

Legalisation of Public Documents within the EU Member States

SPAIN

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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

Spain has not taken any special measure in order to implement Article 19 of Regulation (CE) No 1346/2000. However, Spain has effectively implemented this Community Instrument requirement into our legal order.

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

Spain has not taken any special measure in order to implement Article 4(4) of Regulation (CE) No 1348/2000. However, Spain has effectively implemented this Community Instrument requirement into our legal order.

Article 56 of Regulation (EC) No 44/2001

Spain has not taken any special measure in order to implement Article 56 of Regulation (CE) No 44/2001. However, Spain has effectively implemented this Community Instrument requirement into our legal order.

Article 57 of Regulation (EC) No 44/2001

Spain has not taken any special measure in order to implement Article 57 of Regulation (EC) No 44/2001. However, Spain has effectively implemented this Community Instrument requirement into our legal order.

Article 58 of Regulation (EC) No 44/2001

Spain has not taken any special measure in order to implement Article 58 of Regulation (EC) No 44/2001. However, Spain has effectively implemented this Community Instrument requirement into our legal order.

Article 46 Regulation (EC) No 2201/2003

Spain has not taken any special measure in order to implement Article 46 of

Regulation (EC) No 2201/2003. However, Spain has effectively implemented this Community Instrument requirement into our legal order.

Article 52 of Regulation (EC) No 2201/2003

Spain has not taken any special measure in order to implement Article 52 of Regulation (EC) No 2201/2003. However, Spain has effectively implemented this Community Instrument requirement into our legal order.

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)

Spain has taken a legislative measure in order to facilitate the issuance of the certificates concerning judgments on parental responsibility (Article 39), judgments on rights of access (Article 41) and the return of the child. *The Ley 19/2006, de 5 de junio, por el que se amplían los medios de tutela de los derechos de propiedad intelectual e industrial y se establecen normas procesales para facilitar la aplicación de diversos reglamentos comunitarios* (BOE No 134 of 6 June 2006) introduces two new provisions (*Disposición final vigésima primera* and *Disposición final vigésima segunda*) into the *Ley 1/2001, de 7 de enero, de Enjuiciamiento Civil* (BOE No 7 of 8 January 2000; corrigendum, BOE No 90 of 13 April 2000). In this sense, the *Disposición final vigésima segunda* states how the court has issue or rectify these certificates in accordance with our legal order. Spain has effectively implemented this Community Instrument requirement into our legal order.

Article 27 of Regulation (EC) No 805/2004

Spain has not taken any special measure in order to implement Article 52 of Regulation (EC) No 2201/2003. However, Spain has effectively implemented this Community instrument requirement into our legal order.

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

Spain has taken a legislative measure in order to facilitate the issuance of the certificates drawn up in the standard forms of Annex I, II and III. *The Ley 19/2006, de 5 de junio, por el que se amplían los medios de tutela de los derechos de propiedad intelectual e industrial y se establecen normas procesales para facilitar la aplicación de diversos reglamentos comunitarios* (BOE No 134 of 6 June 2006) introduces two new provisions (*Disposición final vigésima primera* and *Disposición final vigésima segunda*) into the *Ley 1/2001, de 7 de enero, de Enjuiciamiento Civil* (BOE No 7 of 8 January 2000; corrigendum, BOE No 90 of 13 April 2000). In this sense, the *Disposición final vigésima primera* designs the authorities for issuing these certificates and how they have to issue or rectify the aforementioned documents in accordance with our legal order. Spain has effectively implemented this Community Instrument requirement into our legal order.

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

To transpose the Directive 2002/8/EC into the national law, Spain brought into force the *Ley 16/2005, de 18 de Julio, por la que se modifica la Ley 1/1996, de 10 de enero, de asistencia jurídica gratuita, para regular las especialidades de los litigios transfronterizos civiles y mercantiles en la Unión Europea* (BOE No 171, 19 of August 2005). This law regulates the legal aid in cross-border disputes within the European Union in its Chapter 8. In accordance with Article 50.2, the documents forwarded by the transmitting authorities in application of the aforesaid Chapter shall exempt from legalization and any other similar formalities.

“Art. 50.2.Los Documentos remitidos por las autoridades expedidoras competentes en aplicación de este Capítulo estarán exentos de legalización y de cualquier otra formalidad equivalente”

In this sense, Spain has effectively implemented this Community Instrument requirement into our legal order.

Free movement of goods (Article 23 EC)

Article 250 of Regulation (EEC) No 2913/92

Spain has not taken any special measure in order to implement Article 250 of Regulation No 2913/92. However, Spain has effectively implemented this Community instrument requirement into our legal order.

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

Spain has not taken any special measure in order to implement Article 85 of Regulation (CE) No 1408/71. However, Spain has effectively implemented this Community Instrument requirement into our legal order.

I.A.1.3. Judicial control

Please see annexed cases.

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

I.A.2.1. Status

The information on the status of the ‘Apostille’ Convention that you provided to us is correct. Spain signed it on 21 October 1976 and ratified it on 25 September 1978. The Convention came into force in Spain on 27 September 1978.

I.A.2.2. Scope

The scope of application of the provisions of the ‘Apostille’ Convention has not been extended beyond the States party to the Convention. Notwithstanding, as regards the Apostille issued in Gibraltar, Spain informed the depositary of the Convention by note No 89 dated August 1997 that it do not accept the validity of Apostille issued by the United Kingdom in Gibraltar in which appears the name of the Colony as a country.

Finally, the scope of application of the Convention *ratione materiae* has neither been limited nor extended.

I.A.2.3. Legislative implementation

Once the ‘Apostille’ Convention was published in the Official Spanish Gazette (*Boletín Oficial del Estado* or *BOE*), this was incorporated into our legal order. The Convention was exactly published in *BOE* No 229 of 25 September 1978. In order to designate the competent authorities for issuing the Apostille and establish the form of model of the Apostille, the Spanish government passed the *Real Decreto 2433/1978, de 2 de Octubre, por el que se determinan los funcionarios competentes para realizar la legalización única o Apostilla prevista por el Convenio XII de la Conferencia de La Haya, de 5 de octubre de 1961 (BOE No 248, of 17 October 1978)* and the *Orden Ministerial de 30 de diciembre de 1978 por la que se interpreta y desarrolla el Real Decreto 2433/1978, de 2 de octubre, sobre supresión de legalizaciones en relación con los países vinculados por el Convenio de la haya de 5 de octubre de 1961 (BOE No 17, of 19 January 1979)*.

