EUROPEAN
COMMISSION

Brussels, 24.4.2013
SWD(2013) 144 final

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Accompanying the document

Proposal for a

Regulation 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

{COM(2013) 228 final}
{SWD(2013) 145 final}

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1. INTRODUCTION

This impact assessment is for a legislative measure of a horizontal nature on simplifying administrative formalities related to the authentication of public documents issued in one Member State and circulating to (an)other Member State(s). These formalities are legalisation, Apostille (similar formality) and certified copies and certified translations (other formalities). The general objective of this measure is to facilitate and enhance the exercise of the EU citizens' right to free movement within the EU and of EU businesses' (in particular SMEs) right to freedom of establishment and freedom to provide services within the Single Market, whilst upholding the general public policy interest of ensuring the authenticity of public documents.

Without changing the existing EU law regulating the circulation of specific categories of public documents, this measure will complement it by abolishing the requirements of legalisation and Apostille and by simplifying the requirement of certified copies and certified translations. When abolishing legalisation and Apostille, it will focus on establishing the authenticity of public documents, drawing inspiration from the existing EU law and relevant international instruments. It is important to stress that **the measure will not**, on the other hand, **cover the recognition of effects of public documents** nor will it introduce full harmonization of all existing public documents in the Member States or situations in which they are required in cross-border scenarios by EU citizens and businesses.

This measure covers situations in which public documents are required in cross-border scenarios by: (i) public authorities of the Member States and (ii) entities of the Member States tasked by virtue of an act or administrative decision to carry out public duties.

The **aim of this measure** is twofold:

- to reduce legal uncertainty, costs and lengthy procedures caused by the above-mentioned disproportionate, burdensome and costly administrative formalities complicating the exercise of the EU citizens' right to free movement and EU businesses' (in particular SMEs) internal market freedoms; and

- to provide necessary safeguards preventing the use of forged public documents within the EU.

While the measure would identify the main categories of public documents, it would not define each and every public document existing in the Member States.

For the purposes of this Impact Assessment Report:

- "**Legalisation**" is defined as the formal procedure for certifying the authenticity of a signature on a public document, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears. The result is that the foreign public document has the same evidentiary value as the domestic public document as far as proof of its authenticity is concerned.
- "**Similar formality**" means the affixing of the Apostille, foreseen by the Apostille Convention[1], which proves the authenticity of the public document and thereby abolishes

[1] The Hague Convention of 5 October 1961 abolishing the requirement of legalisation for foreign public documents (Apostille Convention).

the requirement of legalisation for certain foreign public documents. The Apostille is a simplified form of legalisation.

- **"Other formalities"** mean the requirement to produce certified copies and certified translations of public documents.
- **"Public documents"** mean public documents drawn up 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 of a company or other undertaking, intellectual property rights and absence of a criminal record.

2. POLICY CONTEXT

The 2009 Stockholm Programme "*An open and secure Europe serving and protecting citizens*"[2] stressed the importance of making EU citizenship effective and put the citizens at the heart of EU policies in the area of freedom, security and justice. The related Action Plan[3] confirms this mandate and states that a well-functioning European judicial area "*should be put at the service of citizens and businesses so as to support economic activity in the single market (...)*". In this context, the Action Plan foresees **the adoption of a legislative proposal for dispensing with the formalities for the legalisation of public documents between the Member States**.

In the same vein, in its Resolution on the Communication on the 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"*.[4] In response to the invitation of the European Council in the Stockholm Programme, the European Commission adopted in December 2010 a Green Paper on "*Less bureaucracy for citizens: promoting free movement of public documents and recognition of the effects of civil status*"[5]. This Green Paper confirms the commitment of the Commission reflected in its 2010 Citizenship Report[6] to facilitate the free circulation of public documents within the EU and thus to simplify the life of citizens.

At the same time, the creation of the EU Single Market received a new impetus with the adoption of the Single Market Act "Working together to create new growth"[7], which aims at boosting the creation of a real integrated economic area for EU citizens and businesses. Fostering mobility of citizens and businesses across borders in the EU is also one of the main cornerstones of the Single Market Act II[8] and a precondition to deliver on its potential. To this end, the Commission is determined to continue working towards its vision of a Single Market where citizens and businesses are free to move cross-border whenever and wherever they want to and without unjustified restrictions caused by diverging national rules.

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2 OJ C 115, 4.5.2010, p.1.
3 COM(2010) 171 final.
4 EP Resolution of 25 November 2009 on the Communication of the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm programme, see point 95.
5 COM(2010) 747 final.
6 COM(2010) 603 final.
7 COM(2011) 206 final.
8 COM(2012) 573 final.

Consequently, cutting red tape, simplifying the procedures for cross-border use and acceptance of public documents between the Member States as well as harmonizing the related rules contributes to all actions aimed at moving towards the creation of a citizens' Europe and a well-functioning Single Market for EU businesses, especially when considering the challenges of the on-going economic and financial crisis.

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'. It brings added value by establishing horizontal principles on free circulation of public documents within the EU, complementing existing EU law in this area, filling the gaps in those areas which remain currently unregulated by EU law and supporting all EU initiatives aimed at simplifying the life of citizens and business conditions for economic operators (e.g. Europe 2020 Strategy for growth and jobs, Action Plan on European company law and corporate governance, Digital Agenda for Europe, Entrepreneurship 2020 Action Plan, etc.). In parallel, the proposal promotes the principle of mutual trust between the authorities of the Member States and, at the same time, introduces simplification measures to the benefit of EU citizens and businesses in their contact with these authorities.

3. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

Public consultation

The issue of free circulation of public documents was first discussed in the aftermath of the Hague Programme as part of the mutual recognition policy. As a preparatory step, the Commission launched a comparative study on "*The difficulties faced by citizens and economic operators because of the obligation to legalise documents within the Member States of the European Union, and the possible options for abolishing or simplifying this obligation",* carried out by the British Institute of International and Comparative Law ('the Study of 2007').

A public consultation was carried out by the Green Paper from December 2010 until May 2011. The proposed measure relates to the first part of the Green Paper: 'the free movement of public documents' and does not address the problems described in its second part 'recognition of the effects of civil status records'. The Commission received altogether around 11.480 answers from different stakeholders[9]. The contributions are published on the Europa website: http://ec.europa.eu/justice/newsroom/civil/opinion/110510_en.htm.

The majority of the Member States, as well as of the consulted stakeholders, welcomed the objective to abolish the administrative formalities which are analysed in this Impact Assessment Report. 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.[10]

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[9] 17 Member States, one third country, 21 International Organisations and Associations and 33 National Organisations and Associations (legal experts, professional associations, public bodies). As for EU citizens, the vast majority of their replies was related to the second part of the Green Paper (cca 10.800 standard letters).

[10] See Annex 13 and Annex 14.

Impact Assessment Study and additional consultations

To support the preparation of this Impact Assessment Report, the Commission requested an external study by Ernst & Young. The final study, presented on 4 September 2012, confirmed the existence of practical problems and the orientations of the Commission. The Commission also took into account the Study of 2007 as well as the study on *"Legislation of the Member States on civil status, practical difficulties encountered in this area by citizens wishing to exercise their rights in the context of an European area of justice in civil matters and options available for resolving these problems and facilitating citizens' lives"* ('the Study of 2008').

Parallel to the external study, DG Justice continued to meet and consult extensively with relevant stakeholders in 2012 to complete and update the contributions to the Green Paper. Meetings were held with, amongst others, the Council of the Notariats of the European Union (CNUE), the German and Austrian Chambers of Civil Law Notaries, the International Commission on Civil Status (ICCS), the European Association of Registrars (EVS), the European Land Registry Association (ELRA), the European Association of Craft, Small and Medium Enterprises (UEAMPE) and the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA). The Hague Conference on Private International Law was consulted as well.

A meeting with Member States Experts was held on 27 September 2012 to discuss a working paper containing the main elements of the proposal. The Commission continued to discuss these elements with experts from several Member States.

Internal consultation

An Interservice Impact Assessment Steering Group (IASG) was established, consisting of representatives of DG Justice, the Secretariat-General, the Legal Service and all operational or otherwise affected DGs i.e. DG TAXUD, DG MARKT, DG ENTR, DG BUDG, DG COMM, DG ELARG, DG EAC, DG EMPL, DG ENER, DG HOME, DG CONNECT, DG AGRI and DG SANCO. IASG meetings were held on 31 May 2012, 28 June 2012 and 22 August 2012. At the meetings and in direct communication with individual DGs which expressed particular interest, comprehensive feedback was received which has been taken into account throughout this Impact Assessment Report.

This Impact Assessment Report was presented to the Commission's **Impact Assessment Board** on 3 October 2012. The detailed recommendations of the Board contained in its Opinion of 5 October 2012 have been integrated as far as possible in the final version of the Impact Assessment Report, which accompanies the legislative proposal.

Based on those recommendations, the main modifications following the presentation of the Report to the Board can be summarized as follows:

- The presentation of the **scale of the problem** has been improved, by clarifying the number of EU citizens and businesses (in particular SMEs) moving between the Member States, the number and kinds of relevant public documents that are involved in the exercise of free movement rights and are subject to administrative formalities, the costs and time waste for EU citizens, businesses (in particular SMEs) and national administrations. In addition, other issues defining the overall problem have been pointed out, i.e. uncertainty and difficulties encountered by EU citizens, businesses (in particular SMEs) and national administrations in relation to procedures and rules applied in different Member States/to different kinds of documents, and indirect discrimination between nationals and citizens of other EU Member States as well as between EU citizens from different Member States.

- The gaps of the international *acquis* and EU legislation have been specified as well as the issue of more problematic documents.

- **Subsidiarity and proportionality** arguments have been strengthened, based on the gaps in the applicable provisions both at EU and international level, supporting the need for action at EU level in order to obtain the sought-after simplification benefits.

- With regard to the content and choice of the **policy options**, the practical aspects of their implementation (and, in particular, of the policy options 3 and 4) have been better explained.

As for the possibility for considering some options on a stand-alone basis, it should be noted that sub-options 4.A, 4.B and 4.C on one side, and 4.D-4.F on the other side, have not been explicitly presented on a stand-alone basis, but each sub-option has been assessed by indicating the specific effects that their elements imply, regardless the provisions of the main policy option. This allows the description of the specific impact that these sub-options would achieve. In this respect, DG Justice has also precised that:

- the reinforced administrative cooperation assumes particular relevance when the abolition of legalisation, Apostille and simplification of other formalities is introduced;

- the introduction of EU multilingual standard forms would have only a limited effectiveness in terms of simplification benefits if not accompanied by the abolition of legalisation, Apostille and simplification of other formalities, and would hardly lead to the full achievement of the policy objectives.

- As for the **assessment of the impacts**, the assessment tables for each policy option and sub-options have been revised in order to better present the efficiency, effectiveness and coherence arguments (with existing rules, agreements) of the proposed measures.

Furthermore, the simplification benefits of the initiative have been emphasized and a detailed assessment of the costs related to the proposed system (i.e. the preferred policy option) have been added.

- **Monitoring indicators** have been specified in more detail and an operation plan for the evaluation has been defined.

- The **stakeholders' views** has been integrated in the assessment of each policy option and sub-option.

4. PROBLEM DEFINITION

4.1. General problem

What is the problem?

Today, if EU citizens and businesses (in particular SMEs) want to 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 its authorities for an indefinite number of purposes and getting them accepted by that Member State contrary to its own nationals and companies. They have to undergo disproportionate, burdensome

and costly administrative formalities to prove the authenticity of various public documents and fight legal uncertainty. This phenomenon is exacerbated by the absence of multilingual standard forms at EU level for the most frequently used public documents between the Member States. Difficulties in terms of cost and time arise also for national public administrations.

The formalities of legalisation, Apostille, certified copies and certified translations require administrative steps and involve loss of time and a quite considerable cost which varies greatly from one Member State to another. Furthermore, they do not necessarily prevent fraud and forgery of public documents. As a result, 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 consolidating mutual trust and promoting 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.

The aim of the EU to be an area of advanced social and economic integration should enable EU citizens and businesses to fully benefit from the rights and freedoms guaranteed by the Treaties and the EU Charter of Fundamental Rights, and entitle them to a simplification of their everyday life and operation.

What is the scale of the problem?

The mobility of EU 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. This mobility is facilitated by the rights attached to citizenship of the European Union: in particular the right to free movement and, more generally, the right to be treated like a national in the Member State of residence. The same is truth for EU businesses (in particular SMEs). Nearly half of them are involved in some sort of international contact and a no less important number makes regularly use of the internal market freedoms through cross-border business transactions or clientele in various Member States.

Although an exact quantification of the public documents needed by EU citizens and businesses moving and doing business within the EU and affected by the identified administrative formalities is not feasible[11], the elements listed below provide a rough estimate to illustrate the scale of the problem:

(i) **The number and categories of public documents that are involved in the exercise of free movement rights, which are subject to administrative formalities**: notwithstanding the existing provisions of EU law and bilateral and multilateral agreements to which Member States are parties, a wide range of public documents needed to trigger the full enjoyment of the rights and freedoms

[11] In addition to the lack of specific data both at EU and national level on this issue, figures depend on a complex set of factors: on the one hand, procedures and practices concerning the acceptance of foreign public documents differ among the Member States; on the other hand, the circulation of public documents is also ruled by international instruments and sectoral EU law simplifying or abolishing the legalisation procedure and/or providing for administrative cooperation between the competent national authorities is specific areas. Moreover, public documents are often required in a number of combinations: as copies, certified copies, originals, translations and certified translations. Finally, there may not necessarily be a direct correlation between the data on intra-EU mobility and economic activities and the amount of public documents circulating within the EU. All these elements make specific estimates on the total number of public documents circulating between the Member States and subject to administrative formalities difficult, which also applies to the number of EU citizens and businesses requested to fulfil the identified administrative formalities to ensure acceptance of these public documents in other Member States.

under the free movement of persons, establishment or provision of services are still subject to legalisation, Apostille, certified copies and certified translations. It is estimated that, each year, **around 1.4 million of public documents are exchanged between the Member States and are subject to the Apostille formality**[12], whereas a **similar number of certified translations** and even a large number of **certified copies** are assumed to be requested from EU citizens and businesses in other Member States on a yearly basis[13].

The above figures represent, however, only a minimum estimate for the overall burden placed on EU citizens and businesses. In this respect, two additional elements have to be considered:

(ii) **The number of EU citizens and businesses moving within the EU**: potentially millions of EU citizens and businesses are involved. All these citizens and businesses need to produce public documents drawn up by the authorities or authorised entities of a Member State(s) where they have previously resided and to undergo the identified disproportionate, burdensome and costly administrative formalities even after years from moving residence/place of establishment from one Member State to another.

(iii) **Costs and loss of time** occur for EU citizens, businesses and national administrations, due to both fees paid and time needed to ensure fulfilment of the identified formalities, whereas additional practical difficulties are the result of the underlying **legal uncertainty** on procedures to be followed and rules to be applied.

In the following paragraphs, the points listed above are examined in more detail.

4.1.1. What are the identified administrative formalities?

While domestic public documents are presumed to be authentic without additional proof (in case of doubt, the supposed author of the document is contacted directly through administrative cooperation), public documents originating from other Member States are accepted in the Member State in which they are presented subject to:

- the proof of their authenticity through
  - Apostille or
  - legalisation[14];
- a particular form i.e. **certified copies** and
- certified translations.

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12 The number of Apostilles issued yearly is estimated on the basis of the 2008 and 2012 HCCH Questionnaires, available for 22 Member States (including Croatia). In those Member States for which information is not available (AT, EE, IT, MT, SE, NL), data have been estimated as a proportion of the immigrant and total population. See Annex 10 and Annex 11 for further details.

13 On the one hand, public documents exchanged among different Member States and subject to Apostille are likely to be accompanied by certified translations; on the other hand, in some cases, public documents can be exchanged without an Apostille (e.g. abolished by bilateral or multilateral agreements), but certified copies remain to be requested.

14 For further details on legalisation and Apostille please see Annex 2.

The fulfilment of these administrative formalities for the sake of acceptance of public documents in another Member State creates additional costs and inconvenience for EU citizens and businesses.

The administrative formalities in question relate in particular to paper documents, even if they could also be relevant for electronic documents. The authenticity issue of electronic documents are covered by the recent Commission proposal for a '*Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market*'[15], that aims to create a comprehensive EU cross-border and cross-sector framework for secure, trustworthy and easy-to-use electronic transactions that encompasses electronic identification, authentication and signatures. The latter proposal, however, doesn't explicitly abolish the formalities of legalisation, similar formality or other administrative formalities for public documents to which it relates. At the end, both proposals would complement each other.

4.1.2. What are the public documents concerned by these administrative formalities?

The principal function of public documents is to provide factual proof of the acts of a public authority recorded therein. The process of fulfilment of an EU right may involve the requirement for the person claiming such right to provide a proof of the existence of certain factual circumstances under which the entitlement to that EU right exists. Consequently, public documents fulfil an essential function for the purpose of ensuring the exercise of EU rights. In this context, a wide range of public documents can be requested from EU citizens and businesses when moving between different Member States.

Typical examples of most frequently used public documents related to EU rights of EU citizens and businesses, which are subject to the identified administrative formalities

Public documents of EU citizens:

Civil status records (e.g. documents relating to birth, death, name, marriage, registered partnership, parenthood and adoption);

Documents relating to residence, citizenship and nationality;

Documents relating to real estate;

Documents relating to intellectual property rights;

Documents proving the absence of a criminal record.

Public documents of EU businesses (companies and other undertakings):

Documents relating to their legal status and representation;

Documents relating to real estate;

Documents relating to intellectual property rights;

Documents proving the absence of a criminal record.

[15] COM(2012)238, 4.6.2012

4.1.3. Who is mainly affected by these administrative formalities?

Although there may not necessarily be a direct correlation between the data on intra-EU mobility and economic activities and the amount of public documents used across borders, moving between different Member States for a range of life and business events often implies the fulfilment of administrative and legal requirements, including the requirements of legalisation, Apostille, certified copies and certified translations for the described categories of public documents. The latter requirements affect high numbers of both EU citizens and businesses that, increasingly, exercise their free movement rights guaranteed by the Treaties and the Charter.

EU citizens

In the last ten years, the free movement of EU citizens across Member States has become a steadily increasing phenomenon, as more and more citizens move every year within the EU to live, work or study. Around 2.5% of the EU population is residing in a Member State other than their Member State of origin[16]. In the last decade, larger numbers of EU-27 citizens took advantage of free movement. In 2011, around 12 million EU citizens resided in a Member State other than the Member State of origin; 1 million more than in 2009 and 24% more in comparison with 2007. There are multiple reasons for moving within the EU[17], although work is one of the most driving forces[18]. Indeed, out of 12.6 million EU citizens residing in a Member State other than their Member State of origin, 6.3 million are employed in the host Member State[19]. Marriages also motivate intra-EU mobility, whereby the percentage of international marriages on all marriages concluded in the EU for 2007 was 13%[20].

EU citizens exercising their free movement rights, wishing to live, work or study in another Member State, are requested to provide several categories of public documents in the host Member State, for an indefinite number of purposes such as getting married or divorced, obtaining a residence certificate or a driving licence, having access to social services, having access to tax benefits or avoiding double taxation, looking for a job, etc.

In all these situations, EU citizens are faced with various practical difficulties, requested to undergo additional administrative formalities and to spend a disproportionate amount of time and money to produce these documents in the host Member State(s).

A marriage between citizens from two Member States: cross-border use of civil status documents

Case example: Timea (a Hungarian citizen) married Matthias (a Belgian citizen) in Hungary.

They were misinformed by the Hungarian administrator, who realized too late that they needed the Apostille and not just a translation of Matthias's civil status documents. Consequently, the couple's file was not ready in time for the wedding. Moreover, they were further delayed by the translation issue. It emerged that the Apostille also had to be translated. Obviously, this required additional time. Once married, Timea and Matthias also had a problem with having the marriage certificate

16 Eurostat data, Population by sex, age group and citizenship 2007 – 2011 (see Annex 12, Annex Table 11).
17 See Annex 12.
18 Eurostat database, Labour Force Survey 2011, percentage distribution of main reasons for migration, by country of birth (% of total migrants born in EU 27) 2011. See Annex 12, Annex Table 12.
19 Eurostat database, Labour Force Survey 2011 percentage distribution of main reasons for migration, by country of birth (% of total migrants born in EU 27) 2011. See Annex 12, Annex Table 12.
20 See Annex 12, Annex Table 14.

accepted in Belgium. Again, an Apostille was necessary from the Hungarian Ministry of Foreign Affairs. However, as the couple lives in Belgium, they had difficulties in sending the papers to Hungary to be apostilled and receiving them back. Another unexpected problem arose from the fact that the Apostille can only be attached to these types of documents when they are less than 3 months old. Theirs were 4 months old, so the couple was forced to ask the authority where they got married to issue a new original marriage certificate and then ask for another Apostille on it. Finally, in Hungary, all civil status documents need to be translated by the National Office for Translation, i.e. an accredited official translator is not sufficient. This means that even if you live abroad, you have to go to Hungary to submit the documents for translation to this office, and it is much more expensive than standard translations.

Impact: As an overall consequence, this marriage requested a disproportionate amount of money, time and stress to arrange all the administrative formalities[21].

Difficulties in the circulation of tax certificates and double taxation

Case example: An Italian citizen lives and works in Germany with his family. When he asks for the application of a more favourable tax class (i.e. the more favourable conditions applicable to married workers living with spouses who are not in paid employment), he is requested to produce a set of documents (e.g. certificates from the tax authorities of the Member State of origin or a marriage certificate) which also involves the obtaining of documentary evidence from abroad and the requests for an Apostille for each document to be presented in Germany accompanied by certified translations.

Impact: These requirements hinder or delay the correction of the tax class. In the present case, the Italian citizen and his wife suffered a rather significant economic loss[22].

EU businesses (in particular SMEs)

According to 2010 data, there are almost 21 million SMEs in the EU, representing over 99.8% of EU companies and other undertakings. More than 44% of them are involved in some form of international contact. The data collected show that:

- nearly 30% of SMEs are engaged in import/export activities;
- 2% have foreign direct investments abroad[23].

Moreover, about 7% of all EU SMEs are involved in international subcontracting practices (i.e. more than 1.4 million SMEs out of 21 million). While most of the EU SME subcontractors (90%) operate with client enterprises located within their own Member State, about 26% also have clients in other Member States (i.e. about 383.000 SMEs).

The increasing cross-border activity of EU SMEs implies that a wide range of public documents, used for business purposes, has to undergo these formalities[24]. This is the case for a high number of

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21 The example of the Hungarian-Belgian marriage comes from the citizens' contributions to the Green Paper.

22 Example based on Case C-332/05, Aldo Celozzi vs. Innungskrankenkasse Baden-Württemberg.

23 DG Enterprise and Industry, Internationalisation of European SMEs, Final Report, 2010. Data are based on a survey of 9,480 SMEs carried out in spring 2009. It involved 27 EU Member States and 6 non-EU countries: Croatia, Iceland, Liechtenstein, Former Yugoslav Republic of Macedonia, Norway and Turkey. The percentage includes data on SMEs which are engaged in different "modes of internationalization", such as imports, exports, foreign direct investments, technological cooperation with enterprises abroad, subcontracting with foreign enterprises.

documents (see table on typical examples of public documents above), that are requested in the context of performance of cross-border activities, typically, in the context of establishment of an economic activity in another Member State or participation in cross-border public tenders. Administrative burdens due to legalisation, Apostille, certified copies and certified translations are among the reasons negatively affecting cross-border activities of EU businesses as well as their competitive force in comparison with similar businesses from third States[25].

Establishing an economic activity in another Member State

Case example: The Italian regulation on incorporation of companies, branches and representative offices as well as the common practice of local public notaries are quite burdensome. Different public documents are required to be filed, in Italian, with Italian public (civil) notaries and the local Register of Companies. In particular, when the above-mentioned documents (e.g. certificates related to the legal status and representation of a company) come from another Member State, they must be authenticated usually by a public (civil) notary who also certifies their compliance with the local rules and attaches an Apostille (unless this is not required due to bilateral agreements between Italy and the other Member State). A certified translation into Italian is also required.

Impact: Fulfilling the administrative requirements for establishing a business in Italy can require lengthy procedures and high costs (i.e. only certified translations can cost a few thousand euro) [26].

Administrative formalities in EU public procurement

Case example: A German company applied for a public contract in the Czech Republic. With its bid it had to provide a large number of documents and certificates proving its reliability (e.g. absence of a criminal record concerning its CEOs). The company faced various problems while preparing these documents, including their certified translations.

Impact: The company had to spend money and time to provide certified translations of the requested documents.[27]

For further examples, please see Annex 7.

Administrations

Finally, public administrations of the Member States (e.g. civil registrars, officers of business registers, competent authorities involved in the procedures for legalisation/issuance of the Apostille) also face difficulties when applying the requirements of legalisation, Apostille, certified copies and certified translations. They have to identify which law applies and which documents have to be authenticated, which further increases the disproportionate costs and time caused by the related procedures.

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24 Moreover, it is worth noting that some cross-border activities of SMEs often entail the movement and residence of entrepreneurs or of employees, or the movement of individual customers, from one Member State to another and thus being closely connected to the free movement of citizens.

25 In 2012, DG Enterprise and Industry conducted a survey on a sample of 485 EU SMEs in order to identify the most burdensome pieces of EU legislation. The survey also provided practical examples of the issues that SMEs encounter during cross-border transactions. Some of the examples are directly related to the requests for legalisation, Apostille, certified copies and certified translations of documents needed for the establishment, provision of services or the participation to public procurement in other MS.

26 Examples of practical experience of Ernst&Young – Corporate Mergers & Acquisition.

27 SME panel questionnaire 2012 – The top 10 most burdensome pieces of legislation for SMEs.

4.1.4. Why are these administrative formalities disproportionate?

Legalisation and **Apostille** are **disproportionate** because they:

(i) imply a negative presumption as regards the authenticity of public documents originating in other Member States contrary to the principle of mutual trust between the Member States;

(ii) create additional costs and delays, and constitute obstacles to the full enjoyment of EU fundamental rights and freedoms of EU citizens and businesses;

(iii) are unsuitable to effectively prevent fraud in relation to the cross-border use of public documents, as they are themselves sensitive to fraud;

(iv) are old fashioned compared to the technological progress since their introduction.

It can appear **disproportionate** that e.g. a university requires **certified copies** of school certificates, whereas a tax or social security office accepts also simple copies of a similar or equivalent category of public documents (naturally provided that the originals are available upon request for inspection in the case of genuine doubt) within the same Member State. Indeed, the practice differs in the Member States depending on the purpose of the presentation of the public document and its type. This phenomenon is further exacerbated when public documents are needed in the cross-border context.

Certified translations appear **disproportionate** unless the Member States have reasonable doubt about the correctness or quality of the translation of the public document in an individual case. Such a scenario would be more in line with the principle of mutual trust between the Member States.

On the whole, in spite of the limited effectiveness of these formalities in ensuring the authenticity of public documents in practice or effective protection against fraud, disproportionate costs and time requirements are placed on EU citizens, SMEs and public administrations in each Member State (see the boxes below).

Costs and delays for EU citizens and businesses due to administrative formalities[28]

A. The scale of costs and time requirements for EU citizens and businesses related to the Apostille as the main formality for authentication of public documents

Considering that fees differ significantly between the Member States, the average cost for obtaining an Apostille amounts to € 13,20 (see Annex 11). Moreover, to overcome difficulties related to obtaining the Apostille, EU citizens and, most of all, EU businesses, can rely on service providers (i.e. private agencies) that will attend to all the administrative formalities on their behalf. The cost of such services varies according to the type of documentation, the number of pages, the country of origin and the time required but, generally, prices range between € 60 and € 450.

