

Legalisation of Public Documents within the EU Member States

LUXEMBOURG

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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

No deviation from the regime foreseen by Regulation (EC) No 1346/2000 is known to us under Luxembourg law.

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

No deviation from the regime foreseen by Regulation (EC) No 1348/2000 is known to us under Luxembourg law.

Article 56 of Regulation (EC) No 44/2001

No deviation from the regime foreseen by Regulation (EC) No 44/2001 is known to us under Luxembourg law.

Article 57 of Regulation (EC) No 44/2001

No deviation from the regime foreseen by Regulation (EC) No 44/2001 is known to us under Luxembourg law.

Article 58 of Regulation (EC) No 44/2001

No deviation from the regime foreseen by Regulation (EC) No 44/2001 is known to us under Luxembourg law.

Article 46 Regulation (EC) No 2201/2003

No deviation from the regime foreseen by Regulation (EC) No 2201/2003 is known to

us under Luxembourg law.

Article 52 of Regulation (EC) No 2201/2003

No deviation from the regime foreseen by Regulation (EC) No 2201/2003 is known to us under Luxembourg law.

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)

No deviation from the regime foreseen by Regulation (EC) No 2201/2003 is known to us under Luxembourg law.

Article 27 of Regulation (EC) No 805/2004

No deviation from the regime foreseen by Regulation (EC) No 805/2004 is known to us under Luxembourg law.

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

No deviation from the regime foreseen by Regulation (EC) No 805/2004 is known to us under Luxembourg law.

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

Article 13(5) of Directive 2002/8/EC was implemented into Luxembourg law by the grand-ducal decree of 29 October 2004 amending the grand-ducal decree of 18 September 1995 in relation to legal aid.

Free movement of goods (Article 23 EC)

Article 250 of Regulation (EEC) No 2913/92

No deviation from the regime foreseen by Regulation (EC) No 2913/92 is known to us under Luxembourg law.

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

No deviation from the regime foreseen by Regulation (EC) No 1408/71 is known to us under Luxembourg law.

I.A.1.3. Judicial control

To our knowledge, no Luxembourg case law has been published in relation to the functioning of the provisions of Community law set out under point I.A.1.2 in the Grand-Duchy of Luxembourg.

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

I.A.2.1. Status

The "Apostille" Convention was signed by the Grand-duchy of Luxembourg on 5 October 1961. The ratification instruments were filed with the Secretary General of the Council of Europe on 4 April 1979 and the Convention entered into force in Luxembourg on 3 June 1979.

I.A.2.2. Scope

To our knowledge, the geographical and material scope of the "Apostille" Convention has not been expanded beyond the States party to the Convention or the terms of the

Convention itself.

I.A.2.3. Legislative implementation

The "Apostille" Convention has been implemented into Luxembourg law by the act of 14 March 1978. A copy of this act is enclosed herewith as Schedule I. The act is limited to one article, by virtue of which the "Apostille" Convention is approved.

A copy of the parliamentary documents relating to the draft of the act is enclosed as Schedule II. The documents indicate that the (previously applied) legalisation procedure represents an important legal function in matters of evidence, but does not satisfy the society's practical needs. The "Apostille" Convention is seen as a manner to solve this problem by guaranteeing the authenticity of foreign public acts by means of a simple, fast and low-cost procedure.

I.A.2.4. Practical implementation

A) Process of the issuance of an Apostille by the competent authority

The procedure described below applies to all documents and to all Member States party to the "Apostille" Convention. In practice, different procedures are not applied to particular cases.

1) By which methods can an Apostille be requested? In person, by registered mail or by ordinary mail.

2) How, in practice, does the competent authority verify the authenticity of the signature, the capacity in which the person signing the document has acted, and the identity of the seal or stamp which the document bears? The Luxembourg passport office, which is responsible for the issuing of the Apostilles, verifies the authenticity of the signature or the identity of the seal or stamp which a document bears by comparing these elements to original signatures/seals/stamps that have previously been made available to the passport office by the concerned authorities (notaries, lawyers, municipalities, etc.). The lists containing the originals are regularly updated. If a signature or stamp is presented that does not occur on the lists of originals, the Apostille is refused.

3) What is the form of the Apostille used? See Schedule III, including an English translation. The Apostille used consists of a stamp and a signature of an official of the passport office.