I.A.2.4. Practical implementation

The Issuance of the Apostille

1. The methods that an Apostille can be requested are generally by person, mail and registered mail. In practice, the most common is to make the request by person, as they are original documents, that cannot be sent by fax or mail.
2. The competent authority verifies the authenticity of the signature and the capacity in the person who sign the document through a register that contains the signatures of those persons.
3. The form of the Apostille is laid down in the *Real Decreto 2433/1978, de 2 de Octubre, por el que se determinan los funcionarios competentes para realizar la legalización única o Apostilla prevista por el Convenio XII de la Conferencia de La Haya, de 5 de octubre de 1961 (BOE No 248, of 17 October 1978)*. We provide to you a sample of an apostille issued by the *Colegio Notarial de Catalunya*.
4. It depends on whether there is enough space on the document. Indeed, if there is enough space on the public document the Apostille is placed on it, otherwise it is placed on a so-called allonge.
5. The Apostille is placed at the end of the last page (if there is enough space on the document) or on a so-called allonge.
6. The language used is Spanish.
7. Depending on the volume of requests that the competent authority receives, this can use either a simply seal or printing out the Apostille on the document or on a so-called allonge(printer).
8. The Apostille describes the document where it is attached. Moreover, the Association of Notaries Public and the Secretary of the Regional High Court of Catalunya, for ex., place a security stamp on the Apostille.
9. At that moment, there is no specific plan to modernize the system used to issue Apostilles.
10. From receiving the request until delivering the Apostille, the process generally takes between 2 or 3 days.If it is urgent, the Apostille may be delivered the same day.
11. There is no fee payable for the Apostille issued by the Secretaries of the Regional High Courts (*Secretarios de la Sala de Gobierno de Tribunales Superiores de Justicia*) and the Head of the Central Section of the Subsecretary of the Ministry of Justice (*el Jefe de la Sección Central de la Subsecretaría del Ministerio de Justicia*).
Notwithstanding, the Apostille issued by the President of the Association of Public Notaries (*Decanos de los Colegios de Notarios*) is charged by the fee of 3,94 euros. The fee is established by the schedule of officially authorised public notary fees and charges (called *Arancel Notarial*). The fee only covers the cost of the issuance.

Registration or card index requirement

1. It depends on the amount of the requests and Apostilles issued. Each competent authority is free to choose the most useful system. For instance, the *Colegio Notarial de Catalunya* and the Secretary of the Regional High Court of Catalunya use an electronic register.
2. There is no plan to modernize the system.
3. It has to be requested to the competent authority that has issued the Apostille.

Competent Authorities

According to the *Real Decreto* 2433/1978 of 2 October 1978 and the *Orden Ministerial* of 20 December 1978, the competent authorities for issuing the Apostille are the following:

1. For documents emanating from competent judicial authorities, the Secretaries of the Regional High Courts of the Autonomous Community (*Secretarios de la Sala de Gobierno de Tribunales Superiores de Justicia*). There are 17 *Tribunales Superiores de Justicia*. Their contact details are:

- Comunidad Autónoma de Andalucía
Address: Plaza Nueva. 18014. Granada.
Tel.: +34 95 800 26 02
- Comunidad Autónoma de Aragón
Address: Calle Coso,1. 50071. Zaragoza.
Tel.: + 34 97 620 84 00
- Comunidad Autónoma de Asturias
Address: Plaza Porlier s/n. Oviedo.
Tel.: + 34 98 521 19 96
- Comunidad Autónoma de Baleares
Address: Plaça des Mercat, 12. 07071. Palma de Mallorca.
Tel.: +34 97 172 12 39
- Comunidad Autónoma de Canarias
Address: Plaza San Agustín, 6 Vegueta. 35071. Las Palmas de Gran Canaria.
Tel.: + 34 92 832 50 00
- Comunidad Autónoma de Cantabria
Address: Avenida Pedro San Martín, s/n. 39071. Santander.
Tel.: + 34 94 235 71 18
- Comunidad Autónoma de Castilla La Mancha
Address: Calle San Agustín, 1. 02071. Albacete.
Tel.: + 34 96 759 65 09
- Comunidad Autónoma de Castilla y León
Address: Avenida de la Isla, 10. 09071. Burgos.
Tel.: + 34 94 720 09 09
- Comunidad Autónoma de Cataluña
Address: Passeig Luís Companys, 14-16. 08071. Barcelona.
Tel.: + 34 93 486 61 83
- Comunidad Autónoma de Extremadura
Address: Plaza de la Audiencia, 1. 10071. Cáceres.
Tel.: + 34 92 762 02 01
- Comunidad Autónoma de Galicia
Address: Plaza Galicia, s/n. 15071. La Coruña.
Tel.: + 34 98 118 20 54
- Comunidad Autónoma de La Rioja

Address: Calle Víctor Pradera, 2. 26071. Logroño.
Tel.: + 34 94 129 64 02

- Comunidad Autónoma de Madrid
Address: General Carlos Castaños, 1,28071. Madrid.
Tel.: + 34 91 397 17 55
- Comunidad Autónoma de Murcia
Address: Ronda de Garay, 5. 30071. Murcia.
Tel.: + 34 96 822 91 05
- Comunidad Autónoma de Navarra
Address: Calle San Roque, 4. 31071. Pamplona.
Tel.: + 34 84 842 40 56
- Comunidad Autónoma del País Vasco
Address: Calle Buenos Aires, 6. 48071. Bilbao.
Tel. + 34 94 401 66 53
- Comunidad Autónoma de Valencia
Address: Calle Palacio de Justicia, s/n. 46071. Valencia.
Tel.: + 34 96 387 81 00

2. For documents authenticated by a notary public, or private documents where the signatures have been authenticated by a notary public, the President of the relevant Association of Notaries Public (Decano de los Colegios notariales) or the person legally responsible for its affairs. There are 16 Associations of Notaries Public in Spain. Each one covers different provinces. The contact details are the following:

- Colegio Notarial de Albacete
It covers the provinces of Albacete, Ciudad Real, Cuenca and Murcia
Address: Calle Marqués de Molins, 4. 02001. Albacete
Tel.: + 34 96 721 53 96 / 721 53 05
Fax: + 34 96 724 25 04
Webpage: www.albacete.notariado.org
E-mail: colegio@albacete.notariado.org
- Colegio Notarial de Aragón
It covers the provinces of Huesca, Teruel and Zaragoza
Address: Plaza del Justicia, 2. 50003. Zaragoza
Tel.: + 34 97 620 37 80 / + 34 97 620 37 82
Fax: + 34 97 620 37 81
Webpage: www.colegionotarialdezaragoza.com
E-mail: info@aragon.notariado.org
- Colegio Notarial de Bilbao
It covers the provinces of Alava and Vizcaya
Address: Calle Henao, 8. 48009. Bilbao.
Tel.: + 34 94 424 05 60 / + 34 94 424 01 94
Fax: + 34 94 423 21 10
E-mail: colegio@bilbao.notariado.org
- Colegio Notarial de Burgos
It covers the provinces of Burgos, Cantabria, La Rioja and Soria
Address: Calle Almirante Bonifaz, 18, 1º. 09003. Burgos

