

Communication policy in European projects: to what extent non-expert users can better and easier perceive and understand the European legal framework

Sara Conti*
Ginevra Peruginelli*

**Istituto di Informatica Giuridica e Sistemi Giudiziari, National Research Council of Italy (IGSG-CNR)*

Abstract. Effective and clear communication on legal issues and related implications in EU-funded research and innovation projects is a fundamental requirement which allows partners to achieve project outcomes according to the EU legislation. As a matter of fact, law permeates every aspect of society and it has an undeniable impact in every daily activity under European projects tasks. Partners without legal background and expertise should be considered as “non-experts” when facing with legal information. In particular, the use of a specialized terminology, as it is language of the law, accentuates communication difficulties and prevents to this target group to understand and be understood.

Keywords. Role of legal science, European projects, Legal communication.

1. Law and society: a first premise

In our complex society, law regulates our social, political, and economic activities from birth to death. In particular law as a science has an ambiguous identity, somewhere between the humanities and the social sciences, having features in common with both. At the same time law is really distinct from both. There is an interesting debate on the role of academic legal research in which consideration is given to ‘law as a practical discipline’, ‘law as humanities’ and ‘law as social sciences’ (Siems and Mac Sithigh 2012). All three categories are able to map how far institutions, individuals and legal cultures belong to one or more of these categories.

Every description of law includes a series of interpretations and offers as many hypotheses about the meaning and scope of legal concepts, rules, principles, that may be confirmed or falsified through scientific research. Roughly speaking, law is a scientific discipline in its own right with a methodology that is quite comparable to the methodology used in other disciplines. However, there is no agreement among legal theorists on the nature of legal science as a discipline, even independently from differences among national traditions of legal scholarship. A description of law is closely linked to its interpretation and the legal scholar is wording hypotheses about its existence, validity and meaning (van Hoecke, 2011 p. 31).

All of this calls for law to be considered strongly interlinked with society. Law and society should be considered a two-way street with a boulevard down the middle. Law shapes society in complex and, often, unclear ways. At the same time, society is not passive: it also influences the quality and quantity of law (W.A. Bogart, 2002).

The study of law and society rests on the belief that legal rules and decisions must be understood in context. Law is not autonomous, standing outside of the social world, but is deeply embedded within society.

The last decades have witnessed enormous change – in technology, through the globalization of economies, and in politics. The role of law has been key in many of these transitions.

In such a context, also research activities imply an in-depth legal analysis of the main project issues and require more and more expertise and competences in law. In particular, researchers should always design and locate their research initiative within a legal framework. This includes the identification and study of pertinent laws and regulations that may affect the project. Large infrastructure projects often have particularities with significant legal implications. It is thus very important during appraisal to assess the adherence of several aspects of the project to the general legal framework.

This paper fits into this context and aims at firstly offering an overview of how EU legal framework compliance should be considered a crucial part of European projects activities and secondly trying to imagine and design a suitable way of communication for an effective awareness and understanding of legal issues. Guidelines could be elaborated according to a visual oriented approach in order to guide also non-expert partners in every step of the European projects' documentation where legal issues and related implications are involved.

2. Vulnerability and lack of legal literacy: a second premise

Vulnerability may be defined in different ways and may arise as a result of being in vulnerability due to age, potential marginalization, disability and due to disadvantageous power relationships. As a matter of fact, many are the definitions of vulnerable people. The World Health Organization refers to vulnerability as the degree to which a population, individual or organization is unable to anticipate, cope with, resist and recover from the impacts of disasters (Wisner, B., Adams, J. & World Health Organization, 2002). The Council of Europe refers to vulnerable groups including people with disabilities; migrants, asylum seekers and refugees; children¹.

However, this definition could include different categories of people according to the context in which the term is used. For example, in coronavirus pandemic vulnerable categories include people at high risk (clinically extremely vulnerable) and seriously ill (clinically

¹ <https://www.coe.int/en/web/europarisks/vulnerable-groups>

vulnerable).