4) Is the Apostille issued by the competent authority placed on the public document itself or is the apostille placed on a so-called allonge? The Apostille is usually placed on the public document itself. An allonge is used if the document itself does not contain sufficient place for the Apostille stamp.

5) How is the Apostille issued when the public document consists of multiple pages? The Apostille is issued on the last page of the document.

6) Which language is used on the Apostille? French

7) Is the system used for the issuance of an Apostille mechanical or electronic?
Mechanical

8) What are the main measures taken in order to avoid fraud? No specific measures are taken in order to avoid fraud. However, fraud control should become easier after the

modernisation of the system currently used to issue Apostilles (see point 9) below).

9) Are there any plans to modernize the system used to issue Apostilles? The system used to issue Apostilles will become electronic in the future. In a first stage, the stamps currently used will, in all likelihood, be replaced by a self-adhesive label (based on the system currently used in Belgium). This new system should be put into use at the end of September 2006. It is foreseen that these self-adhesive labels will also be electronically secured in the future.

10) How long does the total process generally take? According to the passport office, the issue of an Apostille takes two days. In practice, the total process takes (with a few exceptions) minimum four working days. Once issuance of an Apostille becomes electronic, these delays should be considerably reduced.

11) What is the fee payable for the issuance of an Apostille? The fee payable for the issuance of an Apostille is currently equivalent to one euro. The fees are set out by a Grand-ducal decree. The fees will nevertheless be raised (in all likelihood in the month of September 2006) to five euros.

B) Compliance with the registration or card index requirement (article 7 of the Convention)

1) Is the system used electronic? The Apostilles which have been issued are currently registered (hand-written) in books.

2) Are there any plans to modernize the system used? The system will be modernised together with the organisation of the system of issuing Apostilles (see above).

3) By which methods can the register or card be consulted in accordance with Article 7 of the Convention? On request, the books used to register the Apostilles can be consulted by an interested party. In the future, this will in all likelihood be possible electronically.

C) Competent authority

Ministry of Foreign Affairs
Bureau des Passeports
43, boulevard Roosevelt
L-2450 Luxembourg
Tel: +352 478-8300
Fax: +352 46 49 80
E-mail: service.passeports@mae.etat.lu
General website: <http://www.mae.lu>
Contact person: Mr Paul Kirtz

I.A.2.5. Judicial control

To our knowledge, no Luxembourg case law has been published in relation to the functioning of the "Apostille" Convention in the Grand-Duchy of Luxembourg.

I.A.2.6. Empirical analysis

The Luxembourg Passport office has granted 943 apostilles in the week of 17-21 July 2006. It was not possible to obtain a specification according to the different types of

documents concerned.

I.A.3. Parallel international agreements

I.A.3.1. Status

A) European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers (London, 7 June 1968):

- Implemented by an Act of 14 March 1978
- Ratification 30 March 1979
- Entry into force 1 July 1979
- See Schedule IV

B) 1987 Brussels Convention abolishing the Legalisation of Documents in the Member States of the European Communities:

Signed but not ratified [KIRTZ]

C) Agreements abolishing the requirement of legalisation for foreign public documents generally between two or more countries:

ICCS Convention on the issue free of charge and the exemption from legalisation of copies of civil status records, signed at Luxembourg on 26 September 1957:

- Implemented by an Act of 13 January 1960
- Ratification 13 June 1960
- Entry into force 13 July 1960
- See Schedule V

ICCS Convention on the exemption from legalisation of certain records and documents, signed at Athens on 15 September 1977:

- Implemented by an Act of 2 April 1981
- Ratification 5 August 1981
- Entry into force 1 November 1981
- See Schedule VI

Agreement between the Grand Duchy of Luxembourg and the Federal Republic of Germany concerning the abolition of legalisation, the exchange of civil status records and the issue of certificates of the absence of impediments to marriage:

- Implemented by an Act of 19 March 1966, amended version of the Agreement implemented by an act of 9 July 1983
- Ratification 7 June 1966
- Entry into force 7 September 1966
- See Schedule VII

Agreement between the Grand Duchy of Luxembourg and the Republic of Austria concerning the exchange of civil status records and the abolition of legalisation signed in Luxembourg on 16 October 1979:

- Implemented by an Act of 2 February 1981
- Ratification 10 February 1981
- Entry into force 1 May 1981
- See Schedule VIII