Tel.: + 34 94 720 38 74 / + 34 94 726 27 83

Fax: + 34 94 726 05 34

E-mail: colegio@burgos.notariado.org

- Colegio Notarial de Cataluña
It covers the provinces of Barcelona, Girona, Lleida and Tarragona
Address: Calle Notariado, 4. 08001. Barcelona
Tel.: + 34 93 317 48 00 / +34 93 317 44 78
Fax: + 34 93 302 63 31
Webpage: www.colnotcat.es
E-mail: info@catalunya.notariado.org
- Colegio Notarial de Extremadura
It covers the provinces of Badajoz and Cáceres
Address: Calle Muñoz Chaves, 10. 10003. Caceres
Tel.: + 34 92 724 51 43
Fax: + 34 92 721 41 37
E-mail: colegio@extremadura.notariado.org
- Colegio Notarial de Galicia
It covers the provinces of La Coruña, Lugo, Ourense and Pontevedra
Address: Calle Arzobispo Lago, 12. 15004. La Coruña
Tel.: + 34 98 112 04 81 / + 34 98 112 04 78
Fax: + 34 98 112 20 14
E-mail: colegio@galicia.colnot.com
- Colegio Notarial de Granada
It covers the provinces of Almería, Granada, Jaén, Málaga and Melilla
Address: San Jerónimo, 50. 18001. Granada
Tel.: + 34 95 820 27 11
Fax: + 34 95 828 11 22
Webpage: www.granada.notariado.org
E-mail: colegio@granada.notariado.org
- Colegio Notarial de las Islas Baleares
It covers the Islas Baleares
Address: Vía Roma, 4. 07012. Palma de Mallorca (Baleares)
Tel.: + 34 97 171 22 44 / + 34 97 771 35 03
Fax: + 34 97 171 87 64
Webpage: www.baleares.notariado.org
E-mail: colegio@baleares.notariado.org
- Colegio Notarial de las Islas Canarias
It covers Las Palmas and Tenerife
Address: Los Balcones, 18. 35001. Las Palmas de Gran Canaria
Tel.: + 34 92 833 61 78 / + 34 92 833 61 86
Fax: + 34 92 831 79 61
Webpage: www.colnotislascanarias.com
E-mail: colegio@canarias.notariado.org
- Colegio Notarial de Madrid
It covers the provinces of Avila, Guadalajara, Madrid, Segovia and Toledo
Address: Calle Ruiz de Alarcón, 3. 28014. Madrid
Tel.: + 34 91 213 00 00

Fax: + 34 91 213 00 48
Webpage: www.madrid.notariado.org
E-mail: info@madrid.notariado.org

- Colegio Notarial de Oviedo
It covers the province of Asturias
Address: Plaza Alfonso II el Casto, 12. 33003, Oviedo
Tel.: + 34 98 521 30 08
Fax: + 34 98 520 82 45
E-mail: colegio@oviedo.notariado.org
- Colegio Notarial de Pamplona
It covers the provinces of Guipúzcoa and Navarra
Address: Avenida Carlos III el Noble, 27. 31002. Pamplona
Tel.: + 34 94 822 89 38 / + 34 94 822 98 59
Fax: + 34 94 822 75 94
Webpage: www.pamplona.notariado.org
E-mail: colegio@pamplona.colnot.com
- Colegio Notarial de Sevilla
It covers the provinces of Cádiz, Ceuta, Córdoba, Huelva and Sevilla
Address: Calle San Miguel, 1. 41002. Sevilla
Tel.: + 34 95 491 59 44
Fax: + 34 95 491 54 72
Webpage www.cnotarial-sevilla.com
E-mail: colegio@sevilla.notariado.org
- Colegio Notarial de Valencia
It covers the provinces of Alicante, Castellón and Valencia
Address: Calle Pascual y Genís, 21. 46002. Valencia
Tel.: + 34 96 351 25 85
Fax: + 34 96 351 65 53
Webpage www.cnotarial-valencia.com
E-mail: colegio@cnotarial-valencia.com
- Colegio Notarial de Valladolid
It covers the provinces of León, Palencia, Salamanca, Valladolid and Zamora
Address: Calle Teresa Gil, 14. 47002. *Valladolid*
Tel.: + 34 98 321 77 75
Fax: + 34 98 321 77 76
Webpage: www.valladolid.notariado.org
E-mail: info@valladolid.notariado.org

3. For documents issued by authorities of the Central Administration, the Head of the Central Section of the Subsecretary of the Ministry of Justice (*el Jefe de la Sección Central de la Subsecretaría del Ministerio de Justicia*). Its contact details:

Address: *Calle Bernardo 45. 28015. Madrid*
Tel.: + 34 91 390 20 11
Fax: + 34 91 390 20 54

Contact person:
Luis Acebes
Head of the Section of Legalizations (*Jefe de la Sección de Legalizaciones*)

E-mail: l.acebes@sb.mju.es

4. For other public documents, the competent authorities are either the Secretaries of the *Sala de Gobierno de los Tribunales Superiores de Justicia* or the President of the relevant Association of Notaries public.

I.A.2.5. Judicial control

Please see annexed cases.

I.A.2.6. Empirical analysis

PUBLIC DOCUMENT <i>[number processed quantification]</i>	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>
Sample Authority: <i>Colegio Notarial de Catalunya</i>					
JUDICIAL DOCUMENT	0	0	0	0	0
ADMINISTRATIVE DOCUMENT	25	222	34	12	12
NOTARIAL ACT	180	334	375	326	326
OFFICIAL CERTIFICATE	90	161	127	129	129

PUBLIC DOCUMENT <i>[number processed quantification]</i>	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>
Sample Authority: <i>Secretario de la Sala de Gobierno del Tribunal Superior de Justicia de Catalunya</i>					
JUDICIAL DOCUMENT	33	68	57	57	74
ADMINISTRATIVE DOCUMENT	83	18	23	6	6

OFFICIAL CERTIFICATE	0	0	0	0	0
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I.A.3. Parallel international agreements

I.A.3.1. Status

1) The Council of Europe Convention of 7 June 1968 for the Abolition of Legalisation of Documents Executed by Diplomatic Agents or Consular officer

Spain is a State party to this Convention. Spain signed it on 15 April 1982 and ratified on 10 June 1982. The Convention came into force in Spain on 11 September 1982.

2) 1987 Brussels Convention abolishing the Legalisation of Documents in the Member States of the European Communities

Spain is not a State party to this Convention.

3) Agreements Abolishing the requirement of legalization for foreign public documents generally between two or more countries

- The ICCS (International Commission on Civil Status) Convention of 15 September 1977 on the Exemption from Legalization of Certain Records and Documents

Spain is a State party to this Convention. Spain signed it on 15 September 1977 and ratified it on 19 February 1981. The Convention came into force in Spain on 1 May 1981.

4) Agreements Abolishing the requirement of legalization for categories of documents relating to a specific Subject matter:

a) Multilateral Agreements:

- The Hague Convention of 15 April 1958 concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations Towards Children

Spain is a State party to this Convention. Spain signed it on 18 January 1973 and ratified it on 11 September 1973. The Convention came into force in Spain on 9 November 1973.

- The Hague Convention of 15 November 1965 on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Spain is a State party to this Convention. Spain signed it on 21 September 1976 and ratified it on 4 June 1987. The Convention came into force in Spain on 3 August 1987.

- The Brussels Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters

Spain is a State party to this Convention. Spain signed the Convention on the accession to the 1968 Brussels Convention on 26 May 1989 and ratified it on 29 October 1990. The Brussels Convention came into force in Spain on 1 February 1991.

- The Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters

Spain is a State party to this Convention. Spain signed it on 21 of October 1976 and ratified it on 22 May 1987. The Convention came into force in Spain on 21 July 1987.

- The Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations

Spain is a State party to this Convention. Spain signed it on 26 October 1982 and ratified it on 16 June 1987. The Convention came into effect in Spain on 1 September 1987.

- The ICCS Convention of 8 September 1976 on the Issue of Multilingual Extracts from Civil Status Records.

