus emphasised that the aim is only to develop registers containing citizens’ testamentary dispositions in States where the Notariat is present. In Nordic judicial systems or judicial systems derived from Common Law, the public structures, managed by the State, make it possible to organise a scheme of registration of wills¹⁸, whether it is centralised or not.

In countries whose judicial system belongs to the Romano-Germanic family, the register may be managed by the State or by the Notariat. At the present time, there is a trend towards the delegation of management of the register to the Notariat¹⁹. The latter, as the principal user of the register, actually has every interest in seeing that it works effectively. Sometimes,

¹⁷ According to the explanatory report of the Basel Convention (No. 11), “Contracting States which decide to set up or appoint several bodies have, in fact, the possibility of choosing between different solutions, for instance :

(i) Instead of one central register, several district registries could be charged with the registration of wills.

(ii) Instead of establishing specific authorities for the registration of wills, other public authorities could be entrusted with the task of registering wills: the registrar could, for instance, register wills by making an annotation to the birth certificate. Upon the death of the person, he could inform the notary or authority with whom the will is deposited, thus facilitating the smooth liquidation of the estate according to the last will of the deceased.”

¹⁸ For an example concerning Finland, cf. *infra*. II.A.1. p.21.

¹⁹ For example, the Dutch register has been managed by the Notariat since 2007 and the Bulgarian register since 2009.



that delegation of power results in the modernisation of the registers, more particularly when they are computerised. For example, in 2009, Bulgaria changed directly from a system where wills were deposited with local authorities to a computerised register of wills, managed by the Notariat²⁰.

H. The registration of changes to the will

Article 4.2 of the Basel Convention provides that “withdrawals, revocations and other modifications of the wills registered according to this article shall also be registered if they are established in a form which would make registration compulsory according to the preceding paragraph²¹.” That is to say, events affecting the will shall also be registered. Most existing registers within the European Union already make it possible to register withdrawals, revocations and other modifications of the wills. This possibility is of great importance because, if the latter deed should be cancelled or declared null and void, the preceding one could apply. It is therefore necessary to be able to find it, and consequently it is also useful to register the modifications, withdrawals and revocations in the register. A European instrument should take this need into account.

I. The obligation to query the register

Whoever the legal professional entrusted with the liquidation of the estate may be, the obligation to query the register of wills should be encouraged. First of all, this obligation already exists in most States having a register of wills²². Secondly, it aims to see that the

²⁰ For further details, cf. *Inventory of the systems for registering and searching for wills in Europe*

²¹ i.e. authentic wills and holographic wills handed to a notary, to a public authority or to any person authorised.

²² This obligation exists in 14 States, Cf. *Interim Report* p. 16-17.



testator's last wishes are respected, by making it possible for those last wishes to be traced. A European instrument for the registration of wills should thus encourage States to establish the obligation to query the register, without however reaching a decision on the nature of the penalties incurred for not doing so.

To sum up, a European Community initiative on the registration of wills would be warmly welcomed on the whole provided that it allowed States to have a certain amount of flexibility in the way their scheme of registration is organised. As the impact assessment conducted on behalf of the Commission points out, "the identification of wills is primarily a national problem and is likely to remain such even in the long term". That is why the principle proposed by the ENRWA, i.e. the interconnection of national registers of wills, would make it possible to develop an effective search system in Europe.



II. The development in Europe of an effective search system

The development in Europe of an effective search system will offer all European citizens the possibility of having their last wishes registered in the State where they are to be found at the time their last will and testament is drawn up, so contributing to the development of the area of Justice, Freedom and Security within the European Union. The IT tools developed by the ENRWA (European Network of Registers of Wills Association) for the purpose of searching for testamentary dispositions over the European territory contributes to the development of such an area, while respecting the national specificities of each register of wills. In fact, the ENRWA has two tools at its disposal:

- The ENRW (European Network of Registers of Wills) which involves automatically interconnecting foreign registers, through the intermediary of an IT platform.
- The ENRW Light which makes it possible for registers that have not yet been computerised to be queried and to query the other registers. It operates through a correspondent, appointed by the register administrator, who will take charge of processing inquiries from and to other registers.

During the “Europe Wills” discussion workshops, the experts emphasised that the ENRWA respects the diversity of judicial cultures of each State and the local technical infrastructure.

However, for some experts, this search system sometimes seems to come up against technical obstacles. These obstacles can, however, be overcome (A). In some States, the development of such a system requires legislative changes (B). Lastly, it does happen that the lack of political will is what stands in the way of the creation of a register of wills and consequently the development of an effective search system (C).



A. Technical obstacles that can be overcome

When the “Europe Wills” discussion workshops were taking place, several technical obstacles to the interconnection of registers of wills were mentioned.

