

Green Paper on the Free Movement of Public Documents

On December 14th, 2010, the European Commission issued a Green Paper exploring whether the circulation of public documents should be simplified: Less Bureaucracy for Citizens: Promoting Free Movement of Public Documents and Recognition of the Effects of Civil Status Records.

Here are some of the possible reforms discussed by the Green Paper.

Public documents:

a) The abolition of administrative formalities for the authentication of public documents

The administrative formalities relating to the presentation of public documents, originally based on consular and intergovernmental practices, are still causing problems for European citizens and no longer meet the requirements or correspond to the state of development of contemporary society, in particular in an area of common justice.

The need for these formalities, which are not suitable for relations between Member States based on mutual trust or for increased mobility of citizens, can legitimately be questioned.

(...)

b) Cooperation between the competent national authorities

The abolition of administrative formalities could be accompanied by cooperation between the competent national authorities.

(...)

c) Limiting translations of public documents

In parallel with the administrative formalities such as legalisation and the apostille, the translation of a public document issued by another Member State is another procedure citizens may have to deal with. Just like the abovementioned administrative formalities, translation also represents a cost in

terms of time and money.

Optional standard forms, at least for the most common public documents (for example a declaration of the loss or theft of identity papers or a wallet), could be introduced in a number of administrative sectors in order to cope with translation requests and avoid costs.

(...)

d) The European civil status certificate

European driving licences and passports already exist. A European certificate of inheritance has been proposed by the Commission. Thought might be given to introducing a European civil status certificate.

This would exist alongside Member States' national civil status records. It would be optional, not compulsory. Citizens could continue to ask for a national certificate. The European certificate would not therefore replace Member States' civil status certificates.

Civil Status Records:

Several solutions could be considered to ensure recognition of the effects of a civil status record or legal situation connected with civil status created in a Member State other than the one in which it is invoked. In this context, it is important to stress that the EU has no competence to intervene in the substantive family law of Member States. Therefore, the Commission has neither the power nor the intention to propose the drafting of substantive European rules on, for instance, the attribution of surnames in the case of adoption and marriage or to modify the national definition of marriage. The Treaty on the Functioning of the European Union does not provide any legal base for applying such a solution.

Against this background, several practical problems arising in the daily lives of citizens in cross-border situations could be solved by facilitating recognition of the effects of civil status records legally established in other EU Member States. The European Union has three policy options to deal with these problems: assisting national authorities in the quest for practical solutions; automatic recognition and recognition based on the harmonisation of conflict-of

law rules.

The consultation will take place from 14 December 2010 to 30 April 2011.

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