Spain is a State party to this Agreement. Spain signed it on 8 September 1976 and ratified it on 25 March 1980. The Agreement came into force in Spain on 30 July 1983.

- The Council of Europe Agreement of 27 June 1977 on the Transmission of Application for Legal Aid

Spain is a State party to this Agreement. Spain signed it on 15 April 1982 and ratified it on 29 November 1985. The Agreement came into force in Spain on 30 December 1985.

- The Council of Europe Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children

Spain is a State party to this Convention. Spain signed it on 20 May 1980 and ratified it on 30 May 1984. The Convention came into force in Spain on 1 September 1984.

- The ICCS Convention of 5 September 1980 on the Issue of a Certificate of Legal Capacity to Marry

Spain is a State party to this Convention. Spain signed it on 5 September 1980 and ratified it on 2 March 1988. The Convention came into force on 1 June of 1988.

- The Hague Convention of 25 October 1980 on Civil Aspects of International Child Abduction

Spain is a State party to this Convention. Spain signed it on 7 February 1986 and ratified it on 16 June 1987. The Convention came into force in Spain on 1

September 1987.

- The Hague Convention of 25 October 1980 on International Access to Justice

Spain is a State party to this Convention. Spain signed it on 12 January 1987 and ratified it on 8 February 1988. The Convention came into force in Spain on 1 May 1988.

- The ICCS Convention of 8 September 1982 on the Issue of a Certificate of Differing Surnames

Spain is a State party to this Convention, Spain signed it on 8 September 1982 and ratified it on 7 April 1988. The Convention came into force on 1 July 1988.

- The Lugano Convention of 16 September 1988 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters

Spain is a State party to this Convention. Spain signed it on 19 January 1994 and ratified it on August 1994. The Convention came into force on 1 November 1994.

- The ICCS Convention of 10 September 1998 on issue of a life certificate

Spain is a State party to this Convention. Spain signed it on 10 September 1998 and ratified on 25 February 2001. The Convention came into force on 1 September 2001. This Convention is included although it is only in force between Spain and Turkey.

b) Bilateral Agreements

- The Convention between Spain and Italy on the Exchange of Documents in Civil Register Matters and the Exemption from Legalization of Certain Records and Documents, signed at Madrid on 10 October 1983.

The Convention came into force on 10 October 1983.

Finally, we have to take into account that there are more Agreements between Spain and others Member States whose provisions abolish the requirement of legalisation for certain categories of documents. However they are superseded by the Community Instruments for the matters included in the scope of those instruments. These agreements are the following:

- The Convention between Spain and France on the Recognition and Enforcement of Judgment Arbitration Awards in Civil and Commercial Matters, signed at Paris on 29 May 1969

The Convention came into force on 29 March 1970.

- The Convention between Spain and Italy regarding Legal Aid and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Madrid on 22 May 1973

The Convention came into force on 10 December 1977.

- The Convention between Spain and the Federal Republic of Germany on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Bonn on 14 November 1983

The Convention came into force on 18 April 1988.

- The Convention between Spain and Austria on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 17 February 1984

The Convention came into force on 1 October 1985.

- The Treaty between the Czechoslovak Socialist Republic and the Kingdom of Spain on Legal Aid, Recognition and Enforcement of Court Decisions in Civil Matters, signed at Madrid on May 1987, still in force between the Czech Republic, Slovakia and Spain

The Treaty came into force on 10 December 1988

I.A.3.2. Scope

Neither the geographical nor material scope of application of these agreements has been modified.

The Interrelation between the Agreements:

Firstly, the Council of Europe Convention for the Abolition of Legalisation of Documents Executed by Diplomatic Agents or Consular officer covers a specific field of application which is excluded by the 'Apostille' Convention.

Secondly, as regards the interrelation between the 'Apostille' Convention and the other Agreements referred to in part I.A.3.1, Article 3.2 of the 'Apostille' Convention states that Apostille cannot be required when an agreement between two or more Contracting States have abolished or simplified it, or exempt the document itself from legalisation. Consequently, the Conventions mentioned above take prevalence over the 'Apostille' Convention because they exempt totally from legalization of certain documents.

The Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations, it replaces, as regards the States who are Parties to it, the Hague Convention of 15 April 1958 concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations Towards Children. The rest of the Hague Conventions have specific scope of application.

With regards to the ICCS Conventions, the Convention of 15 September 1977 abolishes, in general terms, the legalisation of records and documents relating to the civil status. The other ICCS Conventions exempt from legalisation or any equivalent formality of specific documents or records relating to the civil status, taking prevalence over the Convention 15 September 1977.

Finally, the Convention between Spain and Italy on the Exchange of Documents in Civil Register Matters and the Exemption from Legalization of Certain Records and Documents follow the system of the ICCS Convention of 15 September 1977 where both States are parties to this Convention.

I.A.3.3. Legislative implementation

Once the agreements have been published in the Official Spanish Gazette (*Boletín Oficial del Estado* or *BOE*), these are incorporated into our legal order without being necessary to take any special measure. Notwithstanding, sometimes, it is necessary to develop the content of the agreement in order to become totally operative through Acts that design the competent authority or establish the standard forms of the certificates.

Attention has to be paid to the *Instrucción de la Dirección General de los Registros y del Notariado* 20th March 2006 to prevent documentary fraud in questions related to civil status.

In that point, the Conventions published in the Official Spanish Gazette were:

The Council of Europe Convention of 7 June 1968 for the Abolition of Legalisation of Documents Executed by Diplomatic Agents or Consular officer

It was published in *BOE* No 206 of 28 August 1982.

Agreements Abolishing the requirement of legalization for foreign public documents generally between two or more countries

- **The ICCS (International Commission on Civil Status) Convention of 15 September 1977 on the Exemption from Legalization of Certain Records and Documents**

It was published in *BOE* No 112 of 11 of May 1981; corrigendum, *BOE* No 145 of 18 June and No 169 of 19 July 1981.

Agreements Abolishing the requirement of legalization for categories of documents relating to a specific Subject matter:

a) Multilateral Agreements:

- The Hague Convention of 15 April 1958 concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations Towards Children

It was published in *BOE* No 271 of 12 November 1973.

- The Hague Convention of 15 November 1965 on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

It was published in *BOE* No 2003 of 25 August 1987; corrigendum, *BOE* No 88 of 13 April 1989.

- The Brussels Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters

The Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters was published in *BOE* No 24 of 28 January 1991.

- The Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters

It was published in *BOE* No 203 of 25 August 1987.

- The Hague Convention of 2 October 1973 the Recognition and Enforcement of Decisions relating to Maintenance Obligations

It was published in *BOE* No 192 of 12 August 1987; corrigendum, *BOE* No 282 of 25 November 1987.

- The ICCS Convention of 8 September 1976 on the Issue of Multilingual Extracts from Civil Status Records.

It was published in *BOE* No 200 of 22 August 1983.

- The Council of Europe Agreement of 27 June 1977 on the Transmission of Application for Legal Aid

It was published in *BOE* No 305 of 21 December 1985.

- The Council of Europe Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children

It was published in *BOE* No 210 of 1 September 1984.

