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NOTE

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Subject: Proposal for a Regulation of the European Parliament and of the Council 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
- Revised text

1. This document reflects the discussions held at the meeting of the Civil Law Working Party (Legalisation) on 15 and 16 October and 6 November 2014.
2. This document has been drafted taking also into account the orientation guidelines endorsed at the JHA Council on 4 December 2014.
3. New text compared to the original Commission proposal is indicated in **bold**. New text compared to the previous version in 14049/14 is indicated by underlining. Deleted text in comparison to the original proposal is indicated by [...].

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on promoting the free movement of citizens [and businesses] by simplifying the [...] requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012

Chapter I
Subject matter, scope and definitions

Article 1

Subject matter

1. This Regulation provides for a dispensation from legalisation or similar formality and for a simplification of other formalities [...] in respect of **certain** public documents issued by the authorities of [...] a Member State **which have to be** presented to the authorities of another Member State.
2. It also establishes [...] multilingual standard forms¹ concerning birth, death, marriage **and** registered partnership²[...].

¹ The standard forms are national public documents issued by the authorities of Member States pursuant to this Regulation and are not intended to replace existing national public documents.

² Cf footnote 3 in Article 2.

Article 2
Scope¹

1. This Regulation applies to [...] public documents²³ **issued by the authorities of a Member State in accordance with its national law** which have to be presented to the authorities of another Member State relating to:
- (a) birth;
 - (b) death;
 - (c) name;
 - (d) marriage;
 - (di)** registered partnership;
 - (e) [...] **filiation**^{4,5};
 - (f) adoption^{6,7};
 - (g) **domicile and/or** residence⁸;
 - (h) citizenship **and/or** nationality⁹.

¹ In order to facilitate the discussions, the incoming Presidency will during the next Working Party meeting invite each Member State to indicate in writing which public documents are included under each item in its national system. The aim is to set up a list of documents the primary purpose of which is to establish events such as birth, marriage, death etc.

² A recital will clarify that this Regulation covers also documents generated in electronic form. However, each Member State shall decide in accordance with its national legislation how/if documents in electronic format can be presented.

³ It will be specified in a separate recital that the issuance of such documents concerns documents which exist in the Member States in accordance with their national law and in accordance with private international law

⁴ It should be indicated in a recital that this concept does not cover parental responsibility in the sense of Regulation Brussels IIa.

⁵ It appears that in many Member States there is no specific civil status document in this area; for example the relevant document could also be the court judgment or a notarial act.

⁶ It should be indicated in a recital that the concept of adoption does not cover the reports mentioned in Article 16 of the 1993 Hague Convention on intercountry adoption.

⁷ It appears that in many Member States there is no specific civil status document in this area; for example the relevant document could also be the court judgment or a notarial act.

⁸ This covers all documents according to national law which certify a person's address. This means for example that the concept of domicile has different legal effects from the UK/Ireland and from other Member States.

⁹ A recital will specify that these two concepts are understood differently in different Member States; it is up to each Member State to decide which concept is relevant under its national law.

[...]

2. **This Regulation does not apply to:**

- a) **public documents issued by the authorities of a third country¹, or**
- b) **certified copies made by the authority of a Member State of an original public document issued by the authority of a third country.**

3. This Regulation does not apply to the recognition **in a Member State of the legal effects relating to** the content of public documents² [...] ³ issued by the authorities of another Member State[.].

Article 3

Definitions

For the purposes of this Regulation:

(1) "public documents"⁴ means [...]:

- (i) **documents emanating from an authority or an official connected with the courts or tribunals of a Member State, including those emanating from a public prosecutor, a clerk of the court or a judicial officer ('huissier de justice');**
- (ii) **administrative documents⁵;**
- (iii) **notarial acts;**

¹ A recital could clarify that this Regulation does not apply to public documents issued by the authorities of a third country even if such documents have already been accepted by the authorities of a Member State.

² A recital could clarify that the legal effects relating to the content in another Member State of national public documents are not governed by this Regulation.

³ Reference to multilingual standard forms was deleted in light of the orientation guidelines endorsed by the JHA Council, which state that multilingual standard forms have no legal value (see paragraph 3 of Article 12).

⁴ This paragraph was taken from the 1961 Hague Convention (Article 1), which covers judgments and other court decisions.