Over the course of one year, it can be estimated that the cost for EU citizens and businesses for obtaining the Apostille for intra-EU use amounts to **over € 25 million** (see Annex 11, Annex Table 7). The expenses for EU citizens and businesses are obviously much higher in the case of recourse to private service providers.

[28] The figures in the box are based on a set of estimates, due to the lack of specific data on the issues concerned.

Although there are some Member States that issue Apostilles immediately, the majority of Member States need one working week.

B. The scale of costs for EU citizens and businesses related to legalisation

The cost of legalisation of public documents not covered by the Apostille Convention is significant, with a maximum price of € 80 (Germany) and an average price of € 16,50 (see Annex 11, Annex Table 9). Since the Apostille largely replaced legalisation in the EU for a wide range of documents, the costs resulting from legalization could be assumed to be lower than the costs of the Apostille. For example, assuming that the number of legalisation procedures is equal to 10%-20% of the number of Apostilles issued for intra-EU use, the total cost of legalisation procedures for EU citizens and businesses would range between 2.3 and 4.6 million on an annual basis[29].

C. The scale of the costs for EU citizens and businesses related to certified copies of public documents

The certified copy of a public document is generally provided by the public authority issuing the public document itself. In these cases, obtaining a certified copy can be free of charge, although in some cases limited fees can be applied. For example, in Italy, while the issuance of certified copies of civil status certificates is generally free of charge, the issuance of such copies of certificates from business registers for SMEs can range between € 5 and € 7.

In some Member States[30], notaries are involved in the process of issuing certified copies of documents in diverse situations, such as marriages, registered partnerships, extracts from company registers or real estate transactions. Notarial service fees are highly variable, depending on the type of the document and Member State (in Italy, the cost can range from € 6 to € 30 per page[31], in Spain, it is about € 3 per page[32]).

The minimum burden which would be placed on EU citizens and businesses can be calculated as follows: considering at least one working hour spent for obtaining a certified copy (with a cost equal to about € 23, based on the average hourly labour cost in the EU) and a minimum average fee equal to € 3, the total amount of money spent by EU citizens and businesses for obtaining certified copies of public documents to be used in cross-border situations would be in the order of 75-100 million[33].

D. The scale of the costs for EU citizens and businesses related to certified translations of public documents

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29 No specific data on the number of legalisation in the EU is available, however, the MS' replies to questionnaires delivered by HCCH confirm that the number of Apostilles issued exceeds the number of legalisations.

30 I.e. in the 21 EU Member States based on Roman law.

31 Decreto Ministeriale 27 novembre 2001, Determinazione della tariffa degli onorari, dei diritti, delle indennità e dei compensi spettanti ai notai.

32 Real Decreto 1426/1989, de 17 de noviembre, por el que se aprueba el arancel de los Notarios.

33 This cost takes into account both: certified copies free of charge (€ 0) and certified copies that have a cost (e.g. € 5, corresponding to the fee for issuance or other costs paid, such as the cost of postal services). On average (by considering both copies issued for € 0 and copies issued for € 5), an additional cost of € 2 is considered. This cost is additional to the time waste (quantified in terms of working hours invested).

In general (given that they vary between the Member States), the costs of certified translations can be calculated on a basis of € 30 per page (i.e. a 10 pages document can cost up to € 300[34]). The estimated cost for certified translations required for a cross-border marriage amounts to € 120 for the majority of Member States, as shown in 0, Annex Table 1. A certified translation of a tax return can cost up to € 300. Even more expensive are certified translations of certificates of registration to the enterprise registry: they generally consist of 20 pages and their certified translation by accredited translators can cost up to € 1.800.

Based on the number of Apostilles (i.e. estimated as 1.4 million documents each year), 90% of them have to be accompanied by a certified translation (i.e. 1.3 million documents)[35]. At the same time, there are public documents that do not need the Apostille, but they would need to be accompanied by a certified translation (we can assume 30% of documents moving across the EU, i.e. 420.000 documents)[36].

On the whole, more than 1.6 million public documents would need a certified translation. Based on the assumption that a public document can be, on average, made up of 3 pages (most of the civil status documents, such as birth or marriage certificates, are 1 page documents, whereas other documents, such as tax returns, can reach 10 pages) and considering a cost equal to € 30 per page, we can assume that the magnitude of costs of certified translations for EU citizens and businesses would amount to € 100-200 million per year.

Costs and delays for public administrations

Example showing the scale of costs and time requirements for administrations related to the Apostille as the main formality for authentication of public documents

Based on the time required to issue an Apostille[37] and on informal interviews with public administrations that issue an Apostille immediately (who reported that this takes up 30 minutes of a civil servant's time[38]), it is possible to estimate that the average amount of hours required by a public administration to issue an Apostille is about one hour. The average hourly labour cost for EU27+1 Member States is calculated to be € 22,6.

The estimated total costs faced each year by the different public administrations involved in the issuance of the Apostille amount to approximately € 31-33 million. After deducting fees paid by citizens in the range of € 25 million, the annual net costs for EU administrations issuing the Apostille could be estimated in a range between € 5 million and € 7 million.

4.1.5. In which situations are these administrative formalities required?

Legalisation, Apostille as well as certified copies and certified translations are required for the cross-border use of public documents in the following scenarios:

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34 SEC(2010) 1547 final. Impact Assessment accompanying the Proposal for a Regulation of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

35 Indeed, some documents would be exchanged between same-language Member States (e.g. AT-DE).

36 For example, when bilateral or multilateral agreements abolish Apostille.

37 The issuing of an Apostille can take up to one week, but this varies between the Member States.

38 Based on the known value for the immediate issuing of Apostilles, proportionate increases were applied to estimate the amount of working hours required by public administrations to issue the Apostille.

(i) when they are presented to public authorities of a different Member State from that in which they were issued (e.g. certificate of no-impediment in the case of a cross-border marriage);

(ii) when they are presented to private or semi-public entities (such as banks or notaries) in the course of exercise of their public duties in a different Member State from that in which they were issued (e.g. tax residence certificate provided to a bank in order to benefit from a withholding exemption foreseen by a bilateral treaty).

Although the requirement to obtain administrative formalities for the cross-border use of certain public documents has been to some degree abolished or simplified through sectoral EU law and multilateral or bilateral agreements, such a trend is far from being the norm. On the contrary, it represents a serious shortcoming at both EU and international level and complicates the life and business of EU citizens and businesses.

Shortcomings of existing EU laws addressing such formalities

In addition to national rules, the circulation of public documents is also ruled by EU sectoral law (see Annex 5) and international instruments (see below as well as Annex 3, 4 and 6). EU law addresses the issue of authenticity of public documents on a sectoral basis, sometimes explicitly, but generally in an inconsistent and piecemeal manner. In general, three approaches can be distinguished: 1. the relevant instrument of EU law explicitly exempts the documents from the authentication requirement (e.g. court judgements under the majority of civil justice instruments), 2. the relevant instrument of EU law contains no explicit reference to authentication, but provides for other means to verify the authenticity of public documents originating in other Member States (e.g. mutual recognition of professional qualifications) and 3. the instrument contains neither an explicit reference to the abolition of authentication, nor does it provide alternative means to this end (e.g. free movement of persons). As regards other formalities (e.g. certified copies and certified translations), there are only few examples in the existing EU law which provide that Member States may not require a document to be produced in its original form, or as a certified copy or as a certified translation.

From this results that the existing sectoral EU law does not provide satisfactory solutions for an easier acceptance of public documents in the Member States and contains a number of shortcomings.

An example of a sectoral EU law simplifying the cross-border circulation of public documents is Directive 2005/36/EC on the recognition of professional qualifications[39]. The Directive stipulates that, where the competent authorities of the host Member State decide on an application for authorisation to pursue the regulated profession in question, those authorities may request certain documents and certificates. In situations of reasonable doubt, the host Member State may require from the competent authorities of the Member State of origin confirmation on the authenticity of the attestations and evidence of formal qualifications awarded in the Member State of origin. Nevertheless, the Directive does not contain a provision that would explicitly exempt public documents within its scope from legalisation or similar formality. Consequently, it does not provide for the necessary level of legal certainty for EU citizens and businesses.

Shortcomings of existing international law instruments addressing such formalities

[39] OJ L 255/22 of 30.9.2005.

There is, in addition, a vast body of international conventions applying diverging approaches to these aspects of public documents, including the Apostille Convention, the Convention abolishing the legalisation of documents in the Member States of the European Communities of 25 May 1987 (the 1987 Brussels Convention) and different Conventions of the International Commission on Civil Status (CIEC).

In total, more than 100 bilateral agreements apply between the Member States (see Annex 6) that explicitly provide for the exemption of public documents from legalisation and Apostille. Nevertheless, it is only in 75 out of 600 possible situations in which documents move between the Member States that all legalisation formalities have been completely abolished, on the basis of the Brussels 1987 Convention (not in force, but applied provisionally between six Member States) and approximately 22 bilateral agreements[40]. In most cases where legalisation formalities have not been abolished, they have been replaced by the Apostille, which remains a simpler but still burdensome procedure.

From these results that the existing international law instruments do not provide satisfactory solutions for an easier acceptance of public documents in the Member States and contain a number of shortcomings.

Shortcomings of the Apostille Convention

The legalisation process was replaced by the issuance of a standardised Apostille in all EU Member States as well as a large number of third countries through the Apostille Convention for certain categories of public documents. However, the most visible shortcomings of the Apostille Convention are the following:

(i) it is outdated, since it was adopted in a different legal and political culture of the early sixties and was not modified since;

(ii) it uses old fashioned and abstract legal terms motivating diverging interpretations by the State parties;

(iii) it applies only to limited categories of public documents and does not exempt public documents executed by diplomatic or consular agents and administrative documents dealing directly with commercial or customs operations from the legalisation requirement (for documents belonging to the mentioned categories, legalisation is still required);

(iv) it leaves excessive discretion to its State parties on the form of the public document to which an Apostille can be attached with the consequence that in the majority of cases a prior certification is required;

(v) its application increases legal uncertainty among public authorities and those presenting the public documents (i.e. EU citizens and businesses) regarding the scope of application of the Convention and whether or not an Apostille continues to be required when EU law or an bilateral agreement preclude this formality;

(vi) even as a simplified form of legalisation, its application requires a disproportionate amount of costs and time;

[40] This is an output of the 2007 study (Study JLS/C4/2005/04).

(vii) it does not provide for a sufficient fraud prevention mechanism due to the lack of an effective administrative cooperation as well as supervision and policing tools[41];

(viii) it allows the State parties to conclude bilateral agreements going beyond its scope to the detriment of legal certainty[42].

Shortcomings of the CIEC Conventions

The CIEC[43] introduced several Conventions abolishing legalisation for specific types or categories of public documents concerning civil status[44]. Three out of these Conventions deal directly with the legalisation of civil status records. The CIEC Conventions have also introduced model (multilingual) extracts from certain of these records and facilitated, to certain extent, the administrative cooperation in terms of information and document exchange between the competent public authorities of the participating States. Despite all these developments, the extent of the positive impact of these Conventions remains limited because:

(i) they are outdated and dominated by non-EU concepts of the circulation of public documents;

(ii) they only apply to a small number of Member States[45] and cover a limited category of public documents effecting citizens (i.e. civil status documents);

(iii) the multilingual extracts introduced by the Conventions are only related to birth, marriage and death;

(iv) they do not abolish the requirement of certified copies and certified translations;

(v) due to the mix of EU and non-EU members in the CIEC, they do not provide for an effective administrative cooperation;

(vi) they do not promise real expectation of speedy progress on all these issues.

Shortcomings of the 1987 Brussels Convention

The Apostille has been abolished by the 1987 Brussels Convention. The Convention applies to a wide range of public documents and establishes basic administrative cooperation[46]. It should be, however, emphasised that its positive impact in the context of the EU is minimal because:

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41 The Apostille Certificate is a public document and, as such, is susceptible to fraud and forgery. Apostille certificates are not always placed on/attached to documents in a uniform and secure way: for example, the Apostille may be detached from a public document and reattached to another document in order to have it accepted by a foreign public authority.

42 See Annex 2 and Annex 5. For further details on the application and scope of the Apostille Convention, please see Annex 3.

43 CIEC is an international organisation, which was set up in 1949 in order to promote international cooperation on civil status matters and improve the functioning of civil status authorities. Member States of the CIEC are Belgium, Croatia, France, Germany, Greece, Hungary, Italy, Luxembourg, Mexico, the Netherlands, Poland, Portugal, Spain, Switzerland, Turkey and the United Kingdom. States with observer status are Cyprus, the Holy See, Lithuania, Moldova, Rumania, Russian Federation, Slovenia and Sweden.

44 See for further details in Annex 2, Annex Box 1.

45 Austria, France, Italy, Luxembourg, the Netherlands, Poland, Portugal and Spain are State parties to Convention No 17 on the exemption from legalisation of certain records and documents.

(i) it has not entered into force since it has not been ratified by all Member States. As of today, the Convention has been ratified and is applied provisionally by only six Member States,[47] and remains predominantly unknown or obsolete (even in those Member States which should normally apply it in between themselves) [48];

(ii) it does not abolish certified copies and certified translations of public documents and deals only with legalisation and Apostille;

(iii) its administrative cooperation is not elaborated in detail and left to the discretion of the Member States. Furthermore, it is not supported by any network and functions without the indispensable electronic support or other effective and secure means to detect fraud and forgery of public documents;

(iv) it allows Member States to conclude bilateral agreements going beyond its scope to the detriment of legal certainty.

It is worth mentioning that, on the other hand, no specific and persuasive arguments against the ratification of this Convention by the Member State have been identified. On the contrary, the replies to the Green Paper launching the present initiative[49] prove the broad acceptance and willingness of the Member States to abolish the formalities linked to the circulation of public documents in the EU, based on the principle of mutual trust among the authorities[50].

Shortcomings of the existing EU and international laws on certified copies

Certified copies have been abolished to some extent by a limited number of EU sectoral law[51]. For illustration, Article 5-(3) of the Services Directive (2006/123/EC)[52] provides that Member States may not require a document from another Member State to be produced in its original form, or as a certified copy […], save in the cases provided for in other Community instruments or where such a requirement is justified by an overriding reason relating to the public interest, including public order and security. On the other hand, the international law instruments identified above contain practically no references to certified copies.

Moreover, the issue of the form in which public documents are accepted is not regulated in a uniform manner among the Member States. Generally, simple copies of public documents are not

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46 Article 4(1) of the 1987 Brussels Convention. For further details on application and scope of the Apostille Convention please see Annex 3.

47 Namely Belgium (applicable since 16.3.1997), Denmark (26.10.1989), France (12.3.1992), Italy (11.1.1991), Ireland (8.3.1999) and Latvia (21.6.2004). Cyprus (29.4.2005) has acceded to the Convention, though without declaring it provisionally applicable. The Convention was also signed by Germany, Greece, Luxembourg, Netherlands, Portugal and UK, but these Member States have refrained from its ratification and provisional application.

48 During the 2008 study, the foreign ministries of the Member States were asked why they had not ratified the 1987 Brussels Convention and if there were any general objections to such a step. None of the Member States could give compelling reasons. In one Member State, an official checked the files and explained over the phone that there was an election shortly after the Convention had been signed and the responsible ministerial official retired. Thereafter, the issue was forgotten.

49 COM(2010) 747 final.

50 To this purpose, it is also worth noting that since the ratification of the Brussels Convention - 25 years ago – many developments have occurred in terms of mutual trust among authorities, progressive development of the internal market as a fully integrated space for citizens and economic operators and in terms of tools, such as the IMI, unavailable at the time.

51 See Annex 2.

52 Directive on services in the internal market. OJ L 376/36 of 27.12.2006.

accepted by the Member States but originals and/or certified copies of public documents are required. In most Member States, a simple copy is not a public document and would therefore need to be certified before an Apostille is issued or legalisation is performed. Even in cases were legalisation and Apostille are abolished, the original form or a certified copy has to be provided and simple copies are not allowed.

Shortcomings of the existing EU and international laws on certified translations

Certified translations were abolished to some extent by a limited number of EU sectoral law which contains an explicit reference to this administrative formality. Using the example of Article 5(3) of the Services Directive, Member States may not require a document from another Member State to be produced in its original form […] or as a certified translation, save in the cases provided for in other Community instruments or where such a requirement is justified by an overriding reason relating to the public interest, including public order and security. As for the mentioned international law instruments, they do not abolish the requirement of certified translations.

In any case, this administrative formality is outdated and creates additional costs and time. This can be illustrated on the example of certificates of registration used by EU companies, which when translated by an accredited translator can cost up to € 1.800. Moreover, this practice doesn't correspond with practical needs of EU citizens and businesses when using well known shorter standard documents and can be therefore qualified as superfluous in a high number of cases.

The absence of multilingual standard forms of the most frequently needed public documents at EU level further increases the translation requirements imposed on EU citizens and businesses when moving across the EU[53].

4.2. The fragmentation of the overall framework and the uncertainty affecting EU citizens, businesses and public administrations

In addition to the fragmentation of the EU and international legal framework with respect to the cross-border movement of public documents and the associated administrative formalities, differences in national systems also exist in terms of:

– the authorities involved in the procedures of legalisation, similar formality (Apostille) and issuance of certified copies and certified translations on the one hand, and acceptance of public documents on the other hand;

– incorrect implementation of these administrative formalities (e.g. due to the lack of legal knowledge of public officials, issuance of Apostilles for documents which fall out of scope of the Apostille Convention), combined with incorrect application of EU secondary law (e.g. request for authentication formalities not required by sectoral EU law).

The overall result is a high level of uncertainty and practical difficulties affecting all the parties involved which have to deal with the lack of clarity as to which procedures and rules to apply for the use of different public documents across the Member States. In addition, the identification of competent authorities for the issuance and acceptance of these formalities in the Member States proved to be a critical issue for EU citizens and businesses.

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[53] Even if certain EU sectoral law have already established standard forms (e.g. Succession Regulation, European Small Claims Procedure Regulation, European Order for Payment Procedure Regulation, etc).

4.3. Detection of fraud and forgery of public documents

An important issue concerns the detection of fraud and forgery of public documents in their cross-border use under the current regime, in particular in the course of application of the Apostille Convention. The Apostille may be detached from one public document and reattached to another document. In addition, the Apostille stamp and seal can easily be recreated leading to the abuse of Apostille certificates (see the example below). Thus, the prevention of fraud in this area is not impeccable.

It is also worth restating that the Apostille Convention does not provide for supervision of the Apostille system, including penalties or other sanctions for fraudulent activities, as well as for effective administrative cooperation preventing fraud and forgery of public documents. Indeed, notwithstanding their availability, systems for administrative cooperation among Member States are in practice never or, at best, very rarely used, due to a set of practical problems, such as language barriers, difficulties to find the involved authorities in the other Member State or to consult registers in paper form or located at local level.

As a conclusion, the extent to which the Apostille Convention adequately protects the Member States' interest of fraud prevention in relation to foreign public documents is largely questionable.

Example of fraudulent practices under the Apostille Convention

According to the Hague Conference on Private International Law (HCCH), many States have expressed concerns about fake academic credentials issued by "diploma mills", which may benefit from the Apostille process through notarisation. If a notarial certificate issued for a fraudulent educational document is valid, then there is nothing in the Convention to prevent an Apostille from being issued for the notarial certificate. Furthermore, in the absence of effective communication between the authorities of the Member States in order to verify the authenticity of public documents, the Apostille certificate itself can also be abused in order to 'pretend' the authenticity of public documents.

Notwithstanding the efforts of the HCCH to introduce the Electronic Apostille Pilot Project[54], the potential risk of fraud and forgery of apostilled public documents remains. This is mainly due to its limited scope, experimental phase involving a minimal number of Member States and the possibility of a fraudulent re-use of an electronic Apostille.

4.4. Risk of discrimination

EU law allows for some degree of differential treatment or 'discrimination' between domestic public documents (originating in one of the Member States) and foreign public documents (issued in third countries) if this is proportionate to the objective differences between such public documents. The Member States, however, do not only make distinction between domestic and foreign public documents, but also between the same types of public documents of different Member States as far as their authentication is concerned.

The requirement of a Member State to authenticate public documents originating in other Member States, including the formalities it involves, does not amount to direct discrimination. The requirement is, however, indirectly discriminatory, since it is a measure that is intrinsically liable to

[54] See Annex 6, section 6.1.

affect non-nationals more than nationals in relation to the exercise of fundamental rights and freedoms guaranteed by EU law[55].

In general, national authorities are not familiar with the requirements applicable to public documents in the Member State of origin, including their signatures, seals and stamps. This cannot, however, justify different treatment between domestic public documents and public documents originating in other Member States. At the same time, it must be acknowledged that the improvement of mutual trust between authorities in this area depends also on measures at EU level aimed at familiarising authorities with the form and substance of public documents of other Member States.

4.5. How would the problem evolve in the base-line scenario?

Assuming that the current framework remains unchanged, the identified problems would remain and worsen, as the need for public documents in cross-border situations steadily increases. The acceptance of public documents in other Member States than the Member State of origin would continue to be regulated by the existing rules at EU, international and national level and the circulation of public documents would continue to be restricted. The current legislative patchwork would further increase with a negative impact on legal certainty and security of EU citizens and businesses. At the same time, the public officials involved in the fulfilment of the administrative formalities in question would continue to face difficulties due to the lack of information on the applicable legal requirements in various Member States.

One might expect a certain improvement on the listed shortcomings of the Apostille Convention arising from the effective implementation of the ongoing Electronic Apostille Pilot Programme (e-APP) and the related e-Registers. However, this programme is currently implemented by only a minimal number of Member States and is still in a process of development. Moreover, although the electronic Apostille would to a certain extent simplify the movement of public documents and reduce costs, the problems in terms of fragmentation and overall uncertainty (e.g. lack of clarity as to which documents need to be apostilled and competent authorities involved) would remain.

Similarly, the use of electronic documents and electronic certified copies is expected to increase. Although this might in principle simplify the circulation of public documents, the downside would be further fragmentation (depending on the sectors and areas of EU law which will be concerned and different timing of these developments).

Moreover, as far as can be estimated to date, switching to electronic operations, for all public authorities in the EU, will take a long time, also due to the huge costs involved and certain additional security levels, above those of private entities, which public authorities are bound to observe. While the share of documents transmitted electronically is likely to increase in the future, paper documents will continue to circulate for a long time and an action in this field remains highly relevant.

Therefore, notwithstanding certain positive tendencies, the need to complement the existing EU law, by filling the gaps and to further simplify the overall framework regulating the circulation of public documents, remains a highly relevant issue to be addressed.

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[55] The summary of the conclusions of the 2007 Study informs that certain Member States charge a different rate for the same legalisation formality depending on the nationality of the applicant. The study concludes that this practice is directly discriminatory, irrespective of the fact that the requirement of legalisation itself is not (p. 38).

In conclusion, the existing situation would continue to produce costs, delays and dissatisfaction among EU citizens and businesses. If we put aside potential developments through sectoral harmonisation of EU law, the applicable legal framework would remain highly unclear and continue creating legal uncertainty as well as risks of indirect discrimination between EU citizens and businesses. Finally, the protection against fraud and forgery of public documents would rely on traditional methods of administrative cooperation introduced, in limited areas, by international conventions and/or EU legislation. As for the expected developments of the status quo, the practical obstacles to the cooperation and communication among the Member State authorities would remain basically unchanged (e.g. difficult communication due to language problems, obstacles when consulting registers in paper form or located at local level)[56].

5. DOES THE EU HAVE THE POWER TO ACT?

5.1. Legal basis

The EU's competence to act in the area of use and acceptance of public documents between the Member States stems from two different provisions of the Treaty on the Functioning of the European Union (TFEU).

Article 21(1) TFEU provides that every EU citizen shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. Article 21(2) TFEU empowers the EU to adopt provisions with a view to facilitating the exercise of this right. Obstacles to the cross-border use and acceptance of documents have a direct impact on the free movement of citizens. Thus, removing or reducing these obstacles would facilitate the exercise of the **free movement of citizens** as foreseen in Article 21(2) TFEU.

Article 114 (1) TFEU empowers the European Parliament and the Council to adopt measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the **internal market**. Obstacles to the cross-border use and acceptance of documents have a direct impact on the full enjoyment of the internal market freedoms by EU businesses as described in Article 26 (2) TFEU and referred to in Article 114 (1) TFEU. It therefore could be the suitable complementary legal basis to cover public documents used by EU businesses in cross-border scenarios within the internal market.

For these reasons, the EU should ensure that **effective and proportionate measures** are in place to reduce legal uncertainty, costs and lengthy procedures caused by legalisation, Apostille as well as certified copies and certified translations, including additional necessary safeguards preventing the use of forged public documents within the EU.

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[56] In this context it should be noted that administrative cooperation in situations of serious doubt about the authenticity of public documents originating in other Member States foreseen by the 1987 Brussels Convention is practically non-existent between the six Member States which apply the Convention provisionally.

5.2. Subsidiarity test: Why the EU is better placed to take action?

As described in the problem definition, the need for the identified administrative formalities continues to cause practical difficulties, delays and costs for EU citizens, businesses and public administrations and hinder the full enjoyment of their free movement rights.

The **EU is better placed than the Member States** to take action to abolish legalisation and Apostille as well as to simplify the use of certified copies and certified translations and, at the same time, to ensure a solid and coherent EU cross-border and cross-sector framework for the circulation of public documents between the Member States, including a more effective level of detection of their fraud and forgery. This is because these problems have a purely cross-border dimension and cannot by their nature be properly dealt with at the level of the Member States, since their partial efforts are further increasing the existent legislative patchwork. In addition, the Member States are unable to offer effective solutions to the relating challenges due to their EU dimension. Although the majority of the Member States are bound by a number of diverging multi/bilateral agreements abolishing or simplifying these formalities, the creation of a level playing field at EU level would require a complex re-negotiation and re-design of these agreements. This could be an extremely difficult and lengthy process.

An EU level action would help EU citizens and businesses to use different categories of public documents in cross-border situations without disproportionate, burdensome and costly administrative formalities. For these reasons, EU action would ensure **higher efficiency**.

The adoption of a directly applicable simplifying measure containing horizontal principles on the free circulation of public documents between the Member States demonstrates **clear added value** of an EU action.

Action at EU level would respect the **proportionality principle** by focusing only on the abolition of the identified administrative formalities, with the necessary accompanying elements, but not striving at full harmonisation of public documents and rules governing their circulation within the EU.

Moreover, the EU action would not interfere in purely domestic scenarios. It would also not affect any applicable sectoral EU law prescribing the identified formalities in justified cases, introducing harmonised forms of documents or establishing tailored administrative cooperation. Thus, the EU action would not go beyond what is necessary to achieve the objectives.