- The ICCS Convention of 5 September 1980 on the Issue of a Certificate of Legal Capacity to Marry

It was published in *BOE* No 117 of 16 May 1988.

- The Hague Convention of 25 October 1980 on Civil Aspects of International Child Abduction

It was published in *BOE* No 202 of 24 August 1987; corrigendum, *BOE* No 155 of 30 June 1989 and *BOE* No 21 of 24 January 1996.

- The Hague Convention of 25 October 1980 on International Access to Justice

It was published in *BOE* No 77 of 30 March 1988; corrigendum, *BOE* No 86 of 11 April of 1989.

- The ICCS Convention of 8 September 1982 on the Issue of a Certificate of differing surnames

It was published in *BOE* No 139 of 10 June 1988.

- The Lugano Convention of 16 September 1988 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters

It was published in *BOE* No 251 of October 1884; corrigendum, *BOE* No 8 of 10 January 1995.

- The ICCS Convention of 10 September 1998 on issue of a life certificate

It was published in *BOE* No 194 of August 2004. This Convention is included although it is only in force between Spain and Turkey.

b) Bilateral Agreements

- The Convention between Spain and Italy on the Exchange of Documents in Civil Register Matters and the Exemption from Legalization of Certain Records and Documents, signed at Madrid on 10 October 1983.

It was published in *BOE* No 124 of 24 May 1986.

- The Convention between Spain and France on the Recognition and Enforcement of Judgment Arbitration Awards in Civil and Commercial Matters, signed at Paris on 29 May 1969

It was published in *BOE* No 63 of 14 March 1970.

- The Convention between Spain and Italy regarding Legal Aid and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Madrid on 22 May 1973

It was published in *BOE* No 273 of 15 November 1977.

- The Convention between Spain and the Federal Republic of Germany on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Bonn on 14 November 1983

It was published in *BOE* No 40 of 16 February 1988.

- The Convention between Spain and Austria on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 17 February 1984

It was published in *BOE* No 207 of 29 August 1985.

- The Treaty between the Czechoslovak Socialist Republic and the Kingdom of Spain on Legal Aid, Recognition and Enforcement of Court Decisions in Civil Matters, signed at Madrid on May 1987, still in force between the Czech Republic, Slovakia and Spain

It was published in *BOE* No 290 of 3 December 1988; corrigendum, *BOE* No 22 of 26 January 1989.

I.A.3.4. Practical implementation

The implementation process of the identified agreement(s) in practice:

The same procedure is applied to all the documents falling within the scope of such agreements and all the States party. Therefore, there is no difference of treatment between documents or between States party.

The Competent Authorities in the different Agreements:

- The Hague Convention of 15 November 1965 on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

According to *the Real Decreto 1475/2004, de 18 de junio, por el que se desarrolla la estructura orgánica básica del Ministerio de Justicia (B.O.E. No 148 of 19 June 2004)*, the competent authority charged with the practical implementation of this Convention is:

The *Subdirección general de Cooperación Jurídica Internacional*

Address: Calle San Bernardo, 62. 28015. Madrid

Contact Person: - *Silvia Villa Albertini*

E-mail: silvia.villa@mjusticia.es

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- *Isabel Vevia Romero*

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E-mail: mariaisabel.vevia@mjusticia.es

- The Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters

According to *the Real Decreto 1475/2004, de 18 de junio, por el que se desarrolla la estructura orgánica básica del Ministerio de Justicia (BOE No 148 of 19 June 2004)*, the competent authority charged with the practical implementation of this Convention is:

The *Subdirección general de Cooperación Jurídica Internacional*

Address: Calle San Bernardo, 62. 28015. Madrid

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- The Council of Europe Agreement of 1 June 1977 on the Transmission of application for Legal Aid

According to *the Real Decreto 1475/2004, de 18 de junio, por el que se desarrolla la estructura orgánica básica del Ministerio de Justicia (BOE No 148 of 19 June 2004)*, the competent authority charged with the practical implementation of this Convention is:

The *Subdirección general de Cooperación Jurídica Internacional*

Address: Calle San Bernardo, 62. 28015. Madrid

Contact Person: - *Elisa González Sánchez*

Tel: +34 91 390 42 73
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E-mail: elisa.gonzalez@mjusticia.es

- The Council of Europe Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children

According to *the Real Decreto 1475/2004, de 18 de junio, por el que se desarrolla la estructura orgánica básica del Ministerio de Justicia (BOE No 148 of 19 June 2004)*, the competent authority charged with the practical implementation of this Convention is:

The *Subdirección general de Cooperación Jurídica Internacional*
Address: Calle San Bernardo, 62. 28015. Madrid
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Tel: +34 91 390 44 37
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- *Juan Pedro Valenzuela Doussignaue*
Tel. + 34 91 390 44 26
Fax: + 34 91 390 23 83
E-mail: juanpedro.valenzuela@mjusticia.es

- The Hague Convention of 25 October 1980 on Civil Aspects of International Child Abduction

According to *the Real Decreto 1475/2004, de 18 de junio, por el que se desarrolla la estructura orgánica básica del Ministerio de Justicia (BOE No 148 of 19 June 2004)*, the competent authority charged with the practical implementation of this Convention is:

The *Subdirección general de Cooperación Jurídica Internacional*
Address: Calle San Bernardo, 62. 28015. Madrid
The *Subdirección general de Cooperación Jurídica Internacional*
Address: Calle San Bernardo, 62. 28015. Madrid
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- *Juan Pedro Valenzuela Doussignaue*
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E-mail: juanpedro.valenzuela@mjusticia.es

— The Hague Convention of 25 October 1980 on International Access to Justice

According to *the Real Decreto 1475/2004, de 18 de junio, por el que se desarrolla la estructura orgánica básica del Ministerio de Justicia (BOE No 148 of 19 June 2004)*, the competent authority charged with the practical implementation of this Convention is:

The *Subdirección General de Cooperación Jurídica Internacional*

Address: Calle San Bernardo, 62. 28015. Madrid

Contact Person: - *Elisa González Sánchez*

Tel: +34 91 390 42 73

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E-mail: elisa.gonzalez@mjusticia.es

I.A.3.5. Judicial control

Please see annexed cases.

I.A.4. National Law

I.A.4.1. Legislative framework

The Spanish process of legalisation consists on a chain of authentications of different authorities that finish forwarding the public document to the Consular/Diplomatic Representation of the country where the document will take effect.

There are no provisions that establish the process of legalisation in the Spanish legal order. Consequently, the legalisation process is a common practice.

I.A.4.2. Scope

The geographical scope of application of the legalisation extends to all the States non-party to the 'Apostille' Convention, and other Agreements which abolishes the legalisation and other similar formalities. The legalisation is applied on all public documents emanating from public authorities.

I.A.4.3. Practical implementation

1. There are different routes to legalize public documents depending on the character of these documents:

Judicial Route:

It is applied on judicial documents and documents related to civil status.

The responsible authorities for legalising these documents are in the following order:

- 1) The Chairmanship of the Regional High Courts (*Presidencia de los Tribunales Superiores de Justicia*)
- 2) The Ministry of Justice (*Ministerio de Justicia*)
- 3) The Ministry of Foreign Affairs and Cooperation (*Ministerio de Asuntos exteriores y Cooperación*)
- 4) The Consular/Diplomatic Representation of the country where the document will take effect

Notarial Route:

It is applied on the notarial documents.

