Simplifying the requirements for presenting certain public documents in the EU

2013/0119(COD) - 24/04/2013 - Legislative proposal

PURPOSE : to promote the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union.

PROPOSED ACT : Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT : the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND : the mobility of Union citizens is a practical reality, evidenced in particular by the fact that some 12 million of them study, work or live in another Member State of which they are not nationals. Today, if Union citizens and businesses exercise their free movement rights or internal market freedoms by, for example, choosing to reside or do business in another Member State, they face a series of difficulties when **presenting the necessary public documents** to the authorities and getting them accepted by that Member State contrary to its own nationals and businesses.

The administrative formalities in question are **legalisation and Apostille**, required to establish the authenticity of public documents so that they can be used outside the Member State where they have been issued. They can be considered **outdated and disproportionate** mechanisms for ensuring the wished objectives of legal security. More effective, secure and **simpler mechanisms or systems should be identified**, which would allow to consolidate mutual trust and to promote closer cooperation between the Member States within the Single Market, in particular as regards a more effective prevention of fraud and forgery of public documents.

In its Resolution on the 2009 Stockholm Programme, the European Parliament considered that the priorities in the field of civil justice must first and foremost meet the needs expressed by individual citizens and businesses. Therefore, it "calls for a simple and autonomous European system for the abolition of requirements for legalisation of documents".

In response, the European Commission confirmed its commitment to facilitate the free circulation of public documents within the EU in its 2010 Citizenship Report. Through its Green Paper, the Commission launched a consultation on the possible means to facilitate the use and acceptance of public documents between the Member States.

This proposal is one of the key initiatives in the **European Year of Citizens 2013** and provides at the same time a concrete contribution to the policy of the 'Justice for Growth'.

IMPACT ASSESSMENT : the Commission has also carried out an Impact Assessment which accompanies the proposal.

The public consultation showed that the majority of the Member States and stakeholders welcomed the Commission's intention to abolish the administrative formalities relating to the verification of authenticity of public documents. However, they underlined the need to introduce accompanying safeguards, such as the possibility to verify the authenticity of public documents through strengthened EU-wide administrative cooperation in order to facilitate the transition from the current system to the new framework and ensure legal certainty and minimize fraud.

LEGAL BASIS : Article 21(2) and Article 114(1) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT : this proposal seeks to **streamline the rules and procedures** applied currently between the Member States concerning the verification of authenticity of certain public documents and at the same time complementing the existing sectorial Union law, including rules relating to the

circulation.

Scope of the proposal : the scope of this proposal covers public documents issued by authorities of the Member States and having formal evidentiary value relating to birth, death, name, marriage, registered partnership, parenthood, adoption, residence, citizenship, nationality, real estate, legal status and representation of a company or other undertaking, intellectual property rights and absence of a criminal record. Documents drawn up by private persons and documents issued by authorities of third States are excluded from its scope

More specifically, the proposal :

- establishes a **clear set of horizontal rules exempting public documents falling under its scope from legalisation or similar formality (Apostille);**
- foresees simplification of other formalities related to the cross-border acceptance of public documents, namely of **certified copies and certified translations**;
- introduces an **effective and secure administrative cooperation** based on the Internal Market Information System ("the IMI") in order to guarantee the authenticity of public documents which circulate from one Member State to another;
- establishes **Union multilingual standard forms** concerning birth, death, marriage, registered partnership and legal status and representation of a company or other undertaking. In addition, with the aim to further reduce the remaining translation requirements for EU citizens and businesses, such Union multilingual standard forms could be established at a later stage for public documents relating to name, parenthood, adoption, residence, citizenship and nationality, real estate, intellectual property rights and absence of a criminal record.

The Commission ensures that this proposal complies with the rights set out in the **Charter of Fundamental Rights** by the European Union.

BUDGETARY IMPLICATION : the only minor costs expected for the EU budget relate to training activities and to meetings.

It is estimated that the total one-shot costs for the necessary training activities on the Internal Market Information System related exclusively to this proposal would be around **EUR 50 000**. The impact on administrative expenditure is estimated at EUR 182 000 for 2014-2020.