6. OBJECTIVES

Through a horizontal approach, the general objective of the Commission' proposal is to facilitate and enhance the full exercise of EU citizens' right to free movement within the EU and of EU businesses' (in particular SMEs) right to freedom of establishment and freedom to provide services within the Single Market. EU citizens and businesses should not be prevented or discouraged from exercising their rights guaranteed by the Treaties, including those enshrined in the EU Charter of Fundamental Rights, by the incompatibility or complexity of legal and administrative systems in the Member States. The general and specific objectives of the proposal are summarised in the following table:

Objectives:	
General	• Facilitate and enhance the full exercise of EU free movement rights by EU citizens and businesses.
Specific	• Reduce difficulties caused by administrative formalities for the acceptance of public documents originating in other Member States. • Simplify the fragmented legal framework regulating the circulation of public documents between the Member States. • Ensure a more effective level of detection of fraud and forgery of public documents. • Eliminate risks of discrimination among EU citizens and businesses.
Operational	• Cut costs and delays caused by legalisation, similar formality (i.e. Apostille) and other formalities (certified copies and certified translations) for EU citizens, businesses and public administrations. • Reduce the need for translation of public documents within the EU. • Promote an efficient and secure cooperation exchange among Member States authorities as a means to verify the documents' authenticity.

7. DESCRIPTION OF POLICY OPTIONS

7.1. Policy options

The following five policy options and seven sub-options under policy option 4 have been considered and further developed:

Policy Option 1: **Retention of the status quo (base-line scenario)**

Under this option, no new action would be taken at EU level to remove the identified problems. The circulation of public documents would continue to be regulated by the fragmented legal framework at EU, international and national level as explained in section 4.5.

Policy Option 2: **A non-legislative measure promoting best practices between the Member States in order to facilitate cross-border circulation of public documents**

According to this option, a non-legislative measure, such as a Communication, would promote best practices between the Member States in order to facilitate cross-border circulation of public documents, including the exchange of information and training for officials involved as well as the drafting of codes of conduct, in order to improve the level of information addressed to EU citizens and businesses. These activities would take place in a structured form, e.g. through the organization of information campaigns.

Policy Option 3: **Ratification of the 1987 Brussels Convention by all Member States**

Under this option, the Commission would encourage the ratification of the 1987 Brussels Convention by all Member States with the aim to abolish legalisation and Apostille for a wide range of public documents. In addition, an administrative cooperation as foreseen in the Convention would be used and extended to all Member States. This cooperation would enable the competent authorities to verify the authenticity of public documents in situations of serious doubt, however, without an electronic support or other secure network.

This policy option is to be understood as a "non-legislative" option since the ratification of the 1987 Brussels Convention would not occur by a legislative act of the EU itself. The Member States themselves would have to act by ratifying this Convention, following the recommendation of the Commission (addressed particularly to those Member States that haven't done so yet). To this purpose, the Commission would issue e.g. a Communication.

Policy Option 4: **A legislative measure promoting the free movement of citizens and businesses by simplifying administrative formalities related to the use and acceptance of certain public documents in the EU, complemented by improved administrative cooperation between the Member States and issuance of multilingual standard forms**

This policy option would consist of a legislative instrument abolishing legalisation and Apostille for the most frequently required public documents between the Member States by incorporating the principles of the 1987 Brussels Convention into EU law. The scope of the instrument would be defined in accordance with a comprehensive list of public documents, enabling its potential extension through future regular reviews. Moreover, since the formalities related to certified copies and certified translations of public documents are not covered by that Convention, the scope of the initiative would be broadened. Considering the importance of providing for an effective mechanism for authenticity verification of public documents in cases of reasonable doubt, this option would be accompanied by (i) **improved administrative cooperation** based on efficient and secure cross-border information exchanges. An additional important element aimed at reducing the remaining translation burdens for EU citizens, businesses and national public administrations consisting in the (ii) **issuance of multilingual standard forms** at EU level for the most frequently used national public documents would be added.

(i) Improved administrative cooperation

In order to guarantee the integrity and security of public documents as well as the necessary certainty for public authorities, the instrument would establish an accompanying measure, i.e. an **improved administrative cooperation**. Such cooperation would enable the public authorities and entities authorised by virtue of an act or an administrative decision to carry out public duties[57] in the receiving Member States to submit requests for information on the authenticity of public documents in cases of reasonable doubt.

These authorities or entities could submit similar requests in order to obtain certainty as regards the authenticity of certified copies of public documents. The improved administrative cooperation would be supported by electronic means and adapted to the needs of the authorities authorized to

[57] Authorities and other entities (including private entities carrying out public duties) can be registered in IMI. Authorities and/or private entities carrying out public duties that do not (or do not yet) have direct access to IMI themselves and have reasonable doubt about the authenticity of public documents may request information from the central authority(ies) of their Member State. Such a possibility shouldn't be, however, awarded to private entities or individual citizens when being presented with public documents originating from other Member States. Most documents themselves (such as contracts, invoices, cheques, commercial documents) which private entities deal with are not public documents and are beyond certification or legalisations.

transmit and receive requests, i.e. facilities for communication exchange. The new system would also provide translation functionalities to facilitate the mentioned information requests. Thereby, the proposed cooperation system would contribute to the specific objective of reducing difficulties caused by administrative formalities for the acceptance of public documents originating in other Member States. It will also ensure a more effective level of detection of fraud and forgery of public documents, which represents another specific objective of this measure. Indeed, whereas under the current situation there exists only an incomplete, fragmented or partial protection against fraud (since the Apostille is vulnerable to fraud and communication among authorities is limited), the authorities of the Member States would be encouraged to effectively and promptly solve potential reasonable doubts on the authenticity of public documents, with the support of secure electronic means ensuring their permanent interaction.

All this should be reinforced by the appropriate training and awareness measures for the administrations involved.

It is important to stress that the envisaged administrative cooperation would not interfere with other systems of administrative cooperation established by Union law which provide for exchange of information between the Member States in specific areas, such as the CCN/CSI system in the area of taxation and customs.

This improved administrative cooperation can be addressed by 3 sub-options:

Sub-option 4A: administrative cooperation as foreseen under policy option 3.

Sub-option 4B: administrative cooperation based on the Internal Market Information System (IMI), offering translation facilities (multilingual tool) and a mechanism for fast and secure cross-border information exchanges. Such cooperation would be in line with the new Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System (the "IMI Regulation")[58].

In practical terms, this sub-option would require an amendment to the IMI Regulation (No 1024/2012 of 25 October 2012), by adding the present legislative instrument to its Annex titled "Provisions on administrative cooperation in Union acts that are implemented by means of IMI, referred to in Article 3". To address the specificities of public documents, a new section (module) would be developed within the general IMI platform to serve the purposes of this initiative. The competent authorities established at national, regional or local level and validated by an IMI coordinator under the IMI Regulation would mutually assist each other by replying to requests for information in cases of reasonable doubt about the authenticity of public documents. They would be assisted by central authorities designated by the Member States to take any other measures aimed at facilitating the application of the new proposal, including the resolution of problems which would arise in this context. For example, the central authorities could develop with the Commission:

(i) a repository of templates of the most frequently used national public documents within the EU, including their translation into all Union official languages, in order to support

[58] Following the proposal COM(2011) 522 final, the new Regulation (Regulation 1024/2012 of 25 October 2012 on administrative cooperation through the Internal Market Information System) was published in the Official Journal on 14 November 2012 and entered into force on 4 December 2012. The Regulation provides a high level of flexibility for future expansion of IMI to Union acts not yet listed in the Annex (Art. 4 of the "IMI Regulation"), based on pilot projects carried out by the Commission and evaluations of their outcomes, including data protection issues and effective translation functionalities.

authorities with insufficient linguistic expertise to judge correctness or quality of translations of public documents presented to them;

(ii) an appropriate fraud prevention guidance concerning the circulating public documents; and

(iii) best practices on the promotion of the use of electronic versions of public documents.

The exchanges between the competent and central authorities would be facilitated by specific directories for searching the responsible 'contact' authority in other Member States.

Sub-option 4C: the creation of a network of civil registers. Under this sub-option, which would build on the European Civil Registry Network (ECRN), a network of contact points in each Member State involving civil registrars would be created, through the establishment of a Central Authority in each Member State. Since civil registrars as a defined category of public administrations are particularly affected by the need to exchange formal civil status documents with the highest possible degree of authenticity and security, this sub-option would therefore support such an exchange. Registrars of one Member State would be authorized and encouraged to contact registrars of other Member States directly in cases of reasonable doubt about the authenticity of civil status documents. To this purpose, a software application accessible via the Internet would be created, accompanied by tailored data protection systems. As for the latter point, the European Commission and the Member States would need to take all necessary precautions to ensure compliance with the rules on data protection and personal data processing.

(ii) Multilingual standard forms

Furthermore, with a view to reducing the remaining translation requirements imposed on EU citizens and businesses when moving across the EU, there is a need for an additional accompanying element to this policy option allowing the issuance of **multilingual standard forms at EU level** for public documents most pertinent to cross-border use. These forms would save costs and time for EU citizens and businesses and facilitate the verification of their authenticity by the national authorities involved. If such a standard form is introduced for a specific public document, the linguistic obstacles related to its cross-border circulation would be eliminated. Moreover, EU multilingual standard forms would substantially reduce the cases of forgery of public documents and the need of recourse to the administrative cooperation between the competent authorities of the Member States.

These standard forms would have the same formal evidentiary value as the equivalent public documents drawn up by the authorities of the issuing Member State. Their use would depend on the choice of the EU citizen or undertaking in a concrete cross-border case. Once the citizen or undertaking decides to use the EU multilingual standard form instead of its national equivalent existing in the issuing Member State, its authorities would have the obligation to issue the particular standard form. Similarly, the authorities of the requesting (receiving) Member State would have to accept that form and consider it equally authentic as its national equivalent drawn up by the authorities of the issuing Member State.

Notwithstanding, such multilingual standard forms would not produce legal effects as regards the recognition of their content when they are presented in another Member State than the Member State where they were issued.

The proposed instrument would establish EU multilingual standard forms for birth, death, marriage/registered partnership as well as for legal status and representation of a company or other undertaking.

It should be also emphasized that the issuance of a multilingual standard form on its own, without an explicit abolition of legalisation or Apostille, would not automatically exempt that form from the latter administrative formalities (e.g. under the Succession Regulation[59], the European Certificate of Succession is exempted from legalisation and similar formality by Article 74 of that Regulation). In addition, the proposed new system would not interfere with those situations where standard forms or harmonised public documents already exist under EU or international law. In particular, the standard forms established by several Conventions of the ICCS (e.g. Convention No 16 on multilingual extracts from certain civil status records) could provide useful inspiration at EU level. In this respect, it should be emphasided that the mentioned Conventions of the ICCS do not apply to all EU Member States, and consequently not all EU citizens and businesses can currently benefit from the ICCS work. The standard forms can be addressed by 4 sub-options:

- **Sub-option 4D**: status quo: no standard forms.

- **Sub-option 4E:** compulsory standard forms. The use of these forms would be compulsory in cross-border cases but not in 'domestic' cases. It means that only this compulsory standard form would be used in a concrete case involving cross-border circulation of the underlying national public document.

- **Sub-option 4F**: optional standard forms as annexes to national public documents. Such forms would be attached to specific types of (national) public documents for optional use in other Member States. Each national administration would continue to issue national public documents along with the EU standard forms.

- **Sub-option 4G**: optional standard forms used independently in cross-border cases. Under this sub-option, the standard form could be presented abroad independently and separately from the underlying national public document on an optional basis. The corresponding national public documents would continue to exist at national level.

Policy Option 5: Full harmonisation of public documents and rules governing their circulation within the EU

This policy option would consist of a full harmonisation of public documents at national level for their use both in national and cross-border situations, of situations in which public documents are needed in cross-border scenarios by EU citizens and businesses and of rules concerning the authentication of public documents within the EU, including those issued in third countries.

7.2. Discarded options

The following policy options have been discarded after an initial evaluation:

- **Amendment to all EU sectoral law which contains provisions on legalisation, similar or other formalities and/or provide for a certain form of administrative cooperation:** this option would complement the existing EU sectoral law regulating these issues. However, it would not meet the objective of establishing a horizontal approach and consequently lead to further fragmentation. Moreover, this option would keep outside of the scope of the instrument the currently unregulated policy areas at EU level.

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[59] Regulation (EU) No 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession. OJ L 201/107 of 27.7.2012.

- **A legislative initiative limited to a specific category of public documents (e.g. civil status documents):** this option would not meet the objective of establishing a horizontal approach because its scope of intervention would be limited. Consequently, it would contribute to an increased fragmentation of the current legal framework.

8. IMPACT ANALYSIS OF POLICY OPTIONS

Policy Option 1: Retention of the status quo (base-line scenario)

The existing costs, delays and dissatisfaction among EU citizens and businesses due to the requirements of legalisation, similar and other formalities would continue. The same applies to the fragmented legislative framework. In conclusion, the current situation would follow its natural development at EU, international and national level.

Policy Option 2: A non-legislative measure promoting best practices between the Member States in order to facilitate cross-border circulation of public documents

Expected Impact	
Effectiveness in meeting objectives	The promotion of best practices concerning in particular administrative cooperation would reduce delays in checking public documents originating in other Member States for the authorities concerned, by allowing better exchange of information. This would have an indirect positive effect in improved services for EU citizens and businesses. However, the overall postive impact would be limited because the administrative formalities would remain and the legal framework would still be fragmented. In addition, risks of indirect discrimination between EU nationals and EU non-nationals would continue to exist.
Economic and financial impact	An indirect positive economic impact (enhanced intra-EU mobility, cross-border activities, functioning of the EU Single Market and national markets) could be achieved with better understanding and information. Notwithstanding, no direct savings for EU citizens and businesses would be achieved in terms of money. At Member States level, some savings for administrations in terms of time could occur as a result of better mutual understanding between the authorities of the Member States.
Social impact	Medium positive effects would occur for EU citizens and businesses in terms of reduction of uncertainty as a result of information campaigns and/or the implementation of further tools for increasing awareness of the existing requirements in different Member States. This would result in less frustration for EU citizens and businesses. However, since the formalities would remain, very low positive impact on simplification benefits for EU citizens and businesses.
Impact on fundamental rights	The current problems in terms of i.e. the risk of indirect discrimination between EU nationals and EU non-nationals would persist. Promoting best practices between the Member States in order to facilitate cross-border circulation of public documents beyond the already existing level would result in a more frequent exchange of information, including on personal data. Consequently, the right to the protection of personal data as enshrined in Article 8 of the EU Charter of Fundamental Rights would require the obligation of the Member States to comply with Directive 95/46/EC. Depending on the role which the Commission might play (e.g. data controller) under this non-legislative measure, Regulation 45/2001/EC might also be applicable. This is either because the Commission would keep data which would be discussed during the meetings

	to be organised between the Member States or because the Commission would be in charge of these meetings (e.g. list of participants).
Impact on fraud	Very low positive impact on detection of fraud. Improved knowledge of documents and practices in other Member States would to a certain extent enable public officials to better identify potential cases of fraud.
Impact on EU budget	As for the potential impact on EU budget, there would be costs for information campaigns (such as conferences, meetings, publications, audiovisuals, etc). Costs for training and related actions aimed at stakeholders for the purpose of raising awareness and aiding the dissemination of information also have to be considered.
Transposition and compliance aspects	No difficulties, since this policy option would not impose any additional legislative interventions. Possible exchange of know-how and best practices would entail additional implementation costs for Member States.
View of stakeholders	**The stakeholders consider that a soft law intervention such as this one would be less of an imposition on Member States than a binding Regulation. However, they also recognise that it would not be sufficient to eliminate the identified difficulties faced by EU citizens and businesses, especially with respect to the burdensome costs and administrative formalities that the current situation imposes on them.**

Policy Option 3: Ratification of the 1987 Brussels Convention by all Member States

Expected Impact	
Effectiveness in meeting objectives	This option would not guarantee an improvement to the current situation because there is no legal obligation for the Member States to ratify that Convention. In addition, the ratification process by so many Member States is very time-consuming and could stretch over many years. Consequently, legal uncertainty would continue to exist. If and when ratified by all Member States, then positive impact on the enjoyment of EU citizens' right to free movement and EU businesses ' (in particular SMEs') internal market freedoms, due to the abolishment of legalisation and Apostille in cross-border circulation of public documents. Savings for EU citizens and businesses would occur in terms of costs and time required as a result of the abolition of these formalities. However, obstacles caused by certified copies and certified translations would remain, since their simplification would not be covered by this policy option. Cases of serious doubt as regards the authenticity of public documents originating in other Member States could be dealt with more easily through the administrative cooperation foreseen in the Convention. However, it would not be accompanied by an electronic support or other secure network and depend largely on the wilingness of the Member States. Positive non-discriminatory effect since the different treatment of public documents originating in other Member States as compared to domestic documents would be removed.
Economic and financial impact	Each year, EU citizens and businesses could save between € 25.8 million and € 26.2 million on Apostilles and between € 2.3 million and € 4.6 million on legalisation. Annual costs for the Member States administrations for issuing the Apostilles can be estimated in a range between € 31 million to € 33 million. However, the costs faced by EU citizens and businesses for obtaining Apostille can be considered as revenues for competent authorities between € 25.8 million and € 26.2 million each year. In end effect, the net cost savings for the Member State administrations when abolishing the Apostille could be estimated in a range between € 5 million and € 7 million. Assuming that the number of legalisation procedures could be equal to 10% - 20% of the number of Apostilles issued for intra-EU use (i.e. 140.000/280.000 legalisations per year), and considering that an average price for legalisation amounts to € 16,50, the total annual costs for legalisation procedures for EU citizens and businesses would range between €

	2.3 and € 4.6 million. The net cost savings for the Member State administrations when abolishing legalisation could be estimated between € 500.000 and € 1 million. On the other hand, no saving for EU citizens, businesses or public administrations would be obtained in terms of costs of certified copies and certified translations.
Social impact	Similarly, if and when ratified, positive impact for EU citizens and businesses in the exercice of their free movement rights. Public documents originating in different Member States, and needed e.g. for the purposes of residence or establishment of economic activities, would be accepted without legalisaton or Apostille. No more frustration or time wasted for EU citizens and businesses in the accomplishment of such administrative formalities. However, the simplification benefits would be limited due to the absence of simplification action as regards certified copies and certified translations.
Impact on fundamental rights	Possible positive impact in terms of fundamental rights: - this option could to an extent simplify the administrative burdens of EU citizens and businesses in terms of the right to take up residence, to seek employment, to exercise the right of establishment and to provide services or conduct business in another Member State (Articles 45, 15.2 and 16 of the Charter). This option could also simplify the administrative requirements involved in the exercise of the right to social security entitlements in accordance with EU and national law (Article 34.2 of the Charter); - impact on a number of life events of citizens that may occur during a stay in another Member State and that could effect their possibilities to take full advantage of the Single Market. This policy option would make the handling of documents in these situations less burdensome and would thus show consideration for the respect of the right to private and family life and to an extent also for the right to marry and found a family as well as for the rights of the child as provided in Articles 7, 9 and 24 of the Charter; - this policy option would also to a certain extent address the risk of indirect discrimination of non-nationals as documents emanating from other Member States would no longer require legalisation or Apostille, similarly to domestic public documents. Possible negative impact in terms of fundamental rights: - the risk of indirect discrimination of non-nationals would not be fully dealt with under this option as the costs and administrative constraints involved in providing certified copies as well as certified translations are not addressed; - personal data will be processed frequently and in depth by competent authorities when they check the authenticity. Consequently, the right to the protection of personal data as enshrined in Article 8 of the Charter would require the obligation of the Member States to comply with Directive 95/46/EC; - depending on the role which the Commission might play (e.g. data controller) under this option, Regulation 45/2001/EC might also be applicable.
Impact on fraud	The provisions concerning administrative cooperation would be specifically aimed at limiting the risk of fraud and forgery of public documents. However, no significant improvement, as compared to the status quo, is expected since the system is paper based, unsophisticated and does not allow fast and secure exchanges.
Impact on EU budget	No significant cost/very low negative impact on the EU budget, except for the drafting of the proposed instrument.
Transposition and compliance aspects	This international law instrument would require Member States to designate a competent authority in order to ensure the administrative cooperation with the exception of those Member States that already apply the 1987 Brussels Convention.
Views of stakeholders	**Although little input is provided by stakeholders on this policy option, the contributions to the European Commission's Green Paper highlight the interest in exploring the possibilities of the content of this Convention in order to achieve**

	positive effects on citizens and SMEs.

Policy Option 4: ***A legislative measure promoting the free movement of citizens and businesses by simplifying administrative formalities related to the use and acceptance of certain public documents in the EU, complemented by improved administrative cooperation between the Member States and issuance of optional standard forms***

Expected Impact	
Effectiveness in meeting objectives	The circulation of public documents of EU citizens and businesses between the Member States would be effectively and concretely supported. Intra-EU mobility and the functioning of the Single Market would be enhanced by eliminating the disproportionate, burdensome and costly administrative formalities of legalisation, Apostille as well as by simplifying the use of certified copies and certified translations. The large scope of public documents to be covered would achieve a greater level of non-discrimination between public documents originating in other Member States as compared to domestic documents. **<u>Improved administrative cooperation</u>** **Sub-option 4A** (administrative cooperation as foreseen under policy option 3): effects will be low since there is no electronic support for this type of administrative cooperation and its efficiency would depend on the discretion of the Member States. In addition, information requests would need to be translated in order to be understood by the other public authority. **Sub-option 4B** (administrative cooperation based on the IMI): positive effects in cases of reasonable doubt about the autenticity of public documents. The IMI provides for fast and secure communication channels for cross-border information exchanges. Competent authorities would benefit from the existing functionalities of the IMI system, including the provision of a multilingual system for communications, the use of pre-translated and standard questions and answers as well as from the IMI repository allowing to share templates of the most frequently used public documents for citizens and companies cross-border. The exchange of information and documents by electronic means would allow efficient and secure exchanges of electronic versions of public documents. **Sub-option 4C** (administrative cooperation based on the creation of a network of civil registers): positive effects for civil registrars who could communicate between each other directly in case of doubt about the authenticity of a civil status document or other related issues. However, positive effects would be limited to one category of public documents, meaning civil status documents and the objective of the measure would only be partially met. **<u>Multilingual standard forms</u>** **Sub-option 4D** (status quo): no positive effects. **Sub-option 4E** (compulsory standard forms to be used in cross-border cases): medium positive impact on the difficulties and costs related to the translation and understanding of public documents originating in other Member States. **Sub-option 4F** (optional standard forms as annexes to national public documents): same effects as in sub-option 4E. However, the use of these standard forms would depend on the discretion of the users and the system might appear too complex for users as well as administrations. **Sub-option 4G** (optional standard forms used independently in cross-border cases): high positive impact on EU citizens and businesses as well as public administrations in terms of higher practical benefits, reduced difficulties and costs related to the translation and understanding of public documents in cross-border scenarios, even if the use of these

	forms would depend on the discretion of the users.
Economic and financial impact	High savings for EU citizens and businesses would be obtained in terms of costs and time due to the elimination of the mentioned formalities. Each year, EU citizens and businesses could save between € 25.8 million and € 26.2 million only on Apostilles and between € 2.3 million and € 4.6 million on legalisation. The annual net cost savings for the Member State administrations when abolishing the Apostille could be estimated in a range between € 5 million and € 7 million and when abolishing legalisation between € 500.000 and € 1 million. There will be further savings for EU citizens and businesses due to the simplification of certified copies based on the estimation that one page costs up to € 30. The total amount of yearly savings for EU citizens and businesses for simplifying certified copies of public documents to be used in cross-border situations would be in the order of € 75-100 million. The removal of certified transaltions would also save costs, bearing in mind that the related cost for one page is € 30. The total amount of savings for EU citizens and businesses for abolishing certified translations of public documents to be used in cross-border situations would be in the order of € 100-200 million per year. The revenues of public administrations would only be marginally affected after the simplification of the requirement of certified copies and certified translations. This is mainly because certified copies are often issued without additional charges and certified translations are mainly performed by accretited translators[60]. There could, however, be a decrease of income for private agencies that attend to administrative formalities on behalf of clients, but that is not considered significant since the business relating to public documents of non-EU countries/to non-EU countries would remain. In addition, the acceptance of non-certified translations could negatively affect the business of some certified translators. The losses of these professionals would depend on the share of certified translations, which represent only a part of all the requests for translations managed. Moreover, in some Member States only translations of public documents performed by specialized public authorities are accepted. Annual negative economic impact would range from € 50 to € 100 million but would be outweighed by savings of EU citizens and businesses in the order of € 100-200 million[61]. As for the implementation and ongoing costs of the policy option, these would depend on the specific option for intervention and are, therefore, detailed below, for each sub-option. **<u>Improved administrative cooperation</u>** **Sub-option 4A** (administrative cooperation as foreseen under policy option 3): see economic impact under policy option 3. **Sub-option 4B** (administrative cooperation based on the IMI): IMI is flexible and can accommodate any national administrative structure (centralised, fully decentralised or in

[60] As already mentioned, the costs placed on EU citizens and SMEs for certified copies is based on the time waste and the combination of copies issued without any charge (typically by public administrations) and other additional costs (notarial services, postal services). Therefore, the savings for EU citizens and SMEs are not directly related to the fees charged by public administrations, but are also (and mainly) due to the reduction of time waste, the use of notarial services, or postal services. Consequently, no significant loss for public administrations would be envisaged based on this estimate.