The responsible authorities for legalising these documents are in the following order:

- 1) The Association of Notaries Public (*Colegio de Notarios*)
- 2) The Ministry of Justice
- 3) The Ministry of Foreign Affairs and Cooperation
- 4) The Consular/Diplomatic Representation of the country where the document will take effect

(Professional qualifications) Diplomas:

- 1) The responsible authority for legalizing professional qualifications (diplomas) and certificates issued by the Ministry of Education and Universities is the General Section for Diplomas, Recognitions and Official Approvals (*Subdirección General de Títulos, Convalidaciones y Homologaciones*). Notwithstanding, when the diploma or certificate is issued by Autonomous Communities, the competent authority is the authority designed by its regulation (see *infra*)
- 2) The Ministry of Foreign Affairs and Cooperation
- 3) The Consular/Diplomatic Representation of the country where the document will take effect

Documents of the Central Administration:

- 1) For documents issued by the Central Administration, the responsible authority is the body designed by the respective Ministry where the document is issued.
- 2) The Ministry of Foreign Affairs and Cooperation
- 3) The Consular/ Diplomatic Representation of the country where the document will take effect

Documents of the Territorial Administrations:

A) Autonomous Communities:

- 1) For documents emanating from the Administration of the different Autonomous Communities, the responsible authority is the body designed by their regulations.
- 2) The Ministry of Foreign Affairs and Cooperation
- 3) The Consular/ Diplomatic Representation of the country where the document will take effect

B) Local Administration

There are three different proceedings to legalise the documents issued by the Local Administrations:

- a) Judicial Route
- b) Notary Route
- c) 1) The General Direction for the Local Administration of the Ministry of Public Administration (*Dirección General para la Administración la Administración Local del Ministerio de Administraciones Públicas*)
 - 2) The Ministry of Foreign Affairs and Cooperation
 - 3) The Consular/ Diplomatic Representation of the country where the document will take effect

Certificates of the Land and Business Registers, Professional Associations and other documents

- 1) The Ministry of Justice
- 2) The Ministry of Foreign affairs and Cooperation
- 3) The Consular/Diplomatic Representation of the country where the document will take effect

As regards the incoming documents, the responsible authorities for legalising are the following:

- 1) The Spanish Consular/ Diplomatic Representation of the Country where the document was issued or authorised.
 - 2) The Ministry of Foreign affairs and Cooperation
2. The legalisation of public documents can be requested by person or by post before the different responsible authorities.
3. The procedure is the same for all the documents. The difference is the route to legalise the public documents and the responsible authorities.
4. The documents that must be provided are the original documents.
5. The official verifies the signature of the authority that signs the documents. Then, the authority places a seal on the original document which states the authenticity of the signature.
6. There is no fee, except for the legalisation of incoming documents by the Spanish Consular/Diplomatic representations. The fee is laid down in the *Ley 7/1987, de 29 de mayo, de tasas consulares (BOE No 131 of 2 June 1987)*.

I.A.4.4. Judicial control

Please see annexed cases.

PART I.B. Specific

I.B.1. Introduction

I.B.2. Specific documents

1. Documents proving involuntary unemployment

Firstly, the Directive 2004/38 referred to in the Explanatory Referendum has not been transposed in the Spanish law yet and, therefore, there is no specific provisions that develop it.

The State Employment Public Service (*Servicio Público de Empleo Estatal*) has an unemployment register in accordance with its competence to grant unemployment benefits and subsidies. The legal basis is the *Resolución de 1 de julio 2005 (BOE No 169 of 16 July 2005)* in accordance with *Real Decreto 525/1985, de 2 de abril, que desarrolla la Ley 31/1984 de Protección por desempleo* and *Real Decreto 200/2006 de 17 de febrero que modifica el anterior (BOE No 53 of 3 March 2006)*. In this sense, the Offices of the State Employment Public Service are the competent authorities for proving involuntary unemployment, without prejudice to the Employment Public Service of the different Autonomous communities which has been transferred intermediary competences.

There is no difference of treatment as regards the process of legalisation either between Spain and Member States and Spain and Third States.

2. Documents proving a family relationship or other durable relationship

Firstly, the Directive 2004/38 referred to in the Explanatory Referendum has not been transposed in the Spanish law yet and, therefore, there is no specific provisions that develop it.

The vital events related to the civil status of Spanish population, as the family relationship, are registered in the Spanish Civil Register in accordance with Article 1 of the *Ley del Registro Civil de 8 de junio de 1957* (BOE No 151 of 10 June 1957).

So, according to Article 17 of the *Reglamento del Registro Civil de 14 de noviembre de 1958* (BOE No 296 of December 1958; corrigendum BOE No 313 of 31 December 1958 and No 18 of 21 January 1959), the competent authority for issuing documents proving a family relationship is the Judge in charge of the Civil Register where the records related to this data are registered. In this sense, the judge in charge, assisted by the Secretary, is the only competent authority who can issue a certificate of the civil registration records.

With regards to other durable relationship, see I.B.2.2

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

There is not difference of treatment as regards the process of legalisation either between Spain and Member States or Spain and Third States.

3. Documents proving or contesting a parent-child relationship

The vital events related to the civil status of Spanish population, as the parent-child relationship, are registered in the Spanish Civil Register in accordance with Article 1 of the *Ley del Registro Civil de 8 de junio de 1957* (BOE No 151 of 10 June 1957).

So, according to Article 17 of the *Reglamento del Registro Civil de 14 de noviembre de 1958* (BOE No 296 of December 1958; corrigendum BOE No 313 of 31 December 1958 and No 18 of 21 January 1959), the competent authority for issuing documents proving or contesting a parent-child relationship is the judge in charge of the Civil Register where the records related to this data are registered. In this sense, the Judge in charge, assisted by the Secretary, is the only competent authority who can issue a certificate of the civil registration records.

There is not difference of treatment as regards the process of legalisation either between Spain and Member States or Spain and Third States.

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

The vital events related to the civil status of Spanish population, as the names and forenames, are registered in the Spanish Civil Register in accordance with Article 1 of the *Ley del Registro Civil de 8 de junio de 1957* (BOE No 151 of 10 June 1957). So, according to Article 17 of the *Reglamento del Registro Civil de 14 de noviembre de 1958* (BOE No 296 of December 1958; corrigendum BOE No 313 of 31 December 1958 and No 21 of January 1959), the competent authority for issuing documents proving the name and forenames of a child or adult is the Judge in charge of the Civil

Register where the records are registered. In this sense, the judge in charge, assisted by the Secretary, is the only competent authority who can issue a certificate of the civil registration records.

There is not difference of treatment as regards the process of legalization documents either between Spain and Member States or Spain and Third States. However we have to take into account that Spain is a State party to the ICCS Convention of 8 September 1982 on the Issue of a Certificate of differing surnames.

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

The vital events related to the civil status of Spanish population, as the annulling/terminating the heterosexual and homosexual marriage, are registered in the Spanish Civil Register in accordance with Article 1 of the *Ley del Registro Civil de 8 de junio de 1957* (BOE No 151 of 10 June 1957).

