JUSTICE WITHOUT LITIGATION

Project summary description

JuWiLi II – Justice Without Litigation II

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More and more EU Member States are modernising their civil justice systems by transferring non-contentious tasks from the judiciary to other entities. Procedural standards and the rule of law have to be guaranteed. Thus, notaries, as public office holders, are being increasingly entrusted with such tasks (e.g. in succession, family law, taking of evidence). National systems differ in terms of how they tackle the issues relating to out-of-court justice tasks carried out by notaries. At cross-border level, such procedures need to be facilitated and their enforcement improved through better procedures and case-handling. However, comparisons and systematic knowledge of such 'outsourcing' are scarce. This trend towards externalising justice is only partially reflected in the EU's civil justice instruments.

Building on the results of the first Justice Without Litigation (JuWiLi) project, this project extends and deepens the analysis by including additional EU Member States which might have considerably different approaches to non-contentious procedures. Through systematic data collection, a comparative legal analysis and the identification of common minimum procedural standards, the project aims to enhance trust and facilitate cross-border procedures between the different justice systems of these EU Member States.

The project also extends the economic evaluation to the 22 participating EU Member States, identifies good practice examples in terms of improvements in efficiency, and conducts, for the first time ever in this field, a behavioural economics analysis. A focus is put on the areas of consensual divorces (Brussels IIb Regulation) and successions, while other areas in the first JuWiLi project continue to be covered.

Following a series of events and based on the study results, policy recommendations addressed to the national and EU levels have been developed. They show best practice examples to be followed and the potential need for improvements as to the effectiveness of systems and the coherent application of EU law. Finally, the project contributes to improving daily operational cross-border cooperation and case-handling between notaries in the EU by improving the European Notarial Network (ENN) platform of the Council of the Notariats of the European Union (CNUE). It does so by adding a collegial request-reply mechanism between notaries in 22 countries, which is accompanied by standard forms to avoid as much as possible, these requests and replies having to be translated into different languages.