

Just published: “The International Commission on Civil Status in Danger”

Just published in *Recueil Dalloz*: a “cri d’alarme” by Professors Lagarde, Gaudemet-Tallon, Kessedjian, Jault-Seseke and Pataut concerning the fate of the useful **International Commission on Civil Status**. Here is a translation of their call to action:

The International Commission on Civil Status in Danger[1]

POINT de Vue Recueil Dalloz issue N° 42 of 3 December 2020, p. 2355 by Paul Lagarde, Professor emeritus Paris I University, Hélène Gaudemet-Tallon, Professor emeritus Paris II University, Catherine Kessedjian, Professor emeritus Paris II University, Fabienne Jault-Seseke, Professor at Paris Saclay University, and Étienne Pataut, Professor at the Sorbonne Law School

Civil status issues are a crucial element of a person’s identity. Solving these issues is an essential component of the protection of the right to private and family life, and a gateway to everyone’s recognition as a person before the law. This is why many efforts are made, for instance, to promote birth registration[2]. From birth to death, the legal existence of a person is conditioned by civil status.

Recognition of civil status documents from one State to another is fundamental to ensure the continuity of personhood when people cross international borders. International cooperation is essential to allow a correct understanding and interpretation of civil status documents and facilitate their circulation (both regarding their form (*instrumentum*) and their content (*negotium*)).

This is the purpose of the **International Commission on Civil Status** (CIEC/ICSS), an intergovernmental organization created in the aftermath of the Second World War. The five founding States are Belgium, France, Luxembourg, The Netherlands and Switzerland. Although not operating in the spotlights, this organisation has a most respectable track record. It has enabled the adoption of thirty-four conventions and eleven recommendations on birth, name, nationality, gender change, marriage, partnership, refugees, civil status services, among

others. Many of these instruments provide for cooperation of competent authorities or facilitate the understanding of civil status acts, in particular by establishing multilingual forms and allowing their electronic transmission. They have been successful and proved to be very useful. Convention No. 16 is a convincing example[3]. It binds twenty-four States, including States that are not members of the ICCS. It abolishes both legalisation and apostille requirements.

At some point, the ICCS had up to seventeen members (including States outside the EU such as Mexico and Turkey). But despite the undoubted success of the ICCS, Member States have withdrawn from the Organisation one after the other. The withdrawal by the Netherlands in 2018 and France in 2019 may deliver the final blow to the ICCS.

These withdrawals are incomprehensible.

It has been suggested that they have budgetary reasons. This seems hardly credible since the annual budgetary contribution of France to the CIEC amounted to € 33,000, whilst a further reduction to € 15,000 had already been agreed. Moreover, the ICCS has recently decided to dispense with the contribution of its members until 2025. So, this, hardly convincing, argument does not hold.

No more convincing is the idea that the European Union, because of EU regulation 2016/1191 ensuring the circulation of civil status documents in the Union (inspired by ICCS's work), would have taken over ICCS's mission. EU regulations do not bind third States; yet, due to migration flows, the EU Member States are often faced with questions concerning the civil status of nationals from countries in the Middle East, Africa, Asia, among others.

Moreover, by signing the **Global Compact for Migration** in 2019, France has committed itself to promote cooperation in the field of international migration. As the Global Compact itself reminds us, this commitment draws from actions to *“Improve civil registry systems, with a particular focus on reaching unregistered persons and our nationals residing in other countries, including by providing relevant identity and civil registry documents, strengthening capacities, and investing in information and communications technology solutions, while upholding the right to privacy and protecting personal data...”*.

This is precisely the role of the ICCS, currently launched in ambitious electronic communication projects on civil status documents - supported, moreover, by the

European Union. Now is the time for States (and for the European Union, which is now in a position to become itself an ICCS member) to reinvest in the ICCS - and definitely not to give up!

[1] For a detailed argument, see H. van Loon, *Requiem or transformation? Perspectives for the CIEC / ICCS and its work*, *Yearbook of private international law*, vol. 20 (2018/2019), p. 73-93 (this article predates France's withdrawal).

[2] See Art 7 (1) of the United Nations Convention on the Rights of the Child.

[3] Convention on the issue of multilingual extracts from civil-status records, signed in Vienna, 8 September 1976. This Convention has, moreover, been reviewed and modernized by Convention No 34, signed in Strasbourg, 14 March 2014.