Firstly, names may be changed as time goes by. It may involve a change in family names, first names, names of towns and cities, etc. We do have to bear in mind that many years can pass between the registration and the search for a will. Consequently, several events are likely to affect the data initially registered. A person’s name may change; the name of a municipality of birth may be modified owing to boundary or border changes²³. The search for the will can then prove difficult. The ENRWA, by prioritising the interconnection of national registers rather than a register centralised at European level, makes it possible to overcome this obstacle. In actual fact, each register is best placed to manage changes to the registered data according to its history and its judicial rules²⁴. This knowledge of national specificities makes it possible to transmit accurate information to the other European registers of wills.

Secondly, some difficulties may arise connected with writing and accentuation. Among the Member States of the European Union, two of them have a non-Latin script, Bulgaria (Cyrillic alphabet) and Greece (Greek alphabet). Accentuation also proves different within the different languages using a Latin script. This obstacle is, however, simple to solve insofar as ENRW users undertake to use only the basic Latin alphabet, in its simplified form of 26 letters, without the diacritics and additional letters²⁵. Since this form of writing is

²³ For example, the border between Hungary and Slovakia was redrawn twenty or so years ago: some names of towns were changed accordingly.

²⁴ For example, each register is necessarily aware of the rules of law in force in its country concerning changes to a person’s name (according to marriage, filiation etc.) and of changes to the relevant law.

²⁵ Cf. http://en.wikipedia.org/wiki/Latin_alphabet



widespread throughout the world, it is tending to become international and each European State having a different script or accents has correspondence tables enabling it to translate its own signs and accents into a basic Latin alphabet.

The ENRW Light works on the same principle concerning the information to be completed by the corresponding appointed by the register that uses it. However, for a good understanding of the system, the content of the site²⁶ should be able to be available in the user's language. Now, at the present time, it is translated only into English and French. The translation of these screens into all the languages of the European Union would be necessary if the system is to be rapidly deployed.

Next, the protection of national data is necessary. For example, in Estonia, information about wills is not isolated in a register but appears in a broader file containing information about the entire inheritance and including inheritance certificates. For this reason, Estonia is favourable to interconnection provided that the data are protected and that only pertinent information may be communicated. Technically speaking, this request does not pose any difficulty.

The fact that a national register is not computerised may also be perceived as an obstacle. That is not the case, however: the ENRWA has developed the ENRW Light that makes it possible for non-computerised registers to be able to exchange information with the other registers. This obstacle is tending to disappear insofar as a movement is currently under way in favour of the computerisation of existing registers or the creation of registers directly in an electronic form for the States that do not have one²⁷. The changeover from a paper register to an electronic register does however require the encoding of the references of

²⁶ That is to say all the information that guides the user in the use of the site or that indicates to the user what the field to be completed must contain.

²⁷ For example, Bulgaria directly created a computerised file and the current bills concerning the creation of registers of wills all envisage a register in an electronic form (cf. *infra* II.B p.21).



previous dispositions so that the computer file may be rapidly operational. In fact, if civil law notaries only register the dispositions that they receive subsequent to the computerisation of the register, there is a risk that the register in question is unable to reveal the testamentary dispositions for many years on account of the time lag between the registration of a disposition and the moment when someone searches for it²⁸.

Lastly, the fact that the register is not centralised may also appear as an obstacle to interconnection. It is nothing of the sort since local registers can interconnect with each other, so forming a network, which can subsequently be interconnected with the ENRW at national level. Some experts did however emphasise that the centralisation of the register increases judicial security by grouping information together. However, the choice of creating a central register lies with each Member State.

Consequently, the difficulties that might stand in the way of the development of an effective search system can be overcome. The ENRWA can, of course, provide its advice to the administrators who wish for or encourage co-operation among the European administrators, since those who are constructing a register can take advantage of other members' experience. Some States, however, are not yet at this stage and have to adopt legislation that will give them the possibility of constructing such a register.

B. Necessary legislative changes

The development of an effective search system at European level implies that a register of wills exists within each State. Now, the creation of a national register frequently requires the adoption of a law. At the present time, several Member states that do not yet have registers

²⁸ The testator's death can occur many years after the moment when the will was drawn up.



of wills have embarked on a legislative process to create such a register (1). Furthermore, the legislation of a State may also be an obstacle inasmuch as it may greatly restrict access to the information contained in the register (2).

1. Legislative processes under way

Several Member States of the European Union are currently working on the creation or the modernisation of their registers of testamentary dispositions.

* In **Germany**, the creation of a centralised register in an electronic form requires the adoption of a federal law. A work group has already studied this question and has delivered its conclusions to the Ministry of Justice. Its proposal will have to be subsequently approved by the Bundestag (Legislative assembly) and the Bundesrat (representing the Federated States). The process, however, still risks being a fairly long one.