Conventions abolishing the legalisation of documents relating to social security between Luxembourg and the:

- Republic of Chile (signed in Luxembourg on 3 June 1997):

- Implemented by an Act of 6 April 1999
- Entry into force 3 June 1997
- Republic of Poland (signed in Warsaw on 1 July 1996):
 - Implemented by an Act of 6 April 1999
 - Entry into force 1 February 2001
- Czech Republic (signed in Luxembourg on 17 November 2000):
 - Implemented by an Act of 30 November 2001
 - Entry into force 1 March 2002
- Republic of Croatia (signed in Luxembourg on 17 May 2001):
 - Implemented by an Act of 29 May 2002
 - Entry into force 1 November 2002
- Republic of Slovenia (signed in Ljubljana on 1 October 2001):
 - Implemented by an Act of 3 December 2002
 - Entry into force 1 March 2003
- Slovak Republic (signed in Bratislava on 23 May 2002):
 - Implemented by an Act of 3 June 2003
 - Ratified 25 November 2003
 - Entry into force 1 February 2004
- State Union of Serbia and Montenegro (signed in Belgrade on 27 October 2003):
 - Implemented by an Act of 8 April 2005
 - Ratified 19 July 2005
 - Entry into force 1 September 2005
- Republic of Turkey (signed in Luxembourg on 20 November 2003):
 - Implemented by an Act of 8 April 2005
 - Ratified 20 March 2006
 - Entry into force 1 June 2006
- Romania (signed in Bucharest on 18 November 2004):
 - Implemented by an Act of 9 December 2005
 - Entry into force 1 March 2006
- Republic of Bulgaria (signed in Luxembourg on 1 December 2004):
 - Implemented by an Act of 9 December 2005
 - Entry into force 1 March 2006

See Schedule IX

D) Agreements abolishing the requirement of legalisation for categories of documents relating to a specific subject matter:

Convention of 15 April 1958 concerning the recognition and enforcement of decisions relating to maintenance obligations towards children:

- Signed on 14 March 1962
- Not ratified
- Not entered into force

Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters:

- Act 26 February 1975
- Ratified 9 July 1975
- Entry into force 7 September 1975
- See Schedule X

Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters:

- Act 19 March 1977
- Ratified 26 July 1977
- Entry into force 24 September 1977
- See Schedule XI

Convention of 2 October 1973 concerning the International Administration of the Estates of Deceased Persons

- Signed 2 October 1973
- Not ratified
- Not entered into force

Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

- Act 16 May 1986
- Ratified 8 October 1986
- Entry into force 1 January 1987
- See Schedule XII

Convention of 25 October 1980 on International Access to Justice

- Act 12 December 2002
- Ratified 6 February 2003
- Entry into force 1 May 2003
- See Schedule XIII

Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children

- Signed 1 April 2003
- Not ratified
- Not entered into force

I.A.3.2. Scope

To our knowledge, the geographical and material scope of the "Apostille" Convention has not been expanded beyond the States party to the Convention or the terms of the Convention itself.

I.A.3.3. Legislative implementation

Please find enclosed under Schedules IV to XIII copies of all relevant legislative acts implementing the conventions mentioned under point I.A.3.1. above.

I.A.3.4. Practical implementation

ICCS Convention on the issue free of charge and the exemption from legalisation of copies of civil status records

Central authority:

Parquet Général près la Cour Supérieure de Justice
12, rue Côte D'Eich
L-1450 Luxembourg
Tél. : +352 475981-1
Fax. : +352 475981-396

Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters:

Central authority:

Parquet Général près la Cour Supérieure de Justice
12, rue Côte D'Eich
L-1450 Luxembourg
Tél. : +352 475981-1
Fax. : +352 475981-396

Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters:

Central authority:

Parquet Général près la Cour Supérieure de Justice
12, rue Côte D'Eich
L-1450 Luxembourg
Tél. : +352 475981-1
Fax. : +352 475981-396

Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

Central authority:

State Public Prosecutor (*Procureur Général d'Etat*)
Palais de Justice
P.O. Box 15
L-2010 LUXEMBOURG
Tel: +352 475981 336
Fax: +352 470550

Convention of 25 October 1980 on International Access to Justice

Central authority:

(*article 7 Convention*)
Ministry of Justice
13, Rue Erasme
L-1468 Luxembourg
Tel: +352 478 1
Fax: +352 26 68 48 61

(*article 16 Convention*)
State Public Prosecutor (*Procureur Général d'Etat*)
Palais de Justice
P.O. Box 15
L-2010 LUXEMBOURG
Tel: +352 475981 336
Fax: +352 470550

I.A.3.5. Judicial control

To our knowledge, no Luxembourg case law has been published in relation to the functioning of the agreements mentioned under point I.A.3.2 in the Grand-Duchy of

Luxembourg.

