



Simplifying the acceptance of public documents

Stephan Matyk
EUROPEAN COMMISSION, DG JUSTICE
Unit A1 – Civil Justice Policy
26 November 2013



Today: cross-border personal and business relationships are a reality...

- 14 million citizens reside in a MS other than their MS of origin
- 13% of all marriages in the EU are international
- 50% of SMEs are engaged in cross-border activities

...but citizens face burdens when moving between Member States...

- Citizens must present public documents to benefit from right or comply with obligation:
- Administrative formalities to authenticate a public document:
 - Legalisation
 - Apostille
- Certified translations of public documents
- Costs
- Legal uncertainty

Costs and challenges in the EU

- **Apostille:**
 - 1,4 million public documents / year
 - Time for obtaining an Apostille: up to 6 months
- **Certified translations:** 1,6 million public documents / year
- **Total costs:** €330 million / year
- **Fraud prevention:** no structured administrative cooperation among MS



Costs and challenges in the EU

Fragmented legal framework:

1) International conventions

- Hague 1961 Apostille Convention
- 1968 Council of Europe Convention
- CIEC Conventions

2) EU law:

- 1987 Convention
- Brussels I Regulation
- Brussels IIa Regulation and more...

Result: only some documents, only some MS

=> legal uncertainty



... so citizens' rights, based on the Treaty, are often frustrated

- Article 21 TFEU:
 - **free movement of citizens**
- Article 114 TFEU: internal market:
 - **freedom of establishment**
 - **freedom to provide services**



Background of COM proposal

- **2009 Stockholm Programme:**
 - priorities in Justice and Home Affairs 2010-2014: citizens
 - request COM to present proposal to eliminate legalisation formalities between MS
- **2010 COM Green Paper:**
 - free movement of documents
 - recognition of the effects of certain public documents (civil status)
- **2011 COM Single Market Act:**
 - elimination of barriers to internal market freedoms by citizens and businesses



COM proposal

- Presented on **24 April 2013**
- Proposal for a Regulation on promoting the **free movement of citizens and businesses** by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012
- **Legal basis:** Articles 21 and 114 TFEU



Key elements of COM proposal

- **Abolishing formalities:** 'legalisation' and 'Apostille'
- **Certified copy** instead of original, or plain copy with original
- **Non-certified /certified translations** of public documents issued by other MS must be accepted
- Introduction of **EU multilingual standard forms**
- Improving **administrative cooperation** between MS to fight against fraud

Scope

The Regulation:

- will apply **between MS**, taking precedence over international agreements as between them
- will **not affect** the relationship between MS and **third countries**
- **complements** other specific EU-instruments

Scope

The Regulation:

- concerns the **authenticity** of public documents presented in another MS
- does not provide for the recognition of **effects** of public documents in another MS
- **does not harmonise** national public documents or substantive law

What is a public document?

- a document issued by a **public authority** (including private entities entrusted with public duties)
- having **formal evidentiary value**
- relating to one of the **12 categories** covered by the Regulation

Documents covered: 12 categories

Civil status

- Birth
- Death
- Name
- Marriage
- Registered Partnership
- Adoption
- Parenthood

Business

- Legal status and representation of a company or other undertaking

Other areas

- Real estate
- Citizenship and nationality
- Residence
- Absence of a criminal record

Better fraud prevention

- **Proposal promotes principle of mutual trust**
- **But, in case of reasonable doubt on authenticity of document, in particular:**
 - authenticity of signature
 - capacity of person signing
 - seal or stamp
- **Which cannot otherwise be resolved =>**

Better fraud prevention

- **Structured administrative cooperation**
- Possibility to submit a **request for information directly** to issuing MS or to go via the Central Authorities
- MS will designate (one or more) **Central Authority** and communicate contact details (publicly available through EJN)
- **Main function of Central Authorities:**
 - Receive and transmit requests for information
 - Supply information needed for requests



