

Legalisation of Public Documents within the EU Member States

ESTONIA

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PART I – Documents operating cross-border: Current legal practice as regards legalisation or other similar or equivalent requirements

OVERVIEW OF PART I

PART I.A. General

I.A.1. European Community Law

I.A.1.1. Introduction

I.A.1.2. Implementation of specific measures

Area of Justice - judicial cooperation in civil matters (Article 61(c) EC)

Article 19 of Regulation (EC) No 1346/2000

There is no specific implementation of Article 19 of Regulation No 1346/2000, although according to Article 619 of the Code of Civil Procedure states that “This Act shall apply to the recognition and enforcement of the judgments in a civil matter and other execution documents of an European Union member state only insofar as EU Council regulation 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and regulation 2201/2003/EC concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters, repealing Council regulation 1347/2000 EC and regulation 805/2004/EC creating a European Enforcement Order for uncontested claims and other EU Council regulations have not stated otherwise.”

Article 4(4) of Regulation (EC) No 1348/2000

Article 4(4) of Regulation No 1348/2000 has not been specifically implemented. EU regulations do not require implementation to be effective in Estonia.

Article 56 of Regulation (EC) No 44/2001

This article has not been specifically implemented. EU regulations do not require implementation to be effective in Estonia. Article 619 of the Code of Civil Procedure, referred to above, applies.

Article 57 of Regulation (EC) No 44/2001

This article has not been specifically implemented. Article 619 of the Code of Civil Procedure, referred to above, applies.

Article 58 of Regulation (EC) No 44/2001

Article 619 of the Code of Civil Procedure applies.

Article 46 Regulation (EC) No 2201/2003

Article 619 of the Code of Civil Procedure applies.

Article 52 of Regulation (EC) No 2201/2003

Article 619 of the Code of Civil Procedure applies.

Article 52 Regulation (EC) No 2201/2003, certificates drawn up in the standard forms of ANNEX I (Article 39), II (Article 39), III (Article 41) or IV (Article 42)

Article 619 of the Code of Civil Procedure applies.

Article 27 of Regulation (EC) No 805/2004

Article 619 of the Code of Civil Procedure applies.

ANNEXES I (Article 9 - judgments), II (Article 24 – court settlements) and III (Article 25 – authentic instruments) of Regulation (EC) No 805/2004

Article 619 of the Code of Civil Procedure applies.

Article 13(5) of Directive 2002/8/EC

The Directive is implemented into the Estonian legal system with the State Legal Aid Act. The particular provision of the Legal Aid Directive is implemented in Article 10(8) of the Act, which provides, in this regard: “The applicant [for legal aid] cannot be requested to legalize or to otherwise officially authenticate the application.”

Free movement of goods (Article 23 EC)

Article 250 of Regulation (EEC) No 2913/92

As a provision of a regulation, this Article does not need a specific implementation in order to be part of Estonian legal system. However, Article 1(1) of the Customs Act states that „Council Regulation 2913/92/EEC establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1–50), Commission Regulation 2454/93/EEC laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, pp. 1–766) and other Community legislation passed for the implementation of customs rules apply to trade between the Republic of Estonia and countries and territories remaining outside of the customs territory of the European Community, and to the rights, obligations and liability of persons engaged in such trade and of the customs authorities. This Act applies to issues not regulated by Community legislation.“

Free movement of workers - social security (Article 42 EC)

Article 85 Regulation (EEC) No 1408/71 read in conjunction with Regulation (EEC) No 574/72

This article has not been specifically implemented. EU regulations do not require implementation to be effective in Estonia.

I.A.1.3. Judicial control

There has been no case law regarding the legalisation of documents.

I.A.2. Hague Convention of 5 October 1961 (the 'Apostille' Convention)

I.A.2.1. Status

The information in the table is correct. Estonian accession was deposited to the Dutch MFA on 11 December 2000 and came into effect on 30 September 2001.

I.A.2.2. Scope

The geographical or material scope of application of the Convention has not been limited or extended by the legislator, the competent authorities or the judiciary, except for the addition of criteria according to which issuance of an apostille can be refused (See I.A.2.3.).

I.A.2.3. Legislative implementation

Estonia acceded to the Convention Abolishing the Requirement of Legalisation of Foreign Public Documents with an Act of the *Riigikogu*, which was made on 18 October 2000 and entered into force on 23 November 2000. The Law has been subsequently amended three times after accession:

- 1) On 16 October 2002 (entry into force 1 January 2003) there was a change due to the change of the name of the Ministry of Education to the Ministry of Education and Science.
- 2) On 3 December 2003 (entry into force 1 January 2004) section 3 was added relating to when the issuance of an apostille shall be refused.
- 3) On 6 April 2005 (entry into force 8 May 2005) the wording of the Act was updated and sections 4 and 5 were added relating to when an apostille shall be deemed void and giving the government the right to specify the procedure and rules for certifying Estonian public document with an apostille.