⁵ Note: Administrative documents shall include also certificates and extracts.

- (iv) **official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date, and official and notarial authentications of signatures;**
- (v) **documents drawn up in their official capacity by the diplomatic or consular agents of a Member State acting in the territory of any State, where such documents have to be [...] presented in the territory of another Member State or [...] to the diplomatic or consular agents of another Member State acting in the territory of a third State.**
- (2) "authority" means a public authority of a Member State or an entity¹ authorised [...] **under** national law to issue or receive a public document covered by this Regulation;
- (3) "legalisation" means the formal procedure for certifying the authenticity of a public office holder's signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears;
- (4) "similar formality" means the addition of the certificate foreseen by the Hague Convention of 1961 abolishing the requirement of legalisation for foreign public documents;
- (5) "other formality" means [...] certified copies and certified translations of public documents;
- (6) "central authority" means the authority **or authorities** which has **or have been** designated in accordance with Article 9 by the Member States to fulfil functions relating to the application of this Regulation.

¹ For the purposes of this Regulation "entity" is meant to be understood as an entity acting in an official capacity under national law in order to issue or receive public documents.

Chapter II

Exemption from legalisation, simplification of other formalities [...]

Article 4

Exemption from legalisation and similar formality

Public documents and **multilingual standard forms covered by this Regulation** shall be exempted from all forms of legalisation and similar formality.

Article 5

Certified copies and originals of public documents

1. [...] **Where a Member State requires the** presentation of the original of a public document [...] issued by the authorities of [...] **a Member State, the authorities of [...]** **that Member State** shall not require parallel presentation of [...] its certified copy.

[...]

2. **In other cases,** authorities shall accept certified copies **made by an authority of another Member State of original public documents issued by an authority of a Member State** [...].

Article 6¹
[...] Translations

1. **[...] A translation shall not be required where the public document is in the official language or, if that Member State has several official languages, in the official language of the place where the document is presented or in any other language that the Member State has expressly accepted²³.**
2. **[...] A certified translation made by a person qualified to do such translations under the law of a Member State shall be accepted in all Member States.**
3. **Member States shall make publicly available through the European e-Justice Portal a list of persons qualified to make certified translations where such lists exist in a given Member State.**

[Article 7
Request for information in case of reasonable doubt
moved to Article 8a]

¹ If the Member States already have national forms (other than those stemming from international Conventions) available in different languages, this Regulation does not hinder their use in cross-border situations.

² This text has been inspired by Article 45 of Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility ("Brussels IIa" Regulation).

³ See also Article 20[x].

Chapter III

Requests for information and administrative cooperation

Article 8¹

Internal Market Information System

The Internal Market Information System established by Regulation (EU) No 1024/2012 shall be used for the purposes of Article [...] **8a, Article 10 and Article 20 (1) and (1bis)**.

Article 8a

Request for information in case of reasonable doubt²

1. Where the authorities of a Member State in which a public document or its certified copy **or a multilingual standard form** is presented have reasonable doubt as to their authenticity [...], [...] **they should take the following steps to resolve their doubt:**
 - a) **check the available templates of documents in the repository of the Internal Market Information System as mentioned in Article 20;**
 - b) **if a doubt remains³**, may submit a request for information **through IMI⁴:**
 - i) to the [...] **issuing authority** [...] or
 - ii) **through the relevant Central Authority.**

¹ A recital will indicate that the authorities of the Member States shall work in close cooperation and provide each other mutual assistance in order to facilitate the implementation of this Regulation and in particular Article 8a.

² The system is meant to be flexible.

³ This could for example include situations where templates are not available.

⁴ It will be indicated in a recital that the Central Authorities communicate through IMI. National situations are dealt with internally according to national procedures.

2. The reasonable doubt referred to in paragraph 1 may relate, in particular, to:
 - (a) the authenticity of the signature,
 - (b) the capacity in which the person signing the document has acted,
 - (c) the identity of the seal or stamp,
 - (d) any sign that the document may have been falsified or tampered with.**
3. Requests for information shall set out the grounds on which they are based [...].
4. Requests for information **made in accordance with this Article** shall be accompanied by a [...] copy of the public document concerned or of its certified copy, **transmitted electronically by means of the Internal Market Information system**. The requests and any replies to those requests shall not be subject to any tax, duty or charge¹.
5. The authorities shall reply to such requests within the shortest possible period of time and in any case not exceeding [...] **[10 days]**². **In exceptional cases, if this time limit cannot be adhered to, the receiving authority shall inform the requesting authority that an additional period of a maximum of [10 days] is needed.**³
6. If the [...] authenticity of the public document or of its certified copy **is not confirmed** [...], the requesting authority shall not be obliged to accept them⁴⁵.