[61] Based on the number of Apostilles (i.e. estimated as 1.4 million documents each year), 90% of them have to be accompanied by a certified translation (i.e. 1.3 million documents). At the same time, there would be public documents that would not need the Apostille certificate, but they would need to be accompanied by a certified translation (we can assume 30% of documents moving across EU, i.e. 420.000 documents). On the whole, more than 1.6 million public documents would need a certified translation. The estimated savings of EU citizens and businesses are based on the assumption that a document can be, on average, made up of 3 pages (the most of documents such as birth/ marriage certificates are 1 page documents, whereas other documents such as tax return can reach 10 pages) and considering a cost equal to €30 per page.

	between) and its use generates no IT costs for the Member States. IMI works currently with ca. 13 000 registered users in several legislative areas (professional qualifications, services, SOLVIT case handling, posting of workers, cash in transit and patients' rights). Setting-up a new IMI module to support the administrative cooperation foreseen by this proposal will not require any new costs and can be covered by the generic workflows which have already been developed (e.g. software development, translation functionalities, maintenance of the system, support services, etc.). Consequently, there will be no need to establish new specific server for public documents. **Sub-option 4C** (administrative cooperation based on the creation of a network of civil registers): in addition to the recurrent costs for administrative cooperation activities, training of users involved and reporting on the new system (similar to those entailed by sub-option 4.B), high costs linked to the management and administration of the network among registrars (using a completely new IT system) would be borne both at the EU and Member State level. As compared to sub-option 4B (IMI), the costs entailed by the present sub-option would be additional. For example, the IMI (as a benchmark for estimating costs of an EU-wide IT communication platform) entails the following recurrent costs (maintenance and support services: € 350.000 per year; hosting: € 200.000 per year; and training and promotion: € 200.000 per year). **Multilingual standard forms** **Sub-option 4D** (status quo): no positive impact. **Sub-option 4E** (compulsory standard forms to be used in cross-border cases): Additional costs would be imposed on the Member States due to the introduction of new standard forms, with regard to printing of forms or creating templates for computer usage, and some limited training and promotion activities. Medium positive impact on cost savings for EU citizens and businesses due to the absence of translations and on administrations due to the reduced workload. **Sub-option 4F** (optional standard forms as annexes to national public documents): Same effect as in sub-option 4E. However, additional costs might be incurred due to the need to provide copies of national public documents to which these forms would be attached. **Sub-option 4G** (optional standard forms used independently in cross-border cases): same effects on Member States as in sub–option 4E.
Social impact	High positive impact on EU citizens and businesses in the exercice of their free movement rights due to the proposed simplification benefits. Public documents originating in different Member States and needed e.g. for the purposes of residence or establishment of economic activities would be accepted without legalisaton, Apostille and under a simplified certification regime. No more frustration or time wasted for EU citizens and businesses in the accomplishment of such administrative formalities.
Impact on fundamental rights	Possible positive impact in terms of fundamental rights: - dispensing with administrative formalities of public documents, including the simplification of the requirement of certified copies and certified translations, would significantly reduce the administrative burdens and costs of EU citizens and businesses in terms of the right to take up residence, to seek employment, to exercise the right of establishment and to provide services or conduct business in another Member State (Articles 45, 15.2 and 16 of the Charter). The proposed policy option could also facilitate the exercise of the right to social security entitlements in accordance with EU and national law (Article 34.2 of the Charter); - high positive impact on a number of life events of EU citizens that may occur during a stay in another Member State or that have a cross-border dimension. The proposed policy option would render the handling of documents in these situations less burdensome and would thus show consideration for the right to respect for private and family life and to an extent also for the right to marry and found a family, the right to property as well as for the rights of the child as provided in Articles 7, 9, 17 and 24 of the Charter;

	- the proposed policy option would furthermore effectively address the risk of indirect discrimination of non-nationals since documents emanating from other Member States would no longer require additional administrative formalities as compared to domestic documents; - the sub-options involving standard forms 4E-4G would have an overall positive effect in terms of minimising costs and time needed by EU citizens and businesses when presenting a public document in a host Member State. They would equally help to reduce the risk of indirect discrimination of non-nationals in comparison with nationals; Possible negative impact in terms of fundamental rights: - the abolition of legalisation and Apostille requires the setting-up of an improved administrative cooperation for the exchange and processing of information. As regards its impact on the right to the protection of personal data, it is necessary to precise that: Article 8 of the Charter protects the right to privacy with respect to the processing of personal data. Whenever personal data are processed, this right is interfered with. The proposed legal instrument would foresee that information is directly transmitted between two authorities in the framework of an administrative cooperation based on the IMI. The existing IMI system will be extended to serve as the structure for the administrative exchange. It is very likely that this information would contain personal data; consequently a transmission of such data falls under the protection of Article 8 of the Charter. According to Article 8(2) of the Charter, such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. The future legal instrument aims to ensure those safeguards by referring to Directive 95/46/EC on the protection of personal data and to the IMI-Regulation. Nevertheless, some of the abovementioned data protection safeguards have to be included in the legal instrument itself. This applies in particular to the purpose limitation. The reason is that a referral to legal acts regarding data protection/information exchange in *general* cannot substitute a clear definition of the *specific* purpose of the exchange of personal data in the scope of the legal instrument that will be proposed. These impacts would be handled by indicating clearly in the legal instrument itself that the documents shall be exchanged for the sole purposes of producing evidence before a competent authority of another Member State within the sphere of the competence of the said authority in a specific case. In addition, it will be made clear that the proposed legal instrument would only allow the exchange of documents between the authorities which are authorised to operate in IMI and no other authorities. To ensure other data protection safeguards, the proposed instrument would contain necessary references to Directive 95/46/EC and to the safeguards in the IMI-Regulation.
Impact on fraud	Sub-option 4B: effective fraud prevention mechanism ensured through the administrative cooperation (accompagnied by training and awareness activities) and the secure exchange of information under IMI. As compared to the status quo, the improved and easier administrative cooperation would effectively support the communication between the authorities of the Member States in order to verify the authenticity of public documents, whereas the cases of fraud due to the abuse of the Apostille certificate (e.g. the fraudulent attachment of the Apotille on fake documents in order to feign theri legitimacy) would be eliminated. The traditional visual chek and review of the document in detail to verify that there is no indication of forgery remains as possibility for the receiving authority. Sub-options involving standard forms (4E – 4G): the use of standard forms would also facilitate the detection of fraud of public documents in cross-border scenarios.
Impact on EU budget	In general, very low negative impact on EU budget under this policy option. In particular, very low negative impact under sub-option 4B: adding of new users to IMI after the application of this proposal could be handled within the capacity of the current

	IMI infrastructure. As regards potential training costs under this proposal, these will be covered by a cost-sharing model including the contribution of the Commission's DG Justice. It is estimated that the total (one-shot) costs for the necessary training would be around 50 000 EUR. For sub-option 4C: there would be management and IT costs. Based on data available for the implementation of IMI (which involves 5.700 public authorities), the costs for developing the network from scratch were around € 1,5 million. As regards the sub-options related to the standard forms (4E – 4G), the cost would be related to meetings under the comitology procedure.
Transposition and compliance aspects	The new EU instrument would require implementation by the Member States which would need to designate competent authorities in order to ensure participation in the administrative cooperation and in the comitology procedure. The removal of all identified administrative formalities would necessarily require a high level of mutual trust between the authorities of the Member States and the need for implementing effective tools for guaranteeing the authenticity of public documents. As for the principal elements of this policy option, no major issues in terms of political acceptability are detected as most of the Member States have already concluded a number of bi/multilateral agreements abolishing legalisation or the Apostille. In addition, EU sectoral law already provides for simplification, administrative cooperation and mutual assistance between the competent authorities in the Member States in certain areas. This policy option would not interfere with substantive or procedural national or EU law at any level or concepts on which all Member States have already agreed, under the 1987 Brussels Convention itself and/or the Apostille Convention. Thus, the policy option identified would not go beyond what is necessary to achieve the objectives and would not raise issues in terms of compliance with existing legislation[62].
Stakeholders views	**The majority of the Member States, as well as of the consulted stakeholders, welcomed the objective to abolish the administrative formalities which are analysed in this Impact Assessment Report. However, they underlined the need to introduce accompanying solutions, such as the possibility to verify the authenticity of public documents through administrative cooperation in order to ensure legal certainty and minimize fraud[63]. The idea of introducing electronic systems such as the IMI is also welcomed by stakeholders and is in line with the trend to move away from paper documents (provided that the necessary legal certainty and fraud prevention measures are taken).**

Policy Option 5: Full harmonisation of public documents and rules governing their circulation within the EU

This policy option would consist of a full harmonisation of public documents at national level, meaning that only one document, e.g. birth or marriage certificate, would exist in all Member States. These harmonised public documents would then be used in either national or cross-border situations, as they would contain all the required information in a fully standardised manner in all official languages. In addition, this policy option would completely abolish the formalities of legalisation, Apostille, certified copies and certified translations and fully harmonise situations in which public documents are needed in cross-border scenarios by EU citizens and businesses.

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62 Moreover, it is worth noting that this initiatives would relate only to administrative formalities and would not have implications in terms of automatic recognition of the effects of public documents (i.e. the second initiative of the Green Paper COM(2010) 747 final, focused on the recognition of the effects of civil status records).

63 See Annex 14.

Finally, it would introduce harmonisation of national rules concerning the authentication of public documents within the EU, including those issued in third countries.

The expected impact in achieving objectives under this 'extreme' policy option would be limited, most importantly because it would have excessive intrusive impact on the national legal systems and administrative practices. Despite possible benefits for EU citizens and businesses in terms of costs, time, legal certainty and facilitation of their Treaty and Charter rights, it would undoubtedly create difficulties as regards the acceptability of the fully harmonised public documents in the Member States. Another associated disadvantage of this policy option would be its high compliance cost both at national and EU level. Finally, even if this policy option would theoretically bring added value in terms of detection of fraud and forgery of public documents (as a consequence of the full harmonisation at national and EU level), this would be diminished by the missing administrative cooperation allowing competent authorities to prevent potential cases of fraud on public documents or enable other useful exchanges between them (such as through IMI).

9. COMPARATIVE ASSESSMENT OF POLICY OPTIONS

The table below sets out a comparison of the relative rating of the 4 policy options as described in section 8 against the general and specific objectives as defined in part 6. The policy options are classified according to their potential to meet the objectives defined in section 6, with three positive checkmarks (✓✓✓) indicating highest relative potential and three negative checkmarks (---) indicating lowest relative potential. Ratings for expected effectiveness in achieving the objectives are given equal weight in the final sum.

The rating takes into account, in particular, the expected beneficial effects of each of the options on the level of deterrence against illegal activities affecting EU financial interests.

Comparative assessment of the policy options 1-5

Policy options / Comparison criteria	1 (Status quo)	2	3	4	5
Effectiveness in achieving policy objectives	**0**	**0 (marginal)**	**savings of € 25 million for abolishing Apostille per year, savings between € 2.3 million and € 4.6 million for abolishing legalisation per year**	**savings of € 25 million for abolishing Apostille per year, savings between € 2.3 million and € 4.6 million for abolishing legalisation per year, savings of € 75-100 million for simplifying certified copies per year and of € 100-200 million for simplifying certified translations**	✓

				per year	
Efficiency (costs of implementation)	**0**	**0 (marginal)**	**0/-**	**0/-**	**- - -**
Impact on fundamental rights	**0**	**0/-**	✓	✓✓	✓✓
Impact on fraud (ability of authorities to verify the authenticity of public documents)	**0**	✓	✓✓	✓✓✓	✓✓

The sub-options under policy option 4 related to accompanying measures: improved administrative cooperation and issuance of standard forms are set out in detail in a comparative table below.

Comparative assessment of the sub-options considered under policy options 4 as regards the improved administrative cooperation

Policy options / **Comparison Criteria**	**4A** (administrative cooperation as it is in the 1987 Brussels Convention extended to all MS)	**4B** (expansion of IMI)	**4C** (network of civil registers)
Reduction of cost and time of administrations related to verification procedures and translations	**0**	✓✓✓	✓✓
Administrative/ implementation costs at Member States level	**0**	**0**	--
Administrative/ implementation costs at EU level	**0**	**0/-**	**---**

The preferred sub-option as regards the **improved administrative cooperation** is sub-option **4B**: **administrative cooperation based on the Internal Market Information System (IMI)**. This sub-option was preferred since it would represent an effective and secure means for assessing the authenticity of public documents, preventing fraud and forgery, and, at the same time, for simplifying the administrative burdens placed on EU citizens and businesses. It would also promote the principle of mutual trust between the competent authorities.

Its advantages could be summarised as follows:

– immediate direct contacts between the competent authorities in the Member States aimed at verifying the authenticity of public documents in the event of reasonable doubt;

– immediate direct contacts between the competent authorities in the Member States aimed at verifying the authenticity of public documents in the event of reasonable doubt;

– easy identification of the relevant interlocutors in other Member States through secure electronic means and reduced language barriers; – effective detection of fraud and forgery of the circulating public documents; – very low negative impact on EU budget due to the use of the existing functionalities and infrastructure; – advanced and up-to-date procedures and rules for data protection, as already included within the new IMI Regulation (Regulation 1024/2012 that entered into force on 4 December 2012).

Comparative assessment of the sub-options considered under policy options 4 as regards the issuance of multilingual standard forms

Policy Sub-options / Comparison criteria	4 D (status quo)	4 E (compulsory standard forms to be used in cross-border cases)	4F (optional standard forms as annexes to the national documents)	4G (optional standard forms used independently in cross-border cases)
Facilitating the acceptance of foreign documents	**0**	✓✓	✓	✓✓
Implementation costs at EU level	**0**	--	-	-
Transposition and compliance aspects	**0**	--	--	-

The preferred sub-option as regards the **issuance of multilingual standard forms** is sub-option **4G**: **optional standard forms used independently in cross-border cases**.

This sub-option was preferred since the issuance of these multilingual standard forms would: – lead to important cost and time savings for EU citizens, businesses and national public officials; – favour the mutual understanding of public documents between the Member States; – further reduce translation requirements as they would exist in all official languages of the EU (multilingual forms); – substantially reduce cases of reasonable doubt concerning the authenticity of the circulating public documents;

– allow the parallel existence of the underlying national public documents at Member States level.

10. ASSESSMENT OF EFFECTIVENESS OF THE PREFERRED POLICY OPTION AGAINST POLICY OBJECTIVES (SPECIFIC AND OPERATIONAL)

The preferred option is **Policy Option 4** with **sub-options 4B and 4G**.

Consequently, the preferred option would involve a combination of the followings elements:

– Abolition of legalisation, Apostille and simplification of certified copies and certified translations.

– Improved administrative cooperation between the Member States through a modern and secure communication network based on the existing Internal Market Information System (IMI).

– Development of EU multilingual standard forms used independently and separately from the underlying national public documents in cross-border cases. Four types of such standard forms (concerning birth, death, marriage/registered partnership and legal status and representation of a company or other undertaking) would be directly established in the annexes of the instrument.

As regards the legislative form of the instrument, a **Regulation** appears to be the most appropriate taking into account both the problems and objectives identified.

Summary of the preferred option		
The preferred option would involve a combination of the following elements: Abolition of legalisation, Apostille as well as simplification of certified copies and certified translations. Improved administrative cooperation between the Member States, through a communication network based on the existing Internal Market Information System (IMI). Development of multilingual standard forms at EU level to be used independently and separately from the underlying national public documents in cross-border cases. These standard forms would be defined for the most frequently used public documents by EU citizens and businesses in cross-	**This would address the following problems, see section 4:** Overall cost and time wasted for legalisation and Apostille. Overall cost and time wasted for certified copies and certified translations. Legal uncertainty and diversity. Risk of discrimination. Fraud and forgery of public documents.	**This would achieve the following objectives, see section 6:** Facilitate and enhance the exercise of EU free movement rights by EU citizens and businesses. Reduce difficulties caused by administrative formalities for the acceptance of public documents originating in other Member States. Simplify the fragmented legal framework regulating the circulation of public documents between the Member States. Ensure a more effective level of detection of fraud and forgery of public documents. Eliminate risks of discrimination among EU citizens and businesses. Cut costs and delays caused by

Summary of the preferred option		
border scenarios, namely for public documents concerning birth, death, marriage/registered partnership and legal status of a company or other undertaking. These would be established directly in the annexes to the instrument.		legalisation, similar formality (i.e. Apostille) and other formalities (certified copies and certified translations) for EU citizens, businesses and public administrations. Reduce the need for translation of public documents within the EU. Promote an efficient and secure cooperation exchange among Member States authorities as a means to verify the documents' authenticity.

The benefits for EU citizens, businesses and national public administrations under the preferred policy option (e.g. cost and time savings, simplification and reduction of practical difficulties, added security and more effective detection of fraud) would **not be outweighed by the creation of additional burdens for the Member States**. In fact, the administrative burdens for the Member States would be reduced by € 5-7 million annually[64], due to the abolition of the Apostille and moreover between € 500.000 and € 1 million as a consequence of the abolished legalisation.

In any case, the administrative burden placed on the Member States authorities for the exchange of information concerning documents whose authenticity is in doubt would certainly be lower than at present. Of all the public documents which currently need the issuance of the Apostille, a minor percentage is likely to be of dubious authenticity.

It is worth noting that the costs of administrative cooperation could differ between the Member States, depending on the numbers of EU non-nationals making use of the right to free movement and/or the number of documents issued for cross-border use. In Member States where one or the other are higher than average (e.g. France, Belgium, Luxembourg, Germany, Spain, UK, Italy), costs can be anticipated to be more significant.

Possible application of the EU standard cost model

The application of the EU standard cost model is constrained by the lack of evidence on the number of cases in which the authenticity of public documents is questioned and the time required for solving each case.

Following some basic assumptions, the administrative costs due to administrative cooperation through the IMI could be represented as follows:

Price = **Tariff** (average hourly labour costs in the EU = 22,6 €[65]) x **Time** (time spent for the activities required for administrative cooperation = around half an hour)

multiplied by

64 i.e. in the first step by € 31-33 million annually, less fee revenue from citizens, by 5-7 million.

65 Eurostat, "Hourly labour costs in the EU 27".

Quantity = **Number of entities** (4 authorities involved in different Member States – i.e. each exchange would involve at least 2 public authorities (the involvement of 1-2 further authorities at local level per each Member State can be envisaged) x **Frequency** (it can be estimated as the number of apostilled documents issued and giving rise to doubts on their authenticity = around 1% of the Apostilles issued annually in the EU, i.e. 14.000).

As a result of the core equation, the costs for the usage of IMI for administrative cooperation would amount to around € 633.000.

Finally, the usage of the IMI would have very low negative impact on EU budget due to the use of the existing functionalities and infrastructure. Similarly, the introduction of **multilingual standard forms** would create only limited and negligible costs at Member States level with regard to printing of forms or creating templates for computer usage, and some limited training.

Finally, in the long term **unforeseeable additional administrative burdens and costs** may arise due to increased mobility of citizens, businesses, goods and services within the EU and the increased need for documents which on Member State level may already have been replaced by inter-administrative cooperation and data access (e.g. when the child benefit authority can electronically access the birth records). Firstly, this development is a desired development since the cost and burden of intra-EU mobility are greatly offset by the advantages of such mobility. Secondly, similarly to the Member State level, in the long term further administrative sectoral cooperation may also develop at EU level and should not negatively impact on the proposal.

11. MONITORING AND EVALUATION

Providing for a solid monitoring and evaluation mechanism is crucial to ensure that the rules provided in the instrument are complied with in practice. A transitional period will be provided in the instrument in order to allow Member States to prepare for its implementation and communicate to the Commission the requested information.

A review clause will also be inserted in the instrument in order to evaluate its application by the Member States and ensure the possibility for follow-up amendments. It is foreseen that the Commission submits to the European Parliament, the Council and the Economic and Social Committee, by 3 years after the date of application of this Regulation, and every 5 years thereafter at the latest, a report on the application of the new instrument, including an evaluation of any practical experiences relating to the cooperation between central authorities. **That report will be accompanied, where appropriate, by proposals for amendments, in particular as regards a possible extension of the application of the Regulation to broader categories of public documents.**

Progress indicators and periodical reporting

A set of progress indicators will be defined in order to monitor:

(i) *The state of implementation and correct application of the Regulation*:

- Correct/complete application of the new Regulation reported by relevant national authorities;
- Infringements procedures - under Article 258 of the TFEU - launched by the European Commission.

(ii) *The progress towards objective and expected impacts*:

- Number of accesses to IMI by designated competent authorities for administrative cooperation on the authenticity of public documents;
- Change in the number of complaints concerning obstacles related to the free movement of public documents in the EU, reported by EU citizens and businesses;
- Change in the number of cases of fraud or forgery of public documents detected;
- Trends and changes of the intra-EU mobility rates of EU citizens;
- Trends and changes of the intra-EU trade and cross-border activities of EU businesses.

Monitoring and evaluation of the practical effects will take place on three levels. *Firstly*, and as usual, the transposition and implementation of the proposed Regulation would have to be monitored. *Secondly*, the administrative cooperation based on the IMI would be designed to offer certain statistical data as to its usage, which would provide an indication about the number of problems occurring under the new system as well as about the costs these problems create. *Thirdly*, external studies could be envisaged to evaluate any relevant practical experiences.

Annex 1

Abbreviations

CNUE	Council of the Notaries of the European Union
eAPP	electronic Apostille Pilot Program
EC	European Commission
EU	European Union
HCCH	Hague Conference on Private International Law
CIEC	International Commission on Civil Status / Commission Internationale de l'Etat Civil
IMI	Internal Market Information System
IT	Information Technology
MS	Member State
RP	Registered Partnership
SME	Small-Medium Enterprise
TFEU	Treaty on the Functioning of the European Union

Annex 2

Main definitions: legalisation and the similar administrative formality

Legalisation and Apostille

The legalisation is the formal procedure[66] for certifying the authenticity of a 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[67]. It has the effect of putting a foreign public document on the same footing as a domestic public document as far as proof of its authenticity is concerned.

Although there is a nearly-homogeneous interpretation by the MS of the legal concept of legalisation[68], divergences continue to exist, which results in different requirements being imposed on the citizens and businesses needing the legalised documents for cross-border use.

The practice of legalisation within the MS appears to be insufficiently unregulated or merely contained in (internal) ministerial guidelines[69]. The status and legal effects of this approach to the practice of legalisation means that both the guidelines and their effects may be unclear, allowing judicial and administrative authorities to be flexible in choosing whether and how to give effect to them: the ultimate consequence is a significant degree of uncertainty for individuals, i.e. the citizen or the business needing the legalisation.

In the EU, the procedure of legalisation has been largely substituted by the similar formality of the Apostille, a simplified formality that envisages the addition of the certificate foreseen by the Hague Convention of 1961 (i.e. the Apostille Convention) abolishing the requirement of legalisation for foreign public documents. The Apostille is issued by an authority of the state of origin, and certifies the genuineness or "authenticity of the 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" (Article 3.1 Hague Apostille Convention).

There are, however, practical problems. Sometimes, the authorities of the receiving state do not know whether the issuing authority was competent to authenticate the document or whether the procedure and/or the form required by the national law of the state of origin have been complied with.

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66 Alternative wording for "the formal procedure" could be "the formality used to certify", based on Article 1, Convention of CoE 1968 ("…legalisation means only the formality used to certify the authenticity of the signature on a document, the capacity in which the person signing such document has acted and, where appropriate, the identity of the seal or stamp which such document bears.)

67 See Article 3 of the 1987 Convention.

68 All MS have adhered to an interpretation and use of the concept of legalisation that is the same or similar to that introduced by the Apostille Convention. Some differences exist, such as the fact that in Hungary, Latvia, Lithuania, Portugal, Slovakia, Slovenia and Spain, legalisation has been described as concerning merely the authenticity of the signature of the public authority signing the public document; in Greece, the process of legalisation also concerns the competence of the public authority signing the public document.

69 In particular, this is the case in Denmark, Finland, France, Greece, Lithuania, Luxembourg, Netherlands, Poland, Spain and Sweden.

This problem is not solved by the Apostille procedure because the Apostille proves only the genuineness of the instrument, not the competence of the issuing authority or the compliance with all procedural and formal requirements.

Only legalisation in the wider sense (which may be issued by the diplomatic or consular authorities of the state of destination in the state of origin) would certify also that the requirements concerning competence, procedure and form have been met.

Even in cases where the Apostille is abolished, only a public document issued by a competent authority following the procedure and form required by the law of the state of origin can be rightly expected to be accepted and used in the state of destination.

Annex 3

Main international agreements

1.1 The Apostille Convention: application and scope

As explained in the main text of the Impact Assessment Report, the Apostille Convention abolishes the requirement of legalisation for relatively a broad range of categories of public documents drawn up in all the states that are parties to the Convention (all EU MS and a large number of non-EU MS). However, it does not cover documents executed by private persons, commercial and customs related documents (e.g. certificates of origin or import or export licenses) nor documents executed by diplomatic or consular agents.

According to its Article 1, it applies to the following documents:

> a) documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process-server ("huissier de justice");
>
> b) administrative documents;
>
> c) notarial acts;
>
> d) 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.

Besides, provided that the only effect of an Apostille is to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which the document bears, it does not relate to the content of the underlying document itself (i.e. the apostilled document).

1.2 The Brussels 1987 Convention: application and scope

The Brussels 1987 Convention is an EU intergovernmental Convention abolishing both legalisation and the requirement for attaching an Apostille. **This Convention did not enter into force**, because it has not been ratified by all MS (as required by its Article 6(2)). However, those MS, which have ratified the Convention can declare that the Convention nonetheless should apply between them (Article 6(3)).

As of today, the Convention has been ratified and is applied provisionally by six MS, namely Belgium (applicable since 16.3.1997), Denmark (26.10.1989), France (12.3.1992), Italy (11.1.1991), Ireland (8.3.1999), and Latvia (21.6.2004). Cyprus (29.4.2005) has acceded to the Convention, however without declaring it provisionally applicable. The Convention was also signed by Germany, Greece, Luxembourg, Netherlands, Portugal and UK, but these Member States have refrained from its ratification.

As to its **substantive scope** of application, Article 1(2) of the Convention basically applies to the same types of documents as the Hague Apostille Convention, but **without the exceptions contained in Article 1(3) of the Apostille Convention** (i.e. documents executed by diplomatic or consular agents and administrative documents dealing directly with commercial or customs operations).

Article 4 of the Convention also provides for **administrative cooperation** in situations where the authority of the MS of destination has serious doubts, with good reason, in relation to the authenticity of public documents that originate in a MS that provisionally applies the Convention.

However, the **scope for cooperation under the Convention is very limited**: the Convention states that authorities may request information directly from the relevant central authority of the MS from which the act or document emanated only if they have serious doubts, with good reason, as to the authenticity of the document's signature, the capacity in which the person signing the document has acted or the identity of the seal or stamp (Article 4(1) of the Convention). The Convention further limits the scope for activating the administrative cooperation by stressing that requests for information may be made only in exceptional cases and must set out the grounds on which they are based (identical provision).

The 1987 Convention has a **field of application** that goes beyond that of the other multilateral conventions. The Convention provides that when a treaty, convention or agreement between two or more contracting MS contains provisions which subject the certification of a signature, seal or stamp to certain formalities, the Convention will override such provisions if those formalities are more rigorous than the formality provided for in the Convention (Article 8 of the Convention).

Since the 1987 Convention contains less rigorous formalities than, for example, the Apostille Convention, the Convention overrides the use of the Apostille formality between the MS that apply the 1987 Convention provisionally, substituting it with its own less burdensome provisions.

There is no evidence about issues encountered by MS that ratified the Convention in terms of increased cases of forgery or fraud related to the use of public documents across different MS.

Annex 4

CIEC Conventions exempting public documents from legalisation

Annex Box 1: CIEC/ICSS Conventions exempting public documents from legalisation

Convention No 1 on the issue of certain extracts from civil status records for use abroad

CIEC Convention No 1 on the issue of certain extracts from civil status records for use abroad, which was signed in Paris on 27 September 1956 and entered into force on 15 March 1958, applies between nine MS (Austria, Belgium, France, Germany, Italy, Luxembourg, Netherlands, Portugal and Slovenia).The Convention exempts extracts from civil status records intended to be used abroad under the Convention from legalisation (see Article 5 of the Convention).

Convention No 2 on the issue free of charge and the exemption from legalisation of copies of civil status records

Convention No 2 on the issue free of charge and the exemption from legalisation of copies of civil status records, which was signed in Luxembourg on 26 September 1957 and entered into force on 3 January 1960, applies between eight MS (Austria, Belgium, France, Germany, Italy, Luxembourg, Netherlands and Portugal).The Convention exempts from legalisation verbatim copies of or extracts from civil status records, which bear the signatures and seal of the issuing authority (see Article 4 of the Convention).

Convention No 5 extending the competence of authorities empowered to receive declarations acknowledging natural children

CIEC Convention No 5 extending the competence of authorities empowered to receive declarations acknowledging natural children, which was signed in Rome on 14 September 1961 and entered into force on 29 July 1963, applies between eight MS (Belgium, France, Germany, Greece, Italy, Netherlands, Portugal and Spain).The Convention exempts from legalisation certified copies of or extracts from instruments embodying the declarations acknowledging – without filiation - natural children (see Article 2 of the Convention) and declarations acknowledging – with filiation - natural children (see Article 3 of the Convention) as far as these documents bear the signature and seal of the issuing authority (see Article 5 of the Convention).

Convention No 12 on the legitimation by marriage

CIEC Convention No 12 on the legitimation by marriage, which was signed in Rome on 10 September 1970 and entered into force on 8 February 1976, applies between six MS (Austria, France, Greece, Italy, Luxembourg and Netherlands).The Convention exempts from legalisation notices and supporting documents concerning annotation of legitimation by marriage of children sent by the civil registrar of the state where a marriage is celebrated to another state where the record of the birth of a child was drawn up or transcribed (see Article 7 of the Convention).