At the present time, a file of wills does exist in Germany, but it is limited to persons born abroad. From a technical point of view, it is not possible to use this register to extend it to the entire population because it has reached the limits of its capacity. A new register will therefore have to be constructed.

* In **Finland**, a work group of the Ministry of Justice recommended the creation of a central register of wills in 2004. At the present time, no decision has been taken. The creation of a central register is not, however, the only conceivable solution. Finland is thinking about interconnection with registration offices. The latter offices would be well placed to keep the register of wills insofar as they already attend to the population register and the register of prenuptial agreements.



* **In Greece**, the management of wills is organised by the clerks of the courts. The system is, however, imperfect and the clerks are not always able to provide reliable information about the existence of a will. That is why the Greek Notariat has applied to the Ministry of Justice for a central register to be organised at the Athens Court of Appeal. The Ministry agreed and a legislative modification is expected. The operating procedures of the register are not known yet.

* **In Latvia**, at the present time, wills are traced through co-operation among notaries but the system is imperfect. A bill aimed at creating a centralised register of testamentary dispositions (wills, contracts of inheritance, etc.) in an electronic form has been prepared and must be referred to the government. The latter will then have to reach a favourable decision and define the administrator and the rules governing the way the register operates. According to the current timetable, the future register ought to be launched in 2012 at the earliest.

* **In Poland**, the Notariat would like to have a register of wills created and be authorised to manage it. The establishment of such a register would increase judicial security while assuring testators that their testamentary dispositions could be easily found. In order to do so, a law needs to be adopted and is expected shortly. From a technical point of view, the creation of a register of testamentary dispositions should not pose any difficulty insofar as an electronic register of certificates of inheritance (i.e. documents making it possible to prove one's capacity as an heir) exists since March 2009. Some of the principles of the latter register could then be applied to the register of wills, such as the use of the national identification number.



* Finally, **in Sweden**, the creation of an optional official register of wills has been envisaged by the Tax authority. This proposal has been transmitted to the Ministry of Justice and the issue is currently under discussion.

A movement is therefore emerging in favour of the widespread extension of registers of wills in Europe since out of the 28 States questioned within the scope of the “Europe Wills” programme²⁹, 20 have a register³⁰ and 5 have initiated a legislative process aimed at organising, in time, a system for registering and searching for wills on their territory. In this context, the adoption of a Community instrument on the question of registers of wills would act as an incentive for those States that are favourable to the creation of a register, but do not make this a matter of priority. The legislation of one State may also be an obstacle to interconnection owing to its content. The law may actually greatly restrict access to the register, so making transnational searches impossible.

2. Laws restricting access to the registers

The States in which a judicial commissioner is entrusted with preparing the settlement of the inheritance have restrictive laws concerning access to registers of wills. In Austria, Croatia, Czech Republic and Slovakia, at the time of a person’s death, the court appoints a notary according to the date and the place of death. That notary will then act on behalf of the court as a “judicial commissioner”. The notary will be the only one to be able to query the register concerning the testator whose inheritance settlement is being prepared.

²⁹ These are the 27 Member States of the European Union and Croatia.

³⁰ Cf. *Interim report*, p.11.



Such laws stand in the way of the interconnection of the local register with the ENRW or in the way of the use of the ENRW Light. Austria³¹, the Czech Republic and Slovakia do however wish to keep their current legislation. In this context, even though the law is the element that prevents the development of an effective search system at European level, the lack of political will is an important factor.

C. The lack of political will

Some States are not favourable to the creation of a register of wills in their country. It is the case of Ireland.

One of the means of overcoming the lack of political will to create a register of wills might be the adoption of a binding Community instrument. However, this solution would risk coming up against the opposition of many Member States³². Consequently another solution consists of raising awareness among legal professionals in those States so that they co-operate in tracing wills and raise public awareness about the advantages of creating such a register.

To sum up, the ENRWA has the necessary tools for the development of a European network of registers of wills. Judicial security will be increased as a result since testators who choose to have their testamentary dispositions registered will know that those dispositions can be found after their death. However, once they have been found, it seems important that those dispositions may circulate within the European Union, for the purpose of the settlement of the estate.

³¹ In Austria, the exclusive access to judicial commissioner to the register of wills is due to the inheritance proceeding, provided by law. That's why the access to the register is not open to civil law notaries or to others legal professionals. However, the Austrian Notariat supports the interconnection of registers of wills, although Austrian notaries are not in a position to effectively take part in the exchanges. For now, the Ministry of Justice does not envisage to extend the access to the register of wills.

³² Cf. I. A., p.6.



III. The material circulation of wills in Europe

The objective of the ENRWA is to offer European citizens the possibility of knowing where the wills of their close relations can be found³³, regardless of the national register in which they were registered. Once the will has been located, the question of the circulation of that document arises. In actual fact, once the will has been traced, the next stage in the settlement of the inheritance is to obtain the legal instrument, whether it is an original or a certified true copy, for the purpose of examining its content. That is why the experts of the “Europe Wills” programme were asked whether the person with whom a will is deposited in their State would transmit it to the person in charge of the settlement of the inheritance, located in another State.