The Act to accede to the Convention Abolishing the Requirement of Legalisation of Foreign Public Documents reads as follows:

§ 1. Accede to the attached Convention Abolishing the Requirement of Legalisation of Foreign Public Documents, which has been drafted in the Hague on 5th October of 1961

§ 2. According to Article 6 of the Convention, the public authorities which shall issue certificates named in Article 3 (1) (hereinafter (certificates (*Apostille*))) of the Convention shall be Ministry of Education and Science, Ministry of Justice, Ministry of Interior Affairs, Ministry of Social Affairs and Ministry of Foreign Affairs.

§ 3. The issue of a certificate (apostille) specified in the first paragraph of Article 3 of the Convention shall be refused if:

- 1) according to an international agreement, the document is valid without any further attestation;
- 2) circumstances exist which imply that unauthorised changes have been made to the original content of the document;
- 3) the document is spoiled;
- 4) the administrative body is not competent to issue or authenticate the document;
- 5) the period of validity of the document has expired.

§4. The certificate (apostille) shall be declared void by the authority named in § 2 of this law if:

- 1) the certificate (apostille), its contents or information is incorrect,

- 2) the certificate (apostille) has become unusable,
- 3) the certificate (apostille) has been lost or destroyed or
- 4) the document that has been certified with a certificate (apostille) is issued to be used in a state in which legalisation occurs or with which Estonia has a legal aid agreement..

§5. The rules and procedure of the ...

The procedural rules has been regulated by a single government regulation (*Eesti avaliku dokumendi tunnistusega (apostille'ga) kinnitamise kord, Vabariigi Valitsuse 31. oktoobri 2005. a määrus nr 279*. Available online in Estonian at <https://www.riigiteataja.ee/ert/act.jsp?id=955616>). The regulation is based on Article 5 of the Act acceding to the Convention and it sets out the division of issuing the apostille based on the subject matter and issuing authority of the original document, and the procedure to be followed. The reasoning behind the new, single regulation was to make it easier and simpler to understand the rules relating to the issuing of an apostille.

I.A.2.4. Practical implementation

There are five public authorities in Estonia, which issue apostilles. These are Ministry of Internal Affairs, Ministry of Justice, the Ministry of Education and Research, Ministry of Social Affairs and Ministry of Foreign Affairs. The division is made based on the subject matter and issuing authority. Typically, the Ministry in question issues apostilles for documents that have been issued by state authority, which belongs under the sphere of coordination or supervision of the particular ministry.

An apostille is issued only to original documents or notarised translations of such documents. Therefore it is necessary to either deliver the document to the public authority personally (although another person can also deliver documents on behalf of a person) or by sending the application for an apostille by post. An applicant first fills in an application form (available online at <http://www.just.ee/orb.aw/class=file/action=preview/id=11784/TAOTLUS+apostilli+saamiseks.rtf>) and sends or delivers it together with the original document to the public authority responsible for issuing the apostille.

The validity of the original document is confirmed by comparing the signature and seal of the public authority issuing the original document. The issuing official has a catalogue of sample of signatures of public officials authorised to sign public documents and in most cases the official simply checks, whether the signature corresponds to the one in the catalogue. In case the sample of signature is unavailable in the catalogue, the official contacts the authority which issued the public document and asks for a sample of signature and official seal.

The form of the apostille is a separate A5 format paper, which has security elements and a serial number. The format corresponds to the format of the apostille in the convention. The form is in English and Estonian, but the data to the form is printed only in English. The apostille is bound together with the original documents (in case of multiple pages, one apostille is bound together with the remaining pages).

The apostille is issued electronically. The information is entered into a central database (which is managed by and held at the Ministry of Foreign Affairs) and then printed out to be attached with the original document. Each apostille also has its registration number in the system. The one database system is used by all issuing authorities.

There are no specific current plans for modernisation of the system, although ways to improve and develop the system are constantly discussed at an interministry meeting which takes place in the autumn.

The apostille is usually issued the same day. There are three days a week when apostilles are issued: Monday, Wednesday and Friday. On each of these days from 10.00 – 12.00 applications and original documents are accepted and from 15.00 – 16.00 the documents with an apostille are issued. In most authorities it is possible to get an apostille in the same day and in nearly all cases within three days (i.e. apply on Monday, get the apostille on Wednesday). According to the regulation (see I.A.2.3.) apostille can be issued within 10 days, but it takes longer only if the document is rare.

The state fee for issuing an apostille is 120 Estonian kroons (ca 7,7 euros). The fee was raised on 1 January 2004 from 25 Estonian kroons (ca 1,6 euros). It is not known the author of the study what were the reasons for raising the fee so dramatically.

The same procedure applies for all states party to the convention, except for states which have bilateral or multilateral agreements with Estonia, which provide for mutual recognition of public documents and where apostille is not necessary. These states are Latvia, Lithuania, Russia, Poland and Ukraine. Even if apostille is applied for it is not issued for these states.

There are five authorities:

1. Ministry of the Interior

Address: Oleviste 1, Tallinn, Estonia
Telephone (+372) 612 5170 (at reception hours)
Fax (+372) 612 5162

Documents to which apostille is issued by the authority: birth certificates, marriage certificates, divorce certificates, name change certificates, death certificates, transcripts of vital record, certificates of no impediment to marriage, marital status certificates, notices and certificates from the citizen and migration board, notices from the punishment register, police certificates, local government notices, regulations and documents, extracts from the population register.