So, according to Article 17 of the *Reglamento del Registro Civil de 14 de noviembre de 1958* (BOE No 296 of December 1958; corrigendum BOE No 313 of 31 December 1958 and 21 of January 1959), the competent authority for issuing documents proving the name and forenames of a child or adult is the judge in charge of the Civil Register where the records related to this data are registered. In this sense, the Judge in charge, assisted by the Secretary, is the only competent authority who can issue a certificate of the civil registration records.

With regards to other kind of durable relationships, 13 Autonomous Communities have regulated the *de facto* relationships (*parejas de hecho*). In each one of these Autonomous Communities (except the *Comunidad Autónoma de Cataluña*), there are *De facto* relationship registers where the authority in charge can issue certificates of the data registered in them. The legal basis of the *de facto* relationship registers and the issuance of the certificates are in:

- Comunidad Autónoma de Andalucía

Ley 5/2002, de 16 de diciembre, de Parejas de Hecho (BO. Junta de Andalucía No 38 of 23 February 2005).

Decreto 35/2005, de 15 de febrero, por el que se constituye y regula el Registro de parejas de Hecho (BO. Junta de Andalucía No 38 of 25 February 2005).

- Comunidad Autónoma de Aragón

Ley 6/1999, de 26 de marzo, relativa a parejas estables no casadas (BO. Aragón No. 39 of 6 April 1999)

Decreto 203/1999, de 2 de noviembre, del Gobierno de Aragón, por el que se regula la creación y el régimen de funcionamiento del Registro administrativo de parejas estables no casadas (BO. Aragón No 146 of 15 November 1999).

- Comunidad Autónoma de Asturias

Ley del Principado de Asturias 4/2002, de 23 de mayo, de Parejas de Hecho (BO. del Principado de Asturias No 125 of 31 May 2002)

Decreto 71/1994, de 29 de septiembre, por el que se crea el Registro de Uniones de Hecho (BO. del Principado de Asturias No 250 of 28 October 1994)

- Comunidad Autónoma de Baleares

Ley 18/2001, de 19 de diciembre, de Parejas Estables (BO. Illes Balears No 156 of 29 December 2001)

Decreto 112/2002, de 30 de agosto, mediante el cual se crea un Registro de Parejas Estables de las Illes Balears y se regula su organización y gestión (BO. Illes Balears No 108 of 7 September 2002)

- Comunidad Autónoma de Canarias

Ley 5/2003, de 6 de marzo, para la regulación de las Parejas de hecho en la Comunidad Autónoma de Canarias (BO. Canarias No 54 of 19 March 2003)

Decreto 60/2004, de 19 de mayo, por el que se aprueba el Reglamento del Registro de Parejas de Hecho en la Comunidad Autónoma de Canarias. (BO Canarias No 105 of 2 June 2004)

- Comunidad Autónoma de Cantabria

Ley de Cantabria 1/2005, de 16 de mayo, de Parejas de Hecho de la Comunidad Autónoma de Cantabria (BO.Cantabria No 98 of 24 May 2005)

Decreto 55/2006, de 18 de mayo, por el que se regula la estructura y funcionamiento del Registro de Parejas de Hecho de la Comunidad Autónoma de Cantabria (BO. Cantabria No 102 of 29 May 2006)

- Comunidad Autónoma de Castilla y León

Decreto 117/2002, de 24 de octubre, por el que se crea el Registro de Uniones de Hecho en Castilla y León y se regula su funcionamiento (BO. Castilla y León No 212 of 31 October 2002)

- Comunidad Autónoma de Extremadura

Ley 5/2003, de 20 de marzo, de Parejas de Hecho de la Comunidad Autónoma de Extremadura (BO. Extremadura No 42 of 8 April 2003)

Decreto 35/1997, de 18 de marzo, de creación del Registro de uniones de hecho (BO. Extremadura No 36 of 25 March 1997)

Orden de 14 de mayo de 1997, por el que se regula el registro de Parejas de Hecho de la Comunidad Autónoma de Extremadura (BO. No 61 of 27 May 1997)

- Comunidad Autónoma de Madrid

Ley 11/2001, de 19 de diciembre, de Uniones de Hecho de la Comunidad de Madrid (BO. Comunidad de Madrid No 2 of 3 January 2002)

Decreto 134/2002, de 18 de julio, por el que se aprueba el Reglamento del

Registro de Uniones de Hecho (BO. Comunidad de Madrid No 176 of 26 July 2002)

- Comunidad Autónoma de Navarra

Ley Foral 6/2000, de 3 de Julio, para la igualdad jurídica de las parejas estables (BO. Navarra No 82 of 7 July 2000)

- Comunidad Autónoma del País Vasco

Ley 2/2003, de 7 de mayo, reguladora de las parejas de hecho (BO. País Vasco No 100 of 23 May 2003)

Decreto 124/2004, de 22 de junio, por el que se aprueba el Reglamento del Registro de Parejas de Hecho (BO. País Vasco No133 of 14 July 2004)

- Comunidad Autónoma de Valencia

Ley 1/2001, de 6 de abril, por el que se regulan las uniones de hecho (DO. Generalitat Valenciana No 3978 of 11 April 2001)

Decreto 61/2002, de 23 de abril, del Gobierno Valenciano, por el que se aprueba el Reglamento de desarrollo de la Ley 1/2001, de 6 de abril, de la Generalitat Valenciana por el que se regulan las uniones de hecho (DO. Generalitat Valenciana No 4237 of 30 April 2002)

There is not difference of treatment as regards the process of legalisation of documents either between Spain and Member States or Spain and third States.

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

Firstly, the Directive 2005/36 referred to in the Explanatory Referendum has not been transposed in the Spanish law yet and, therefore, there is no specific provisions that develop it.

Notwithstanding, the competent authority for issuing documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities is the professional association (*Colegio profesional*) where the service provider is member, in accordance with the competences of the professional associations laid down in Article 5 of the *Ley 2/1974, de 13 de febrero, sobre Colegios Profesionales* (BOE No 40 of 15 February 1974).

There is not difference of treatment as regards the process of legalisation of documents either between Spain and Member States or Spain and Third States.

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

First of all, the Directive 2005/36 referred to in the Explanatory Referendum has not been transposed yet in the Spanish Law and, therefore, there is no specific provisions that develop it.

Notwithstanding, according to our legal order, the competent authority for issuing documents proving professional qualification is different, depending on the type of these qualifications. The competent authorities are the following:

For the attestations of competence on the basis of general primary or secondary education, attesting that the holder has acquired general knowledge (*Título de Graduado en Educación Secundaria*), certificates attesting the successful completion of a secondary course (*Título de Bachiller* and *Título de Técnico*), diplomas certifying successful completion of training at post-secondary level at an establishment of higher education or another establishment (*Título de Técnico Superior*), the competent authority is the Education Council (*Consejería de Educación*) of each Autonomous Community. The Education Council is a body of the government of the Autonomous Community which developed the educational policies within its territory. The legal basis is Article 6.5 of *Ley Orgánica 2/2006, de 3 de mayo, de Educación* (BOE No 106 of 4 May 2006), and Article 6 of the Real Decreto 733/1995, de 5 de mayo, (BOE No 131 of 2 June 1995).