It is clear that the term refers to weak people who find themselves in a situation of difficulty. In the context of this paper, participants in a project may not be conventionally 'vulnerable' but may be in a dependent relationship that means they lack an adequate level of legal competences and legal literacy which cause critical implications in taking part of daily work activities.

In particular, the lack of understanding of legal language make these people unable to manage and work profitably on European projects for which they have been called to operate. The lack of legal expertise and the inability to identify the critical issues related to law involved in the project put these kinds of people on the sidelines and do not allow adequate performance according to the objectives and results required by the projects.

An example could clarify the critical issues to tackle within European projects. Privacy topic reveals the importance of considering and understanding law related issues within national European and international projects. New privacy laws have made it mandatory to consider any privacy issues in any IT project. If we think on elderly people with dementia, they often lose track of where they are. A smart watch can offer a number of helpful features, by tracking location and giving directions. However, it is also a potential invasion of the privacy. Many are the privacy concerns involved in: a) User consent. Informed user consent is necessary to collect data, but in the case of an elderly person with a severe case of dementia, it is not clear who should consent. Is the person itself capable of deciding? b) Long term storage. In order to provide the core service, it is not necessary to store past locations of each user, but the team might want to store this data in order to improve the product later on. All these legal issues should be well considered and solved in a way that the recipients of the projects can benefit from the solutions. On the basis of this simple example, the paper focuses on partners of European projects as target group requiring support for understanding legal frameworks, managing legal information and the legal implications and consequences of the impact of law on the activities and tasks of European initiatives.

3. Legal framework compliance in conducting research activities under European projects

Research and innovation contribute directly to the level of prosperity in the EU area and to the well-being of individuals and society in general. The Treaty of Lisbon strengthens European Union (EU) action in the field of research and innovation with the aim of creating a European Research Area under the umbrella of the EU legal framework (*see fig. 1*).

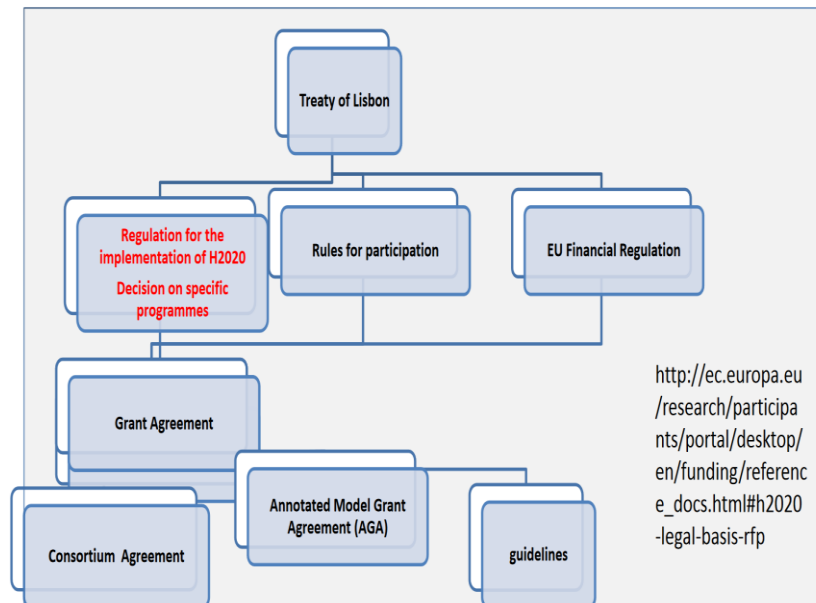


Fig. 1 Role of law in Horizon2020

Laws and regulations that provide the legal framework for each research area, at the same time ensure researcher's activities compliance to the EU regulatory environment and determine how research and studies have to be conducted.

Effective and clear communication on legal issues and related implications in EU-funded research and innovation projects are fundamental requirements which allow partners to achieve project outcomes according to the EU legislation.

As a matter of fact legal implications are an integral part of any research activity in any area of science. The dimension of issues EU researchers should cover in their activities is very wide: from facing environmental challenges to improving public health, to mitigating natural disasters and ensuring nuclear safety and security.