Contact person: Ms Kaare Kippasto, senior specialist

2. Ministry of Justice

Address: Department of Courts, Lõkke tn 4, Tallinn,
Telephone: (+372) 680 3128
E-mail: info.apostil@just.ee

Documents to which apostille is issued by the authority: documents of courts and notarial documents, notarial copies and translations of documents, documents of registration department and real estate department

Contact person: Ms Pille Vinkel

3. Ministry of Education and Research,

Address: Munga 18, Tartu, tel: (+372) 735 0252, (+372) 735 0240
Address (Tallinn office): Tõnismägi 11, Tallinn room No. 107, tel: (+372) 628 1234, (+372) 628 1222

Documents to which apostille is issued by the authority: Diplomas, certificates, academic evidence, grade transcripts, certificates of skills of Estonian language and notes

Contact person: Ms Terje Mäesalu, terje.maeaslu@hm.ee

4. Ministry of Social Affairs

Address: Gonsiori 29, room No. 119, Tallinn; tel: (+372) 626 9302
Documents to which apostille is issued by the authority: pension certificates, medical certificates, excerpts from service record, documents certifying service records
Contact person: Ms Mall Utno, tel: (+372) 626 9306

5. Ministry of Foreign Affairs

Address: Islandi väljak 1, Tallinn
Telephone: (+372) 637 7478 (at reception hours)
Fax (+372) 637 7454
E-mail: legaliseerimine@mfa.ee

Documents to which apostille is issued by the authority: certificates of the Tax and Customs Board, certificates of archives, all other documents.

I.A.2.5. Judicial control

There is no significant case law in relevant to the functioning of the Convention in Estonia. This is probably due to the relatively new nature of the procedure.

I.A.2.6. Empirical analysis

N/A

I.A.3. Parallel international agreements

I.A.3.1. Status

Estonia has not signed or ratified the 1968 European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers or the 1987 Brussels Convention abolishing the Legalisation of Documents in the Member States of the European Communities.

Estonia is party to:

- The Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1969), accession 1 October 1996.
- The Hague Convention on the Taking Evidence Abroad in Civil or Commercial Matters (1972), accession 2 April 1996.
- The Hague Convention on the Civil Aspects of International Child Abduction (1980), accession 1 July 2001
- The Hague Convention on International Access to Justice (1988), accession 1 May 1996
- The Hague Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children, accession 1 June 2003.

Estonia also has a bi- and trilateral legal aid and cooperation agreements:

- Treaty between the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania on legal aid and legal relations (concluded 11 November 1992, in effect 3 April 1994), in Article 13 it is stated that the document issued by public authorities of the parties are recognized with no additional procedure,
- Treaty between the Republic of Estonia and the Russian Federation on legal aid and legal relations in civil, family and criminal matters (concluded 26 January 1993, in effect from 19 March 1995
- Treaty between the Republic of Estonia and the Ukraine on legal aid and legal relations in civil and criminal matters (concluded 15 February 1995, in effect from 17 May 1996)
- Treaty between the Government of the United States of America and the Government of the Republic of Estonia on Mutual Legal Assistance in Criminal Matters. (concluded 2 April 1998, in effect from 20 October 2000)
- Treaty between the Republic of Estonia and the Republic of Poland on legal aid

and legal relations in civil, employment and criminal matters (concluded 27 November 1998, in effect from 8 February 2000)

I.A.3.2. Scope

Neither the material nor geographic scope of the parallel agreements that Estonia is party to has been modified subsequently by the Estonian parliament.

I.A.3.3. Legislative implementation

There is no specific legislative implementation beyond the Acts of accession or ratification.

The obligations to accept documents issued by Latvian, Lithuanian, Russian, Ukrainian and Polish authorities are also not specifically legislated, the relevant treaties are directly applicable.

I.A.3.4. Practical implementation

There is no specific practical implementation. The public authorities are instructed to accept for example Latvian, Lithuanian, Russian, Ukrainian and Polish documents as they are (provided they are translated into Estonian).

I.A.3.5. Judicial control

There is no significant case law in relevant to the functioning of the parallel international agreements in Estonia.

I.A.4. National Law

I.A.4.1. Legislative framework

The main legislative act concerning legalisation is the Consular Act, adopted on 3 December 2003 and entered into force on 1 January 2004 (full consolidated text available online in English at <http://www.legaltext.ee/text/en/X80005.htm>), more specifically Art 28, which provides:

- (1) Legalisation is a formality by which a consular officer authenticates the signature and, if necessary, the seal or stamp on a public document.
- (2) A consular officer legalises public documents issued in foreign states which are used in Estonia and public documents issued in Estonia which are used in a foreign state.
- (3) A consular officer shall legalise a public document if the consular post has a specimen signature of the signatory and the signatory has acted within the limits of his or her competence.
- (4) A consular officer shall refuse to legalise a public document if:
 - a) the original document issued in a foreign state has not been legalised in accordance with customary international law;
 - b) the content of the document is untrue;
 - c) according to an international agreement, the public document is valid without any further attestation;
 - d) circumstances exist which imply that unauthorised changes have been made to the original content of the public document;
 - e) the public document is spoiled;
 - f) the public document was issued for a specified term and is no longer valid;
 - g) there is reason to believe that the person who authenticated the public document was not competent to do so;
 - h) the public document has been legalised for use in another state;
 - i) the public document has been legalised by another Estonian consular officer.

