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Simplifying the circulation of public documents in the EU

EUROPEAN COMMISSION
DG Justice and Consumers
Unit A1 – Civil Justice

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

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Why this Regulation?

- Today, cross-border personal and professional relationships are a reality:
  - 16 million citizens reside in a MS other than their own
  - 13% of all marriages in the Union are international
- But citizens face burdens when they present a public document in another Member State:
  - Authentication stamp: Apostille (1961 Hague Convention)
  - Certified translations
  - Certified copies
- No structured administrative cooperation between MS to fight against false documents

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Why this Regulation?

- Fragmented legal framework:

1) International conventions

   - 1961 Hague Apostille Convention
   - 1968 Council of Europe Convention on diplomatic and consular documents
   - CIEC (ICCS) Conventions on civil status

2) EU law:

   - 1987 Convention, only ratified by some MS
   - Brussels I Regulation, Brussels IIa Regulation, Maintenance, Successions, etc.

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Why this Regulation?

- Result:
  - costs (€330 million/year) and red tape for citizens
  - legal uncertainty as apostille stamp is only abolished for some documents or only among some MS
  - no coordinated fraud prevention
  - right of free movement of citizens made difficult

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Legislative procedure

- COM proposal adopted on 24 April 2013
- EP first reading position: February 2014
- Trilogues (COM, EP, Council): July to October 2015
- EP's JURI Committee endorsed compromise text in November 2015
- Council endorsed compromise text in December 2015
- Adoption by Council and EP:6 July 2016

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Scope: only MS documents

- The regulation is a horizontal instrument that complements other specific Union instruments
- It will only apply to documents issued by a MS and not to documents issued by third countries (even if documents from third countries have already been accepted as authentic in one MS)
- It will only apply between MS (taking precedence over agreements between them on identical matters)
- It will not affect the relationship between MS and third countries (in particular the 1961 Hague Cv)

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Scope: authenticity

The Regulation:

- concerns the authenticity of public documents presented in another MS
- does **not** provide for the recognition of content or effects of public documents in another MS
- does not harmonise national public documents (their content or security features) or substantive law (for example, marriage law)

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Scope: categories of public documents covered

- court documents, including judgments
- administrative documents
- notarial acts
- official certificates (e.g. of document registration, authenticity of signature)
- diplomatic and consular documents

=> Categories based on 1961 Hague Apostille Convention and 1987 Convention between MS

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Scope: matters covered

- birth, life, death, name
- marriage, capacity, status
- divorce, legal separation, annulment
- registered partnership, capacity, status
- dissolution of registered partnership
- parenthood, adoption
- domicile/residence
- nationality
- absence of a criminal record
- right to vote or stand in EP and municipal elections

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What does the Regulation do?

- abolition of the apostille requirement for public documents and their certified copies
- no parallel requirement of original document and its certified copy
- acceptance of certified copies made in other MS
- optional multilingual standard forms as translation aids attached to public document
- when public document accompanied by a multilingual standard form, translation can only be required exceptionally
- acceptance of certified translations made in other MS

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What does the Regulation do?

- 11 multilingual standard forms: birth, life, death, marriage, capacity to marry, marital status, registered partnership, capacity to enter into a registered partnership, registered partnership status, domicile/residence, absence of a criminal record
- forms contain standard entries and country-specific entries so as to mirror public document
- template of form in 2 languages: issuing MS and receiving MS (plus multilingual glossary)
- e-forms in European e-Justice Portal
- fee: production cost of public document or of form, whichever is lower

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What does the Regulation do?

- Better fraud prevention: principle of mutual trust but, if reasonable doubt on the authenticity of a document, structured administrative cooperation between MS (but no systematic checks!)
- Possible doubt on: signature, capacity, stamp, forging
- How? Through Internal Market Information system (IMI)
  - application developed by COM and MS to facilitate information exchanges
  - applied since 2008, covers other Union instruments

What does the Regulation do?

- Through IMI, MS authorities can:
  - check templates of public documents in IMI repository
  - submit a request for information to issuing MS (response within 5/10 days)
- Central Authorities can assist in processing requests for information
- If authenticity not confirmed, no obligation to process public document

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Information obligation

- COM and MS must inform citizens of content of Regulation in personal dealings and through Internet

Review

- 2 years after application: review of scope
  - legal status and representation of a company
  - educational diplomas
  - disabilities
- 5 years after application: general review

Date of application

- 2 ½ years after entry into force: 16 February 2019