Among the experts who answered this question³⁴, it is worthy of note that most of the persons with whom wills are deposited would transmit the original document or its certified true copy. However, the document or its copy would not be transmitted unconditionally or without a form of procedure. Those conditions and procedures vary greatly from one State to another, so making it difficult to summarise the situation.

On the whole, the conditions most frequently mentioned are the provision of a death certificate as an essential prerequisite before communicating any information concerning the existence or the content of a will. Proof of status as heir (by law or under the provisions

³³ This search can only take place once the testator is deceased, since the secrecy of the existence and the content of the will is fundamental for the ENRWA.

³⁴ ENRWA received answers from 20 States: Belgium, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Romania, Spain and the United Kingdom.



of the will)³⁵ or proof of the justified interest of the person on behalf of whom communication of the will³⁶ is requested may also be demanded. Sometimes, the capacity of whoever is requesting such information will also have to be proved³⁷. These conditions may be cumulative³⁸.

Some States do however refuse to transmit the will or a copy of it³⁹.

Although most of the persons with whom wills are deposited therefore transmit on principle the will or a copy of it, in practice, it is not easy to obtain the document. Ignorance of the requirements and procedures of the other Member States risks limiting access to the

³⁵ In some countries, the will, or a copy of the will, will only be transmitted to the heirs, and not to the person entrusted with the settlement of the inheritance: this is the case in Romania, in Lithuania (transmission only to the heirs concerned by the will) and in Cyprus (where only the owner of the property concerned by the will may receive a copy of the deed).

³⁶ The expert from the Netherlands pointed out that, on principle, the copy of the will is transmitted to the heir; the civil law notary entrusted with the settlement of the inheritance may however request a copy of it, on behalf of the heir in question. The person with whom the deed is deposited is however entitled to refuse to hand over the document if he has doubts about the fact that the heirs are really at the origin of the transmission request. Such doubts arise more frequently when the request comes from a foreign notary.

³⁷ For example, it may involve proving that the person requesting the transmission of the document is actually a notary. In a similar connection, in Ireland, only the executor of the will may obtain the will, regardless of whether he resides in Ireland or another State. It is sometimes a more complicated matter: in the United Kingdom, they are entitled to settle the inheritance if a part of the estate is located on their territory. It is therefore not necessary to transmit the will. Otherwise, a copy of the will may be transmitted provided that a deed has been deposited in their register.

³⁸ The experts who referred to one or more of the abovementioned conditions to us, apart from those already mentioned, are the experts from Belgium, Denmark, Finland, France, Germany, Hungary, Italy (transmission of the will once it has become a public document, i.e. after the testator's death), Latvia, Malta, Poland, Portugal and Spain.

³⁹ This is the case of Croatia and Greece.



content of the deed containing the testamentary dispositions⁴⁰. This seems to be a necessary stage nevertheless with a view to achieving the mutual recognition of wills. The creation of a European network of registers of wills therefore will not solve the question of the mutual recognition of wills but it will be the first step towards it. Furthermore, the experience acquired by the ENRWA in this area may be useful in the context of the development of future European projects.

⁴⁰ For example, in Bulgaria, the person with whom the will is deposited will only deliver the will personally, which means that the person with whom the will is deposited and the person entrusted with the settlement of the inheritance must be physically present at the same time.



IV. The ENRWA at the service of tomorrow's European citizen

The European Network of Registers of Wills Association (ENRWA) has developed appropriate tools to help the citizens of the European Union to trace the testamentary dispositions of their close relations. The knowledge and the know-how acquired during this activity could therefore be useful to the future projects of Community institutions or legal professionals. Several fields of action are possible (A). Furthermore, the citizens of European States outside the European Union will also be able to take advantage of the services of the ENRWA when their States have created a register of wills (B).

A. The future possible fields of action

At the present time, the work of the ENRWA concerns the connection of European registers of wills: the network that is intended to be created therefore concerns the administrators of registers of wills and not the actual persons with whom the wills are deposited. In future, we could look into the possibility of directly connecting the actual persons with whom the wills are deposited, thereby increasing co-operation between the professionals entrusted with this matter.

Another development could consist of extending the principle of interconnection to other national registers. Work related to marriage settlements is currently under way at Community level. Now, several Member States have registers containing this information. Interconnection of these registers could be envisaged with a view to facilitating the public nature of deeds concerning marriage registers in the European Union.



Furthermore, the technical knowledge acquired from the process of constructing and interconnecting the registers could be shared with institutions working on the development of other computerised registers. For example, some States are thinking about creating civil status registers that could subsequently be interconnected. An exchange of information and/or collaboration on this matter would enable thinking to progress.

