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Panel Speech/statement:

Successions

More and more European citizens take advantage of the Internal market, live in another Member State and have family members or own property (houses, bank accounts) in more than one Member State. Upon their death, their potential heirs often face great difficulty, long delays and high legal costs in trying to obtain their inheritance. Around 4.5 million people die each year in the EU. Assuming that the value of the average estate is about 137,000 euro (about 5.5 times the average per capita gross national income), then the total value of the estates per annum would be 646 billion euro. The study currently estimates that about 1 in 10 (that is, about 450,000) successions in the EU have an international dimension.

The 2008 work programme of the Commission plans the adoption of an instrument in the field of successions for the first semester of 2009. The Hague Programme adopted by the European Council of 4-5 November 2004, a five-year programme for closer co-operation in justice and home affairs at EU level from 2005 to 2010 has already highlighted this file as priority. The Hague Programme called on the Commission to present a Green Paper on succession covering a range of issues – applicable law, jurisdiction and recognition and administrative measures (certificates of inheritance, registration of wills). The Green Paper on successions and wills was adopted on 1st March 2005.

The future proposal is an answer to the current problems existing in this area for citizens as showed by the consultations and study undertaken by the Commission, *inter alia* : difficulties for citizens to predict which country and body has competence to handle the international jurisdiction, conflicting laws applicable to the same succession (which law of which country should be applied to which case), restricted recognition and enforcement of decisions and documents but also of the status as an heir or as an administrator/executor. These difficulties cause legal insecurity for citizens as showed by the consultations.¹

The adoption of the Commission's proposal foreseen for 6 April was postponed for technical reasons. Nevertheless, the proposal could be adopted before the end of the current Commission.

The initiative should cover rules on jurisdiction, on applicable law and on recognition and enforcement of decisions. In order to enable international successions to be settled rapidly, a European Certificate of Succession should be introduced on basis of a uniform model. It will facilitate the circulation in the Union and an authority appointed would have the international competence to issue it. This authority will include notaries.

¹ Example :A French citizen whose last habitual residence was in Germany dies, leaving movable property (e.g. bank accounts, shares) in both countries. The authorities of both Germany and France would have competence to handle the case (cf. point 3.1.2). Applying their own national conflict of laws rules, the German authorities would apply French succession law to identify the heirs, whereas the French authorities would apply the German rules. As a further consequence, conflicting judgments will be given by French and German courts with regard to the succession of the same deceased person, and recognition will be denied to the French judgment in Germany as being in contradiction to the German judgment, and *vice versa*.