¹ It will be specified in a recital that requests for information concern only the authorities of the Member States.

² The calculation of time limits will be made in accordance with Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits.

³ A recital will indicate that it is up to the Member States' national authorities to determine how to resolve the authenticity doubt if no answer is given.

⁴ A recital will indicate that situations where no reply is received via IMI should be considered as exceptional as they would constitute a breach of the Regulation on the part of the non-responding authority. However, if a serious difficulty arises, Member States may apply their own internal mechanisms to solve their authenticity doubt. It could be indicated in a recital that in case the authenticity of a public document cannot be confirmed, citizens can use any available means to prove the authenticity of a specific document. It could also be indicated in a recital that in such situations the Member States' authorities can use any available (national or international) means to verify the authenticity of a presented document.

⁵ This Regulation does not cover issues concerning the liability of the Member States' authorities. The IMI system is liability neutral.

Article 9

Designation of central authorities

1. For the purposes of this Regulation, each Member State shall designate at least one central authority.
2. Where a Member State has appointed more than one central authority, it shall designate the central authority to which any communication may be addressed for transmission to the appropriate [...] authority within that Member State.
- [3. *See Article 20.*]

Article 10¹

Functions of central authorities

The central authorities shall **in particular** provide assistance in relation to requests for information pursuant to Article **8a**², and shall [...]:

- (a) transmit and receive such requests;
- (b) supply [...] the information [...] **necessary** in respect of those requests.

[...]

¹ Information note: it is pointed out that the central authorities exercise their functions by using the IMI system.

² A recital will indicate that taking into account the content of Article 8a(1), this Article applies only when either the receiving or the requesting authorities are not registered in IMI.

Article 10 a

[see Article 20a]

Chapter IV
[...] Multilingual standard forms

Article 11

[...] Multilingual standard forms

1. [...] **Multilingual standard forms concerning birth, death, marriage and registered partnership, [...]** are hereby established.

Option 1:

- [2. Those [...] multilingual standard forms shall be as set out in the Annexes.¹]

Option 2:

- [2. **Those [...] multilingual standard forms shall be established by a committee procedure in accordance with Article [4][5] of Regulation (EU) No 182/2011.]**

¹ If the comitology procedure is used, the multilingual standard forms shall be adopted after the adoption of the Regulation.

Article 12

Issuance **and use** of [...] multilingual standard forms

1. [...] **Public documents concerning birth, death, marriage or registered partnership issued by the authorities of a Member State may, upon request by a citizen, be accompanied by a multilingual standard form established in accordance with this Regulation¹.**
[...]
- ~~2.~~ The authorities of a Member State shall issue a [...] multilingual standard form if a **corresponding** public document exists in that Member State [...]².³
3. **The multilingual standard forms shall be used as a translation aid attached to the national public document mentioned in paragraph 1 without having any autonomous legal value.**
4. **The multilingual standard forms may only be used in a Member State other than the Member State where they were issued.**
45. **The multilingual standard forms shall be issued by a competent national authority and shall bear their date of issue as well as the signature and the seal or stamp of the issuing authority, where applicable.**

¹ A national public document can be presented also as such without being accompanied by a multilingual standard form as a translation aid. A multilingual standard form which functions as a translation aid cannot be presented on its own.

² It could be clarified in a recital that this concerns registered partnership. If this concept does not exist in a Member State it does not have to issue such a multilingual standard form.

³ The Working Party on Civil Law is invited to reflect if this paragraph is still necessary in light of Article 2(1) and paragraph 3 of this article.

Article 13

Guidance on the use of [...] multilingual standard forms

[see Article 20a]

Article 14

Electronic versions of [...] multilingual standard forms

~~[see Article 20b]~~

see new Article 15bis

Article 15bis

Electronic versions of [...] multilingual standard forms

1. The Commission shall develop electronic versions of [...] the multilingual standard forms **established in accordance with Article 11** or other formats **of the same forms** suitable for electronic exchange.
2. To that effect, the Commission shall be assisted by a committee within the meaning of Article 4 of Regulation (EU) No 182/2011.

