

Cross Border Electronic Conveyancing

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The Telegraph

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Expat Property

EU pilot scheme guarantees legal certainty when buying property cross-border

EU parliament vice president Diana Wallis MEP has commended a pilot scheme that promises to end the problems experienced by expats when buying property in Spain and other EU countries.



CROss Border Electronic COnveyancing

Home country law of foreign buyer applicable to obligations (not to property rights):

For contractual obligations (Rome I, EC 593/2008)

For non contractual obligations (Rome II, EC 864/2007)

Jurisdiction of home country courts (Brussels I, EC 44/2001)

Contract of sale in home country language

Contract of sale by home country conveyancer



Why law choice

- More trustworthy for foreigners

For example in Spain in 2009, non-Spanish nationals (foreigners) accounted for 12% of the total population

(http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/CH_02_2011).



CROBECO: Respects for...

- **Existing legislation on property rights**
- **Existing techniques**
 - eLodging // eRegistration // eConveyancing
- **Existing responsibilities**
 - Title system < > deeds system



The different systems of Conveyancing

- CROBECO should be used in various systems
 - eLodging (digital duplicate/ original on paper)
 - eRegistration (lodgement of documents in electronic format only)
 - eConveyancing (paperless transactions through most of all stages of the conveyancing process)



Support for foreign CROBECO conveyancers

A toolbox with e-conveyancing solutions for different legislations.



CCRF (rules and advices)

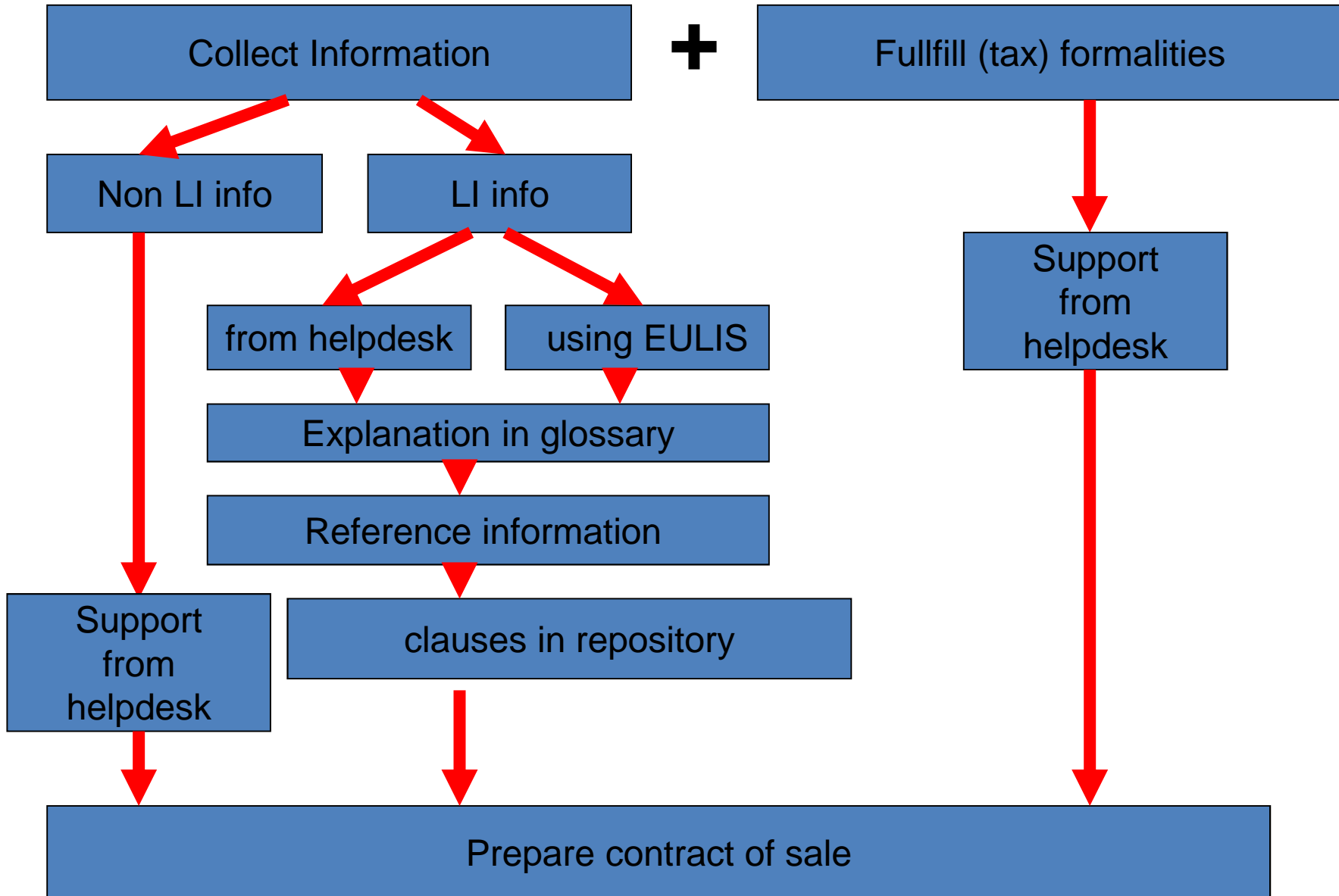
Clauses repository:

- demanded for registration;
- protective clauses

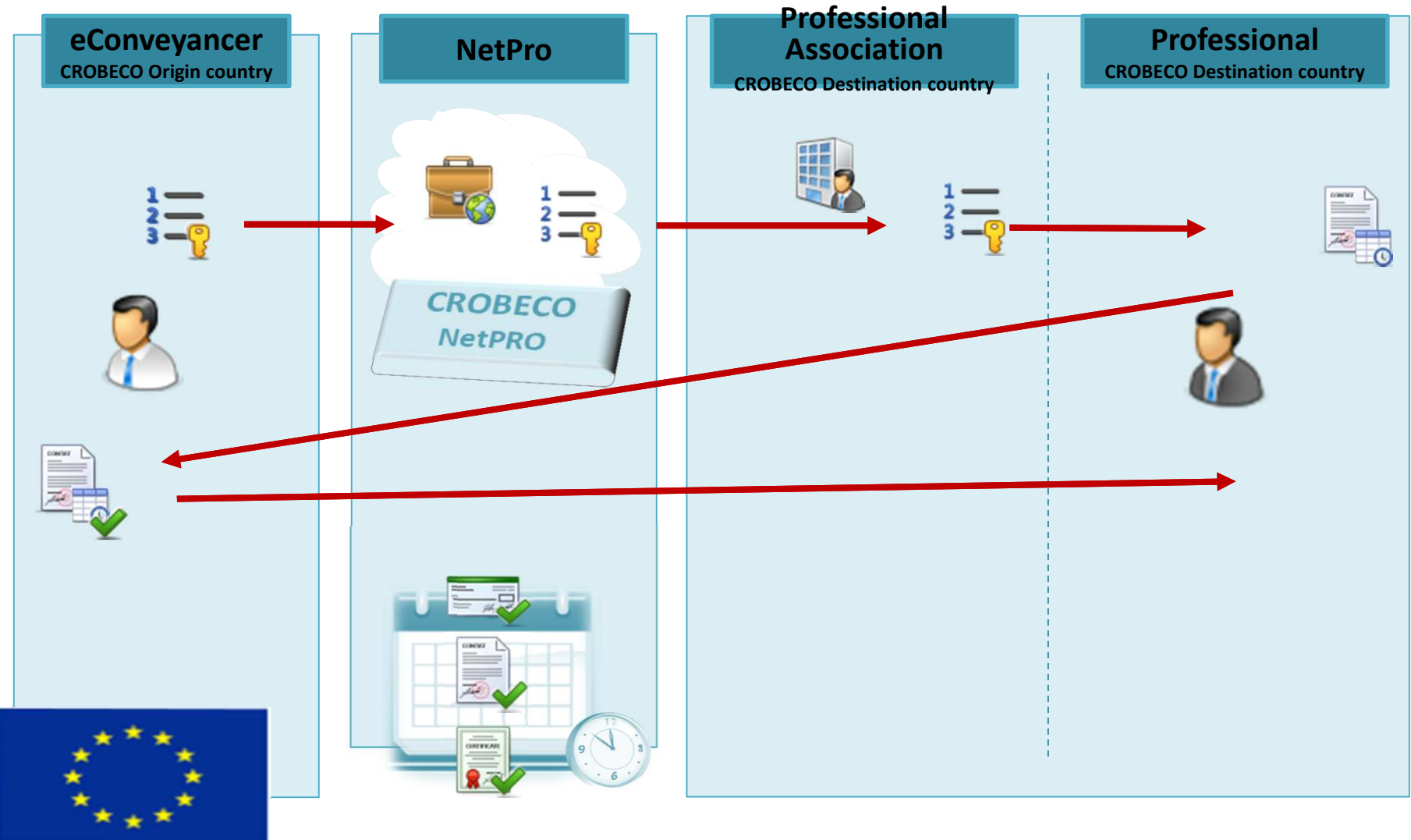
Glossary with explanations of legal terms.

Reference information about legal systems

Tools for foreign conveyancer



Helpdesk procedures and Services



CROBECO-questions

- Is a foreign notary allowed to execute a deed in a foreign language?
- Depends on national legislations.
- For example Dutch Notarial Law (art. 42):

Yes, but only if (s)he has sufficient knowledge of the foreign language → notarial responsibility!



CROBECO-questions

Can a foreign contract be registered/recorded in Land Register ?

Depends on legislation in country of the plot.

Yes for 50 % of ELRA Member States



CROBECO-questions

- Has notary a duty to inform the parties about possibility of law choice?
- Yes (Common Principle 2.4 of the European Notarial code of conduct)



Example



Cruyff



Van Gaal

Seller

Buyer

Buyer and seller agree on contract of sale



Dutch CROBECO notary public



- 'Just around the corner'
- who speaks their own language (e.g.: Dutch)
- Contractual and non contractual obligations will be based on 'own' legislation (e.g.: Dutch Law)



CROBECO preparations



In the Netherlands, collect information :

- from Spanish Land Register in English (EULIS)
- about Spanish public limitations in English (helpdesk)

In the Netherlands, fulfill Spanish formalities with assistance from helpdesk in Spain

In the Netherlands, select clauses from CROBECO repository Netherlands/Spain



Select clauses

ELRA » CROBECO Repository of clauses - Windows Internet Explorer

http://www.crobeco-clauses-repository.eu/form/clauses-repository.html

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crobeco

Repository of clauses

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CROBECO Repository of clauses

Document selection

Document type:



Country / language sender:

Country / language receiver:

This repository consists of clauses that could assist a CROBECO conveyancer, when processing contracts of sale for a foreign country. Some clauses are mandatory, others are advised as protection for foreign buyers. More information about the type of clause is added in guidelines. Although the content sometimes is mandatory, the exact wording is not. No rights can be derived from these clauses and guidelines.

<< Back Select clauses >>

The European Commission supports ELRA through the framework programme for judicial cooperation in civil matters



Executing bilingual deed



Seller



Buyer



Notary



Dutch notary
public

~~Copy of
contract~~

Spanish Land Register