All the diverse domains are regulated by different legal provisions and regulations which need a specific and strong competence in law. For this reason, it is extremely crucial that researchers involved in European projects tasks master legal knowledge. However, quite often these competencies are lacking and this creates significant gaps in the management and organization of these initiatives. Furthermore, if legal expertise is available it is not necessarily capable of covering all the legal aspects involved.

Partners without legal background and expertise should be considered as "non-experts" when facing with legal information. Moreover, the use of a specialized terminology, as it is language of the law, accentuates communication difficulties and prevents to this target group to understand and be understood.

Walter Hallstein, the first President of the European Commission in his speech delivered in March 1962 very well highlighted that the Community: "was not created by military power or political pressure, but owes its existence to a constitutive legal act. It also lives in accordance with fixed rules of law and its institutions are subject to judicial review. In place of power and its manipulation, the balance of

powers, the striving for hegemony and the play of alliance we have for the first time the rule of law. The European Economic Community is a community of law.....because it serves to realize the idea of law”.²

It is precisely on this idea on the value of the European Union and the pursuit of European integration that the current debate is concentrated: the role of law is put as one of the fundamental elements at stake. Despite all the differences among Member States, the European legal framework should operate as a common rule to protect the common value on which the EU is founded and to spread up the correct functioning of European institutions and activities.

More specifically, the rules of EU have contributed to European integration in two different ways: by replacing divergent national legislation by supranational law (regulations) and by harmonizing divergent national rules by directives.

Therefore, it is extremely important to have an in-depth knowledge of the European legal framework which regulates a specific domain in order to guarantee that every conducted activity follows relevant rules, laws and regulations.

“Research&Innovation” sector at EU level mainly reflects the value of legal framework compliance: it is fundamental to carry on all the research activities under the umbrella of the EU legal framework in order to give consistence to research activities, results and findings.

European projects and related research activities encompass a diverse spectrum of disciplines and fields. With such a diverse range of activities and complex context environment, it comes an equally composite collection of laws, regulatory requirements and best practice standards that apply or are relevant to the research operations themselves.

Just as individuals observe rules and laws to ensure well-being and good order of society, European projects’ teams have to manage research activities within legal requirements.

Some examples could help to underline the influence and impact of legal questions in every activity of research. The issues related to data in the EU are constantly developing and will continue to evolve as the data economy remains at the center of attention in the next EU legislature. The specific questions pertaining to this topic, namely are privacy and data protection, anonymization and pseudonymization, security and cybersecurity, breach-related obligations, supply of digital content and services, the free flow of data, liability, intellectual property rights, data sharing obligations, data ownership, data sharing agreements, competition, trust, surveillance and free will, discrimination, transparency, consent, control and data ownership.

All these issues together or individually should be deeply considered in European projects and partner teams should be able to have all the legal instruments to tackle these topics stemming from project implementation.

4. Research team without legal background. How can they better perceive and apply the law?

² W. Hallstein, *Europäische Reden* (1979), pp. 343-344, translation after: T. von Danwitz, 'The Rule of Law in the Recent Jurisprudence of the ECJ', *Fordham International Law Journal* 37.5 (2014): 1311-1377, p. 1312-1313

For many activities led under European projects, legal issues are an integral part of research from the beginning to the conclusion, and legal framework compliance is seen as pivotal to achieve authentic research excellence. And this is applicable in all domains of research.

The Document of Activities (DoA, or Document of Work - DoW) which highlights how the Project actions have to be carried out, also contains specific tasks dedicated to “legal issues”.

Even if the core of a specific project is not “legal”, “specific legal tasks” are very often foreseen in order to guarantee European legal framework compliance and, in the meanwhile, to give researcher teams a better knowledge of the pertinent and relevant laws which regulates all the activities of the project itself.

Furthermore, the need for effective and clear legal communication in European projects is a fundamental need which guarantees researchers to carry out the outcomes and goals of the projects according to the EU legislation.

The obscurity of legal language, in particular, is one of the main concerns in almost all legal traditions. An impulse towards improving transparency and clarity has been provided by the plain language movement, which has mainly addressed the language of the law and contract. As Vittorio Scialoja, lawyer and Italian politician wrote “...law is the art of tracing limits, and a limit does not exist unless it is clear... And since there is no juridical thought except in so far as it is clear, all that is obscure may perhaps belong to other sciences, but not to law” (Scialoja, 1941)³.

