Simplifying the requirements for presenting certain public documents in the EU

2013/0119(COD) - 11/03/2016 - Council position

The Council adopted at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012.

The proposed Regulation aims to promote the free movement of Union citizens by:

- **facilitating the free circulation of certain public documents and their certified copies** within the Union and;
- **simplifying other formalities**, namely the requirement to provide in each instance certified copies and translations of public documents between the Member States.

The main elements of the Council position are as follows:

Aim: the proposed Regulation provides, in relation to certain public documents which are issued by the authorities of a Member State and which have to be presented to the authorities of another Member State, for a **system of exemption from legalisation** or similar formality and simplification of other formalities. This system should be without prejudice to persons being able to continue to benefit, if they so wish, from other systems which exempt public documents from legalisation or similar formality and which are applicable between Member States. In particular, this Regulation should be regarded as a **separate and autonomous instrument** from the Apostille Convention.

Scope: the proposed Regulation applies to **public documents** 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 and the primary purpose of which is to establish one or more of the following facts:

- birth;
- a person being alive;
- death;
- name;
- marriage, including capacity to marry and marital status;
- divorce, legal separation or marriage annulment;
- registered partnership, including capacity to enter into a registered partnership and registered partnership status;
- dissolution of a registered partnership, legal separation or annulment of a registered partnership;
- parenthood;
- adoption;
- domicile and/or residence;
- nationality.

Furthermore, the proposed Regulation covers public documents the presentation of which can be required of citizens of the Union residing in a Member State of which they are not nationals when, in accordance with the relevant Union legislation, they wish to **vote or stand as candidates** in elections to the European Parliament or in municipal elections in their Member State of residence.

Lastly, the proposed Regulation establishes **multilingual standard forms** to be used as a translation aid attached to public documents concerning birth, a person being alive, death, marriage (including capacity to marry and marital status), registered partnership (including capacity to enter into a registered partnership and registered partnership status), domicile and/or residence, and absence of a criminal record.

Certified copies: in order to promote the free movement of Union citizens, the Council position provides that:

- certified copies of public documents covered by the proposed Regulation should also be **exempted from all forms of legalisation** and similar formality;
- where a Member State permits the presentation of a certified copy of a public document, the authorities of that Member State should also accept certified copies made by a competent authority of the Member State in which the original public document was issued.

Translation: in order to overcome language barriers, the proposed Regulation provides that a translation should not be required where:

- the public document is in the **official language of the Member State where the document is presented** or, if that Member State has several official languages, in the official language or one of the official languages of the place where the document is presented or in any other language that that Member State has expressly accepted; or
- a public document concerning birth, a person being alive, death, marriage, registered partnership, domicile and/or residence, or absence of a criminal record, is accompanied, in accordance with the conditions set out in this Regulation, by a multilingual standard form, provided that the authority to which the public document is presented considers that the information included in the multilingual **standard form** is sufficient for processing the public document.

Moreover, a certified translation carried out by a **person qualified** to do so under the law of a Member State should be accepted in all Member State.

Request for information and administrative cooperation: in order to allow for fast and secure cross-border information exchange and to facilitate mutual assistance, the Council position establishes an effective mechanism for administrative cooperation between the authorities designated by the Member States. The use of that mechanism should be based on the Internal Market Information System ('IMI'), established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council.

Under this mechanism, the requested authorities should reply to such requests within the shortest possible period of time and in any case within a period **not exceeding five working days or 10 working days** when the request is processed through a central authority. An extension may be agreed upon if necessary.

Information to the public: with a view to making the information available to the public through any appropriate means and, in particular, through the **European e-Justice Portal**, Member States should communicate to the Commission: (i) the language or languages they can accept for the presentation of public documents issued by the authorities of another Member State; (ii) an indicative list of public documents falling within the scope of this Regulation; (iii) the list of public documents to which multilingual standard forms can be attached as a suitable translation aid; (iv) the lists of persons qualified, in accordance with national law, to carry out certified translations, where such lists exist.