Convention No 15 introducing an international family record book

CIEC Convention No 15 introducing an international family record book, which was signed in Paris on 12 September 1974 and entered into force 1 March 1979, applies between three MS (Greece, Italy and Luxembourg).The Convention exempts from legalisation the “international family booklet” that was created through the establishment of the Convention (see Article 11 of the Convention).

Convention No 16 on the issue of multilingual extracts from civil status records

CIEC Convention No 16 on the issue of multilingual extracts from civil status records, which was signed in Vienna on 8 September 1976 and entered into force on 30 July 1983, applies between eleven MS (Austria, Belgium, France, Germany, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovenia and Spain).The Convention abolishes legalisation between the MS party of multilingual extracts from civil status records (see Article 8 of the Convention).

Annex 5

Summary of EU laws and their relation to EU rights

The table below summarizes the main EU law related to the following areas of EU rights:

- Free movement of judgments
- Access to justice (legal aid)
- Entry and residence for Union citizens and their family members
- Free movement of workers
- Entry and residence for self-employed persons
- Recognition of professional qualifications
- Free movement of services and freedom of establishment

For each legal instrument, the existence of provisions in terms of legalisation, administrative cooperation or introduction of standard forms is highlighted.

Annex Table 1: Provisions of legal Instruments related to different areas of EU rights

Legal instrument	Provisions			Notes
	Exemption from legalisation	Harmonisation of public documents	Administrative Cooperation	
Free movement of judgments				
Brussels I Regulation (Regulation No 44/2001) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters	Yes	Yes	No	Requires that a party seeking recognition of a judgment rendered in another MS produces a copy of the judgment "which satisfies the conditions necessary to establish its authenticity" Prohibits MS from requiring prior legalisation of a judgment rendered in another MS before accepting it Exempts certificates which are required for certifying the authenticity of judgments, court settlements and authentic instruments, as well as authentic instruments and the documents used for their certification, as well as settlements which have been approved by a court in the course of proceedings and are enforceable in the Member State in which they were concluded
Regulation 1896/2006/EC creating a European order for payment procedure	Yes	Yes	Yes	Establishes the use of a standard form by the court that executes the order for payments Exempts from legalization: the copy of the European order for payment, as declared enforceable by the court of origin, satisfies the conditions necessary to establish its authenticity

Legal instrument	Provisions			Notes
	Exemption from legalisation	Harmonisation of public documents	Administrative Cooperation	
Regulation 805/2004/EC creating a European Enforcement Order for uncontested claims	Yes	Yes	No	Lays down minimum standards for the free circulation of judgments, court settlements and authentic instruments without any intermediate proceedings brought in the Member State of enforcement prior to recognition and enforcement Allows a judgment to be enforced in all other MS without judicial review of the proper application of the minimum procedural standards in the MS where the judgment is to be enforced.
Regulation 2201/2003/EC concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility	Yes	Yes	No	Exempts judgments in matrimonial matters or in matters concerning parental responsibility from legalisation formalities Exempts from legalisation formalities certificates drawn up in the standard forms required for certifying the authenticity of judgments, authentic instruments and agreements between parties
Regulation 1206/2001/EC on cooperation between the courts of the MS in the taking of evidence in civil or commercial matters	Yes	No	Yes	Establishes the direct transmission and execution of requests for the taking of evidence between the competent courts in the MS Requires that MS draw up a list of the courts competent to receive requests for the taking of evidence and designate a central body responsible for supplying information to the courts, seeking solutions to any difficulties which may arise in respect of a request; and forwarding, in exceptional cases, at the request of a requesting court, a request to the competent court
Regulation 1348/2000/EC on the service in the MS of judicial and extrajudicial documents in civil or commercial matters	Yes	No	Yes	Provides the direct transmission of all documents involved in the procedure between the competent authorities in the MS, as well as the competent authorities (Article 2) Exempts from legalisation
Regulation 1346/2000/EC on insolvency proceedings	Yes	No	Yes	Provides for the mutual recognition of judgments and decisions in cross-border insolvency proceedings but does not provide for standard forms Exempts documents by which a liquidator is appointed in a Member State and translations of such documents from legalisation formalities
Access to justice (legal aid)				
Directive 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes	**Yes**	**Yes**	**Yes**	Provides for harmonised forms for legal aid applications and for the transmission of legal aid applications in the event of cross-border litigation Exempts from legalisation

Legal instrument	Provisions			Notes
	Exemption from legalisation	Harmonisation of public documents	Administrative Cooperation	
1977 European Agreement on the transmission of applications for legal aid	**Yes**	**Yes**	**Yes**	Requires the MS to designate authorities competent to send (transmitting authorities) and receive (receiving authorities) the harmonised legal aid application forms Exempts from legalisation
Entry and residence for Union citizens and their family members				
Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the MS	**No**	**No**	**No**	Contains no explicit exemptions from legalisation, meaning, in principle, that the regulation and implementation of legalisation formalities aimed at verifying the authenticity of foreign Public Documents remain subject to the domestic laws of the MS Contains though passages that shed light on the question whether formalities to ensure the authenticity of the documents required in the process of recognising the rights protected by the Directive can be justified
Free movement of workers				
Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the MS Income tax issues of non-resident migrant workers	**No**	**No**	**No**	Specifies the supporting documents that may be required by the MS prior to recognising the existence of an EU right in order to avoid divergent administrative practices or interpretations constituting an undue obstacle to the exercise in practice of the right of entry and residence
Directive 2011/16/ EC, on administrative cooperation in the field of taxation	**No**	**No**	**Yes**	This directive addresses administrative cooperation in the field of taxation, by inviting MS tax authorities to actively cooperate in exchanging information There is no explicit provision in the Directive to exempt Public Documents in this area from Legalisation requirements This is also because the Directive concentrates on administrative cooperation between the competent tax authorities, which can exchange public documents
Regulations 1408/71/EEC on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community	**No**	**Yes**	**No**	Establishes e-form certificates in relation to general information and requests transferred between the competent authorities in the MS, the posting of workers, sickness benefits, pensions, unemployment, family benefits and non-contributory benefits

Legal instrument	Provisions			Notes
	Exemption from legalisation	Harmonisation of public documents	Administrative Cooperation	
Regulation 883/2004/EC on the coordination of social security systems	**Yes**	**Yes**	**Yes**	EC legislation on the coordination of social security systems of the MS, explicitly exempting all documents that are required for this coordination from legalisation Regulation 883/2004 is clear when it comes to applicable legalisation formalities regarding documents required to be produced abroad for the implementation of the Regulation: "all statements, documents and certificates of any kind whatsoever required to be produced in application of this Regulation shall be exempted from authentication by diplomatic or consular authorities" (Article 80(2) of the Regulation). Moreover, this regulation creates: rules related to mutual cooperation between MS; a set of harmonized forms to be used by MS.
Entry and residence for self-employed persons				
Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States	**No**	**No**	**No**	In relation to the right of entry and residence of self-employed persons, Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the MS is also relevant Directive 2004/38 contains no explicit exemptions from legalisation (see above development 1.2.4 on the entry and residence for Union citizens and their family members) Again, the Directive specifies the supporting documents that may be required by the MS prior to recognising the existence of an EU right within the scope of the Directive in order to avoid divergent administrative practices or interpretations constituting an undue obstacle to the exercise in practice of the right of entry and residence The Directive does not harmonise the form or substance of the public documents that may be required by the authorities of the MS and equally does not provide for administrative cooperation between the competent authorities of the MS for the purpose of verifying the authenticity of those documents
Recognition of professional qualifications				
Directive 2005/36/EC on the recognition of professional qualifications	**No**	**No**	**Yes**	Envisages administrative cooperation in case of justified doubts about the authenticity or adequacy of public documents required as proof of professional qualifications
Lisbon Recognition Convention (six MS have not ratified this Convention)	**No**	**Yes**	**No**	Not ratified by six MS provides for the establishment of a harmonised public document to be attached to a higher education diploma, the so-called "Diploma Supplement"

Legal instrument	Provisions			Notes
	Exemption from legalisation	Harmonisation of public documents	Administrative Cooperation	
Free movement of services and freedom of establishment				
Directive 2006/123/EC on services in the internal market	**No**	**Yes**	**Yes**	Provides for the necessary legal basis for the establishment at the EU level of harmonised forms for documents which must be accepted by the MS as equivalent to certificates, attestations and any other documents required from a provider for the purpose of exercising the freedom of establishment Stresses the importance of efficient administrative cooperation between MS. It requires that MS give each other mutual assistance, and put in place measures for effective cooperation with one another, in order to ensure the supervision of providers and the services they offer Does not explicitly abolish legalisation formalities between the Member States. However, it is important to note that the formulation of the Directive in principle renders the preservation of legalisation formalities impossible between the Member States. The Directive contains an explicit prohibition for the Member States to require that a document originating in another Member State is produced in its original form or as a certified copy, save in the cases provided for in other Community instruments or where such a requirement is justified by an overriding reason relating to the public interest, including public order and security. (Article 5(3) of the Directive)

Legal instrument	Provisions			Notes
	Exemption from legalisation	Harmonisation of public documents	Administrative Cooperation	
Tax recovery				
Directive 2010/24/EC on tax recovery assistance	**-**	**Yes**	**Yes**	Notification assistance is provided under this Tax Recovery Assistance Directive. In this legal instrument, a special provision was adopted (Article 8(1), 2nd para.) to avoid the translation issue and to protect the citizen's rights: the adoption of the Uniform Notification Form: "The request for notification shall be accompanied by a standard form containing at least the following information: (a) name, address and other data relevant to the identification of the addressee; (b) the purpose of the notification and the period within which notification should be effected; (c) a description of the attached document and the nature and amount of the claim concerned; (d) name, address and other contact details regarding: (i) the office responsible with regard to the attached document, and, if different; ii) the office where further information can be obtained concerning the notified document or concerning the possibilities to contest the payment obligation. The adoption of the Uniform Instrument Permitting Enforcement (UIPE) in the requested Member State (Art. 12(1) of the Directive: "Any request for recovery shall be accompanied by a uniform instrument permitting enforcement in the requested Member State. This uniform instrument permitting enforcement in the requested Member State shall reflect the substantial contents of the initial instrument permitting enforcement, and constitute the sole basis for the recovery and precautionary measures taken in the requested Member State. It shall not be subject to any act of recognition, supplementing or replacement in that Member State. "By using this UIPE, the problems of the past are avoided with regard to the recognition of enforcement titles of other MS.

Annex 6

Bilateral agreements abolishing legalisation and similar requirements

Annex Table 2: Synoptic table of bilateral agreement between selected EU MS abolishing legalisation and Apostille requirements (by date of conclusion of the agreement)

MS	France (12)	Germany (6)	Poland (18)	Romania (9)	Sweden (-)	United Kingdom (2)
Austria	15.6.1966	21.6.1923	11.12.1963	17.11.1965		
Belgium	9.11.1981	13.5.1975	17.12.1986	3.10.1975		
Bulgaria	18.1.1989		4.12.1961	3.12.1958		
Cyprus			14.11.1996			
Czech Republic	19.6.1995		21.12.1987	31.5.1995		
Denmark		17.6.1936				
Estonia			27.11.1998			
Finland			27.5.1980			
France	-	13.9.1971	5.4.1967	5.11.1974		3.6.1937
Germany	13.9.1971	-				
Greece		11.5.1938	24.10.1979			
Hungary	31.7.1980		6.3.1959	7.10.1958		
Ireland						
Italy		7.6.1969	28.4.1989			
Latvia			23.2.1994			
Lithuania			26.1.1993			
Luxembourg	27.3.1923					
Malta			26.8.1931 *(see UK)*			
Netherlands						
Poland			-	25.1.1962/ 15.5.1999		26.8.1931/ 23.2.1967
Portugal	20.7.1983					
Romania	5.11.1974		4.6.1962/ 15.5.1999	-		
Slovakia	7.8.1996		21.12.1987	25.10.1958		
Slovenia	25.5.1994		6.2.1960			
Spain				17.11.1997		
Sweden					-	
United Kingdom	3.6.1937		26.8.1931/ 23.2.1967			-

Source: *European Parliament - Comparative analysis of the national provisions of private law and private international law in the field of authentic instruments within selected EU MS*

Annex 7

Examples of situations where legalisation, Apostille, certified copies and certified translations are disproportionately costly and time-consuming

1.1 EU citizens

Civil status documents

These include public documents related to civil status events (such as birth, death, name, marriage, registered partnership, parenthood or adoption), which are needed e.g. when requesting a registration certificate or residence card, accessing social rights or in the context of life events that may occur during the stay in another Member State. Cross-border marriages in particular give rise to significant authentication costs and costs for certified translations of e.g. birth certificates and medical certificates in some Member States[70] as well as certificates of dissolution of previous marriages. In the case of divorce, civil status documents such as marriage certificates are required.

Cross-border marriages

Case example - typical difficulties and costs: Based on the Study 2008, costs of marriages between nationals of different Member States have been estimated by taking into account translation costs, costs for travelling to the Member States of origin/to the nearest consulate or embassy (when personal appearance for obtaining an Apostille or an official translation was required) and further costs when additional documents were required (such as the certificate of no impediment). The average costs of such a marriage for EU citizens are about € 300 and the average time to fulfil the administrative formalities is about three months. However, when a "difficult combination" of Member States is selected, expenses can be more than € 1.000 and the duration of all administrative proceedings can take up to 426 days.

Source: Von Freyhold, JLS/2006/C4/004, 2008.

Administrative documents

Examples of public documents that can play an important role during a citizen's life abroad are extracts from property registers, tax resident certificates and documents proving the absence of a criminal record. All these documents need to be legalised or apostilled and/or their certified translation needs to be provided, unless there is an exemption from these requirements enshrined in EU or international law.

Difficulties in the circulation of taxation documents

Case example – additional costs and double taxation: A Dutch employee worked from January to August in Italy but was subject to taxation in Italy also for the working period spent in the Netherlands (September-December) as he was qualified as tax resident in Italy for the whole tax year. Due to this, he claimed tax credit in Italy for the double taxation suffered. The Italian tax authority challenged his claim and asked for a formal document from the Netherlands attesting the

[70] Bulgaria, Luxembourg, Romania.

amount of taxes paid. The Dutch citizen presented the Dutch assessment but the Italian tax authority did not accept it because the translation was not certified according to Italian requirements.

Impact: In Italy, a certified translation of a tax return can cost up to € 300. In the present case, the Dutch citizen suffered a double taxation in Italy and the Netherlands, due to the lack of information and the bottlenecks in the circulation of public documents attesting the tax payment between these Member States.

Source: Examples of practical experience of Ernst&Young – Human Capital Global Mobility Services.

Professional documents

A typical example of this category of public documents is diplomas. They are of vital importance for both professional purposes (aimed at finding a job) and academic purposes (aimed at the continuation of studies)[71]. The main costs are due to the need for authentication and certified translations. This could discourage citizens and prevent them from moving across the EU, as shown in the case example below.

Free movement of professionals

Case example – circulation of professional documents: A relevant example of a negative impact of burdensome requirements on the free movement of EU professionals can be found in an action brought by the Commission against Italy, where the Court accepted the complaints concerning the obstacles to freedom to provide services and to freedom of establishment created by the Italian legislation requiring architects wishing to obtain recognition in Italy of a qualification awarded to them in another Member State. The Italian legislation requested originals of diplomas or their certified copies and certified translations[72].

Impact: This requirement imposed additional costs as well as risks of possible delays for architects applying for recognition of their qualifications and thus created obstacles that were disproportionate to the objective pursued. Moreover, the obligation to provide certified translations (i.e. translations must be certified as true to the original by the Italian diplomatic or consular authorities located in the Member State in which the documents were drawn up or by an approved translator) of all documents was regarded as unnecessary and an additional burden increasing costs.

Case C-298/99: Failure by a Member State to fulfil its obligations — Directive 85/384/EEC — Mutual recognition of formal qualifications in architecture — Access to the profession of architect — Article 59 of the EC Treaty.

1.2 EU businesses (in particular SMEs)

A high and steadily increasing number of EU businesses, namely 44% of EU SMEs in 2010[73], are engaged in cross-border activities and have to present a whole set of public documents to different

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71 Specifically, documentary requirements concern attestations of professional competence, evidence of formal qualifications giving access to certain professions, attestations of professional experience and documents proving the good reputation of the citizen.

72 Decree No 129/92.

73 DG Enterprise and Industry, Internationalisation of European SMEs, Final Report, 2010. Data are based on a survey of 9,480 EU SMEs carried out in spring 2009. It involved 27 EU Member States and 6 non-EU countries: Croatia, Iceland, Liechtenstein, Former Yugoslav Republic of Macedonia, Norway and Turkey. The percentage includes data on SMEs which are engaged in different "modes of internationalisation", such as imports, exports, foreign direct investments, technological cooperation with enterprises abroad, subcontracting with foreign enterprises.

entities. This implies that a wide range of public documents that may be used for business purposes have to meet these formalities. The practical examples reported below show that the current EU regulatory framework contains disproportionate, burdensome and costly authentication and certification requirements[74].

Cross-border economic activities

Case example - Cross- border selling of cars: A German car-sale company bought for its client a Fiat Punto in Poland. The car was to be registered in a county in Hessen. The car registry office would not accept the Polish certificate of conformity. The same category of cars was, however, registered with the same certificate in two different counties in Baden-Württemberg without any problems. The car registration office in Hessen requested further certified translations in German or English.

Impact: This procedure caused a time lag in registering the car which had a negative impact both on the company and on the customer.

Source: SME panel questionnaire 2012 – The top 10 most burdensome pieces of legislation for SMEs.

While legalisation has been made redundant to some extent in EU sectoral law, there are still public documents that may be required for proving the fulfilment of national rules for the establishment of a business or the provision of services, which still need to be authenticated and accompanied by certified translations. This produces obstacles that delay or make cross-border movements and activities burdensome, especially in terms of costs and time.

Establishing an economic activity in another Member State

Case example - 'Double' legalisation of SME documents: A French company wishes to buy land in Bulgaria in order to develop its activity in that Member State. During the acquisition transaction there is a problem with the legalisation of the company's documents. These are translated into Bulgarian and are certified with an Apostille. In spite of this, the Bulgarian notary requires the legalisation of the documents (even if, according to the Apostille Convention, documents with an Apostille are exempted from legalisation).

Impact: In order to solve the problem, the company wasted unnecessary time and money. The documents were sent back to France for additional legalisation.

Source: SME panel questionnaire 2012 – The top 10 most burdensome pieces of legislation for SMEs.

Additionally, when participating in cross-border public tenders there are many documents that need to be provided under the current legislative framework[75], an issue that in 2008 has concerned about 9% of EU SMEs engaged in cross-border public contracts. Businesses participating in cross-border tenders are required to provide public documents that may need additional administrative formalities. The examples of such documents are those attesting the absence of a criminal record of the company's CEOs, certificates proving the financial, professional and technical reliability of the company, documents proving that the company is not insolvent or bankrupt and other documents proving the compliance with EU law.

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74 Even though there is an attempt to harmonise the purchase of cars on EU-level, namely by Directive 1999/37/EC and Directive 2007/46/EC, these attempts do not expressly exempt registration certificates from legalisation, similar formalities and other formalities.

75 Directives 2004/18/EC and 2004/17/EC.

Administrative formalities in EU public procurement

Case example 1 - A German company applied for a public contract in the Czech Republic. With its bid it had to provide a large number of documents and certificates proving its financial, professional and technical reliability. The company faced various problems while preparing these documents, including their certified translations.

Impact: The company had to spend money and time to provide certified translations of the requested documents.

Case example 2:

A Spanish company operating in the renewable energy sector, in order to submit the offer and related documentation in a public tender in Greece, was requested by the Greek authorities to provide a criminal record certificate of all members of the company's Board. This entailed costs for providing certified translations and Apostilles to the requested documents.

Impact: The requirement of the Greek authorities hinders the possibility for foreign companies to enter the national market and the potential benefits for the Greek economy and employment.

Source: SME panel questionnaire 2012 – The top 10 most burdensome pieces of legislation for SMEs.

Annex 8

The Internal Market Information System

The IMI is a web-based application that allows national, regional and local authorities to communicate quickly and easily with their counterparts abroad. It was developed by the Commission in partnership with MS and it was launched in February 2008 under the IDABC programme. The organization of IMI is based on the presence of the National IMI Coordinator (NIMIC), designed by each MS and responsible for the IMI activities in his/her country. IMI makes it possible for the competent authority[76] to:

- Find the right foreign partner authority to deal with.
- Provide standard sets of pre-translated questions and answers and a tool for the translation of a free text. Multilingualism is an essential element of the IMI service which is available in 22 official EU languages.
- Send, receive and answer to information requests in the area of the area of services, professional qualifications and posting of workers[77].
- Attach documents to the requests.
- Offer a directory of registers held by public authorities all over the EU, such as trade registers or registers of lawyers, with a multilingual search function. If a register is available online, IMI provides the direct link to it.

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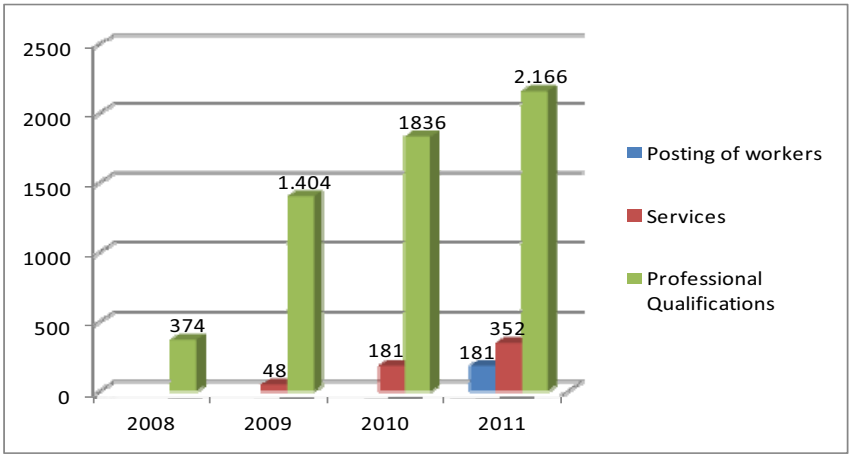
[76] Competent authority means any body established at either national, regional or local level and registered in IMI with specific responsibilities relating to the application of national law or Union acts listed in the Annex in one or more internal market areas (Regulation No 1024/2012, of 25 October 2012).

[77] In the areas concerning the Services Directive, the IMI supports the administrative cooperation provisions under Chapter VI of the Directive, including requests for information and to carry out checks, inspections and investigations, alert and case-by-case derogation procedures. Under the Professional Qualifications Directive, requests are aimed at verifying, for example: whether a citizen, holding a diploma for a specific profession, has the right to pursue the relevant professional activities beyond the territory of the MS of origin, what profession is a citizen entitled to pursue, etc.

Annex Figure 1: Total number of information exchanges in IMI per legislative area. Source "IMI Annual report for 2011"



With regard to the data protection issue, IMI has been designed including a strict application of the purpose limitation principle and appropriate access controls: it guarantees a high level of technical and procedural data protection[78].

IMI is constantly under development. The 2011 Communication "Better governance of the Single Market through greater administrative cooperation: A strategy for expanding and developing the Internal Market Information System"[79] launched the inclusion of new policy areas (e.g. area of posting of workers[80]) and developed new functionalities (new directory of registers interface). From a technical point of view, there are no limits to the expansion of IMI, the system could include further policy areas, representing an important benchmark in the communication and cooperation workflow between the Member States. Following COM proposal (2011)522 final, the new Regulation 1024/2012 of 25 October 2012 on administrative cooperation through the Internal Market Information System entered into force on 4 December 2012.

That Regulation strengthens the rules for security and data protection and, above all, provides a high level of flexibility for future developments, by including a mechanism for expanding IMI to new EU acts.

78 The IMI data exchange procedure between authorities are fully compliant with EU data protection rules:
- The European Commission Decision of 12 December 2007 concerning the implementation of the Internal Market Information System (IMI) as regards the protection of personal data. It is replaced by the IMI Regulation;
- The European Commission Recommendation of 26 March 2009 on data protection guidelines for the Internal Market Information System (IMI). It is replaced by the IMI Regulation;
- The European Commission Decision of 2 October 2009 setting out the practical arrangements for the exchange of information by electronic means between MS under Chapter VI of Directive 2006/123/EC of the Services Directive.

79 COM(2011) 75 final.

80 Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

Annex 9

e-APP and ECRN

1. E-APOSTILLE PILOT PROGRAM

Following the 2003 Special Commission, in 2006 the Hague Conference and the NNA (National Notary Association) launched the **electronic Apostille Pilot** Program (e-APP) to promote the implementation of a new software technology with the following aims:

- Introducing a paperless way to record and verify Apostilles: with the implementation of the e-APP, it will be possible to transmit electronic Apostilles by e-mail.
- Providing a higher level of security which exceeds the actual security standards in paper environment.
- Providing assurance that the e-Apostille was signed by the Competent Authority identified in the e-Apostille.
- Improving the movement of public document globally by avoiding the usage of a courier to dispatch paper documents.

At the same time, a relevant development in this field is the **e-Register**, i.e. an electronic Register that can be accessed *online* by recipients of Apostilles. The usage of an e-Register can entail several benefits:

- Make it easier to verify the authenticity of Apostilles.
- Saving space in the offices required to keep paper records.

However, as for the simplification benefits that such an initiative is likely to achieve, several shortcomings would still remain: issuing an e-APP would continue to entail certain verification procedures and the availability of some electronic requirements (such as the electronic signature) would further represent an obstacle to the full implementation of the e-APP.

2. EUROPEAN CIVIL REGISTRY NETWORK

European Civil Registry Network (ECRN) is a pilot project promoted by a consortium composed of 14 EU public authorities and co-financed by the European programme CIP ICT-PSP[81], aimed at providing an e-Government service for EU citizens. The project deals with the establishment of an experimental platform for the transmission of civil status documents and information among the Local Governments. The main purposes of the ECRN are:

- Increasing the efficiency of local administrative actions by strengthening the administrations' ability to use new technologies, thus contributing to time efficiency and cost effective solutions.

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[81] Competitiveness and Innovation Programme, Information and Communication Technologies Policy Support Programme.

- Improving the Citizen-Administration relationship by shortening delays for the public bodies to manage procedures and enabling citizens to reply in due time to requests for certification for inscriptions to schools, universities, and employment opportunities.

- Enabling public authorities to gain immediate knowledge in case of any changes in a Citizens civil status, i.e. if a citizen conceives a child, gets married, or dies; the public registry of her/his home country can be immediately updated.

ECRN allows the Civil Status Registry office of a Member State to request a specific certificate directly from its counterpart. With ECRN, obtaining a certificate from one MS to another will take 2-3 working days through a web platform rather than 2-3 months via ordinary mail. And with regard to security issues, the certified and secure web platform will guarantee the exchange of an authentic Civil Registry certificate. However, it is limited to civil status documents.