It is also intended that the tools developed by the ENRWA should develop throughout Europe, without necessarily being limited to the European Union⁴¹.

B. The ENRWA at the service of the citizens of Europe

The “Europe Wills” seminars were the opportunity to meet specialists in registers of wills from the countries of the European Union but also representatives from States in Europe but not members of the European Union. Those meetings made it possible to know their position in relation to the creation of a register of wills. For instance, information was able to be gathered concerning the situation in Bosnia-Herzegovina (1), in Macedonia (2) and in Montenegro (3). These three States are currently creating their computerised register of wills.

1. Bosnia-Herzegovina

First of all, since Bosnia-Herzegovina is a federation of States, it is important to note that the laws in force in both these Federated States have been brought into line. The federation’s Notariat was founded in May 2007. From the outset, good co-operation was established between the Notariat and the Ministry of Justice. Good cooperation also exists with the Croatian Notariat.

⁴¹ One of the aims of the ENRWA is the creation of a European Network of wills and it is not specified that this aim should be limited to the Member States of the European Union.



At the present time, there is no register of wills and notaries' power does not extend to the field of inheritance. Wills are therefore registered and kept at the courts. Since the latter are not interconnected, searching for a will is a difficult matter. This situation should change shortly since a bill concerning inheritance is on the table. The bill provides for extending the notaries' remit to inheritance matters and the creation of a register of wills, administered by the Notariat. The latter is moreover favourable to the mandatory registration of authentic wills. The Bosnian Notariat is also favourable to registration of all the deeds affecting the devolution of an estate in a register, and prenuptial agreements in particular.

2. Macedonia

The settlement of inheritances in Macedonia is a process similar to the one used in Croatia: the civil law notaries are entrusted with the settlement but, if a dispute arises, it will come within the jurisdiction of the court.

At the present time, a central register of wills does not exist. It is however possible for the notaries to register the deeds that they keep at the court. This system does however have its limits, insofar as the courts are not interconnected with each other and do not exchange information on this subject.

During the inheritance settlement process, the notary is not bound to query the courts to know whether a will has been registered or not. The onus is on the deceased's heirs to search for all the documents necessary for the settlement of the inheritance and consequently to search for the will.

There are already two computerised central registers in Macedonia, the register of mortgages and the register of commercial companies. These experiences could be used as an example for the creation of a centralised and computerised register of wills. The Notariat has moreover already proposed the creation of such a register to the Ministry of Justice.



3. Montenegro

At the present time, the profession of civil law notary does not exist in Montenegro but a bill aimed at establishing the profession is currently being adopted. The newly created Notariat would then be competent in inheritance matters and would be entrusted with the administration of the future register of wills. The representative of the Ministry of Justice expressed the wish to join the ENRWA once this register has been created. For the time being, wills are registered with the courts and kept at the office of the clerk of the court.



Conclusion

The “Europe Wills” programme aimed at contributing to the creation of the European judicial area for citizens in the field of wills, while encouraging judicial co-operation between legal professionals. The discussion workshops were an opportunity for the participants to exchange their best practices and their experiences regarding the creation of registers of wills. Furthermore, those meetings made it possible to draw up a list of recommendations with a view to developing a relevant European regulatory framework.

The implementation of this programme also made it possible to state that the principles governing European files are identical on the whole and that a trend currently exists towards the creation and/ or the computerisation of the registers.

Consequently, a comprehensive inventory of the question of the registration and search for wills within the European Union could be drawn up, giving an overview of the actions to be undertaken in order to succeed in the actual development of a network of registers of wills⁴². The latter network will be at the service of European citizens, while making it possible for them to trace the testamentary dispositions of their relatives wherever they are in the European Union.

The deployment of this network will contribute to the development of the European area of freedom, security and justice, desired by the European Community. In actual fact, the creation of a European area of justice was a priority of the Hague programme of 2004. The Stockholm programme of 2009 now envisages its development for the benefit of European citizens. According to the European Council, access to justice must be made easier, more particularly through on-line justice because it “considers that e-Justice presents an excellent opportunity to provide easier access to justice. In accordance with data protection rules,

⁴² The ENRWA answered the European Commission’s call for proposals in October 2009 (JLS/2009/JCIV/OG) in order to implement these actions rapidly.



some national registers will be gradually interconnected (e.g. registers on [...] wills"⁴³. The aim of the ENRWA is precisely to achieve interconnection while respecting the diversity of national judicial traditions and strengthening mutual trust among the administrators of registers. To this effect, the ENRWA intends to facilitate the mutual recognition of testamentary dispositions and their circulation within the European Union.