In this context, it is of the utmost importance to render as much as possible understandable the legal framework under which the research should be conducted.

This is why at the beginning of the European Project “legal tasks” should provide researcher teams with targeted and easy-to use guidelines about relevant legislation which affect the specific domain.

In its general definition, a guideline is “an indication or outline of policy or conduct”⁴.

Thus, researchers with a legal background are called to give their support to researchers teams in elaborating such “guidelines” to provide the boundaries of the project activities ensuring their compliance with the specific European legal framework.

The guidelines should explain the main issues of a law or regulations with the reference to simple phrases without a legal jargon and using a visual oriented approach.

5. Towards a new way of legal communication in EU projects: a visual oriented approach

In such a context, visual law techniques should contribute to better understanding and applying law, enhancing the value and usability of

³ The Italian original version is: “Il diritto è arte di tracciare limiti, e un limite non esiste se non in quanto sia chiaro”... “E poiché non vi è pensiero giuridico se non in quanto sia chiaro, tutto ciò che è oscuro può appartenere forse ad altre scienze, ma non al diritto!”

⁴ Definition of Merriam-Webster dictionary.

such guidelines.

When information is visually presented, efficient human capabilities develop to perceive and process data (Kapler & Wright, 2005). The power of visualization lies in the fact that the human brain has the potential to identify images and other visuals very quickly⁵. Not only it simplifies the learning process but also helps legal learners to understand the concepts more clearly, reinforcing cognition.

Visual elements can take different forms: images, charts, concepts maps, infographics, videos, pull-quotes, memes, diagrams or annotations—any component that breaks the tedium of plain written text and boosts the user's attention (Conti S. et al, 2019).

At the same time, this approach should improve the good quality of research activities and helping in ensuring the coherent and consistent application of EU law everywhere in the Member States.

Visual instruments can help researcher teams working in European projects in clarifying connections among content legal elements. Graphics and maps can be used to visualize and organize the laws in a visual manner in order to facilitate the researchers' learning and understanding of a difficult legal jargon.

The explosion in visual representations of legal concepts and processes should be a thrilling innovation which can expand access to law also for researchers without a legal background (Conti S. et al., 2019).

In particular, graphics can play a crucial role in promoting legal understanding. They should not only be used to add visual interest to a screen. Law can be made more comprehensible if it is made more visual.

This means illustrating cases, creating flowcharts out of rules, and thinking about how complicated legal text can be converted into clear and easy graphic presentations (Conti et al., 2019).

Relevant graphics can facilitate learning and understanding by:

- drawing attention to a specific legal content element;
- suggesting analogies between new content and familiar legal knowledge;
- supporting the understanding of difficult legal concepts
- motivating researchers when face legal issues by creating visually attractive materials more interesting and easier to consult
- increasing knowledge and expertise on a specific legal topic

The increasing use of visual law design techniques in the legal context should facilitate the activities conducted by researcher teams without a specific legal background, resulting both in an advantage for a better and fast knowledge of legal topics and for improving legal competence in a speed way.

At the same time, the use of visually attractive technique to render easier and more comprehensible the knowledge of legal issues should achieve advantages in terms of saving time in the researchers daily work/study. The more researchers learn and understand a visually attractive material, the more they enjoy and improve their knowledge in a more focused, clear and intuitive manner.

⁵ Visual representations create the advantage of expanding human decisions within a large amount of information at once.

The process of enhancing satisfaction by improving the usability, accessibility and pleasure provided in the interaction between the user and the product (Babich, N., 2017) should represent the key element describing the importance of application of visual techniques to better explain and communicate legal issues in the context of European Projects.

Visual design techniques should be also used for overcoming language barriers that could exist among different researchers coming from the Member States (Conti S. et al., 2019).

Across European Union boundaries, there is a general need for a wider access to and understanding of legal issues which regulate European project activities. One of the most significant obstacles to sharing knowledge in European projects is language barriers, especially when legal issues come at stake.