Based on the Consular Act, Minister of Justice has issued Regulation and Form of Legalising A Public Document (full text available in Estonian at <https://www.riigiteataja.ee/ert/act.jsp?id=686526>).

I.A.4.2. Scope

The Consular Act applies for legalisation of any public document that has been issued in a foreign state and which is used in Estonia and vice-versa. It applies to all types of foreign and Estonian public documents.

I.A.4.3. Practical implementation

The Ministry of Foreign Affairs will continue to legalize documents, of which the country of origin or country of destination are not parties to the 'Apostille' Convention. Also public documents issued before 1 October 2001 in the territory of a country, party to the Convention and public documents legalized before 1 October 2001 in the respective country will be legalized.

I.A.4.4. Judicial control

There is no significant case law in relevant to the functioning of the national law relating to legalisation of documents in Estonia.

PART I.B. Specific

I.B.1. Introduction

I.B.2. Specific documents

1. Documents proving involuntary unemployment

There are currently no documents issued proving involuntary employment. Person is only issued a copy of the administrative decision that grants him or her unemployment support.

2. Documents proving a family relationship or other durable relationship

The Family Law Act (Available in English online at <http://www.legaltext.ee/text/en/X1017K7.htm>) deals with aspects of family life, including marriage, birth, death, etc.

The authorities that issue the relevant documents are Vital Statistics Offices, which operate as authorities of local governments (cities and municipalities). The work of the offices is supervised by the Ministry of the Interior.

For countries that have acceded to the apostille convention, the documents used in these countries must have the certification (apostille) affixed to them by a competent authority in Estonia and all documents coming from those countries into use in Estonia must have the certification (apostille) affixed to them in the respective foreign countries. It is required that the certification (apostille) is affixed to original documents, translations may be added optionally. In case one wishes to use the copy of an original document in a foreign country the copy must be made of the original document, which has the certification (apostille) on it.

When there is a legal aid contract between Estonia and the foreign country, the further certification of the document is not necessary. Estonia has Legal Aid Agreements with Latvia, Lithuania, Ukraine, Russia and Poland. Foreign documents must be translated into Estonian and the translation must be verified by notary.

3. Documents proving or contesting a parent-child relationship

The authorities that issue the relevant documents are Vital Statistics Offices, which operate as authorities of local governments (cities and municipalities). The work of the offices is supervised by the Ministry of the Interior.

For countries that have acceded to the apostille convention, the documents used in these countries must have the certification (apostille) affixed to them by a competent authority in Estonia and all documents coming from those countries into use in Estonia must have the certification (apostille) affixed to them in the respective foreign countries. It is required that the certification (apostille) is affixed to original documents, translations may be added optionally. In case one wishes to use the copy of an original document in a foreign country the copy must be made of the original document, which has the certification (apostille) on it.

When there is a legal aid contract between Estonia and the foreign country, the further certification of the document is not necessary. Estonia has Legal Aid Agreements with Latvia, Lithuania, Ukraine, Russia and Poland. Foreign documents must be translated into Estonian and the translation must be verified by notary.

4. Documents proving the name and forenames of a child or adult

The authorities that issue the relevant documents are Vital Statistics Offices, which operate as authorities of local governments (cities and municipalities). The work of the offices is supervised by the Ministry of the Interior.

For countries that have acceded to the apostille convention, the documents used in these countries must have the certification (apostille) affixed to them by a competent authority in Estonia and all documents coming from those countries into use in Estonia must have the certification (apostille) affixed to them in the respective foreign countries. It is required that the certification (apostille) is affixed to original documents, translations may be added optionally. In case one wishes to use the copy of an original document in a foreign country the copy must be made of the original document, which has the certification (apostille) on it.

When there is a legal aid contract between Estonia and the foreign country, the further certification of the document is not necessary. Estonia has Legal Aid Agreements with Latvia, Lithuania, Ukraine, Russia and Poland. Foreign documents must be translated into Estonian and the translation must be verified by notary.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

The authorities that issue the relevant documents are Vital Statistics Offices, which operate as authorities of local governments (cities and municipalities). The work of the offices is supervised by the Ministry of the Interior.

For countries that have acceded to the apostille convention, the documents used in these countries must have the certification (apostille) affixed to them by a competent

authority in Estonia and all documents coming from those countries into use in Estonia must have the certification (apostille) affixed to them in the respective foreign countries. It is required that the certification (apostille) is affixed to original documents, translations may be added optionally. In case one wishes to use the copy of an original document in a foreign country the copy must be made of the original document, which has the certification (apostille) on it.

When there is a legal aid contract between Estonia and the foreign country, the further certification of the document is not necessary. Estonia has Legal Aid Agreements with Latvia, Lithuania, Ukraine, Russia and Poland. Foreign documents must be translated into Estonian and the translation must be verified by notary.