Apart from being able to find wills, the aim of the ENRWA is to facilitate the settlement of successions in the European judicial area. In this regard, the know-how acquired by the ENRWA offers judicial and technical support to the European Union enabling the exchange of the documents which are necessary to the settlement of successions in the European Union. The ENRWA could play a major role in the creation and/or interconnection of national registers other than the registers of wills, for example those which contain the European certificates of inheritance, as envisaged by the regulation proposal for a regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession⁴⁴.

⁴³ Council of the European Union, Stockholm Programme –An open and secure Europe serving the citizen, 2 December 2009 (doc. 17024/09

⁴⁴[http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com\(2009\)0154_/com_com\(2009\)0154_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2009)0154_/com_com(2009)0154_en.pdf)



ANNEXES

- 1. Discussion workshops: list of the participants**
- 2. Date of creation and computerisation of the European registers of wills**
- 3. Cost of registering and searching for a will in the European registers**



1. DISCUSSION WORKSHOPS: List of participants



« Europe Wills » seminar

List of participants

Berlin, 28 August 2009

The seminar will be animated by **Mr. Philippe GIRARD**, French civil law notary and by **Mr. Isidoro CALVO**, Spanish civil law notary, both ENRWA administrators.

ENRWA Director, **François-Xavier BARY**, and « Europe wills » project coordinator, **Celine MANGIN**, will be also present.

The seminar will join together:

- **Véronique DE BACKER**, Belgium expert, specialist of private international law
- **Marguerite DE GHELLINCK**, Belgium expert, specialist of Belgium register of wills
- **Thomas DIEHN**, German expert, candidate civil-law notary
- **Richard FRIMSTON**, United Kingdom expert (more specifically expert for England and Wales). Solicitor and Notary Public. Member of the European commission expert group PRM III/IV (Succession and wills) et PRM III (Property consequences of marriage)
- **Barbara REINHARTZ**, Dutch expert, professor at the Faculty of Law at the University of Amsterdam, Member of the European commission expert group PRM III/IV (Succession and wills) et PRM III (Property consequences of marriage)
- **Alexander WINKLER**, Austrian expert, civil law notary

Mr. Klaus EHMAN, the representative of the Ministry of Justice of the region of Baden-Württemberg, Dr BORMANN, managing director of the Federal chamber of the German civil law notaries, and others interested civil law notaries will also be present.



« Europe Wills » seminar
List of participants
Warsaw, 18 September 2009

The seminar will be animated by **Mr. Karel TOBBACK**, ENRWA President and by **Mr. Philippe GIRARD**, ENRWA Vice President.

The UBelgium legal system will be presented by **Mr. TOBBACK**.

The UFrench legal system will be presented by **Mr. GIRARD**.

The USlovak legal system will be presented by **Mr. Peter DANCZI**, civil law notary, member of the analytic group of the Chamber of notaries of Slovak republic.

The UPolish legal system will be presented by **Mr. Jan GIELEC**, civil law notary, Vice President of the Polish National council of Civil law notaries, in charge of all issues concerning the development of new technologies and issues relating to the creation of central registers.

The seminar will be held in the presence of:

- **Lech BORZEMSKI**, President of the Polish National council of Civil law notaries.
- **Pawel CUPRIAK**, civil law notary.
- **Tomasz DARKOWSKI**, Vice director of the department of International cooperation and European law of the ministry of Justice.
- **Jacek FRELICH**, civil law notary, member of the CNUE (Council of the Notariats of the European Union) « Succession law » working group.
- **Joanna GREGULA**, President of the regional chamber of notaries in Cracow.
- **Tomasz JANIK**, member of the Polish National council of Civil law notaries.



- **Zbigniew KLEJMENT**, former President of the Polish National council of Civil law notaries (2003 to 2006).
- **Dariusz KOLOCZEK**, Director of RejNet (the society which sets up the register of inheritance certificate in Poland).
- **Tomasz KOT**, civil law notary, member of the CNUE « European authentic act » working group.
- **Teresa KURZYCA**, Vice President of Polish National council of Civil law notaries.
- **Jacek PRZETOCKI**, civil law notary.
- **Violetta TOMALA**, civil law notary, member of the CNUE « perspectives » working group.
- **Andrzej URBANIK**, Vice President of the Polish National council of Civil law notaries.
- **Jacek WOJDYLO**, civil law notary, former President of the Polish National council of Civil law notaries (2006 to 2009).
- **Maria ZARZYCKA**, civil law notary, former President of the regional chamber of notaries in Cracow.

ENRWA Director, **François-Xavier BARY**, and « Europe wills » project coordinator, **Celine MANGIN**, will be present and also **Aneta BULELA** and **Agnieszka STEPNIOWICZ** from the Polish National council of Civil law notaries.



« Europe Wills » seminar

List of participants

Sofia, 2d October 2009

The seminar will be animated by **Karel TOBBACK**, Belgium civil law notary and ENRWA President.