Annex 10

Data tables on the number of Apostilles issued and types of documents apostilled

Annex Table 3: Number of Apostilles issued from 2008-2011 for the EU 27 + 1 MS

EU 27 + 1 (Croatia)	Number of Apostilles issued			
	2008	2009	2010	2011
AUSTRIA				
BELGIUM	49.137	46.955	44.693	45.999
BULGARIA	23.630	20.115	20.135	22.911
CROATIA				
CYPRUS				
CZECH REPUBLIC	19.845	19.220	21.076	23.731
DENMARK	48.985	48.208	45.670	46.414
ESTONIA				
FINLAND	40.019	39.990	38.000	36.000
FRANCE				
GERMANY				
GREECE				
HUNGARY	6.906	11.767	12.700	14.655
ITALY				
IRELAND				
LATVIA	11.175	11.544	11.548	11.601
LITHUANIA				
LUXEMBOURG				
MALTA				
NETHERLANDS				
POLAND	24.044	25.012	27.286	31.045
PORTUGAL		19.856	32.552	33.846
ROMANIA	200.520	141.015	169.222	241.428
SLOVAKIA	16.587	15.804	17.349	19.800
SLOVENIA	14.516	14.307	16.078	16.338
SPAIN				
SWEDEN				
UK	382.073	343.274	368.342	385.194

Source: HCCH Questionnaire, 2012

Annex Table 4: Estimation on the number of intra-EU Apostilles issued from 2008-2011 for the EU 27 + 1 MS

	Hypothesis 1: Missing data completed per Member States through estimations with series of immigrant population		Hypothesis 2: Missing data completed per	
MS	Estimation on the number of Apostilles (in red estimated number, where HCCH data are missing)	Estimation on the number of Apostilles issued for intra-EU market [82]	Estimation on the number of Apostilles (in red estimated number, where HCCH data are missing) [83]	Estimation on the number of Apostilles issued for intra-EU market [84]
Austria	89,281	43,748	41,876	20,519
Belgium	45,999	22,540	45,999	22,540
Bulgaria	22,911	11,226	22,911	11,226
Croatia	4,894	2,398	4,894	2,398
Cyprus	328,554	160,991	328,554	160,991
Czech Republic	23,731	11,628	23,731	11,628
Denmark	46,414	22,743	46,414	22,743
Estonia	1,106	542	6,701	3,283
Finland	36,000	17,640	36,000	17,640
France	385,619	188,953	385,619	188,953
Germany	180,000	88,200	180,000	88,200
Greece	50,000	24,500	50,000	24,500
Hungary	14,655	7,181	14,655	7,181
Ireland	78,431	38,431	78,431	38,431
Italy	256,200	125,538	301,702	147,834
Latvia	11,601	5,684	11,601	5,684
Lithuania	11,299	5,537	11,299	5,537
Luxembourg	53,992	26,456	53,992	26,456
Malta	13,535	6,632	2,072	1,015
Netherlands			82,875	40,609
Poland	31,045	15,212	31,045	15,212

[82] HCCH Questionnaire 2012 or HCCH Questionnaire 2008 (most recent available). These figures have then been multiplied by 0,49 (i.e. 49%), which is the average (mean) of the percentage of EU non-nationals on the total number of EU nationals (equal to 34%) and the percentage of intra-EU trade as compared to total volume of trade (equal to 64%).

[83] HCCH Questionnaire 2012 or HCCH Questionnaire 2008 or Von Freyhold, Vial & Partner Consultants, 2008 (most recent available). In cases where the data was in range format (minimum-maximum) the midpoint has been calculated. Where data is lacking, we have applied the weighted average of € 13,20.

[84] HCCH Questionnaire 2012 or HCCH Questionnaire 2008 (most recent available). These figures have then been multiplied by 0,49 (i.e. 49%), which is the average (mean) of the percentage of EU non-nationals on the total number of EU nationals (equal to 34%) and the percentage of intra-EU trade as compared to total volume of trade (equal to 64%).

	Hypothesis 1: Missing data completed per Member States through estimations with series of immigrant population		Hypothesis 2: Missing data completed per	
MS	Estimation on the number of Apostilles (in red estimated number, where HCCH data are missing)	Estimation on the number of Apostilles issued for intra-EU market[82]	Estimation on the number of Apostilles (in red estimated number, where HCCH data are missing)[83]	Estimation on the number of Apostilles issued for intra-EU market[84]
Portugal	33,846	16,585	33,846	16,585
Romania	241,428	118,300	241,428	118,300
Slovakia	19,800	9,702	19,800	9,702
Slovenia	16,338	8,006	16,338	8,006
Spain	459,189	225,003	459,189	225,003
Sweden	52,173	25,565	46,703	22,885
United Kingdom	385,194		385,194	188,745
TOTAL	**2.893.234**	**1.417.685**	**2.962.869**	**1.451.806**

Annex Table 5: Types of documents most frequently apostilled

Annex Box 2: Summary on the number of Apostilles issued and documents concerned

Total number of Apostilles issued

The total number of Apostilles issued in 2011 by 13 Member States which responded so far to the HCCH Questionnaire 2012 amounts to 928.962. More responses were received to the HCCH Questionnaire 2008 (22 Member States): the number of Apostilles issued in 2007 corresponded to 2.788.188.

Given the above, it can be estimated that the number of Apostilles issued in 2011 by all the 27 Member States would easily exceed 2.000.000.

Taking into account the number of EU citizens (12.6 million) living in a Member State different from the one of their citizenship and the fact that almost half of EU SMEs are engaged in some form of cross-border activities, it is possible to roughly estimate that the number of Apostilles potentially needed would be a lot higher than that reported in the data above.

Furthermore, the trends reported by the replies point towards an increase in the number of Apostilles issued as a result of the free movement of workers, goods and services within the EU. This confirms the need to address the red tape entailed by the Apostille in view of a demand that will continue to increase.

Types of documents concerned

EU citizens and businesses (in particular SMEs) need approximately the same amount of public documents in order to move across the EU.

The most frequently apostilled documents are civil status documents (which concern EU citizens) and notarial authentications of signatures (concern both EU citizens and businesses), followed by extracts from commercial registers and other registers (concern EU businesses).

Under the above estimation, half of the public documents concerned by the Apostille formality are issued for intra-EU usage: i.e. around 1 million.

Annex 11

Data tables on costs and time for the issuance of the Apostille, legalisation and certified translations

Annex Table 6: Cost range and time required to issue Apostilles

	Cost of Apostille (EUR)		Apostille issue time			
			Time		Source	
EU 27 + 1 (Croatia)	Cost (EUR)	Source (*Note*)	Minimum	Maximum		
AUSTRIA	16,40 €	Von Freyhold, Vial & Partner Consultants, 2008	Immediate		Von Freyhold, Vial & Partner Consultants, 2008	
BELGIUM	10,00 €	HCCH 2012 Questionnaire	< 1 hour	1 working week	HCCH 2012 Questionnaire	
BULGARIA	2,50 €	HCCH 2012 Questionnaire	2 days		HCCH 2012 Questionnaire	
CROATIA	4,00 € - 8,00 €	HCCH 2008 Questionnaire				
CYPRUS	1,00 €	Von Freyhold, Vial & Partner Consultants, 2008	Immediate		Von Freyhold, Vial & Partner Consultants, 2008	
CZECH	4,00 €	HCCH 2012 Questionnaire	< 1 hour	1 working week	HCCH 2012 Questionnaire	
DENMARK	25,00 €	HCCH 2012 Questionnaire	< 1 hour		HCCH 2012 Questionnaire	
ESTONIA	14,70 €	Von Freyhold, Vial & Partner Consultants, 2008	Same day	10 days	Von Freyhold, Vial & Partner Consultants, 2008	
FINLAND	11,00 €	HCCH 2012 Questionnaire	< 1 hour		HCCH 2012 Questionnaire	
FRANCE	0,00 €	Von Freyhold, Vial & Partner Consultants, 2008	1 month	6 months	Von Freyhold, Vial & Partner Consultants, 2008	
GERMANY	10,00 € - 20,00 €	Von Freyhold, Vial & Partner Consultants, 2008	Immediate	2 weeks	Von Freyhold, Vial & Partner Consultants, 2008	
GREECE			Same day		HCCH 2012 Questionnaire	
HUNGARY	16,50 € - 18,00 €	HCCH 2012 Questionnaire *[Lower price is applied by the Ministry of Public Administration and Justice and the Hungarian National Chamber of Civil Law Notaries. Higher price is applied by the Ministry of Foreign Affairs]*	< 1 hour	1 working week	HCCH 2012 Questionnaire	
ITALY	0,00 €	Von Freyhold, Vial & Partner Consultants, 2008	Immediate		Von Freyhold, Vial & Partner Consultants, 2008	
IRELAND	20,00 €	Von Freyhold, Vial & Partner Consultants, 2008	Immediate	1 day	Von Freyhold, Vial & Partner Consultants, 2008	
LATVIA	14,50 €	HCCH 2012 Questionnaire	2 days		HCCH 2012 Questionnaire	
LITHUANIA	1,00 € - 20,00 €	Von Freyhold, Vial & Partner Consultants, 2008	1 day	5 days	Von Freyhold, Vial & Partner Consultants, 2008	
LUXEMBOURG	1,00 €	Von Freyhold, Vial & Partner Consultants, 2008	2 days	4 days	Von Freyhold, Vial & Partner Consultants, 2008	
MALTA	12,00 €	Von Freyhold, Vial & Partner Consultants, 2008	Immediate		Von Freyhold, Vial & Partner Consultants, 2008	
NETHERLANDS	16,00 €	Von Freyhold, Vial & Partner Consultants, 2008	1 hour	6 weeks	Von Freyhold, Vial & Partner Consultants, 2008	
POLAND	14,00 €	HCCH 2012 Questionnaire	< 1 hour		HCCH 2012 Questionnaire	
PORTUGAL			Same day	1 working week	HCCH 2012 Questionnaire	
ROMANIA	5,00 € - 10,00 €	HCCH 2012 Questionnaire	< 1 hour	1 working week	HCCH 2012 Questionnaire	
SLOVAKIA	6,50 €	HCCH 2012 Questionnaire	< 2 hours	1 working week	HCCH 2012 Questionnaire	
SLOVENIA	1,50 € - 5,00 €	HCCH 2012 Questionnaire	Same day	1 working week	HCCH 2012 Questionnaire	
SPAIN	0,00 €	Von Freyhold, Vial & Partner Consultants, 2008	Same day	3 days	Von Freyhold, Vial & Partner Consultants, 2008	
SWEDEN			1 day		Von Freyhold, Vial & Partner Consultants, 2008	
UK	37,00 € - 92,50 €	HCCH 2012 Questionnaire [*Lower price is what businesses and members of the public are charged per apostille issued (signature verified). Higher price is what business customers using the UK's premium business service in Central London are charged per document (signature verified)]*	< 2 hours	Following working day	HCCH 2012 Questionnaire	
Maximum price -->	**92,50 €**	*i.e. UK*	6 months		France	**<-- Longest issue time**
Average price -->	**11,71 €**	*Where there is a range, this is based on the midpoint.*	Immediate		Austria, Cyprus, Germany, Ireland, Malta	**<-- Shortest issue time**

NB: The average price indicted in the table above is an arithmethic (unweighted) average. Calculations are developed further in the Annex Table 7 to derive the weighted average.

Annex Table 7: Calculations and estimations on cost of the Apostille to EU citizens and EU SMEs

	Hypothesis 1: Missing data completed per Member States through estimations with series of immigrant population			Hypothesis 2: Missing data completed per Member States through estimations with series of total population		
MS	**Estimation on the number of Apostille issued for intra-EU market**[85]	**Cost of the Apostille (to the SME / citizen)**[86]	**Total cost of all Apostilles issued**	**Estimation on the number of Apostille issued for intra-EU market**[87]	**Cost of the Apostille (to the SME / citizen)**[88]	**Total cost of all Apostilles issued**
Austria	43,748	16.40 €	717,466 €	20,519	16.40 €	336,519 €
Belgium	22,540	10.00 €	225,395 €	22,540	10.00 €	225,395 €
Bulgaria	11,226	2.50 €	28,066 €	11,226	2.50 €	28,066 €
Croatia	2,398	6.00 €	14,388 €	2,398	6.00 €	14,388 €
Cyprus	160,991	1.00 €	160,991 €	160,991	1.00 €	160,991 €
Czech Republic	11,628	4.00 €	46,513 €	11,628	4.00 €	46,513 €
Denmark	22,743	25.00 €	568,572 €	22,743	25.00 €	568,572 €
Estonia	542	14.70 €	7,966 €	3,283	14.70 €	48,265 €
Finland	17,640	11.00 €	194,040 €	17,640	11.00 €	194,040 €
France	188,953	13.20 €	2,494,514 €	188,953	13.03 €	2,461,273 €
Germany	88,200	15.00 €	1,323,000 €	88,200	15.00 €	1,323,000 €
Greece	24,500	13.20 €	323,443 €	24,500	13.03 €	319,133 €
Hungary	7,181	17.25 €	123,871 €	7,181	17.25 €	123,871 €
Ireland	38,431	20.00 €	768,624 €	38,431	20.00 €	768,624 €
Italy	125,538	13.20 €	1,657,319 €	147,834	13.03 €	1,925,658 €
Latvia	5,684	14.50 €	82,425 €	5,684	14.50 €	82,425 €
Lithuania	5,537	10.50 €	58,133 €	5,537	10.50 €	58,133 €
Luxembourg	26,456	1.00 €	26,456 €	26,456	1.00 €	26,456 €
Malta	6,632	12.00 €	79,583 €	1,015	12.00 €	12,183 €

85 HCCH Questionnaire 2012 or HCCH Questionnaire 2008 (most recent available). These figures have then been multiplied by 0,49 (i.e. 49%), which is the average (mean) of the percentage of EU non-nationals on the total number of EU nationals (equal to 34%) and the percentage of intra-EU trade as compared to total volume of trade (equal to 64%).

86 HCCH Questionnaire 2012 or HCCH Questionnaire 2008 or Von Freyhold, Vial & Partner Consultants, 2008 (most recent available). In cases where the data was in range format (minimum-maximum) the midpoint has been calculated. Where data is lacking, we have applied the weighted average of € 13,20.

87 HCCH Questionnaire 2012 or HCCH Questionnaire 2008 (most recent available). These figures have then been multiplied by 0,49 (i.e. 49%), which is the average (mean) of the percentage of EU non-nationals on the total number of EU nationals(equal to 34%) and the percentage of intra-EU trade as compared to total volume of trade (equal to 64%).

88 HCCH Questionnaire 2012 or HCCH Questionnaire 2008 or Von Freyhold, Vial & Partner Consultants, 2008 (most recent available). In cases where the data was in range format (minimum-maximum), the midpoint has been calculated. Where data is lacking, we have applied the weighted average of € 13,20.

	Hypothesis 1: Missing data completed per Member States through estimations with series of immigrant population			Hypothesis 2: Missing data completed per Member States through estimations with series of total population		
MS	**Estimation on the number of Apostille issued for intra-EU market**[85]	**Cost of the Apostille (to the SME / citizen)**[86]	**Total cost of all Apostilles issued**	**Estimation on the number of Apostille issued for intra-EU market**[87]	**Cost of the Apostille (to the SME / citizen)**[88]	**Total cost of all Apostilles issued**
Netherlands		16.00 €	- €	40,609	16.00 €	649,740 €
Poland	15,212	14.00 €	212,969 €	15,212	14.00 €	212,969 €
Portugal	16,585	13.20 €	218,945 €	16,585	13.03 €	216,027 €
Romania	118,300	7.50 €	887,248 €	118,300	7.50 €	887,248 €
Slovakia	9,702	6.50 €	63,063 €	9,702	6.50 €	63,063 €
Slovenia	8,006	3.25 €	26,018 €	8,006	3.25 €	26,018 €
Spain	225,003	13.20 €	2,970,427 €	225,003	13.03 €	2,930,845 €
Sweden	25,565	13.20 €	337,497 €	22,885	13.03 €	298,092 €
United Kingdom		64.75 €	12,221,243 €	188,745	64.75 €	12,221,243 €
TOTAL			**25,838,175 €**			**26,228,750 €**

Annex Table 8: Calculations and estimations on cost and time requirements for public administrations to issue Apostilles

	Hypothesis 1: Missing data completed per Member States through estimations with series of immigrant population				Hypothesis 2: Missing data completed per Member States through estimations with series of total population			
MS	Estimation on the number of Apostilles issued for intra-EU market[89]	Time required for adminis-tration to issue an Apostille[90]	Hourly Labour Cost[91]	Annual administrative cost to issue an Apostille	Estimation on the number of Apostilles issued for intra-EU market[92]	Time required for adminis-tration to issue an Apostille[93]	Hourly Labour Cost[94]	Annual administrative cost to issue an Apostille
EU 28	**1 417 685**	**0,99**	**22,52 €**	**31 837 858,75 €**	**1 451 806**	**1,00**	**22,70 €**	**33 135 949,73 €**
EU 27	**1 415 287**	**0,99**	**22,52 €**	**31 810 858,39 €**	**1 449 408**	**1,00**	**22,70 €**	**33 108 730,63 €**
Austria	43 748	0,50	29,20 €	638 719,42 €	20 519	0,50	29,20 €	299 584,12 €
Belgium	22 540	1,50	39,30 €	1 328 704,11 €	22 540	1,50	39,30 €	1 328 704,11 €
Bulgaria	11 226	1,00	3,50 €	39 292,37 €	11 226	1,00	3,50 €	39 292,37 €
Croatia	2 398	0,50		27 000,36 €	2 398	0,50		27 219,10 €
Cyprus	160 991	0,50	16,50 €	1 328 179,55 €	160 991	0,50	16,50 €	1 328 179,55 €
Czech Republic	11 628	1,50	10,50 €	183 143,99 €	11 628	1,50	10,50 €	183 143,99 €
Denmark	22 743	0,50	38,60 €	438 937,20 €	22 743	0,50	38,60 €	438 937,20 €
Estonia	542	3,00	8,10 €	13 168,19 €	3 283	3,00	8,10 €	79 784,46 €
Finland	17 640	0,50	29,70 €	261 954,00 €	17 640	0,50	29,70 €	261 954,00 €
France	188 953	0,85[95]	34,20 €	5 468 151,28 €	188 953	14,00	34,20 €	5 468 151,28

89 HCCH Questionnaire 2012 or HCCH Questionnaire 2008 (most recent available). These figures have then been multiplied by 0,49 (i.e. 49%), which is the average (mean) of the percentage of EU non-nationals on the total number of EU nationals(equal to 34%) and the percentage of intra-EU trade as compared to total volume of trade (equal to 64%).

90 HCCH Questionnaire 2012 or Von Freyhold, Vial & Partner Consultants, 2008 (most recent available). All values have been converted to hours. In cases where the data was in range format (minimum-maximum) the midpoint has been calculated.

91 Eurostat, "Hourly labour costs in the EU 27", http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/ 3-24042012-AP/EN/3-24042012-AP-EN.PDF. The latest available figure for each MS has been used.

92 HCCH Questionnaire 2012 or HCCH Questionnaire 2008 (most recent available). These figures have then been multiplied by 0,49 (i.e. 49%), which is the average (mean) of the percentage of EU non-nationals on the total number of EU nationals (equal to 34%) and the percentage of intra-EU trade as compared to total volume of trade (equal to 64%).

93 HCCH Questionnaire 2012 or Von Freyhold, Vial & Partner Consultants, 2008 (most recent available). All values have been converted to hours. In cases where the data was in range format (minimum-maximum) the midpoint has been calculated.

94 Eurostat, "Hourly labour costs in the EU 27", http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/ 3-24042012-AP/EN/3-24042012-AP-EN.PDF. The latest available figure for each MS has been used.

95 The HCCH questionnaire revealed a figure of **14 hours** required to issue an Apostille. We have revised this figure, considering it abnormal. Instead a figure of 0.85 has been determined using partial least squares regression (PLS regression), where three characteristics have been considered: the number of Apostilles under

	Hypothesis 1: Missing data completed per Member States through estimations with series of immigrant population				Hypothesis 2: Missing data completed per Member States through estimations with series of total population			
MS	Estimation on the number of Apostilles issued for intra-EU market[89]	Time required for adminis-tration to issue an Apostille[90]	Hourly Labour Cost[91]	Annual administrative cost to issue an Apostille	Estimation on the number of Apostilles issued for intra-EU market[92]	Time required for adminis-tration to issue an Apostille[93]	Hourly Labour Cost[94]	Annual administrative cost to issue an Apostille
								€
Germany	88 200	3,50	30,10 €	9 291 870,00 €	88 200	3,50	30,10 €	9 291 870,00 €
Greece	24 500	0,50	17,50 €	214 375,00 €	24 500	0,50	17,50 €	214 375,00 €
Hungary	7 181	1,50	7,60 €	81 862,83 €	7 181	1,50	7,60 €	81 862,83 €
Ireland	38 431	0,50	27,40 €	526 507,30 €	38 431	0,50	27,40 €	526 507,30 €
Italy	125 538	0,50	26,80 €	1 682 207,62 €	147 834	0,50	26,80 €	1 980 972,97 €
Latvia	5 684	1,00	5,90 €	33 538,49 €	5 684	1,00	5,90 €	33 538,49 €
Lithuania	5 537	1,00	5,50 €	30 450,81 €	5 537	1,00	5,50 €	30 450,81 €
Luxembourg	26 456	2,00	33,70 €	1 783 139,79 €	26 456	2,00	33,70 €	1 783 139,79 €
Malta	6 632	0,50	11,90 €	39 460,01 €	1 015	0,50	11,90 €	6 040,51 €
Netherlands		1,07[96]	31,10 €	0,00 €	40 609	7,00	31,10 €	1 357 437,92 €
Poland	15 212	0,50	7,10 €	54 002,78 €	15 212	0,50	7,10 €	54 002,78 €
Portugal	16 585	1,50	12,10 €	301 009,40 €	16 585	1,50	12,10 €	301 009,40 €
Romania	118 300	1,50	4,20 €	745 288,24 €	118 300	1,50	4,20 €	745 288,24 €
Slovakia	9 702	1,50	8,40 €	122 245,20 €	9 702	1,50	8,40 €	122 245,20 €
Slovenia	8 006	1,50	14,40 €	172 921,39 €	8 006	1,50	14,40 €	172 921,39 €
Spain	225 003	1,00	20,60 €	4 635 053,77 €	225 003	1,00	20,60 €	4 635 053,77 €
Sweden	25 565	0,50	39,10 €	499 787,80 €	22 885	0,50	39,10 €	447 395,32 €
United Kingdom	188 745	0,50	20,10 €	1 896 887,85 €	188 745	0,50	20,10 €	1 896 887,85 €

hypothesis 1 (EU non-nationals), the number of Apostilles under hypothesis 2 (total population), and the Hourly Labour Cost. See Bastien, P. Vinzi,VE, and Tenenhaus, M, "LS generalised linear regression", Computational Statistics & Data Analysis 48 (2005) 17 – 46 for more details on this method.

[96] The HCCH questionnaire revealed a figure of 7 hours required to issue an Apostille. We have revised this figure, considering it abnormal, using the same PLS method as explained in the footnote above.

Annex Table 9: Cost of legalisation of public documents

EU 27 + 1 (Croatia)	Cost of legalisation (EUR)
AUSTRIA	
BELGIUM	10,00 €
BULGARIA	
CROATIA	
CYPRUS	
CZECH REPUBLIC	12,00 € - 24,00 €
DENMARK	20,00 €
ESTONIA	
FINLAND	20,00 €
FRANCE	
GERMANY	20,00 € - 80,00 €
GREECE	
HUNGARY	2,00 € - 3,50 €
ITALY	
IRELAND	20,00 € - 50,00 €
LATVIA	7,00 € - 28,00 €
LITHUANIA	1,00 € - 20,00 €
LUXEMBOURG	
MALTA	12,00 € - 17,00 €
NETHERLANDS	10,00 €
POLAND	20,00 € - 25,00 €
PORTUGAL	11,00 € - 25,00 €
ROMANIA	
SLOVAKIA	17,00 €
SLOVENIA	3,00 €
SPAIN	0,00 €
SWEDEN	13,00 €
UK	
Maximum price	**80,00 €** (Germany)
Average price	**16,50 €**

Source: British Institute of International and Comparative Law, 2007

Annex Table 10: Cost of certified translation of public documents (for the translation of certificates related to cross-border marriages)

EU 27 + 1 (Croatia) *	Cost of translation (EUR)	
	Minimum	Maximum
AUSTRIA	0,00 €	120,00 €
BELGIUM	0,00 €	60,00 €
BULGARIA	120,00 €	
CROATIA		
CYPRUS	0,00 €	120,00 €
CZECH REPUBLIC	0,00 €	120,00 €
DENMARK	0,00 €	60,00 €
ESTONIA	120,00 €	
FINLAND	0,00 €	120,00 €
FRANCE	0,00 €	60,00 €
GERMANY	0,00 €	120,00 €
GREECE	0,00 €	120,00 €
HUNGARY	0,00 €	120,00 €
ITALY	0,00 €	120,00 €
IRELAND	0,00 €	60,00 €
LATVIA	120,00 €	
LITHUANIA	120,00 €	
LUXEMBOURG	0,00 €	120,00 €
MALTA	0,00 €	120,00 €
NETHERLANDS	0,00 €	120,00 €
POLAND	0,00 €	120,00 €
PORTUGAL	0,00 €	120,00 €
ROMANIA	120,00 €	
SLOVAKIA	0,00 €	120,00 €
SLOVENIA	0,00 €	60,00 €
SPAIN	0,00 €	120,00 €
SWEDEN	0,00 €	120,00 €
UK	0,00 €	120,00 €
Highest cost	120,00 €	
Lowest cost	0,00 €	

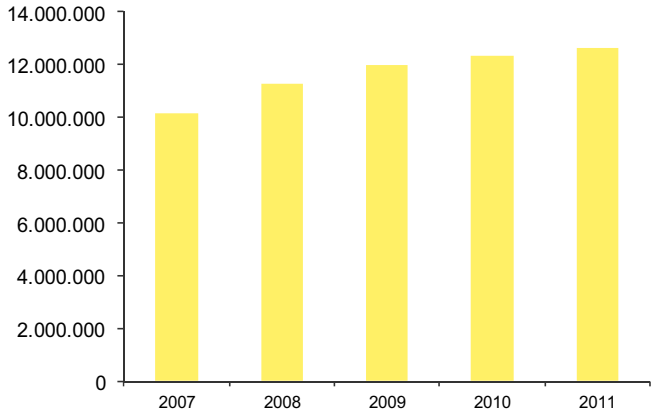
Source: Von Freyhold, Vial & Partner Consultants, 2008

Annex 12

Statistical tables on intra-EU mobility

The increasing trend of intra-EU mobility is confirmed by the trends recorded on the number of those born in an EU MS and living in another MS: this trend has generally been characterized by an increase over the years, going from around 15.7 million in 2009 to 16.4 million in 2011 (4% increase)[97]. Finally, the annual data on EU migrants: the total number of EU migrants in 2010 amounted to 2.900.000 people, divided into approximately 1.000.000 EU nationals and 1.900.000 EU non-nationals[98].

Annex Figure 2: EU citizens residing in another MS



Source: Eurostat, Population and social conditions, Population by citizenship and country of birth -Population by sex, age group and citizenship (migr_pop1ctz), 2007-2011. Data for EU 27 MS and Croatia.

Data on EU population and intra-EU mobility (migration, foreign workers, students)

Annex Table 11: Foreign population with EU 27 citizenship (except declaring country)

MS	% of foreign pop. on the total pop. (2011)
Austria	4%
Belgium	6%
Bulgaria	:
Cyprus	0,01%
Czech Rep.	1%
Denmark	2%
Estonia	1%

97 Eurostat database, Population by sex, age group and country of birth (see further in this Annex).

98 According to Eurostat, "Immigration" denotes the action by which a person establishes his or her usual residence in the territory of a Member State for a period that is, or is expected to be, of at least 12 months, having previously been usually resident in another Member State or a third country.