I.A.4. National Law

I.A.4.1. Legislative framework

The legalisation of documents is governed by an act of 14 April 1934. This act mentions the possibility to establish a chancery fee (*droit de chancellerie*) for the legalisation of acts through public administration regulations. The act also authorises the government to conclude agreements with foreign States that establish, with a condition of reciprocity, a reduced or free legalisation fee. The grand-ducal decree of 31 May 1934, which executes the act of the same date, authorises the government to conclude agreements with foreign countries that allow, under a condition of reciprocity, a quasi-total or partial exemption of the legalisation fee. Neither the act nor the grand-ducal decree give any details as to the type of documents to which legalisation obligations apply. (See Schedule XIV)

I.A.4.2. Scope

See point I.A.4.1. above.

I.A.4.3. Practical implementation

1. Which authorit(y)(ies) is/are responsible for legalisation? The same authorities as those responsible for the issuing of Apostilles are responsible for legalisation:

 Ministry of Foreign Affairs
 Bureau des Passeports
 43, boulevard Roosevelt
 L-2450 Luxembourg
 Tel: +352 478-8300
 Fax: +352 46 49 80
 E-mail: service.passeports@mae.etat.lu
 General website: <http://www.mae.lu>
 Contact person: Mr Paul Kirtz
2. What is the procedure for legalisation or other similar or equivalent requirements (e.g. in person or by post)? In person, by registered mail or by mail.
3. Does the same procedure apply to all documents and to all (Member) States? Yes. However, certain States may impose specific requirements in relation to the legalisation of documents destined to these States.
4. What documents must be provided? The same type of documents as those provided to obtain an Apostille are used for the purposes of legalisation.
5. How, in practice, does the official carry out the task of legalising a document? As for the Apostille, documents are legalised by fixing a stamp to the document by the passports bureau. The documents then have to be submitted to further formalities specific to each country of destination: this is done by these countries' embassy/consulate.
6. How long does the process take: what fee (if any) is payable? According to the passport office, the issue of an Apostille takes two days. In practice, the total process takes (with a few exceptions) minimum four working days. Once issuance of an Apostille becomes electronic, these delays should be considerably reduced.

I.A.4.4. Judicial control

To our knowledge, no Luxembourg case law has been published in relation to the

PART I.B. Specific

I.B.1. Introduction

I.B.2. Specific documents

1. Documents proving involuntary unemployment

Involuntary unemployment can be proved by a document issued by the

Administration de l'Emploi
10, rue Bender
L-1229 Luxembourg

To our knowledge, documents proving involuntary unemployment operating cross-border are submitted to legalisation (if not exempted from legalisation by a particular convention and if not submitted to the "Apostille" Convention).

2. Documents proving a family relationship or other durable relationship

Matters in relation to civil status are regulated in Luxembourg by article 108 of the Constitution, the civil code (articles 34-101), the "*loi communale*" dated 13 December 1988 (articles 69 and 70), as well as some specific acts and circular letters.

Concerning the exemption of legalisation of civil status certificates, Luxembourg is party to the following conventions:

1. Convention on the issue of certain extracts from civil status records for use abroad dated 27 September 1956, entered into force on 20 May 1960 (see Schedule XV)
2. Convention on the issue free of charge and the exemption from legalisation of copies of civil status records dated 26 September 1957, entered into force on 13 July 1960 (see Schedule XVI)
3. Convention on decisions concerning the rectification of civil status records dated 10 September 1964, entered into force on 6 April 1966 (see Schedule XVII)
4. Convention on legitimation by marriage dated 10 September 1970, entered into force on 10 August 1983 (see Schedule XVIII)
5. Convention introducing an international family record book dated 12 September 1974, entered into force on 1 March 1979 (see Schedule XIX)
6. Convention on the issue of multilingual extracts from civil status records dated 8 September 1976, entered into force on 1 November 1983 (see Schedule XX)
7. Convention on the exemption from legalisation of certain records and documents dated 15 September 1977, entered into force on 1 November 1981 (see Schedule XXI)
8. Hague Convention of 5 October 1961 ("Apostille Convention"), entered into force on