The seminar will join together:

- **Athanasios DRAGIOS**, Greek expert, civil law notary in Athens from 1999. Lawyer from 1993 to 1998. Graduated in community in law at the University of Bordeaux (France), member of the board of directors of the Athens notary chamber.
- **Achilles EMILIANIDES**, Cypriote expert. He is an advocate, Assistant Professor of Law at the University of Nicosia. He is the legal consultant of the Attorney-General of the Republic of Cyprus with respect to issues concerning the upcoming Regulation on succession and inheritance.
- **Kamen KAMENOV**, Bulgarian expert, civil law notary.
- **Svetlin MIKUNSHINSKI**, Bulgarian expert, civil law notary.
- **Bogdan Constantin IRIMIA**, Rumanian expert, civil law notary from 2007. Previously, he worked as a programmer in the IT field. He also graduated Accounting University in Iasi and he worked as accountant.
- **Kriztina VARGA**, Hungarian expert. She is a member of the Hungarian chamber of civil law notaries from 2000 and associate notary from 2004. Delagate for the chamber of civil law notaries for several CNUE working groups. From 1st January 2009, she manage the Notarial archive of the National chamber and is responsible of the register of wills.



The seminar will be held in the presence of:

- **Dimitar TANEV**, President of the Notary chamber of Bulgaria, civil law notary.
- **Adela KATS**, Vice president of the Notary chamber of Bulgaria, civil law notary.
- **Krassimir ANADOLIEV**, Vice president of the Notary chamber of Bulgaria, civil law notary.

- **Rositsa DICHEVA**, State expert for the Ministry of justice.
- **Violeta OBRETENOVA**, State expert for the Ministry of justice.
- **Ekaterina STOYANOVA**, State expert for the Ministry of justice.

- **Diana CHAKAROVA**, civil law notary, member of the Notary council.
- **Ilia IVANOV**, civil law notary, member of the Notary council.
- **Krassimir KATRANJIEV**, civil law notary, member of the Notary council.
- **Valentina MEHANDJIYSKA**, civil law notary, member of the Notary council.
- **Poelina TIHOVA**, civil law notary, member of the Notary council.
- **Megdelena TSATSAROVA**, civil law notary, member of the Notary council.

- **Mariela BALEVA**, journalist.
- **Elena ENCHEVA**, journalist.
- **Nenka IVANOVA**, journalist.
- **Bogdana LAZAROVA**, journalist.
- **Reneta NIKOLOVA**, journalist.
- **Ivan RACHEV**, journalist.

« Europe wills » project coordinator, **Celine MANGIN**, will be present and also **Lilya GUERDJIKOVA** and **Georgina ZLATEVA** from the Notary Chamber of Bulgaria.



« Europe Wills » seminar

List of participants

Lisbon, 16 October 2009

The seminar will be animated by **Mr. Philippe GIRARD**, and **Isidoro CALVO**, both ENRWA Vice President.

The French legal system will be presented by **Mr. GIRARD**, civil law notary.

The Spanish legal system will be presented by **Me CALVO**, civil law notary.

The Italian legal system will be presented by **Me Valerio AURIEMMA**, civil law notary.

The legal system from Luxembourg will be presented by **Me Patrick SERRES**, civil law notary.

The Maltese legal system will be presented by **Me Joseph Henry SAYDON**, civil law notary.

The Portuguese legal system will be presented by **Nuna Gonçalo SILVA**, de l'Université de Coimbra.

The seminar will be held in the presence of:

- **Me Alex HIMMEL**, President of Portuguese Notariat.
- **Me Jorge SIVLA**, Vice president of Portuguese Notariat.
- **José João ABRANTES**, New University of Lisbon.
- **Alberto COSTA**, Justice Ministry.
- **Alexandre DE SOUSA MACHADO**, Portuguese Catholic University of Lisbon.
- **António FIGUEIREDO**, President of Instituto dos registos e do Notariado (IRN).
- **Luís GOES**, President of ITIJ (Institute of Information technology in the Justice).



- **Mónica JARDIM**, University of Coimbra.
- **Florbela LANCA**, contact point of the European Judicial Network in civil and commercial matters (EJN).
- **Barradas LEITÃO**, Board of Public Prosecution.
- **Ana PADESCA**, civil law notary.
- **João Tiago SILVEIRA**, Secretary of State for Justice.

ENRWA Director, **François-Xavier BARY**, and « Europe wills » project coordinator, **Celine MANGIN**, will be present.



« Europe Wills » seminar

List of participants

Ljubljana, 23 octobre 2009

The seminar will be animated by **Mr. Karel TOBBACK**, ENRWA President and civil law notary in Belgium. ENRWA Director and Director of French register of wills, **François-Xavier BARY**, and « Europe wills » project coordinator, **Celine MANGIN**, will be also present.