6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

Directive 2005/36/EC, which regulates the matter on European Union level, has not yet been wholly implemented into the Estonian legal system. The attestation of qualification and experience is regulated by the Recognition of Foreign Professional Qualifications Act (full text available at <http://www.legaltext.ee/text/en/X40037K3.htm>). The deadline for the full implementation of the Directive is 20 October 2007. The supervisor of implementation is the Ministry of Education and Research.

7. Documents proving a person's professional qualifications (diplomas)

Recognition of Foreign Professional Qualifications Act deals with recognition of professional qualifications.

8. Documents proving a person's death

The authorities that issue the relevant documents are Vital Statistics Offices, which operate as authorities of local governments (cities and municipalities). The work of the offices is supervised by the Ministry of the Interior.

Deaths are registered at the vital statistics office of the last residence or place of death of the deceased person. The vital statistics office of the location of the court registers a death on the basis of a court order establishing the fact of the death and declaring the person to be dead. For death registration must be submitted medical death certificate or court order establishing the fact of the death and identity documents of the deceased person (passport or identification card).

The spouse, a relative, relative by marriage or another person who lived with the deceased person and, in the absence of such persons, the head of a medical institution, police officer or other official shall submit an application to a vital statistics office for death registration. A death shall be registered within three days after the date of death of the person or the finding of the deceased person.

For countries that have acceded to the apostille convention, the documents used in these countries must have the certification (apostille) affixed to them by a competent authority in Estonia and all documents coming from those countries into use in Estonia

must have the certification (apostille) affixed to them in the respective foreign countries. It is required that the certification (apostille) is affixed to original documents, translations may be added optionally. In case one wishes to use the copy of an original document in a foreign country the copy must be made of the original document, which has the certification (apostille) on it.

When there is a legal aid contract between Estonia and the foreign country, the further certification of the document is not necessary. Estonia has Legal Aid Agreements with Latvia, Lithuania, Ukraine, Russia and Poland. Foreign documents must be translated into Estonian and the translation must be verified by notary.

9. Documents proving a person's date of birth

The authorities that issue the relevant documents are Vital Statistics Offices, which operate as authorities of local governments (cities and municipalities). The work of the offices is supervised by the Ministry of the Interior.

For countries that have acceded to the apostille convention, the documents used in these countries must have the certification (apostille) affixed to them by a competent authority in Estonia and all documents coming from those countries into use in Estonia must have the certification (apostille) affixed to them in the respective foreign countries. It is required that the certification (apostille) is affixed to original documents, translations may be added optionally. In case one wishes to use the copy of an original document in a foreign country the copy must be made of the original document, which has the certification (apostille) on it.

When there is a legal aid contract between Estonia and the foreign country, the further certification of the document is not necessary. Estonia has Legal Aid Agreements with Latvia, Lithuania, Ukraine, Russia and Poland. Foreign documents must be translated into Estonian and the translation must be verified by notary.

10. Documents proving the establishment by incorporation of a company

The Registration Departments of the Harju, Tartu, Pärnu and Viru County Courts maintain the commercial register (on sole proprietors, general partnerships, limited partnerships, private limited companies, public limited companies, commercial associations, European companies and branches of foreign companies).

The register has a strong conclusive force and aim at ensuring legal certainty. In this way a third person acting in good faith can rely on the registry data without hesitation – for instance, assuming, upon entry into a contract, that a person registered as a member of the management board has the right of signature on behalf of the company. The registers are maintained electronically. A register entry which has been electronically certified in the registration department of a court enters into force as from the moment when it has been saved in the central database administered by the Centre of Registers and Infosystems.

Register entries are made on the basis of digitally signed or notarised applications. Notaries advise parties to a transaction and represent applicants in a registration department (incl. forward documents) without an additional notary fee. Register entries

are made on the basis of a court judgement. Registration matters are reviewed as civil matters on petition by way of written proceedings. Registers are maintained at the court in order to ensure the independence and legal competence of the registrar.

Copies of the registry details of a company are issued by the Registration Departments of the Harju, Tartu, Pärnu and Viru County Courts. This can be issued in a non-certified form electronically by accessing the database on the internet, by post, fax or e-mail. The certified copy of the registry details is only issued by post or at the Registry Department or from the notaries. This copy has the same force as notarised copy. Apostille can be attached only to a certified copy of the registry.

11. Documents proving the constitution of a company, including any official translation thereof

The constitution of a company is done by notaries or by digitally signed application to the Registration Departments of the Courts.

Copies of the registry details of a company are issued by the Registration Departments of the Harju, Tartu, Pärnu and Viru County Courts. This can be issued in a non-certified form electronically by accessing the database on the internet, by post, fax or e-mail. The certified copy of the registry details is only issued by post or at the Registry Department or from the notaries. This copy has the same force as notarised copy. Apostille can be attached only to a certified copy of the registry.

12. Documents proving the latest banking accounts of a company

The banking accounts are not public documents as they are issued by private banks. Therefore the originals of these documents cannot be supplied with an apostille. Instead, the official translations of these documents can be certified with an apostille.

13. Documents proving the deposit of cash or certificates of deposit

The deposits of cash or certificates of deposit are not public documents as they are issued by private banks. Therefore the originals of these documents cannot be supplied with an apostille. Instead, the official translations of these documents can be certified with an apostille.