The majority of researchers are able to understand and speak English language in addition to their principal mother tongue language. However sometimes English legal language as communication tool creates misunderstandings as it does not reflect the national legal concepts belonging to each legal system.

In this context visual law techniques should provide linguistic support to researcher teams activities and could have a great impact on how researchers, without legal background, understand legal information.

The use of graphic design and images provides excellent learning experiences and helps comprehend the content of a legal content better⁶.

The transformation of legal text in images, charts, concepts maps, infographics, videos, pull-quotes, memes, diagrams or annotations should carry on towards a common and uniform lesson learned more clear even if it is not deployed in the mother language.

The synthesis, summarization, simplification, and interpretation required to produce visual representations of law have the potential to support understanding for everyone by making legal content more discoverable and reusable (S. Frug, 2019) and making the civil justice system more equitable and accessible.

6. An overview of some European projects: common features and critical issues in communicating the law

Successful communication of law related issues becomes an essential activity within researcher teams where no legal background is shared. In general, research is supposed to be carried out with a high degree of knowledge and expertise in the specific domain of single projects. To become a “good” researcher an appropriate discipline-dependent skills

⁶ An overview of legal products is offered by Legal Design Lab, an interdisciplinary team based at Stanford Law School & d.school, building a new generation of legal products and services (<https://www.legaltechdesign.com/>) . For critical issues and challenges see Vol. 7 n. 1 and Vol 8 n. 2, 2020 of Journal of Open Access to Law

and professional development at all stages of the research activities are mandatory. Nevertheless, where legal issues impact such activities, there is a concrete need for legal consultants beyond the competences required in the single domain of European projects.

To ensure that researchers without legal background have appropriate skills and competences to reach the project's goal legal expert opinion is required. Legal tasks are often foreseen to give researchers teams a fundamental instrument to better understand and learn the pertinent and relevant laws which regulates all the activities of the project itself. The wish is the elaboration of practical oriented materials to be consulted by all researchers regardless their field of competence.

In European projects whose core is not "legal", specific legal tasks are foreseen in order to help researchers without legal background to carry on activities as to be compliant with the European legal framework which regulates the domain.

Two main examples might be useful to underline the need of legal expertise and of specific guidelines.

1. EJP (European Joint Programme) Soil Project is a Horizon2020 funding project, aiming at creating an enabling environment to enhance the contribution of agricultural soils to key societal challenges such as climate change adaptation and mitigation, sustainable agricultural production, ecosystem services provision and prevention and restoration of land and soil degradation. EJP SOIL will build a sustainable European integrated research community on agricultural soils and will develop and deploy a roadmap on climate-smart sustainable agricultural soil management⁷.