3 June 1979

9. Convention of the Council of Europe concerning the exemption of legalisation of acts issued by diplomatic and consular agents dated 7 June 1968, entered into force on 30 June 1979
10. Agreement between Luxembourg and France concerning the exemption from legalisation of extracts from civil status records dated 27 March 1923 (see Schedule XXII)
11. Agreement between Luxembourg and Belgium concerning the exemption from legalisation of extracts from civil status records dated 6 May 1923 (see Schedule XXIII)
12. Agreement between Luxembourg and Austria concerning the exchange of civil status acts and exemption from legalisation dated 16 October 1979

Article 47 of the Civil Code provides that every civil status certificate concerning a Luxembourgish citizen or a foreigner, established in a foreign country, is valid as evidence (imperfect translation of "*fait foi*") if it is established according to the foreign country's countries required forms.

To our knowledge, incoming civil status certificates established by the competent foreign authorities have the same evidentiary weight as equivalent domestic civil status certificates. A legalisation *could* be asked if there is no applicable convention exempting from it, but the above article of the Civil Code does not seem to require legalisation for purposes of evidence.

If there is no applicable convention (see the list of conventions above), the civil status certificates are submitted to either the national legislation relating to legalisation or to the Apostille Convention.

A family relationship (or marriage) is proved by a marriage certificate. This document is issued by the registrar of civil status registers, the chief clerk of the competent court or the director of the National Archives if the act is more than 100 years old (articles 40, 43 and 45 of the Civil Code) (hereafter the "depositories of civil status registers").

The document proving a civil partnership is issued by the General Prosecutor's Civil Repertory Service.

As mentioned above, Luxembourg is party to the ICCS Convention introducing an international family record book dated 12 September 1974. The international family record book ("*livret de famille international*") for registration of marriage, birth of children and death of a parent or a child is accepted without any legalisation in every member of the ICCS (CIEC) (Luxembourg, Belgium, France, Greece, Italy, Portugal and Turkey, but Belgium, France and Portugal have not ratified the Convention yet).

3. Documents proving or contesting a parent-child relationship

The mother-child relationship is established by the mother's name in the birth certificate

(articles 57, 319 and 334 of the Civil Code). The birth certificate is issued by the depositaries of civil status certificates. If the mother's name is not indicated, the mother-child relationship is established by a voluntary acknowledgement or by the proof of the legitimacy of the relationship.

The mother-child relationship can also be proved by a judgement of the district court based on an action of the illegitimate child to claim his status.

The father-child relationship is established by the father's name in the birth certificate. If the father's name is not indicated, the father-child relationship is established by a voluntary acknowledgement or by the proof of the legitimacy of the relationship.

The father-child relationship can also be proved by a judgement of the district court based on an action of the illegitimate child to claim his status.

The document proving the establishment by acknowledgement of a parent-child relationship when the parents are not married is a copy of the extract of the document containing the acknowledgement or of the birth certificate. This document can be delivered either by the depositaries of the civil status registers or the notary who has drawn up the act.

In case of legitimisation, it is mentioned on the birth certificate and on the marriage certificate. The documents proving the legitimisation are the birth certificate together with the parents' marriage certificate. There can also be a judicial legitimisation, the judgement is then mentioned on the birth certificate. A copy of this certificate is issued by the depositaries of the civil status registers.

The parent-child relationship can be contested by a judgment based on an action for contesting the legitimacy of a child.

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

The forenames of a child or an adult are indicated in the civil status records. The birth certificate is issued by the depositaries of civil status (registrar of civil status, chief clerk of the competent court, the director of the National Archives if the act is more than 100 years old (articles 40, 43 and 45 of the Civil Code).

A new act dated 23 December 2005 ("*Loi relative aux noms des enfants*"), which entered into force on 1 May 2006, provides that the *name* is also indicated in the birth certificate. The former article 57 of the Civil Code (no indication of the family name in the birth certificate) will remain applicable for the children born before the entry into force of the new law of 2005 and for their brothers and sisters born after the entry into force of the law provided they have the same parents.