Chapter V

Relations with other instruments

Article 16

Relations with other provisions of Union law

1. This Regulation shall not prejudice the application of Union law which contains provisions on legalisation, similar formality, other formalities, but shall complement it. If the provisions of this Regulation conflict with a provision of another Union act governing specific aspects of the simplification of the requirements for presenting public documents simplifying such requirements even further, the provision of the other Union act shall prevail¹.
2. This Regulation shall also not prejudice the application of Union law on electronic signatures and electronic identification.
3. This Regulation shall not prejudice the use of other systems of administrative cooperation established by Union law which provide for exchange of information between the Member States in specific areas.

¹ In a recital, we could include examples of other Union acts which contain provisions on the simplification of the requirements for presenting public documents which would prevail over this text: for example, the directives on Professional Qualifications and Services - Directive 2005/36/EC and Directive 2006/123/EC.

Article 17

Amendment to Regulation (EU) No 1024/2012

In the Annex to Regulation (EU) No 1024/2012, the following point 6 is added:

"6. Regulation (EU) No ...* *Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses by simplifying the [...] requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012: [...] Article 8a, Article 10 and Article 20(1) and (1bis).*"

* OJ L .., ..., p. ."

Article 18¹²

Relations with existing international conventions

1. This Regulation shall not affect the application of international conventions to which one or more Member States are party at the time of adoption of this Regulation and which concern matters covered by this Regulation.
2. Notwithstanding paragraph 1, this Regulation shall, **in relation to matters to which it applies, prevail over other provisions contained in bilateral or multilateral agreements or arrangements concluded by the Member States, in the relations between the Member States party thereto [...].**³

¹ This Article does not cover multilingual standard forms since they have no legal value. For this reason there is no overlap or interference with the ICCS Conventions.

² As regards the issue of Apostille, it is suggested to include a new recital as follows (see 14771/14):
"This Regulation abolishes the legalisation requirement of certain public documents between the Member States. In a case where a citizen requests a public document covered by this Regulation, the national authorities should inform him/her that an Apostille is no longer necessary if the document is destined to be presented in another Member State. However, this Regulation does not prevent the competent authorities from issuing an Apostille upon request so informed."

³ In a recital it can be explained that the Regulation shall not affect the application of international conventions to which one or more Member States are party and which concern matters covered by the Regulation in relations between Member States and third countries.

3. **However, this Regulation shall not preclude Member States from maintaining or concluding agreements or arrangements between two or more of them to further simplify the circulation of public documents [or the requirements for presenting public documents].**
4. **Member States shall send to the Commission:**
- (a) **by..., a copy of the agreements or arrangements maintained between the Member States referred to in paragraph 3;**
 - (b) **a copy of the agreements or arrangements concluded between the Member States referred to in paragraph 3 as well as drafts of such agreements or arrangements which they intend to adopt; and**
 - (c) **any denunciations of, or amendments to, these agreements or arrangements.¹**

¹ The Working Party on Civil Law is invited to reflect whether paragraphs 3 and 4 should be maintained in the text.

Chapter VI

General and final provisions

Article 19

Purpose limitation [...]

The exchange and transmission of information and documents by the Member States pursuant to this Regulation shall serve the specific purpose of [...] **verifying** the authenticity of public documents by the competent authorities through the Internal Market Information System ¹.

Article 20

Information on central authorities and contact details

1. By ...², the Member States shall communicate [...] **through IMI**:
 - a) the designation of one or more central authorities and their contact details [...];
 - b) **the templates of the most commonly used public documents under their respective national laws; and**
 - c) **anonymised versions of forged documents which have been detected.**

¹ It is recalled that recital 23 of the proposal already refers to the Data Protection Directive as follows: "Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to processing of personal data and on the free movement of such data governs the processing of personal data carried out in the Member States in the context of this Regulation and under the supervision of the public independent authorities designated by the Member States. Any exchange or transmission of information and documents by the Member States' authorities should be in accordance with Directive 95/46/EC. Furthermore, such exchanges and transmissions should serve the specific purpose of verifying the authenticity of public documents by authorities through the Internal Market Information System and only within the sphere of their competences in each individual case." Data protection rules set out in Regulation (EU) No 1024/2012 ("IMI Regulation") also apply.