Better fraud prevention

- **Other functions of Central Authorities:**
 - Exchange best practices on acceptance of documents, prevention of fraud, use of electronic versions of documents
 - Establish templates of public documents
 - Through use of European Judicial Network (EJN)
- **Requests for information:**
 - Individual and specific
 - Response within a month
 - If authenticity not confirmed, no obligation to accept



Better fraud prevention

- Contacts between receiving and issuing authorities through the **Internal Market Information System (IMI)**:
 - Internet-based software application developed by COM and MS to facilitate information exchanges
 - Applied since 2008, covers other EU instruments
 - (Multilingual) Repository of models of national public documents
 - Multilingual pre-translated standard questions and answers

EU multilingual standard forms

EUROPEAN UNION MULTILINGUAL STANDARD FORM CONCERNING THE LEGAL STATUS AND REPRESENTATION OF A COMPANY OR OTHER UNDERTAKING			
Article 11 of Regulation (EU) [Add number and title of this Regulation]			
1 MEMBER STATE	2 ISSUING AUTHORITY		
3 EU MULTILINGUAL STANDARD FORM CONCERNING THE LEGAL STATUS AND REPRESENTATION OF A COMPANY OR OTHER UNDERTAKING			
4 NAME OF THE COMPANY OR OTHER UNDERTAKING			
5 LEGAL FORM			
6 NATIONAL		7 EUROPEAN	
8 REGISTERED OFFICE			
9 DATE AND PLACE OF REGISTRATION		Da	Mo Ye
		__	__ ____
10 REGISTRATION NUMBER			
11 NAME(S) OF THE AUTHORISED REPRESENTATIVE(S)			
12 FORENAME(S) OF THE AUTHORISED REPRESENTATIVE(S)			
13 FUNCTION OF THE AUTHORISED REPRESENTATIVE(S)			
14 IS (ARE) AUTHORISED TO REPRESENT			
15 ALONE		16 JOINTLY	
17 DATE OF ISSUE, SIGNATURE, SEAL		Da	Mo Ye
		__	__ ____
<i>Legal note: This EU multilingual standard form is made available by the authorities of the issuing Member State and may be requested alternatively to the equivalent public document existing in that Member State. It shall not prejudice the use of an equivalent national public document drawn up by the authorities of the issuing Member State. It shall have the same formal evidentiary value as the national equivalent of the issuing Member State, and it shall be used without prejudice to the substantive law of the Member States relating to the legal status and representation of a company or other undertaking.</i>			

• 5 Forms:

- Birth
- Death
- Marriage
- Registered partnership
- Legal status of a company

• Optional:

- issued at citizen's request
- under the same conditions

• Parallel: does not exclude use of domestic documents

• Same evidentiary value as domestic documents

• Aim: reduce translation requirements

Review

- Every 3 years, **COM report on application** of Regulation
- **With proposed amendments**, including on:
 - Extension of scope
 - Additional EU multilingual standard forms



European Parliament: Draft Report on proposal (26 July 2013)

- Rapporteur: MEP Bernhard Rapkay (DE, S&D)
- Supports proposal as "extremely important to citizens of the EU"
- Draft report beyond COM proposal:
 - Extension of scope: document categories and authorities
 - Abolition of certified copies
 - MS to bear costs of certified translations
 - 10 new EU standard forms
- Discussions with other political groups



European Economic and Social Committee (EESC) (11 July 2013)

- Consultative role
- Full support of COM proposal (extension of scope)

Committee of the Regions (31 July 2013)

- "Legalisation is not a suitable measure to prevent fraud"
- "Local and regional authorities should have access to the IMI"

Council of the EU

- Negotiations started in June 2013 under IE Presidency, continuing under LT Presidency, will continue into EL Presidency



Need more information?

EUROPEAN COMMISSION
DG JUSTICE
Civil Justice Policy Unit – A.1

Maria Vilar Badia

Maria.VILAR-BADIA@ec.europa.eu

Stephan Matyk

Stephan.MATYK@ec.europa.eu