Before the entry into force of the new law the name was to be inferred from the parent(s) name(s) indicated in the birth certificate (depending on the fact whether the parents are married or not and, if not, whether the parents have acknowledged the child).

Concerning legalisation see above under n° 2.

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

The document proving the marriage is the marriage certificate (or the ICCS family record book).

The marriage is also mentioned on the birth certificate of both wife and husband (article 76 of the Civil Code).

A divorce, a separation from bed and board or the annulment of a marriage is registered in the margin of the register of civil status (birth certificates and marriage certificates). The copies and extracts of these civil status certificates prove the divorce, separation from bed and board as well as the annulment of a marriage.

Proof can also be provided by producing the judgement pronouncing the divorce, separation from bed and board as well as the annulment of a marriage, with the declaration from the court clerk that the judgement is final and not subject to appeal.

The document proving as well as the document annulling/terminating a civil partnership is issued by the General Prosecutor's Civil Repertory Service.

Concerning legalisation, see above under n°2.

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

Under article 7 of Directive 2005/36, the Member States may, for the first provision of services, require an attestation certifying that its holder is legally established in a Member State for the purpose of pursuing the activities concerned and that he is not prohibited from practising, even temporarily, at the moment of delivering the attestation. The Directive has not yet been implemented into Luxembourg law.

The implementation of different previously existing Directives and/or international conventions which may exist in this regard in relation to different regulated professional activities is not addressed in the scope of this questionnaire.

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

Diplomas relating to specific regulated professional activities are issued by the different Ministries competent for the concerned profession (e.g., Ministry of Education for the titles of nurse or pharmacist; Ministry of Justice for the title of lawyer).

Directive 2005/36 provides in its article 50 that "where the competent authorities of the host Member State decide on an application for authorisation to pursue the regulated profession in question by virtue of this title, those authorities may demand the documents and certificates listed in Annex VII". Annex VII mentions documents relating to proof of nationality, professional competence, formal qualifications, etc..

In the event of justified doubts, the host Member State may require from the competent

authorities of a Member State confirmation of the authenticity of the attestations and evidence of formal qualifications awarded in that other Member State.

This Directive has not yet been implemented into Luxembourg law. The implementation of different previously existing Directives and/or international conventions concerning the recognition of professional qualifications is not addressed in the scope of this questionnaire.

Under current legislation, the homologation of foreign diplomas related to the exercise of a regulated profession is regulated by an act dated 18 June 1969 and an act dated 17 December 2003 amending the act of 1969.

In most cases, the Ministry of Education is responsible for the homologation of foreign diplomas:

Ministère de l'Education Nationale
Service de la reconnaissance des diplômes
29, rue Aldringen
L-1118 Luxembourg
Tél:478-1
E-mail: info@men.lu

8. Documents proving a person's death

The death certificate is issued by the depositaries of civil status registers (articles 40, 43 and 45).

Concerning legalisation, see above under n° 2.

9. Documents proving a person's date of birth

The birth certificate is issued by the depositaries of civil status registers (articles 40, 43 and 45).

Concerning legalisation, see above under n° 2.

10. Documents proving the establishment by incorporation of a company

Article 4 of the act of 10 August 1915 concerning commercial companies provides:

"Sociétés en nom collectif, sociétés en commandite simple, sociétés coopératives and civil companies shall, under penalty of annulment, be established by means of a special notarial deed or by private instrument, conforming in the latter case to article 1325 of the Civil Code. Two originals shall be sufficient for civil companies and sociétés coopératives.

Sociétés anonymes, sociétés en commandite par actions and sociétés à responsabilité limitée shall, under penalty of annulment, be incorporated by means of a special notarial deed."

Concerning legalisation, notarial deeds referring to the establishment by incorporation of a company are submitted to either the national law on legalisation or the "Apostille" Convention.

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

See above under n°10.

12. Documents proving the latest banking accounts of a company

There exist no public documents proving the latest banking accounts of a company (banking secrecy).

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

It is not clear to us which (public) documents are covered by this query.

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

As the documents described in the Community Instruments referred to in Part I.A.1 are exempted from legalisation, these documents should have a legal status equivalent to a comparable domestic public document. No distinction seems to be made as regards documents originating in different Member States. No distinction seems to be made between the types of documents.