² OJ: please insert the date: six months before the date of application of this Regulation.

1bis. The Member States shall communicate [...] any subsequent changes to that information **through IMI.**

2. The Commission shall make [...] information referred to in paragraph 1(a) publicly available through any appropriate means [...].

[Article 20a¹

[...][Exchange of best practices]

1. **An Ad hoc Committee composed of representatives of the Commission and the Member States and chaired by the Commission shall be established².**

2. **The Ad hoc Committee shall take any measures necessary to facilitate the application of this Regulation, and shall in particular:**

- (a) **exchange best practices concerning the application of this Regulation between the Member States;**
- (b) **provide and regularly update best practices on the prevention of fraud of public documents, certified copies and certified translations;**
- (c) **provide and regularly update best practices on the use of electronic versions of public documents;**
- (d) [...] **exchange best practices** on the use of [...] multilingual standard forms [...];
- (e) **exchange best practices on detected forged documents.**

¹ Article 10a from doc. 10351/14 has been merged with Article 20a.

² The representatives of the Member States are appointed by the Member States themselves.

Article 20[x]

Information on languages accepted

The Member States shall communicate to the Commission within [X] months following the entry into force of this Regulation the languages they can accept for the public documents to be presented to their authorities pursuant to Article 6(2)^{1,2}.

[Article 20b

Option 1³:

Establishment and subsequent amendment of [...] multilingual standard forms

1. The Commission shall **adopt implementing acts establishing and subsequently amending**
 - (a) **the multilingual standard forms;**
 - (b) [...] electronic versions of [...] the multilingual standard forms or other formats suitable for electronic exchanges.
2. **Those implementing acts shall be adopted in accordance with the [advisory] procedure referred to in Article [20c].]**

¹ This text has been modelled on the basis of Article 67 of the Brussels IIa Regulation.

² This shall be without prejudice for the Member States' authorities to accept any other additional language or languages on presentation of a document.

³ The choice between Option 1 or Option 2 is to be discussed by the Working Party.

Option 2:

[Amendment of [...] multilingual standard forms

1. **The Commission shall be empowered to adopt delegated acts concerning the amendment of Annexes I to [XX].**
2. **The power to adopt delegated acts is conferred to the Commission subject to the conditions laid down in this Article.**
3. **The power to adopt delegated acts shall be conferred on the Commission for an indeterminate period of time from [date].**
4. **The delegation of power may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall be put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.**
5. **As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.**
6. **A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.]**

[Article 20c¹
Committee procedure

1. **The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.**
2. **Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.]**

Article 21

Review

1. By **[five]**², and at the latest every **[three]** ~~five~~ years thereafter, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Regulation, including an evaluation of any practical experiences relating to the cooperation between central authorities. That report shall also contain an assessment of needs for
 - (a) [extension] of the scope of this Regulation to public documents relating to **matters** [...] other than **those referred to** [...] in Article 2 [...];

[...]
 - (b) in case of [extension] of the scope referred to in point (a), establishment of [...] multilingual standard forms relating to [...] public documents **in other matters**.
2. The report shall be accompanied, where appropriate, by proposals for adaptations, in particular as regards the [extension of the scope of this Regulation to public documents relating to new **matters** [...] as referred in paragraph 1 point (a) or the establishment of new [...] multilingual standard forms [or modification of existing ones³], as referred in paragraph 1 point [...] (b).

¹ To be discussed.

² OJ: please insert the date: **five** years after the date of application of this Regulation. This time limit will be discussed at a later stage in the Civil Law Working Party in light of the final scope of the proposal.

³ This depends on the option chosen for the amendments of the standard forms.

Article 22

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from....¹, with the exception of Article 20, which shall apply from...²

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President

¹ OJ: please insert the date: one year after the entry into force of this Regulation. This time limit will be discussed at a later stage in the Civil Law Working Party in light of the final scope of the proposal.

² OJ: please insert the date: six months before the date of application of this Regulation. This time limit will be discussed at a later stage in the Civil Law Working Party in light of the final scope of the proposal.