Schemes of wills registration and search in Belgium, Bosnia-Herzegovina, Croatia, France, Macedonia, Montenegro, Serbia and Slovenia will be presented.

The seminar will gather together:

- **Caroline Van Daele**, Justice Ministry of Belgium
- **Ana Dezman Mušič**, sector for International cooperation, Ministry of Justice of the Republic of Slovenia
- **Marjana Tičar Bešter**, President of Slovenian Notariat
- **Aleksander Šanca**, Slovenian chamber of civil law notaries
- **Sefedin Suljevic**, President of Bosnian Notariat
- **Ivan Matešić**, Justice Ministry of Bosnia
- **Ivan Maleković**, President of Croatian Notariat
- **Gordana Hanzek**, Croatian chamber of civil law notaries
- **Sašo Gurcinovski**, civil law notary in Macedonia
- **Nadzi Zekiri**, civil law notary in Macedonia
- **Petar Mitkov**, civil law notary in Macedonia
- **Jadranka Vukcević**, Justice Ministry of Montenegro
- **Vojka Janjić**, Justice Ministry of Serbia.



« Europe Wills » seminar

List of participants

Riga, 30 October 2009

The seminar will be animated by **Karel TOBBACK**, Belgium civil law notary and ENRWA President. ENRWA Director and Director of French register of wills, **François-Xavier BARY**, and « Europe wills » project coordinator, **Celine MANGIN**, will be also present.

The seminar will join together:

- **Ineta BALDINA**, Latvian expert, Ministry of Justice.
- **Helena BĀRBALE**, Latvian expert, Ministry of Justice.
- **Edgar GRÜNBERG**, Estonian expert, civil law notary.
- **Salla LOTJONEN**, Finnish expert, Ministry of Justice.
- **Majute VAIDOTA**, Lithuanian expert, legal consultant for the Lithuanian chamber of notaries.
- **Hans Heinrich VOGEL**, Swedish expert, University of Lund.

The seminar will be held in the presence of:

- **Linda DAMANE**, assistant to a sworn notary in Latvia.
- **Inga KALNISKANE**, sworn notary in Latvia.
- **Aigars KAUPE**, sworn notary in Latvia.
- **Eduards VIRKO**, sworn notary in Latvia.



2. Date of creation and computerisation of the European registers of wills

Country	Date of creation of the central register	Date of computerisation of the register⁴⁵
Austria	1972	1972
Belgium	13 January 1977	1977
Bulgaria	17 October 2009	18 October 2009
Cyprus	1920s	Register not computerised
Croatia	10 October 2003	6 October 2004
Denmark	1 July 1932.	Mid-nineties
Estonia	1996	1 October 1996
France	1971	1976
Hungary	1993-1994	1994
Italy	25 May 1981	25 May 1981
Lithuania	1 July 2001	1 July 2001
Luxembourg	1980	Register not computerised
Malta	1859	1999
The Netherlands	1890	1 January 1976
Portugal	1950s	Not yet computerised but this possibility is provided for in the law of 28 September 2007

⁴⁵ The date of computerisation of the register makes it possible to know the date from which the register began to use information technology. All the registers are not at the same stage of development and are constantly changing: an old computerisation date does not mean therefore that no change has taken place since.



Czech Republic	NC ⁴⁶	NC
Romania	January 2007	January 2007
United Kingdom	NC	NC
Slovakia	2003	2003
Slovenia	NC	15 October 2007

⁴⁶ NC= Not communicated.



3. The cost of registering and searching for a will in the European registers

Country	Registration (in euro)	Search (in euro)
Austria	22	Free
Belgium ⁴⁷	17	17
Bulgaria	0.1% of the financial value of the inherited property	NC
Cyprus	6	2
Croatia	15	3
Denmark	Free	Free
Spain	Free	3.47
Estonia	12 (planned to rise to 32)	Free
France	8.70 exclusive of tax	Between 8.70 and 17.40 as the case may be ⁴⁸
Hungary	Free	4
Italy	14.80 of tax + 43.66 of stamp duty	20; if search in a foreign register 28€ per queried register
Lithuania	Free	1
Luxembourg	9.92	9.92

⁴⁷ The amounts are currently being reviewed.

⁴⁸ The cost of querying the Central register amounts to 12.54 euro exclusive of tax for customers who are not notaries irrespective of whether the answer is negative or affirmative, to 8.70 euro exclusive of tax if the customer is a notary and the answer is negative and to 17.40 euro exclusive of tax if the customer is a notary and the answer is affirmative.



Malta	5	11,65
The Netherlands	9	Free
Portugal	Free	Free
Czech Republic	12	8
Romania	Free	5
United Kingdom	10 € approximately (£15)	NC ⁴⁹
Slovakia	3.30	3.30
Slovenia	41	22

⁴⁹ NC = Not communicated.