To our knowledge, Luxembourg has fulfilled its obligations under each of the Community Instruments referred to.

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

To our knowledge, foreign public documents, which fall under the scope of the Community law provisions referred to in Part I are equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents, under this reservation that the document is written in a language understandable by the courts (French, German, in some cases English). If this is not the case the document has to be translated by a sworn interpreter.

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

To our knowledge, foreign public documents, which fall under the scope of the Community law provisions as referred to in Part I are equally admissible in administrative

matters and produce the same evidentiary weight as equivalent domestic public documents under this reservation that the document is written in a language understandable by the administration (French, German, in some cases English, Portuguese and Dutch). If this is not the case the document has to be translated.

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

To our knowledge, the documents which have been processed in accordance with the rules of the Apostille Convention are recognised as public documents in the Luxembourg legal order. No distinction seems to be made as regards documents originating from different Member States. No distinction seems to be made between the types of documents.

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

To our knowledge, foreign public documents, which have been processed in accordance with the rules of the Apostille Convention, are equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents under this reservation that the document is written in a language understandable by the courts (French, German, in some cases English). If this is not the case the document has to be translated by a sworn interpreter.

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

To our knowledge, foreign public documents, which have been processed in accordance with the rules of the Apostille Convention, are equally admissible in administrative matters and produce the same evidentiary weight as equivalent domestic public documents under this reservation that the document is written in a language understandable by the administration (French, German, in some cases English, Portuguese and Dutch). If this is not the case the document has to be translated.

II.A.3. Parallel international agreements

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

To our knowledge, the documents falling within the scope of the parallel agreements are recognised as public documents in the Luxembourg legal order. No distinction seems to be made as regards documents originating from different (Member) States party to the agreements. No distinction seems to be made between the types of documents.

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

To our knowledge, foreign public documents, falling within the scope of the parallel agreements are equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents under this reservation that the document is written in a language understandable by the courts (French, German, in some cases English). If this is not the case the document has to be translated by a sworn interpreter.

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

To our knowledge, foreign public documents, falling within the scope of the parallel agreements are equally admissible in administrative matters and produce the same evidentiary weight as equivalent domestic public documents under this reservation that the document is written in a language understandable by the administration (French, German, in some cases English, Portuguese and Dutch). If this is not the case the document has to be translated.

II.A.4. National Law

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

To our knowledge, the documents processed in accordance with national law are recognised as public documents in the Luxembourg legal order. No distinction seems to be made as regards documents originating in different (Member) States. No distinction seems to be made between the types of documents.

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

To our knowledge, foreign public documents processed in accordance with national law are equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents under this reservation that the document is written in a language understandable by the courts (French, German, in some cases English). If this is not the case the document has to be translated by a sworn interpreter.

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

To our knowledge, foreign public documents processed in accordance with national law are equally admissible in administrative matters and produce the same evidentiary weight as equivalent domestic public documents under this reservation that the document is written in a language understandable by the administration (French, German, in some cases English, Portuguese and Dutch). If this is not the case the document has to be translated.

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

To our knowledge there exist no particular difficulties of a legal nature which result from the application of the Apostille Convention to incoming documents.

III.A.1.2. Practical

To our knowledge there exist no particular difficulties of a practical nature which result from the application of the parallel international agreements to incoming documents.

III.2. Parallel international agreements

III.A.2.1. Legal

To our knowledge there exist no particular difficulties of a legal nature which result from the application of the parallel international agreements to incoming documents.

III.A.2.2. Practical

To our knowledge there exist no particular difficulties of a practical nature which result from the application of the parallel international agreements to incoming documents.

III.3. National law

III.A.3.1. Legal

To our knowledge there exist no particular difficulties of a legal nature which result from the application of national law to incoming documents.

III.A.3.2. Practical

To our knowledge there exist no particular difficulties of a practical nature which result

from the application of the parallel international agreements to incoming documents.

PART III.B. Specific

1. Documents proving involuntary unemployment

To our knowledge there exist no particular difficulties of a legal or of a practical nature which result from the process of legalisation or other similar or equivalent requirements applied to the incoming documents mentioned in part III.B. (points 1-13 below).

2. Documents proving a family relationship or other durable relationship

See III.B.1. above.