MS	% of foreign pop. on the total pop. (2011)
Finland	1%
France	2%
Germany	3%
Greece	1%
Hungary	1%
Ireland	7%
Italy	2%
Latvia	0,4%
Lithuania	0,05%
Luxembourg	37%
Malta	2%
Netherlands	2%
Poland	0,04%
Portugal	1%
Romania	:
Slovakia	1%
Slovenia	0,2%
Spain	5%
Sweden	3%
UK	3%
Croatia	:
TOTAL	2.5%

Source: Eurostat, Population and social conditions, Population by citizenship and country of birth -Population by sex, age group and citizenship (migr_pop1ctz), 2007-2011.Eurostat database – Population by sex, age group and citizenship, 2007-2011

Another phenomenon which makes it possible to quantify intra-EU mobility for working reasons, regards cross-border commuters[99], i.e. persons who work in an EU country but reside in a different one. According to the most recent available data (2010[100]), five people out of the 1.000 of those employed commute across borders between MS.

Annex Table 12: Employed persons in a EU MS, with citizenship of another MS, in 2011 (in thousands)

Employed persons						
MS	Total	Declaring country	EU-27 countries except declaring country	Extra EU-27	Total foreign countries	Percentage of EU employed persons on the total foreign employed population
Austria	4.069,6	3.610,2	201,3	258,1	459,4	40%
Belgium	4.470,5	4.069,4	297,6	103,5	401,1	70%
Bulgaria	2.908,3	2.904,9	:	:	:	:
Cyprus	364,1	283,4	48,1	32,7	80,8	60%
Czech Rep.	4.827,8	4.755,2	35,6	36,9	72,5	50%
Denmark	2.643,1	2.485,1	69,2	88,6	157,8	40%
Estonia	588,2	502,0	2,3	84,0	86,3	3%
Finland	2.428,5	2.375,9	24,7	27,4	52,1	50%
France	25.562,3	24.182,3	628,7	740,9	1.369,6	50%
Germany	38.979,3	35.457,2	1.508,1	2.014,0	3.522,1	40%
Greece	4.016,6	3.662,1	70,4	283,0	353,3	20%
Hungary	3.779,0	3.748,1	21,5	9,4	30,9	70%
Ireland	1.764,0	1.548,7	159,6	55,7	215,4	70%
Italy	22.582,7	20.342,9	738,5	1.501,2	2.239,7	30%
Latvia	949,3	810,5	1,4	137,5	138,9	1%
Lithuania	1.342,1	1.335,3	0,6	6,2	6,8	10%
Luxembourg	222,4	113,4	99,9	9,0	109,0	90%
Malta	166,3	161,5	1,9	2,7	4,6	40%
Netherlands	8.231,7	7.880,9	148,5	139,2	287,6	50%
Poland	15.879,6	15.854,6	8,6	16,2	24,8	30%
Portugal	4.557,4	4.402,8	27,0	127,5	154,6	20%
Romania	8.750,0	8.746,1	:	:	:	:
Slovakia	2.339,3	2.335,1	2,9	:	4,2	70%
Slovenia	914,8	896,0	0,8	18,0	18,8	4%
Spain	17.953,3	15.582,7	759,0	1.611,6	2.370,6	30%
Sweden	4.529,4	4.311,1	115,9	99,5	215,4	50%
UK	28.207,3	25.672,2	1.316,0	1.217,9	2.533,9	50%
Total	213.026,9	198.029,6	**6.288,1**	8.620,7	14.910,2	-

Source: Eurostat –– Labour market, Labour Force Survey, (lfsa) 2011

[99] A migrant worker is, as defined by the United Nations, "a person who is engaged or has been engaged in a remunerated activity in a State of which he or she is not a National". A commuter, instead, is a person who travels to work on a regular basis, which can be daily, weekly or even spread over a larger amount of time.

[100] European Commission - Employment, Social Affairs and Equal Opportunities, Mobility in Europe, 2011. The study refers to 2010 data, more recent data were not available due to the subject being very specific.

The number of EU-citizens moving to another Member State for study reasons is generally increasing. The available data for 2009 shows that the highest number of EU students studying in another Member State comes from Malta (71.8%), Cyprus (56.2%), Italy (19.5%), Latvia (14.8%) and the UK (11.4%)[101]. Many of those students use the EU Erasmus programme. Indeed, since the inception of the programme, the number of students benefitting from an Erasmus grant has continued to grow, reaching a total of 231.410 students in 2010-2011, with an annual increase of 8.5% compared to 2009-10 (the equivalent year-on-year increase inn 2009-2010 was 7.4%)[102].

Annex Table 13: EU Students studying in another EU-27 as % of all students

MS	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Austria	3,8	3,8	4,7	4,7	4,7	4,4	4,6	4,7	4,3	4,5
Belgium	2,4	2,4	2,4	2,6	2,6	2,6	2,5	2,6	2,9	2,7
Bulgaria	3,2	4,3	6,0	7,4	8,6	8,7	8,9	8,3	7,9	8,0
Cyprus	46,5	44,4	52,2	53,6	54,8	56,5	53,2	56,9	58,4	56,2
Czech Rep.	1,3	1,5	1,6	1,8	1,8	1,8	2,0	2,1	2,6	2,7
Denmark	2,7	2,6	2,6	2,7	2,5	2,3	2,6	2,5	2,4	2,5
Estonia	2,5	3,2	3,0	3,2	3,5	3,6	4,1	4,5	4,9	5,2
Finland	3,2	3,0	3,0	3,0	2,9	2,7	3,0	2,9	2,7	2,8
France	6,2	7,2	4,3	9,2	10,4	11,9	11,9	10,5	8,4	8,0
Germany	1,8	1,9	1,9	1,9	2,0	2,1	2,4	2,5	2,3	2,4
Greece	1,8	1,9	1,9	1,9	1,9	2,2	2,8	3,1	3,5	3,6
Hungary	12,4	10,9	8,6	7,9	7,3	6,0	5,5	5,8	5,2	:
Ireland	1,7	1,8	1,7	1,7	1,5	1,5	1,7	1,8	1,8	2,1
Italy	16,9	16,3	15,3	15,7	15,5	17,0	17,4	17,8	18,2	19,5
Latvia	9,4	8,0	7,4	7,5	8,5	9,3	13,8	14,2	17,7	14,8
Lithuania	1,7	1,7	1,6	1,6	1,6	1,5	1,7	1,8	1,8	2,1
Luxembourg	1,3	1,4	1,3	1,7	1,6	1,7	2,2	2,5	2,9	3,3
Malta	:	:	:	:	:	77,1	73,6	51,0	67,7	71,8
Netherlands	1,8	2,0	2,1	2,3	2,3	2,6	3,0	3,3	3,6	4,0
Poland	74,5	68,6	66,0	66,7	:	:	80,8	:	:	:
Portugal	8,2	6,9	12,4	5,9	8,4	7,8	10,0	9,9	10,9	11,4
Romania	1,9	1,8	1,7	1,8	1,8	1,8	2,1	2,1	2,2	2,5
Slovakia	4,7	4,9	4,6	4,5	4,7	4,8	4,9	5,0	5,1	5,3
Slovenia	0,9	0,9	1,0	1,1	1,2	1,3	1,6	1,8	1,8	2,0
Spain	2,3	2,3	2,3	2,5	2,7	2,9	3,7	4,0	3,9	4,4
Sweden	1,5	2,0	2,1	2,2	2,4	2,3	2,2	2,2	2,0	2,3
UK	3,0	5,5	6,4	7,9	8,2	8,6	10,2	10,2	10,7	11,4
Croatia	:	:	:	6,8	6,9	6,3	6,4	6,2	6,0	6,4

Source: Eurostat database - Education and training, 2000-2009

101 Eurostat, Education and training statistics.

102 EC, MEMO/12/310, The Erasmus programme in 2010-11: the figures explained, 2012. The Erasmus programme enables those in higher education to spend between 3 and 12 months in another European country – either for studies or for a placement in a company or other organisation.

Annex Table 14: Number of marriages in the EU Member States (2007)

	Marriages in 2007					
	Total marriages		National		International	
Austria	35,996	1%	27,689	1%	8,295	3%
Belgium	45,561	2%	35,110	2%	10,451	3%
Bulgaria	29,640	1%	27,227	1%	2,413	1%
Czech Republic	57,157	2%	52,188	2%	4,969	2%
Cyprus	13,422	1%	3,532	0%	9,890	3%
Denmark	36,576	2%	30,821	1%	5,753	2%
Estonia	7,022	0%	4,536	0%	2,486	1%
Finland	29,497	1%	27,050	1%	2,447	1%
France	273,833	11%	228,864	11%	44,969	15%
Germany	368,922	15%	318,082	15%	50,840	17%
Greece	61,377	3%	53,952	3%	7,425	2%
Hungary	40,842	2%	38,990	2%	1,852	1%
Ireland	22,544	1%	19,096	1%	3,448	1%
Italy	250,360	10%	215,801	10%	34,559	11%
Latvia	15,486	1%	14,579	1%	907	0%
Lithuania	23,065	1%	20,339	1%	2,726	1%
Luxembourg	1,969	0%	837	0%	1,132	0%
Malta	2,479	0%	1,582	0%	881	0%
Netherlands	72,485	3%	61,848	3%	10,637	3%
Poland	248,777	10%	244,732	12%	4,045	1%
Portugal	46,329	2%	39,648	2%	6,681	2%
Romania	189,240	8%	183,803	9%	5,437	2%
Slovakia	27,437	1%	23,778	1%	3,659	1%
Slovenia	6,373	0%	5,299	0%	946	0%
Spain	208,057	9%	173,834	8%	34,223	11%
Sweden	47,898	2%	38,043	2%	9,855	3%
UK	268,386	11%	232,154	11%	36,232	12%
Total	**2,430,730**	100%	**2,123,414**	87%	**307,158**	13%

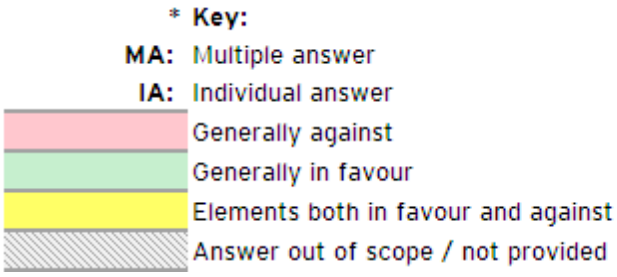
Source and notes:
Eurostat; International marriages and divorces in the Member States and National Statistical Offices
*International marriages include "unknown marriages" for: AT (12), DK (2), Malta (16), Slovenia (128).
2007 data for the UK has been estimated from the total number of new marriages for the period 2000-2006
2007 data on new international marriages for Ireland has been estimated by using 2006 census on marriages

Annex 13

Overview of citizens replies to the Green Paper

The following tables provide an overview of the citizens' responses to the 6 questions of the Green Paper stakeholder consultation that are within the scope of this Impact Assessment. Answers that were provided in a language other than English or French have been translated into English.

The answers are colour-coded as follows to represent the for/against nature of the answers with respect to the initiative:



Note:

No citizen replies were received from the following MS: AT, CY, CZ, DK, EE, EL, ES, FI, IE, LT, LU, LV, MT, NL, PT, SE, SI, SK.

Responses to questions 1-2

Proposed solution →	The abolition of administrative formalities for the authentication of public documents	Cooperation between the competent national authorities
	1	2
Question →	*Do you think that the abolition of administrative formalities such as legalisation and the Apostille would solve the problems encountered by citizens?*	*Should closer cooperation between Member States' authorities be envisaged, in particular as regards civil status records, and if so, in what electronic form?*
Member State		
BE	La législation des actes de l' état civil et des autres documents administratives ou judiciaires doit être supprimée pour les pays de l' union européenne. On doit avoir de la confiance à une autorité compétente qui délivre des données à une autre autorité compétente.	Nous devons appliquer et mettre en œuvre les "policy options" mentionnés sur page 101 dans le rapport de Von Freyhold et dans son rapport de synthèse. L'adage doit être: Les données doivent courir pas les citoyens. Ça veut dire qu'une fois une donnée d'une personne ou un changement de cette donnée est registrée, le citoyen ne doit plus porter à quelconque autorité que soit, une copie ou une attestation de cette donnée. C'est l'autorité compétente (communes, provinces, états membres d'un pays, les ministères, l'union européenne, les états membres de l'union européenne, les tribunaux, les notaires) qui doit demander à l'autorité qui possède cette donnée, dont il a besoin de l'envoyer et ça par voie électronique, directement d'une autorité à l'autre, même au-delà des frontières. La création d'un document européen de la personne comme l'Association européenne des officiers de l'état civil avait proposé à son congres en 2005 doit être fait en forme électronique, ça facilitera "le libre trafic" de nos compatriotes européens.
BG	No, I think this will increase the difficulties.	Yes, but this requires specific proposals.
DE	The Commission must ensure that the authenticity of documents may be determined in the future.	Precise proposals must be developed.
	Yes, the abolition of administrative formalities, such as legalisation, the apostille and of translation requirements would solve problems encountered by EU citizens. Civil status documents should be automatically recognised throughout the EU.	- - - - - - - - - -
	No! It would be great for the individuals affected, but 2,5% of European citizens is a number too small to justify such an effort. It would also be suicide for individual states to deprive themselves of the money collected through taxes (to reach this objective). Instead of using the funds for the change/transition process, the majority of individuals should contribute by paying taxes.	Yes, but only if this does not require modification of Member States' civil status legislation. For example, certificates in different languages could be created. We reject the abolishment of certificates and documents, as this could lead to abuse and fraud. The low number of weddings between Finns and Cypriots does not justify this.
FR	Pour rappel, la légalisation ou l'apostille sont des démarches qui visent à authentifier et légaliser des documents administratifs passés dans un état étranger. Sans aucun doute, la suppression de telles formalités simplifierait à première vue les démarches des administrés européens. Mais, aux regards des différences existantes entre les documents administratifs des États membres et des diverses langues, elle serait aussi à l'origine d'une grande insécurité juridique et source de nombreux dysfonctionnements. La Commission ne fait en effet aucune proposition pour pallier à ces différences. A moins de tenir pour acquis que les administrations de chaque pays seraient à même de connaître et reconnaître TOUS les actes administratifs passé dans les 26 autres pays membres, il conviendrait donc que la Commission associe à la suppression de telles formalités des mesures permettant néanmoins d'assurer une sécurité juridique suffisante.	Si, à première vue, une réponse affirmative semble évidente, il s'avère en fait que la question de la Commission est trop imprécise pour pouvoir y répondre en toute connaissance de cause. Quel type de coopération est-il envisagé ? Comment inscrire celle-ci dans le respect des traités européens et de la souveraineté des États membres en la matière ?

Proposed solution →	The abolition of administrative formalities for the authentication of public documents	Cooperation between the competent national authorities
	1	2
Question →	*Do you think that the abolition of administrative formalities such as legalisation and the Apostille would solve the problems encountered by citizens?*	*Should closer cooperation between Member States' authorities be envisaged, in particular as regards civil status records, and if so, in what electronic form?*
	Sans aucun doute la suppression de telles formalités simplifierait à première vue les démarches des administrés européens. Mais aux regards des différences existantes entre les documents administratif des États membres et des diverses langues, elle serait aussi à l'origine d'une grande insécurité juridique et source de nombreux dysfonctionnements. La commission ne fait en effet aucune proposition pour pallier à ces différences. A moins de tenir pour acquis que les administrations de chaque pays seraient à même de connaitre et reconnaitre TOUS les actes administratifs passé dans les 26 autres pays membres, il conviendrait donc que la Commission associe à la suppression de telles formalités des mesures permettant néanmoins d'assurer une sécurité juridique suffisante.	Si, à première vue, une réponse affirmative semble évidente, il s'avère en fait que la question de la Commission est trop imprécise pour pouvoir y répondre en toute connaissance de cause. Quel type de coopération est-il envisagé? Comment inscrire celle-ci dans le respect des traités européens et de la souveraineté des États membres en la matière?
HU	http://ec.europa.eu/justice/newsroom/civil/opinion/files/110510/citizens/hungary_en.pdf	
IT	Although reducing administrative formalities would be useful, it is indispensable to ensure the legality and authenticity of external public documents. The principle of "blind trust" proposed by the EC is hardly practical and, more importantly, there seems to be no concern with regards to guaranteeing the legal nature and authenticity of external public documents. The EC should at least propose some alternative mechanisms to verify the authenticity of documents.	Yes, but the Commission should present concrete proposals in this respect.
IT *(cont'd)*	The Apostille and the legalisation of documents do not represent needless bureaucracy - they are aimed at providing authorities with a means of ensuring the legal nature and the authenticity of external public documents. If the Commission proposes to eliminate these formalities, it should also explain how authorities will be able to verify the validity and authenticity of an external public document. It can neither be demanded nor expected that public servants be aware of the "appearance" of all documents from all MS - indeed, these are often not uniform even within the same country. Therefore, it seems that the Commission is suggesting that MS have a blind trust in foreign citizens. Although this might simplify administrative procedures, it would damage public order in MS.	I do not see the need for this.
	The Commission should propose alternative methods to facilitate the verification of the authenticity of documents in conjunction with the reduction of administrative formalities.	The Commission should present concrete proposals in this respect.
	The Commission should propose alternative methods to facilitate the verification of the authenticity of documents in conjunction with the reduction of administrative formalities.	This type of cooperation would undoubtedly be most useful. The Commission should present concrete proposals in this respect.
	I would prefer it if it were clearer what mechanism would be used to verify the authenticity of documents. I therefore would ask the EC to add proposals with respect to this.	In this case, too, I would like the Commission to present concrete proposals.
	One could consider the elimination of legalization and the Apostille only for documents for which a European format is created, available in all the official languages and complemented by the technical infrastructure necessary to guarantee the authenticity of a document (i.e. that it comes from an official authority) and the fact that it has not been counterfeited.	First of all, it would be necessary to set up a national information system for citizens' personal data. This would not be hard, as the legislation is homogeneous. It would be hard to create a unified system at European level. One could envisage that all MS be required to provide a translation of the data collected by them, so that individual MS may access the information systems of other MS to consult the data.
PL	The abolition of legalization and apostille can only be considered in conjunction with a concrete proposal for an alternative method of determining the authenticity and validity of documents issued in another Member State.	Yes, but this requires a specific proposal.
	No, I think it would be more intensified.	Yes, but it requires a specific proposal.

Proposed solution →		The abolition of administrative formalities for the authentication of public documents		Cooperation between the competent national authorities
		1		2
Question →		*Do you think that the abolition of administrative formalities such as legalisation and the Apostille would solve the problems encountered by citizens?*		*Should closer cooperation between Member States' authorities be envisaged, in particular as regards civil status records, and if so, in what electronic form?*
PL *(cont'd)*		The Green Paper describes the apostille and validation of documents as an "outdated" and "inadequate" method. However, it does not give any arguments on which such an assessment can be based. The reduction of bureaucratic formalities would certainly be in the interests of the citizens. However, the apostille and validation of documents are not bureaucracy in itself. Their objective is to help the public authorities establish the legality and authenticity of official documents from abroad. Since the Commission is proposing the abolition of such formalities, it should also clarify how the public authorities will determine the authenticity and validity of foreign documents from this moment. It cannot very well be expected that civil servants will be familiar with the external appearance of all official documents from all Member States or know which body in another Member State has the competence to issue a given type of document. They will also be unable to read and understand all official languages used in the Member States. Therefore, what the commission is proposing looks like the establishment of the principle of "blind faith" without any control. This is certainly non-bureaucratic, but also dysfunctional. It would be better if, when proposing the abolition of such "formalities", the Commission added something about alternative ancillary mechanisms which help ensure the authenticity of documents.		Such cooperation would certainly be useful. The Commission should develop a more accurate proposal.
		The document presented does not specify how the public authorities of the Member States would establish the legality and authenticity of civil documents from other MS. It is difficult to imagine registry offices at local level using all 27 official languages of the EU Member States in practice. In my opinion, such a solution would create legal chaos and more problems than potential benefits.		Yes, but it is difficult to assess without reference to specific proposals.
		Yes. I think this would solve the problems of citizens, however, create major complications for the offices. In my view, important documents should still have the statement of authenticity issued by the competent authority.		Yes, because every collaboration will contribute to the facilitation for the citizens. Electronic form today is a very good idea, it would allow for easier and faster communication.
		No. To my judgment it would rather make those problems more acute.		Yes, but specific, concrete proposals are required.
PL *(cont'd)*		The Green Paper describes the apostille and validation of documents as an "outdated" and "inadequate" method. However, it does not give any arguments on which such an assessment can be based. The reduction of bureaucratic formalities would certainly be in the interests of the citizens. However, the apostille and validation of documents are not bureaucracy in itself. Their objective is to help the public authorities establish the legality and authenticity of official documents from abroad. Since the Commission is proposing the abolition of such formalities, it should also clarify how the public authorities will determine the authenticity and validity of foreign documents from this moment. It cannot very well be expected that civil servants will be familiar with the external appearance of all official documents from all Member States or know which body in another Member State has the competence to issue a given type of document. They will also be unable to read and understand all official languages used in the Member States. Therefore, what the Commission is proposing looks like the establishment of the principle of "blind faith" without any control. This is certainly non-bureaucratic, but also dysfunctional. It would be better if, when proposing the abolition of such "formalities", the Commission added something about alternative ancillary mechanisms which help ensure the authenticity of documents.		Such cooperation would certainly be useful. The Commission should provide more precise proposals.

Proposed solution →		The abolition of administrative formalities for the authentication of public documents		Cooperation between the competent national authorities
		1		2
Question →		*Do you think that the abolition of administrative formalities such as legalisation and the Apostille would solve the problems encountered by citizens?*		*Should closer cooperation between Member States' authorities be envisaged, in particular as regards civil status records, and if so, in what electronic form?*
		No, I think that would create even more chaos in the status of documents, their hierarchy and relationships between them. In addition, lead to many misunderstandings, and even the paradoxical situation in which the status and rights arising from the document would be less in the country of origin of the citizen than in other EU Member States.		Yes, but not in electronic form. Any official statement should be equivalent in paper form.
		On the one hand, the advantages of such a solution can be seen, but in practice, the abolition of any form of audit and validation of documents creates the danger of a falsification of documents. Officials of individual Member States should not be required to be familiar with all forms and printed matter issued by authorities throughout the whole of the European Union, often issued in the national languages, which additionally makes it difficult to understand the content. In my opinion, a far better solution would be to consolidate the forms, which, regardless of the abolition of bureaucratization, would speed up decision-making processes.		Such cooperation would certainly be useful. The best technical solution could be to use (and if necessary to develop new) open standards. Any proprietary software which is likely to expose the Member States to a so-called vendor lock-in should be especially avoided.
		No, I think the problems would be intensified. This raises the question of how public authorities will determine the authenticity and validity of foreign documents. What is needed is that the European Commission provides specific proposals for alternative mechanisms.		Yes, cooperation would be useful, but, once again, concrete proposals are needed.
		No, I think it would be more intensified.		Yes, but it requires a specific proposal
RO		**1.1** Seen from the citizens' point of view, administrative formalities are an obstacle to the expedient realisation of their rights. They impose time, financial and other costs on the citizens, without producing any visible gains. They can also, due to time constraints, endanger the fast realisation of citizens' rights. **1.2** Seen from the state's point of view, administrative formalities fulfil an important function - that of keeping track of, and filtering, those proofs of a legal status which seek to enter the legal sphere - in other words, the legal environment - of the requested state. They provide a useful check of compatibility with that state's rules and with the legal situations already established in that state. Therefore, recognition acceptance of documents without any form of administrative formalities might endanger the stability of legal relationships in a particular state. **1.3** However, the European area of right and justice is based on the mutual trust between Member States' legal systems. In particular, this mutual trust applies to the legal exercise of prerogatives by the relevant authorities of each Member State. Since the apostille, for example, seeks only to give additional proof of this exercise, it might well be abandoned, something which has already been done between some Member States. However, legalisation, which sometimes seeks to provide a filter of legality to private transactions, also within one state, should be kept inasmuch as it serves functions enumerated at 1.2.		2.1 Cooperation between Member States' authorities is essential in the transition between multiple areas of right and law, and a unique area of right and law. This transition involves, on the one hand, mutual recognition of civil status situations which are established by the relevant authorities of any Member State, but, on the other hand, the clarification of existing, and possible future situations, which have been / will be solved differently by different Member States, because of their incompatible appreciations of facts, or their own legal traditions and rules. 2.2 Since the European Union does not have many prerogatives in the field of material rules of law, two of the most important means to achieve the objective stated in 1.2 are the adoption of unique rules of private international law, and the facilitation of information exchanges between Member States' authorities, with a view to preventing conflicting situations, and enabling the effective utilisation of legal documents done in one Member State within the other's legal environment. 2.3 Since electronic means are the most effective form of communication, a European network of civil status registries should be established, with facilities for exchanging information on cross-border civil status situations.
UK		The Green Paper describes the apostille and legalisation of documents as “obsolete” and “not suitable”. But it fails to provide any argument on which such assessments can be based. A reduction of bureaucratic formalities would certainly be in the interest of citizens. However, the apostille and the legalisation of documents are not simply bureaucracy for bureaucracy’s sake. Their function is to help public authorities ascertain the legality and authenticity of public documents of foreign origin. If the Commission proposes the abolition of such formalities, it should also explain how public authorities will henceforth be able to ascertain the authenticity and validity of a document of foreign origin. It can hardly be expected that civil servants will be familiar with the outward appearance of all public documents from all other Member States. Nor can they be expected to know		Such co-operation would certainly be useful. The Commission should elaborate more precise proposals.

Proposed solution →		The abolition of administrative formalities for the authentication of public documents		Cooperation between the competent national authorities
		1		2
Question →		*Do you think that the abolition of administrative formalities such as legalisation and the Apostille would solve the problems encountered by citizens?*		*Should closer cooperation between Member States' authorities be envisaged, in particular as regards civil status records, and if so, in what electronic form?*
		which authority in another Member State is competent for issuing which type of documents. Nor can they be expected read and understand all official languages of all Member States. What the Commission is proposing, therefore, looks like the establishment of a principle of "blind trust" without any control. This is certainly un-bureaucratic, but it is also dysfunctional. It would be far more helpful if the Commission, in the course of proposing the abolition of such "formalities", could also give some thought to alternative mechanisms that could help to ascertain the authenticity of documents.		
UK *(cont'd)*		I cannot find any adequate arguments in the green paper as to why the apostille and legalization of documents is not suitable, nor does it explain what grounds it bases its conclusion on. Moreover, the main function of the legalization of documents is to enable authorities to assess the legality and authenticity of public documents of foreign origin. Therefore, these formalities should not be abolished without a proposal from the Commission on alternative mechanisms with which they can be replaced that are at least equally effective in determining the authenticity and validity of documents of foreign origin.		Such cooperation would be useful for documents where national status provisions are virtually identical (e.g. birth and death certificates); I therefore request that the Commission elaborates a more precise proposal, but not for documents where national status provisions are different.
		I consider that the Commission Green Paper does not give any adequate arguments as to why the apostille and legalization of documents is not suitable, nor does it explain what grounds it bases its conclusion on. I would like to point out that the main function of the legalization of documents is to enable authorities to assess the legality and authenticity of public documents of foreign origin. Therefore, these formalities should not be abolished without a proposal from the Commission on alternative mechanisms with which they can be replaced that are at least equally effective in determining the authenticity and validity of documents of foreign origin.		I consider that such cooperation would be useful for documents where national status provisions are virtually identical (e.g. birth and death certificates). For these, I request that the Commission elaborates a more precise proposal. However, some documents have different status provisions within different MS which give their own, specific significance and legal effect to these documents [such as those relating to marriage, civil partnership, or adoption]. In such cases, mutual recognition of civil status documents cannot be automatic, but must be subjected to the receiving state's own policy approach.
		Yes the abolition of administrative formalities and the apostille would simplify matters for all EU citizens.		Yes, closer cooperation between Member States' authorities should be envisaged. A single online website/E-portal such the E-Justice portal would be convenient and advantageous.
		The Commission's Green Paper fails to give any adequate arguments as to why the apostille and legalization of documents is not suitable, nor does it explain what grounds it bases its conclusion on. Moreover, the main function of the legalization of documents is to enable authorities to assess the legality and authenticity of public documents of foreign origin. Therefore, these formalities should not be abolished without a proposal from the Commission on alternative mechanisms with which they can be replaced that are at least equally effective in determining the authenticity and validity of documents of foreign origin.		Such cooperation would be useful for documents where national status provisions are virtually identical (e.g. birth and death certificates); we therefore request that the Commission elaborates a more precise proposal, but not for documents where national status provisions are different.