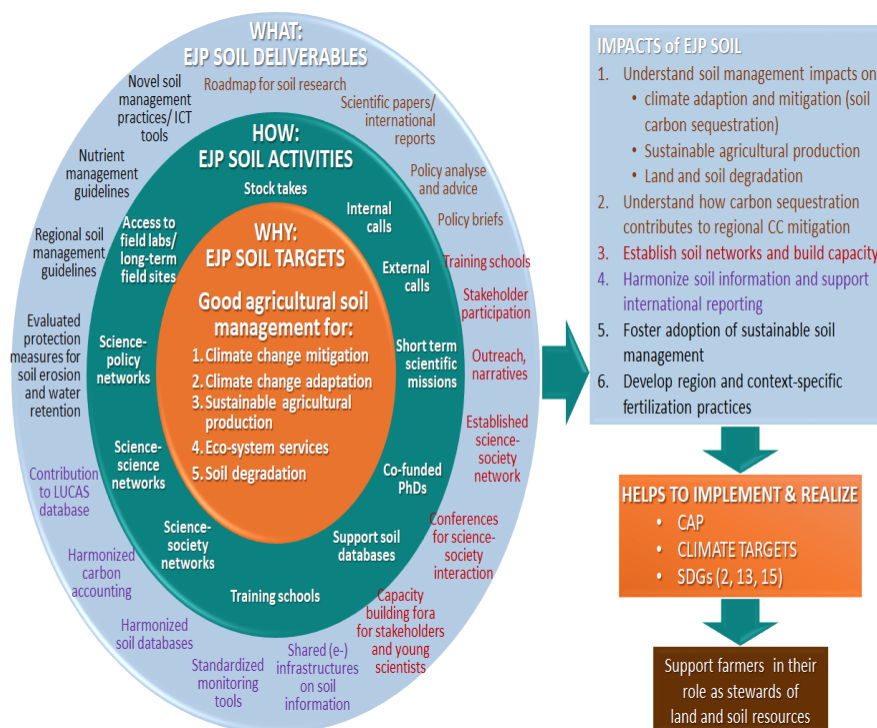


Fig. 2 EJP soil map activities

⁷ <https://www.era-learn.eu/network-information/networks/ejp-soil>

In this context the sharing of soil data according to the relevant laws and regulations which apply to, represents a fundamental element to reach the Project goal.

A dedicated legal task is devoted to elaborate a document on a common policy for data sharing among EJP SOIL partners, which will also consider the collection of data and the relevant laws for the domain. More specifically, the aim of the task is to develop an easy guideline on the legal framework which regulates soil data sharing to be used by researchers without a legal background.

2. Happen (Holistic ApProach and Platform for the deep renovation of the med residential built ENvironment) Project is a Horizon2020 funding project aiming at stimulating the market uptake of deep retrofitting of buildings, with special regard to the Mediterranean area and to the residential built stock.

The General Data protection regulation on data protection (GDPR) applies to the collection of personal data under the Happen Project.

A specific legal task on GDPR carried on by legal experts has to describe in details the procedures, criteria, informed consent template drafting, storage and treatment of data to be collected, and any other issue related to data processing within the Project. The outcome of this task is to produce the Project internal guidelines on data and privacy protection. The results intend to provide a state of the art of the legal framework at EU level in order to identify those rules applicable to the Project purposes.

Both these European initiatives are significant as they note how the construction of a clear legal context in which the project is positioned has a fundamental impact in the different work packages of European projects.

7. Conclusions

It should be noted that today most European projects foresee specific work packages dedicated to design the legal framework in which the project is located considering all related legal implications. Of course, these legal tasks are preparatory to the other tasks and are carried out at the beginning of the project. The hope is that more and more projects' structure would include a legal section guided by legal experts able to assist all the *iter* of research activity. This would make it possible to resolve a series of legal issues that are often encountered, for example in the collection, management and dissemination of data.

Visual law techniques have the objective of bringing the legal world closer to people who have no training or experience in the legal field. In the context of European projects and their development, the intent is to place all partners at the center of the Project in every step of the initiative and to make the experience more intuitive, usable and inclusive. These techniques intervene precisely in the junctions of "misunderstanding", as a "disruptive" element to clarify as much as possible and make it understandable to all (experts and no-experts) the tortuous paths that the law follows.

References

- Bogart W.T. (2005), *Consequences: The Impact of Law and Its Complexity*, University of Toronto Press, pp. 23–50.
- Conti S., Peruginelli G., Francesconi E., *The e-learning approach and visualisation techniques in the judicial area*, in Joal special issue on Visual Law, Vol. 7, n. 1 (2019).
- Frug S., *Toward Inclusive Design for Visual Law*, in Joal special issue on Visual Law, Vol. 7, n. 1 (2019).
- Scialoja V. (1911), *Diritto pratico e diritto teorico*. Rivista del diritto commerciale, Vol. IX, No. 1, p. 942.
- Siems MM, Mac Sithigh D (2012). *Mapping Legal Research*. Cambridge Law Journal, Vol. 71, No. 3, pp. 651-676.
- van Hoecke M (2011) *Legal Doctrine. Which methods for what kind of disciplines*. In: van Hoecke M (ed) “Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?”, Hart Publishing, Oxford, p 1-17.
- Wisner, B., Adams, J. & World Health Organization (2002) *Environmental health in emergencies and disasters: a practical guide* <https://apps.who.int/iris/handle/10665/42561>