PART II – Incoming documents: Effects in the Member State’s legal order

OVERVIEW OF PART II

II.A.1. European Community Law

II.A.1.1. The effect of the implementation of Community law

European Community law has been implemented insofar as the regulations are applicable in Estonia. In practice this means that in the areas in which EU law prevails,

the requirements are generally upheld. However, as the area is rather new in Estonia and there have been relatively few incoming documents it has meant that in practical terms every document is taken and viewed individually and it is not unlikely that not all public officials are aware of the regulations, but this is a more general issue than just implementation of Community law in the field of legalisation.

II.A.1.2. Admissibility and evidentiary weight in judicial proceedings

The documents are admissible as much as local documents. There is no statutory division between documents presented as evidence (Code of Civil Procedure, 28 Chapter, esp § 276 (2)). In practice the judges tend to be more concerned regarding the authenticity of foreign documents, as this can give the parties certain rights that cannot be later taken away. If there is for example a divorce decision from France or Germany, then the judge will always be more sceptical regarding its authenticity than he or she would be of a judgment from local courts. The courts are concerned about this risk and therefore it might take more time or effort to achieve the desired result using a foreign document. As there are very few of them coming in, each document is considered carefully and separately.

II.A.1.3. Admissibility and evidentiary weight in administrative matters

The documents are accepted generally, without any issues. The evidentiary weight is equal to that of a local document.

II.A.2. Hague Convention of 5 October 1961 (the 'Apostille' Convention)

II.A.2.1. The effect of completion of the requirements of the Hague Convention

The Convention was implemented into the Estonian legal system with an Act of the *Riigikogu* on 18 October 2000 and the Convention entered into force in regard to Estonia on 30 September 2001. Thus the effect of the foreign documents attached with apostille is comparable to the documents issued in Estonia in all legal actions.

II.A.2.2. Admissibility and evidentiary weight in judicial proceedings

See II.A.1.2.

II.A.2.3. Admissibility and evidentiary weight in administrative matters

See II.A.2.1.

II.A.3. Parallel international agreements

II.A.3.1. The effect of completion of the requirements of parallel agreements

See I.A.3.4.

II.A.3.2. Admissibility and evidentiary weight in judicial proceedings

See II.A.1.2.

II.A.3.3. Admissibility and evidentiary weight in administrative matters

See I.A.3.4.

II.A.4. National Law

II.A.4.1. The effect of the completion of the requirements of national law

The effect of the legalization of an incoming foreign document according the Consular Act by the Foreign Ministry is the obtaining of the legal effect comparable to that of documents issued in Estonia by appropriate authorities.

II.A.4.2. Admissibility and evidentiary weight in judicial proceedings

See II.A.1.2.

II.A.4.3. Admissibility and evidentiary weight in administrative matters

Legalized documents have the same legal effect as documents issued by local authorities.

PART III – Incoming documents: Difficulties

OVERVIEW OF PART III

PART III.A. General

III.1. Hague Convention of 5 October 1961 (the ‘Apostille’ Convention)

III.A.1.1. Legal

No legal difficulties have surfaced so far.

III.A.1.2. Practical

No significant difficulties have been reported so far. However, from the author’s personal experience, there seems to be a certain amount of unawareness on the matters of legalization and apostille in notary offices in Estonia.

III.2. Parallel international agreements

III.A.2.1. Legal

See III.A.1.1.

III.A.2.2. Practical

See III.A.1.2.

III.3. National law

III.A.3.1. Legal

See III.A.1.1.

III.A.3.2. Practical

See III.A.1.2.

PART III.B. Specific

1. Documents proving involuntary unemployment

See I.B.2.

2. Documents proving a family relationship or other durable relationship

See III.A.1.1. and III.A.1.2.

3. Documents proving or contesting a parent-child relationship

See III.A.1.1. and III.A.1.2.

4. Documents proving the name and forenames of a child or adult

See III.A.1.1. and III.A.1.2.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

See III.A.1.1. and III.A.1.2.

6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

See III.A.1.1. and III.A.1.2.

7. Documents proving a person's professional qualifications (diplomas)

See III.A.1.1. and III.A.1.2.

8. Documents proving a person's death

See III.A.1.1. and III.A.1.2.

9. Documents proving a person's date of birth

See III.A.1.1. and III.A.1.2.

10. Documents proving the establishment by incorporation of a company

See III.A.1.1. and III.A.1.2.

11. Documents proving the constitution of a company, including any official translation thereof

See III.A.1.1. and III.A.1.2.

12. Documents proving the latest banking accounts of a company

See III.A.1.1. and III.A.1.2.

13. Documents proving the deposit of cash or certificates of deposit

See III.A.1.1. and III.A.1.2.

PART IV – Outgoing documents: Difficulties

OVERVIEW OF PART IV

PART IV.A. General

IV.A.1. Hague Convention of 5 October 1961 (the 'Apostille' Convention)

IV.A.1.1. Legal

No legal difficulties have surfaced so far,

IV.A.1.2. Practical

No practical difficulties have been reported, neither in Estonia on the level of issuance nor abroad on the level of acceptance of the documents from Estonia.