Responses to questions 3-4

Proposed solution →		*(cont'd)* **Cooperation between the competent national authorities.**	
		3	**4**
Question →		*What do you think about the registration of a person's civil status events in a single place, in a single Member State? Which place would be the most appropriate: place of birth, Member State of nationality or Member State of residence?*	*Do you think that it would be useful to publish the list of national authorities competent to deal with civil status matters or the contact details of one information point in each Member State?*
Member State			
BE		On doit faire le régistrement des événements à une telle manière que l'échange de ces événements se produisent à la façon la plus efficace sans que les garanties légales soient en danger ni pour les citoyens ni pour les autorités compétentes. Pour atteindre ce but les données doivent être registrés à un centre central dans chaque pays membre (voir rapport Von Freyhold) ou on conserve et met à jour ces données. Bien sûr le lieu de naissance et de mariage doivent être averti de chaque changement dont on doit faire une mention marginale à l'acte de naissance ou de mariage. Aussi le lieu de résidence doit être averti pour qu'on puisse changer le registre de population.	La publication d'une liste des autorités compétentes nationales sera une très grande aide pour les citoyens et pour les autorités qui doivent chercher des données des personnes.
BG		The proposal will create more chaos with respect the problems of the status of the majority of citizens, rather than solve the complex cases of a few individuals.	It should be enough to designate a contact point in each Member State.
DE		The place of birth will always remain the same. The Commission will have to review its proposals before initiating this discussion. Only 2,5% of European citizens live outside the country where they were born. The higher costs and impacts are completely (100%) concern the population.	Each Member State should establish a contact point.
		- - - - - - - - - - -	- - - - - - - - - - -
		No! I do not want my data to be visible to MS with high corruption (Bulgaria, Italy, Romania, etc).	Yes.
		What do you think about the registration of a person's civil status events in a single place, in a single Member State? Which place would be the most appropriate: place of birth, Member State of nationality or Member State of residence?	*Do you think that it would be useful to publish the list of national authorities competent to deal with civil status matters or the contact details of one information point in each Member State?*
FR		Si tant est que l'enregistrement des événements d'état-civil d'une personne à un seul endroit dans un seul État représente un allègement des formalités administratives, ce qui reste à démontrer(*), il est certain que le seul endroit pertinent est celui du lieu de naissance, étant le seul qui ne changera jamais. Cela pose néanmoins le problème des citoyens européens nés hors de l'Union européenne, pour lesquels devrait être envisagé le critère de nationalité. *Cela suppose en effet que tous les États membres acceptent l'enregistrement des événements d'état-civil via internet, car on voit mal comment devoir se présenter à son lieu de naissance à chacun de ces événements représenterait une simplification administrative pour le citoyen européen.	La liste des autorités compétentes nationales en matière d'état-civil risquant d'être très longue, il semble préférable d'opter pour un point d'information par État membre.
		- - - - - - - - - - -	- - - - - - - - - - -
HU		http://ec.europa.eu/justice/newsroom/civil/opinion/files/110510/citizens/hungary_en.pdf	
IT		Further detail on this proposal should be provided. At the moment, the benefits are not very clear, whereas the significant costs are apparent. The GP states that only 2,5% of the population in the EU lives outside its MS of origin. Is it fair to impose the cost of a reform that will only benefit 2.5% of the population to 100% of the same?	The second option is preferable. In some MS there are several national authorities working within the scope of civil status, and it would be complicated to involve all of them.

Proposed solution →		*(cont'd)* **Cooperation between the competent national authorities.**	
		3	**4**
Question →		*What do you think about the registration of a person's civil status events in a single place, in a single Member State? Which place would be the most appropriate: place of birth, Member State of nationality or Member State of residence?*	*Do you think that it would be useful to publish the list of national authorities competent to deal with civil status matters or the contact details of one information point in each Member State?*
Member State			
IT *(cont'd)*		The proposal would increase administrative burden, not reduce it. It would also imply significant additional costs. Furthermore, out of the three options put forward in the Green Paper, the only criteria that remains unchanged over time is the place of birth which, however, may not always be within the EU. Therefore, none of these options would work.	I do not see a need for this.
		Considering the significant costs of this proposal, the benefits seem unclear.	In order to avoid inefficiencies, it would make sense to designate a single point of contact per MS.
		The Member State of nationality would be the most appropriate	I find the publication of such a list unnecessary.
		The proposal needs to be better elaborated. Furthermore, I notice that the GP states that only 2,5% of the EU's population lives outside its country of origin. Therefore, is it really worth facing high costs that affect 100% of the population?	I think it would be better to set up a single point of contact in each MS.
		Events related to civil status could be registered at the place of birth. However, it should be made a compulsory requirement to indicate on all documents the MS and the place (city/town etc) of birth, perhaps assigning a code to these (e.g. the tax code in Italy contains a code made up of a letter and three numbers which represent the place of birth).	Local authorities (at municipal level) should be encouraged/obliged to be able to provide citizens with information on the competent authorities at national level. Furthermore, each State should communicate to the others what the competent authorities are, so that all states can divulge this through the information points.
PL		Given that the law on marital status differs between the Member States, I believe that any change should be recorded in the country where the change in marital status took place.	It is advisable to publish a list indicating a central information point.
		The proposal will result in rather greater chaos in matters of civil status than most people solve complicated cases of individuals.	Just designate a single point of contact in each Member State.
PL *(cont'd)*		This proposal could bring new confusion into bureaucracy rather than eliminate it. Referring to the three options proposed in the Green Paper, it should be noted that place of birth is the only criterion which will always be the same, while citizenship and the permanent place of residence may be changed. Simultaneously, many people in the EU were born outside the EU. Therefore, none of the three criteria can exist without additional arrangements (i.e. if a person was born outside the EU, it must be the Member State certifying citizenship and, if the person is not a citizen of the EU, the State of permanent residence). In a word, the proposal requires further work. In the form in which it currently is, its benefits would not be obvious, while its costs would be substantial. (It should be noted that - according to the Green Paper – only 2.5% of the population of the EU live outside their country of origin. In such a case, does this particular interest in these people actually justify such expensive reforms affecting 100% of the EU population??)	Taking into account that in the larger Member States a list of national competent authorities to deal with matters of civil status would be quite long, it is better to designate a single point of contact in each Member State.
		In my opinion, such a solution is impossible to implement for practical reasons. As for the place of birth, the problem arises of people born outside the EU. As for citizenship, how would the matter of people having citizenship of more than one country be resolved? In terms of the country of permanent residence, in many cases, it will be difficult to establish the definition of permanent residence. The proposal would rather create greater chaos regarding the civil status of the majority of citizens than resolve complex cases of individual people. In addition, it does not seem reasonable to implement such a proposal in the light of the fact that the vast majority of EU citizens live in the country in which they were born.	Given the diversity of legal and administrative systems in MS, I think that should be set in each EU country, one contact point.

Proposed solution →		*(cont'd)* **Cooperation between the competent national authorities.**	
		3	**4**
Question →		*What do you think about the registration of a person's civil status events in a single place, in a single Member State? Which place would be the most appropriate: place of birth, Member State of nationality or Member State of residence?*	*Do you think that it would be useful to publish the list of national authorities competent to deal with civil status matters or the contact details of one information point in each Member State?*
Member State			
		This proposal would make the very complicated situation of many people much easier. The most appropriate place would be the Member State of permanent residence; this would enable the avoidance of the difficulties of travelling to the place of birth or the Member State certifying citizenship.	Yes, it would be another advantage.
		Instead of solving complicated cases of particular individuals, the proposal would rather lead to greater chaos in problems of civil status of the majority of citizens.	Establishing of one contact point in each member state will be sufficient.
PL *(cont'd)*		This proposal could bring new confusion into bureaucracy rather than eliminate it. Referring to the three options proposed in the Green Paper, it should be noted that place of birth is the only criterion which will always be the same, while citizenship and the permanent place of residence may be changed. Simultaneously, many people in the EU were born outside the EU. Therefore, none of the three criteria can exist without additional arrangements (i.e. if a person was born outside the EU, it must be a Member State certifying nationality and, if the person is not a citizen of the EU, the State of permanent residence). In a word, the proposal requires further work. In the form in which it currently is, its benefits would not be obvious, while its costs would be substantial. (It should be noted that - according to the Green Paper - only 2.5% of the population of the EU live outside their country of origin. In such a case, does this particular interest in these people actually justify such expensive reforms affecting 100% of the EU population??)	Bearing in mind that, in the larger Member States, the list of national authorities with competence for dealing with matters of civil status would be quite long, it would be better to designate a single point of contact in each Member State.
		The proposal would rather create greater chaos regarding the civil status of the majority of citizens than resolve complex cases of individual people. I think that the mechanism for communicating information between the respective authorities in each of the States would fail with such a proposal.	Just designate a single point of contact in each Member State.
		Each of the proposals creates a new bureaucratic problems: place of birth - constant, but creates the problem of registration of immigrants from outside the European Union; a place of permanent residence and citizenship - due to migration of people all documentation would also have to be safely transported.	Best to establish one point of contact, providing information about specific administrative units. The entire list would probably be quite large and difficult to search.
		The place of birth is the only criterion which will remain the same, whereas citizenship or the permanent place of residence may change. However, many residents of the European Union were born outside the EU. It arises from this that none of the three criteria can exist without additional arrangements. The proposal would rather create greater chaos regarding the civil status of the majority of citizens than resolve complex cases of individual people. Therefore, it needs further work.	Just designate a single point of contact in each Member State.
		The proposal will result in greater chaos in matters of civil status for most people, rather than solve complicated cases of individuals.	Just designate a single point of contact in each Member State.
RO		3.1 Registration of civil status events serves two main purposes. On the one hand, it serves the person in question, who is interested in proving, towards third parties, his civil status, and in having his position in society recognised by the state and fellow persons. On the other hand, it also serves society as a whole, and individual third parties, who can ascertain the civil status of a person at any given time, and correspondingly enter into relationships with that person, grant her/him the relevant rights, or implement policies for a given category of persons. 3.2 Therefore, in a way, every of the states mentioned in the question has an interest in the registration of civil status events. A	The publications of both categories of information would be preferable.

Proposed solution →		*(cont'd)* **Cooperation between the competent national authorities.**	
		3	**4**
Question →		*What do you think about the registration of a person's civil status events in a single place, in a single Member State? Which place would be the most appropriate: place of birth, Member State of nationality or Member State of residence?*	*Do you think that it would be useful to publish the list of national authorities competent to deal with civil status matters or the contact details of one information point in each Member State?*
Member State			
		system of unique registration can only be established if and when an underlying system of effective access to civil status documents registered in another Member State exists between every participating country. 3.3 In such a case, it would be preferable to register these events at the place of birth, since this would provide an immoveable and easily proven point of contact, and it is also compatible with the existing legislation of many Member States.	
UK		This proposal is likely to generate new bureaucratic burdens rather than reducing them. With regard to the three options proposed in the Green Paper, it is worth noting that the place of birth is the only criterion that will always remain the same, whereas a person's citizenship and residence can change. But, at the same time, many EU residents have been born outside the EU. Thus, none of the three criteria can work without a subsidiary arrangement (i.e., if the person is born outside the EU, then the person's civil status must be based on the Member State of nationality; if the person is not an EU citizen, then it must be based on the country of residence). In short, the proposal needs further elaboration. As it currently stands, its benefits would not be self-evident and the costs would be considerable. (It should be noted that, according to the Green Paper, only 2.5% of the EU's population live outside their Member State of origin. Does the particular interest of a few expatriates really justify reforms that are expensive and which affect 100% of the population?)	Given that in the larger Member States the list of national authorities competent to deal with civil status matters would be rather long, it seems preferable to designate one contact point in each Member State.
		Member state of residence may be the most convenient.	Yes it would be convenient.

Responses to questions 5-6

Proposed solution →		**Limiting translations of public documents.**	**The European civil status certificate.**
		5	**6**
Question →		*What solutions do you recommend in order to avoid or at least limit the need for translation?*	*What kind of civil status certificates could be the subject of a European civil status certificate? Which details should be mentioned on such certificate?*
Member State			
BE		On doit créer dans l'union européenne des actes plurilingues, pourvus des codes cfr. Convention nr 25 du CIEC. Tout acte doit être dressé dans la langue nationale (ou les langues nationaux) et en Allemand, Français et Anglais mais en forme documentaire (Système des extraits internationaux). Il faut créer un acte européen, qui sera le même dans toute l'Europe. Cela évitera que les citoyens ou autorités doivent laisser traduire les actes.	Tous les actes doivent faire l'objet d'un certificat européen d'état civil (naissance, mariage, divorce, décès, adoption). Un certificat de personne doit contenir : - Le nom de famille - Les prénoms - Date et lieu de naissance - Sexe - Nom de famille et prénoms de ses parents - Date et lieu de mariage/partenariat - Date et lieu de dissolution de mariage/partenariat - Nationalité - Dernière adresse - Date et lieu de décès - Adoption

Proposed solution →	Limiting translations of public documents.	The European civil status certificate.
	5	**6**
Question →	*What solutions do you recommend in order to avoid or at least limit the need for translation?*	*What kind of civil status certificates could be the subject of a European civil status certificate? Which details should be mentioned on such certificate?*
Member State		
BG	The only solution is to create standard forms that contain the necessary information in all languages (as in the case of passports).	Such certificate may be applied only in those areas where there is common ground between the laws of different Member States, i.e. for example. in MS where family is understood exclusively as a link between man and woman.
DE	Standard forms which contain the necessary information in all official languages.	Birth or death certificates.
	As mentioned in the answer to question 2, certificates created in different (European) languages right from the start.	The example given in the Green Paper makes the assumption regarding the certificate that "in this case, the Spanish authorities would probably ask for a translation". It would be better to know this from the very beginning. In Germany documents related to civil status already exist in an international format. Therefore, the European format would not be necessary.
FR	La meilleure solution semble être dans l'élaboration de documents standards au niveau européen, ou à tout le moins de documents reprenant les mêmes rubriques, chaque fois que cela est rendu possible par une convergence suffisante entre les États membres de la signification de tel ou tel document administratif. Ceci est déjà le cas pour le passeport et le permis de conduire.	Ne pourraient faire l'objet d'un certificat européen d'état-civil que les actes d'état-civil qui recouvrent une même signification et une même réalité dans chaque état membre. Ainsi, naissance et décès pourraient être concernés. Le mariage et les unions civiles, n'ayant plus la même signification dans tous les États membres depuis la reconnaissance par une minorité d'entre eux du mariage homosexuel, ne pourrait par contre pas faire l'objet d'un tel certificat.
HU	http://ec.europa.eu/justice/newsroom/civil/opinion/files/110510/citizens/hungary_en.pdf	
IT	The only solution is to create standard forms that contain the necessary information in all languages (as in the case of passports).	Strictly speaking, only death and birth certificates would be able to be part of a European Civil Status Certificate ("death" and "birth" should have the same meaning in all MS). In any case, the certificate can only exist in domains common to different legislations. For example, a standard format for a marriage certificate could only be used whereby all jurisdictions converge (i.e. only for heterosexual marriage).
IT *(cont'd)*	When I registered in Germany (coming from Italy), I had to produce civil status documents on forms written in several languages. Therefore, based on my experience, this option already exists. It would be advisable for these forms to be available upon request, and that they are not imposed on everyone, given that 97,5% of the population will not need them.	If a European Certificate is to be introduced, this can only relate to those aspects for which there is legal homogeneity between MS. Therefore, this would probably include birth and death, and exclude marriage, PACS, adoptions, etc.
	The only solution is to create standard forms that contain the necessary information in all languages (as in the case of passports).	For sure birth and death certificates. For other certificates, this concept may only be applied whereby there is common ground between the legislation of individual MS.
	The only solution is to create standard forms that contain the necessary information in all languages (as in the case of passports).	Only birth and death certificates could be the object of a European Certificate (as "death" and birth" probably have the same meaning in all MS). However, it should be noted that this concept may only be applied whereby there is common ground between the legislation of individual MS. For example, a common European format for a marriage certificate could only be used when all legal jurisdictions converge, i.e. only for heterosexual marriages.
	The only solution is to create standard forms that contain the necessary information in all EU languages.	The only certificates common to all legislations and for which the concept of a European certificate would therefore apply are those for birth and death. I totally exclude the possibility of such a certificate existing for "Family Status" and "marriage" given that, as stated in Art. 81(3) TFEU, for family status national parliaments are the competent authorities: in many MS, homosexual unions are not considered to be "marriage" and adoption by such couples is not permitted.

Proposed solution →		Limiting translations of public documents.		The European civil status certificate.
		5		**6**
Question →		*What solutions do you recommend in order to avoid or at least limit the need for translation?*		*What kind of civil status certificates could be the subject of a European civil status certificate? Which details should be mentioned on such certificate?*
Member State				
		- - - - - - - - - -		It is hard to envisage a European Civil Status Certificate because one would need to foresee all the possible hypotheses regulated by the national laws of each MS. This would result in hundreds of different hypotheses. Instead of simplifying the certificate, this would make it more complicated. For example, in Italy, the declaration of birth consists in 45 different formats depending on the different cases regulated by the law. Death is probably a more uniform discipline, and birth, too, as long as one only looks at the place and date of birth, without mentioning the parental relationships. As per the latter, marriage and civil partnerships are also treated very differently within the EU.
PL		The creation of standard forms containing the necessary information in all languages.		Such certificates could easily be used in relation to death certificates. Generally, however, such a certificate would apply only in areas where there is common ground between the laws of different Member States (for example, in MS where marriage is meant only as the union between man and woman).
		The only solution would be to develop standard forms that contain the necessary information in all languages (as is the case of passports).		Such a certificate would apply only in areas where there is common ground between the laws of different Member States and, therefore, for example, in MS where marriage is meant only as a union of man and woman.
PL *(cont'd)*		The only solution would be to develop standard forms of short-circuiting the necessary information in all languages (as it has in the case of passports).		This could be easily conducted in the case of birth and death certificates, assuming that "births" and "deaths" probably have the same meaning everywhere. It should be noted, however, that such a solution may only be applied in areas where there is common ground between the legislation of the various Member States. For example, the standard European form of the marriage certificate could only be used where there is common ground between all legal systems, i.e. in the case of marriages between people of opposite sexes.
		Standardization of forms, so that they contain the necessary information in all languages.		I do not think that it is possible to create such a certificate which is useful in practice in view of the large (and increasing) differences in definition by the legal systems of the Member States of even basic concepts, falling within the scope of civil law (e.g. it is difficult to speak of the notion of marriage being identical in MS where marriage is understood exclusively as a union of a women with a man, and those which allow unions of people of the same sex to be called marriages).
		The only solution would be to develop standard forms that contain the necessary information at least in the official language of the country in which it was done and English.		The subject of a European Certificate of civil status certificates could be all that would be needed to make various legal actions. It should contain all the information you need.
		In my opinion the only solution would consist in preparing standard forms containing necessary information in all languages (as in the case of passports).		Such a certificate could be applied only in such areas where a common basis exists in legal systems of different member states, e.g. in MS where marriage is understood exclusively as a union between a woman and a man.
PL *(cont'd)*		The only solution would be to develop standard forms containing the necessary information in all languages (as is the case of passports).		This could be easily conducted in the case of birth and death certificates, assuming that "births" and "deaths" probably have the same meaning everywhere. It should be noted, however, that such a solution may only be applied in areas where there is common ground between the legislation of the various Member States. For example, the standard European form of marriage certificate could be used only where there is common ground between all legal systems, i.e. in the case of marriage between persons of opposite sexes.
		The only solution would be to develop standard forms that contain the necessary information in all languages (as is the case of passports).		Such a certificate would apply only in areas where there is common ground between the laws of different Member States and, therefore, for example, in MS where marriage is meant only as a union of man and woman.

Proposed solution →	Limiting translations of public documents.	The European civil status certificate.
	5	**6**
Question →	*What solutions do you recommend in order to avoid or at least limit the need for translation?*	*What kind of civil status certificates could be the subject of a European civil status certificate? Which details should be mentioned on such certificate?*
Member State		
	Harmonization of forms. On the one hand standard forms (like passports) may be set up, while on the other hand technology enables data to be kept in generally designed databases, the description of which each Member State may translate into the national language.	They can be used for status, which have the same meaning everywhere, just like birth and death certificates. It should be noted, however, that such a solution may only be applied in areas where there is common ground between the legislation of the various Member States. For example, the standard European form of marriage certificate could be used only where there is common ground between all legal systems, i.e. in the case of marriage between persons of opposite sexes.
	The only solution would be to develop standard forms that contain the necessary information in all languages (as is the case with passports).	Such a certificate would apply only in areas where there is common ground between the laws of different Member States (for example, in MS where marriage is meant only as the union between man and woman).
	The only solution would be to develop standard forms that contain the necessary information in all languages (as is the case of passports).	Such a certificate would apply only in areas where there is common ground between the laws of different Member States and, therefore, for example, in MS where marriage is meant only as a union of man and woman.
RO	Information on documents can be unscientifically classified into two categories: self-contained data, and explanations. It is unavoidable that explanatory data, and other particular comments relating to a complex point will always need translations. However, both for self-contained data and complex messages, translation could be simplified or avoided through standardised forms, and through indices of situations, compiled with the input of Member States. These indices would provide a unique number for a given situation / type of data and they would be translated in every Member State. The filling and understanding of common forms would be much simplified.	Traditionally, civil status documents have had their individual identity. A unification into a civil status certificate would involve the constant updating of this certificate throughout the person's life. Questions of preservation, duplication and proof should be considered before establishing such a certificate. However, if these questions are positively solved, then it would be preferable that this certificate should only mention the common data stored in national certificates of all Member States, avoiding those which are only to be found in one or a few Member States. The data should also be analysed from the point of view of their compatibility with Human Rights and privacy law.
UK	The only foreseeable solution would be to develop standard forms that contain the necessary information in all official languages (as is already the case for passports).	This could easily be done, for example, for birth or death certificates (given that “birth” or “death” probably has the same meaning everywhere. Given the divergences in material law with regards to artificial procreation, it would exclude documents related to these practices). However, it should be noted that such a solution can only be used in areas where there is common ground between the legislation of different Member States. For example, a European standard form for a marriage certificate could only be used where there is common ground between all legal systems (i.e., for marriage between two persons of different sex).
	Developing standard forms that contain the necessary information in a uniform template as is currently the case for passports and driving licenses.	A European civil status certificate may be a reasonable solution in areas where there is common ground between the legislation of different Member States, in cases such as for birth or death certificates for example, as these probably have the same meaning everywhere. However, this would be more problematic in the case of a standard European form for marriage or civil partnership certificates as there is no common ground between all legal systems of the EU Member States in this area.

Proposed solution →		Limiting translations of public documents.		The European civil status certificate.
		5		**6**
Question →		*What solutions do you recommend in order to avoid or at least limit the need for translation?*		*What kind of civil status certificates could be the subject of a European civil status certificate? Which details should be mentioned on such certificate?*
Member State				
		- - - - - - - - - -		A European civil status certificate may be a reasonable solution in areas where there is common ground between the legislation of different Member States, in cases such as for birth or death certificates for example, as these probably have the same meaning everywhere. However, this would be more problematic in the case of a standard European form for marriage or civil partnership certificates as there is no common ground between all legal systems of the EU Member States in this area. For example, the European consensus on the definition of marriage was broken eleven years ago (2000) when the Netherlands became the first of a small minority of European MS to permit marriage between two persons of the same sex.
		Multilingual forms in all EU languages would be necessary to help with translation issues.		Civil status certificates such as birth, partnership, marriage, death, surname changes need to be mentioned on a European Civil Status Certificate. The date of the life event should be mentioned. Any changes to the life event should be noted on the certificate, as well.
		Developing standard forms that contain the necessary information in a uniform template as is currently the case for passports and driving licenses.		A European civil status certificate may be a reasonable solution in areas where there is common ground between the legislation of different Member States, in cases such as for birth or death certificates for example, as these probably have the same meaning everywhere. However, this would be more problematic in the case of a standard European form for marriage or civil partnership certificates as there is no common ground between all legal systems of the EU Member States in this area. The European consensus on the definition of marriage was broken eleven years ago (2000) when the Netherlands became the first of a small minority of European MS to permit marriage between two persons of the same sex.

Annex 14

Output of the stakeholders' consultation through the questionnaires of the preparatory study

The preparatory study examined the views of the stakeholders through a questionnaire. The outcome is summarized here.

EU Citizens and SMEs

The stakeholders agree on the fact that the most problematic documents are **civil status documents**, such as marriage certificates and death certificates. The main difficulties are connected to the fact that often the document requested does not correspond to the same document in another MS.

The replies to the questionnaires also underlined the difficulty of obtaining original copies, as it is not always easy to get in contact with the competent authorities (or even to understand to which authority one must refer).

From the answers provided, it is clear that certified translations are mostly perceived as an obstacle.

As far as costs are concerned, citizens actually complained about the need to pay the fees for the legalised documents, whereas these costs and time wasted were indicated to be higher when documents had to be searched for in the archives of the relevant authorities. All in all, the respondents to the questionnaires qualified the costs placed on them as excessive and an obstacle to the exercise of the free movement rights.

In addition, time needed for administration formalities seemed to be approximately four to five working days. Several respondents considered the formalities related to the cross-border use of public documents to be lengthy and time-consuming and consequently having a negative impact on their family situation.

In conclusion, the respondents suggested that it would be useful **to increase the usage of standard forms** and digital transmission of documents.

Public authorities

The questionnaire was aimed at Public Authorities (including competent authorities under the Apostille Convention and the 1987 Brussels Convention) dealing with authentication and legalisation procedures of public documents.

A practical example of a difficulty that may arise with respect to issuing or accepting public documents originating in other Member States is the requirement to obtain sample stamps and signatures, but this issue is specifically related to public documents originating in third countries. The authorities consulted also pointed out that **Apostille seals can be forged**.

As regards the perspective of **administrative cooperation**, the stakeholders consulted pointed out that, in some cases, communicating with the official who issued the document to verify data contained therein is a fundamental element, in the case of documents that, at first glance, may not appear trustworthy (an example provided pointed out to the relevance of direct communication between competent authorities in order to avoid sending a widow back abroad to get the Apostille

on her husband’s death certificate). In any case, the existing means of administrative cooperation are considered unsatisfactory since they do not solve citizens' problems through direct contact between them, the country of origin and the State where that citizen actually lives.

Furthermore, the success of the ECRN platform was underlined, which aims at the provision of a **reliable exchange of civil status acts and certificates**.