3. Documents proving or contesting a parent-child relationship

See III.B.1. above.

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

See III.B.1. above.

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

See III.B.1. above.

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

See III.B.1. above.

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

See III.B.1. above.

8. Documents proving a person's death

See III.B.1. above.

9. Documents proving a person's date of birth

See III.B.1. above.

10. Documents proving the establishment by incorporation of a company

See III.B.1. above.

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

See III.B.1. above.

12. Documents proving the latest banking accounts of a company

See III.B.1. above.

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

See III.B.1. above.

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

To our knowledge there exist no particular difficulties of a legal nature which result from the process of legalisation or other similar or equivalent requirements applied to outgoing documents.

IV.A.1.2. Practical

The only practical difficulty we are aware of in Luxembourg is the rather long delay necessary to obtain an Apostille (approximately 4 days). This will nevertheless change once the system currently used by the authorities will become electronic.

IV.A.2. Parallel international agreements

IV.A.2.1. Legal

To our knowledge there exist no particular difficulties of a legal or of a practical nature which result from the process of legalisation or other similar or equivalent requirements applied to outgoing documents.

IV.A.2.2. Practical

See IV.A.2.1. above.

IV.A.3. National law

IV.A.3.1. Legal

To our knowledge there exist no particular difficulties of a legal or of a practical nature which result from the process of legalisation or other similar or equivalent requirements applied to outgoing documents.

IV.A.3.2. Practical

The only practical difficulty we are aware of in Luxembourg is the rather long delay necessary to obtain a legalisation (approximately 4 days). This will nevertheless change once the system currently used by the authorities will become electronic.

PART IV.B. Specific

1. Documents proving involuntary unemployment

To our knowledge there exist no particular difficulties of a legal or of a practical nature which result from the process of legalisation or other similar or equivalent requirements applied to the outgoing documents mentioned in part IV.B. (points 1-13 below).

2. Documents proving a family relationship or other durable relationship

See IV.B.1. above.

3. Documents proving or contesting a parent-child relationship

See IV.B.1. above.

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

See IV.B.1. above.

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

See IV.B.1. above.

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

See IV.B.1. above.

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

See IV.B.1. above.

8. Documents proving a person's death

See IV.B.1. above.

9. Documents proving a person's date of birth

See IV.B.1. above.

10. Documents proving the establishment by incorporation of a company

See IV.B.1. above.

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

See IV.B.1. above.

12. Documents proving the latest banking accounts of a company

See IV.B.1. above.

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

See IV.B.1. above.

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

To our knowledge there exist no requirements or procedures nor effects rules that overtly discriminate on grounds of nationality or otherwise appear discriminatory. This was confirmed by Mr P. Kirtz, responsible for the Apostille/legalisation service at the Ministry of Foreign Affairs. We are not aware of any other specific issues arising in relation to questions 1-12 set out in part V of the Explanatory Memorandum.

V.A.1.2 Effects rules

See V.A.1.1. above.

V.A.2. Parallel international agreements

V.A.2.1 Requirements and procedures

To our knowledge there exist no requirements or procedures nor effects rules that overtly discriminate on grounds of nationality or otherwise appear discriminatory. We are not aware of any other specific issues arising in relation to questions 1-12 set out in part V of the Explanatory Memorandum.

V.A.2.2 Effects rules

See V.A.2.1. above.

V.A.3. National law

V.A.3.1 Requirements and procedures

To our knowledge there exist no requirements or procedures nor effects rules that overtly discriminate on grounds of nationality or otherwise appear discriminatory. This was confirmed by Mr P. Kirtz, responsible for the Apostille/legalisation service at the Ministry of Foreign Affairs. We are not aware of any other specific issues arising in relation to questions 1-12 set out in part V of the Explanatory Memorandum.

V.A.3.2 Effects rules

See V.A.3.1. above.

PART V.B. Specific

1. Documents proving involuntary unemployment

2. Documents proving a family relationship or other durable relationship

3. Documents proving or contesting a parent-child relationship

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

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

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

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

8. Documents proving a person's death

9. Documents proving a person's date of birth

10. Documents proving the establishment by incorporation of a company

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

12. Documents proving the latest banking accounts of a company

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

PART VI – Suggested action

OVERVIEW OF PART VI

VI.1. European

VI.2. Intergovernmental

VI.3. National