IV.A.2. Parallel international agreements

IV.A.2.1. Legal

See IV.A.1.1.

IV.A.2.2. Practical

See IV.A.1.2.

IV.A.3. National law

IV.A.3.1. Legal

See IV.A.1.1.

IV.A.3.2. Practical

See IV.A.1.2.

PART IV.B. Specific

1. Documents proving involuntary unemployment

See I.B.2.

2. Documents proving a family relationship or other durable relationship

See IV.A.1.1. and IV.A.1.2.

3. Documents proving or contesting a parent-child relationship

See IV.A.1.1. and IV.A.1.2.

4. Documents proving the name and forenames of a child or adult

See IV.A.1.1. and IV.A.1.2.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

See IV.A.1.1. and IV.A.1.2.

6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

See IV.A.1.1. and IV.A.1.2.

7. Documents proving a person's professional qualifications (diplomas)

See IV.A.1.1. and IV.A.1.2.

8. Documents proving a person's death

See IV.A.1.1. and IV.A.1.2.

9. Documents proving a person's date of birth

See IV.A.1.1. and IV.A.1.2.

10. Documents proving the establishment by incorporation of a company

See IV.A.1.1. and IV.A.1.2.

11. Documents proving the constitution of a company, including any official translation thereof

See IV.A.1.1. and IV.A.1.2.

12. Documents proving the latest banking accounts of a company

See IV.A.1.1. and IV.A.1.2.

13. Documents proving the deposit of cash or certificates of deposit

See IV.A.1.1. and IV.A.1.2.

PART V – Justification of legalisation or other similar or equivalent requirements identified in Part I

OVERVIEW OF PART V

PART V.A. General

V.A.1. Hague Convention of 5 October 1961 (the 'Apostille' Convention)

V.A.1.1 Requirements and procedures

In order to be able to use a document in a country where it was actually not issued in, the information on its origin must be assured to make sure the legal certainty of actions in a host states. The attachment of the apostille provides the document with such assurance while the complicated and tedious process of legalization is avoided. A document issued in another country must first be legalized in a relevant authority of the issuing country and then in the relevant authority of the country where it will be issued.

However, under the Apostille Convention, there is only one procedure to fulfill – the attachment of the apostille in the issuing country. After that the document can be freely used in any state that is a member of the Convention.

The system of apostilles makes the management considerably easier with the member states to the Convention. Such simplification of document circulation benefits the relations between states and improves investment conditions. Most of the states of the world and after the accession of Sweden in 1999, all the European Union member states have acceded to the Convention. Estonia's integration into international life brings with it the increased need to use documents issued in Estonia in foreign countries. Such need is created, for example, because of the international movement of people, work force, capital and goods.

In most of the states, the institutions authorized to issue an apostille are foreign ministry, justice ministry and ministry of interior affairs. In case of Estonia, however, the situation is different. Apostille to documents proving education is issued by the Education Ministry, to medical certificates or working stage is issued by the Social Ministry, to travel documents or notarial documents are issued by the Justice Ministry, to family status documents or police certificates are issued by the Ministry of Internal Affairs and to other public documents are issued by the Foreign Ministry. Such a division is most effective, since every ministry has the best overview of the documents issued under its administration. Moreover, these specific documents are the primary documents that people and businesses need in foreign states; therefore it is reasonable that apostilles are issued by exactly these ministries.

The ratification act of the Convention has been amended three times, the most significant of which was the last one. The amendment unified the text of the act and delegated the government to adopt the rules and procedures of issuance of apostilles. The reason for the amendment was the practical and real need. There were occasions in practice where the applicant had mistakenly applied for apostille to a document to use in a country that had not acceded to the Convention. Similarly there were occasions where the official was mistaken. In order not to burden the applicant further by demanding a new document, in practice the apostille has been removed from the document when possible and legalized instead.

In addition, the rules and procedures makes simplifies the management of business and makes it easier for the people to understand the attachment of apostille. They specify the competence of the institutions and create a clear procedure.

V.A.1.2 Effects rules

The use of foreign documents in Estonia has been made significantly easier with the rules and requirements in regard to apostille. The complicated and timeconsuming procedure of legitimisation has been removed while the need to validate the authenticity of the documents is still satisfied. Such simplified system removes obstacles from free trade as much as possible without disturbing the legal certainty of legal acts in the destination states. The consequences of not fulfilling the requirements are not excessively burdensome. When the document does not fulfil them, the person merely has to remedy the lack and submit the correctly validated document.

V.A.2. Parallel international agreements

V.A.2.1 Requirements and procedures

As an alternative to legalisation and the simpler system of apostilles, there is also the system of bilateral treaties, which remove the need to any validation of documents,

legalisation or otherwise. These bilateral treaties that Estonia has agreed with Latvia, Lithuania, Poland, Ukraine and Russia establish that any documents. These treaties were signed to simplify significantly the work of consular institutions in Estonia and neighbouring states, among which the trade was most vivid. Now that Estonia has joined the European Union, the need to any such new bilateral treaties has lost its actuality, as the Union itself has regulated these matters. Even though Estonia has not yet joined any of these measures, the joining is unavoidable and should take place in close future.

Similarly Estonia has acceded to certain conventions, which provide for recognition of specific documents without validation, such as judicial and extrajudicial documents in civil and commercial matters (The Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1969)), letters by judicial authority requesting the obtaining of evidence performing other judicial acts (The Hague Convention on the Taking Evidence Abroad in Civil or Commercial Matters (1972)), documents used by competence authorities in the process of reinstating the right of custody or the right of access to children which have wrongly been removed or retained (The Hague Convention on the Civil Aspects of International Child Abduction (1980)), legal aid request forms and their supporting documents (The Hague Convention on International Access to Justice (1988)), documents forwarded or delivered under the Hague Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children (2002). Such arrangements significantly simplify the circulation of documents among the signatory states, lifting the burden of consular authorities as well as people concerned.

V.A.2.2 Effects rules

Implementation of the rules and requirements under the bi- and trilateral treaties and conventions is according to the stipulations in these agreements. It is established that where there is an agreement abolishing legalisation requirement and the requirement of attach an apostille, the authorities apply the requirement. The effect of the abolization of the validation requirement of any kind is the more effective and less burdensome circulation of documents, simplifying the procedure around the presenting of documents.

V.A.3. National law

V.A.3.1 Requirements and procedures

Art 28 of the Consular Act, adopted on 3 December 2003 and entered into force on 1 January 2004, on legalisation essentially establishes the nature of formality of this procedure. Legalisation must be understood as a formal procedure with which the diplomatic and consular representatives of the country where the document must be presented certify the signature and, when necessary, the seal or stamp on the document. Therefore, the legalisation of the document takes place, in general, on the basis of comparison of the signature sample and stamp sent by the competent authority (embassy, foreign ministry). Essentially, no other information is necessary. Especially irrelevant is the nationality of the person(s) concerned. Therefore, discrimination based on nationality or other ground cannot take place in law. The exhaustive list of reasons to refuse legitimisation is brought in the act.

The rationale behind the requirement of legalisation is the certification of the document's conformity with the issuing state's legal system and of the relevant competence of the person that has validated the document. Also in practice there have been several occasions where the presented document is spoilt (e.g. half burnt school certificate), void (where the validity of the document is limited, e.g. certificate proving the person is unpenalized is valid for a year, but the document presented for legalisation is issued three years ago) or it is validated by an uncompetent person (e.g. authorization letter is

composed and validated by a sworn attorney) or apparent unlawful validation of a signature etc. Therefore, the Consular Act includes an exhaustive list of grounds to refuse legalisation.

V.A.3.2 Effects rules

PART V.B. Specific

1. Documents proving involuntary unemployment

See V.A.1.1. – V.A.3.2.

2. Documents proving a family relationship or other durable relationship

See V.A.1.1. – V.A.3.2.

3. Documents proving or contesting a parent-child relationship

See V.A.1.1. – V.A.3.2.

4. Documents proving the name and forenames of a child or adult

See V.A.1.1. – V.A.3.2.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

See V.A.1.1. – V.A.3.2.

6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

See V.A.1.1. – V.A.3.2.

7. Documents proving a person's professional qualifications (diplomas)

See V.A.1.1. – V.A.3.2.

8. Documents proving a person's death

See V.A.1.1. – V.A.3.2.

9. Documents proving a person's date of birth

See V.A.1.1. – V.A.3.2.

10. Documents proving the establishment by incorporation of a company

See V.A.1.1. – V.A.3.2.

11. Documents proving the constitution of a company, including any official translation thereof

See V.A.1.1. – V.A.3.2.

12. Documents proving the latest banking accounts of a company

See V.A.1.1. – V.A.3.2.

13. Documents proving the deposit of cash or certificates of deposit

See V.A.1.1. – V.A.3.2.

PART VI – Suggested action

OVERVIEW OF PART VI

VI.1. European

It is the opinion of the *rapporteur* that further harmonisation in areas of laws regarding rules of legalisation would be useful in terms of legal certainty. The practical challenges in a situation where certain documents need not be legalised and others need to be, are quite big in terms of a “regular” person needing to use a foreign document in Estonia. On the whole European Union law and obligations from it are generally well accepted and the level of knowledge regarding such arrangements is rather high, although better information on this would improve the situation.

VI.2. Intergovernmental

In the intergovernmental area, there is not that much room for improvement in a general sense. The apostille system is generally well adopted and used, even though it is a relatively new matter in Estonia. The system works quickly and due to the relatively small size of the civil service and the usage of a central database for issuing an apostille it can be said that the existing system fulfills the current needs.

Estonia has progressed very well in e-services and the adoption of an e-apostille would not cause significant problems and would be easier than in other countries. Indeed, as many government services can be accessed online and digital signatures are becoming more and more widely used due to the compulsory adoption of the ID-card, citizens come to expect to be able to also get a digitally signed apostille for their digitally signed

and delivered document. Therefore rapid adoption of e-apostille would be desirable.

VI.3. National

The national laws on legalisation might benefit also from the introduction of e-services, such as being able to legalise electronic documents. However, Estonia is a frontrunner in e-services, as other countries rarely issue such documents in an electronic format.

The system of legalisation as described in the national laws corresponds to a balanced approach between security and convenience.