For diplomas certifying that the holder has successfully completed a post-secondary course at a university (*título Universitario*), the competent authority is the same university where the holder has taken the course. The legal basis is Article 2 of the *Ley Orgánica 6/2001, de 24 de diciembre, de Universidades* (BOE No 307 of 24 December 2001) and Article 3 of the Real Decreto 55/2005, de 21 de enero, por el que se establece la estructura de las enseñanzas universitarias y se regulan los estudios universitarios oficiales de Grado (BOE No 21 of 25 January 2005).

There is not difference of treatment as regards the process of legalization either between Spain and Member States or Spain and third Countries.

8. Documents proving a person's death

The vital events related to the civil status of Spanish population, as the person's death, are registered in the Spanish Civil Register in accordance with Article 1 of the *Ley del Registro Civil de 8 de junio de 1957* (BOE No 151 of 10 June 1957).

So, according to Article 17 of the *Reglamento del Registro Civil de 14 de noviembre de 1958* (BOE No 296 of December 1958; corrigendum BOE No 313 of 31 December 1958 and No 18 of 21 January 1959), the competent authority for issuing the documents proving a person's death is the Judge in charge of the Civil Register where the record related to this data is registered. In this sense, the Judge in charge, assisted by the Secretary, is the only competent authority who can issue a certificate of the civil registration records.

There is not difference of treatment as regards the process of legalisation either between Spain and Member States or Spain and third Countries.

9. Documents proving a person's date of birth

The vital events related to the civil status of Spanish population, as the person's date of birth, are registered in the Spanish Civil Register in accordance with Article 1 of the *Ley del Registro Civil de 8 de junio de 1957* (BOE No 151 of 10 June 1957).

So, according to Article 17 of the *Reglamento del Registro Civil de 14 de noviembre de*

1958 (BOE No 296 of December 1958; corrigendum BOE No 313 of 31 December 1958 and No 18 of 21 January 1959), the competent authority for issuing documents proving a date of birth is the Judge in charge of the Civil Register where the record related to this data is registered. In this sense, the Judge in charge, assisted by the Secretary, is the only competent authority who can issue a certificate of the civil registration records.

There is not difference of treatment as regards the process of legalisation either between Spain and Member States or Spain and third Countries.

10. Documents proving the establishment by incorporation of a company

According to Article 77 of the *Reglamento del Registro Mercantil* approved by the *Real Decreto 1784/1996* (BOE No 184 of 31 July 1996) the competent authority for issuing the documents proving the establishment by incorporation of a company is the Registrar of the Business Register where the company is registered.

There is not difference of treatment as regards the process of legalisation either between Spain and Member States or Spain and third Countries.

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

The document proving the constitution of a company is the relevant deed executed before the Notary Public for the constitution.

12. Documents proving the latest banking accounts of a company

The documents issued by the bank although these are not public documents.

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

The documents issued by the bank although these are not public documents.

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

After the implementation of the Community Instruments referred to in Part I.A.1, the legal status of the public documents described in them is the same as the comparable domestic public documents in the Spanish legal order. Spain has fulfilled its obligations under each of the Community Instruments.

We are not aware that there is, *de jure* or *de facto*, a distinction either as regards documents originating in different Member States or between types of documents. Moreover, in application of the Community instruments, there is not a distinction made between types of document.

Save for the differences between documents notarised under common law and documents notarised under civil law.

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

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

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 attachment of an Apostille on foreign public documents does not give them the same legal status as Spanish public documents in our legal order. According to the Spanish doctrine, to be recognised as the latter documents, the foreign public documents have to comply with two requirements:

- Firstly, the foreign document has to be legalised or bore an Apostille.
- Secondly, the foreign document has to be issued or authorised by a foreign authority that fulfil similar functions to the Spanish authority

In relation to the second requirement, the *Dirección General del Registro y del Notariado*’s decision of 11 June 1999 states that in order to consider a foreign document as a “public document”, the document issued in a foreign country must fulfil the requirements established for the Spanish public documents. These requirements are laid down in Article 1216 of the Civil Code (*Código Civil*) which states that:

- a) It shall be authorised by a Notary public or competent public authority
- b) It shall comply with the formalities laid down by law,

It means that the foreign public document has to be issued or authorised by a public authority and comply with the formalities laid down by the law of the State where the document was issued or authorised.

We are not aware that there is, *de jure* or *de facto*, a distinction either as regards documents originating in different Member States or between types of documents. Moreover, in application of the Community instruments, there is not a distinction made between types of document.

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

In order to be equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents, the foreign public documents have to fulfil certain requirements. These requirements are laid down in Article 323.2.I and II and 144 of *Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil* (BOE No 7 of 8 January 2000; corrigendum, BOE No 90 of 13 April 2000). Previously,

they were regulated in Article 600 and 601 of the *Ley de Enjuiciamiento Civil de 3 de febrero de 1881* (*Gaceta de Madrid* of 5-22 de February 1881; corrigendum, *Gaceta de Madrid* of 5 March 1881).

According to Article 323, paragraph 2, subparagraph I and II, the foreign public documents have to fulfil two conditions:

- a) The public document has to be issued in accordance with the law of the State where it was drawn up to produce evidentiary weight in the judicial proceedings of this State.
- b) The document has to be bore an Apostille or legalised.

Finally, based on Article 144, the foreign documents that are not written in either Spanish or other official language in the respective Autonomous Communities must be accompanied by a translation.

Therefore, the foreign public document processed in accordance with the rules of the 'Apostille' Convention has to be issued in accordance with law of the State where it was drawn up to produce evidentiary weight in the judicial proceedings of this State and be accompanied by a translation when this was not written in an official language.

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

There are no provisions in the Spanish legal order which states the requirements that the foreign public documents have to comply with in order to be equally admissible in administrative matters and produce the same evidentiary weight as equivalent domestic public document, Consequently, before the silence of the administrative law, it shall be applicable Article 323.2.I and II and 144 of *Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil* (*BOE* No 7, of 8 January 2000; corrigendum, *BOE* No 90 of 13 April 2000) in accordance with the Spanish Doctrine.

II.A.3. Parallel international agreements

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

The foreign public documents which have been processed in accordance with the rules of the aforementioned agreements are recognised as public document in our legal order. Moreover, we are not aware that there is either *de jure* or *de facto* distinction either as regards documents originating in different States party to these agreements or between types of documents.

Save for the differences between documents notarised under common law and documents notarised under civil law.

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

In order to be equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents, the foreign public documents processed in accordance with the rules of the parallel international agreements have to fulfil certain requirements. These requirements are laid down in Article 323.2.I and II and 144 of *Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil* (*BOE* No 7 of 8 January 2000; corrigendum, *BOE* No 90 of 13 April 2000). Previously, they were regulated in Article 600 and 601 of the *Ley de Enjuiciamiento Civil de 3 de febrero de 1881* (*Gaceta de Madrid* of 5-22 de February 1881; corrigendum, *Gaceta de Madrid* of 5 March 1881).

According to Article 323, paragraph 2, subparagraph I and II, the foreign public documents have to fulfil two conditions:

- a) The public document has to be issued in accordance with the law of the State

where it was drawn up to produce evidentiary weight in the judicial proceedings of this State.

- b) The document has to be bore an Apostille or legalised.

Finally, based on Article 144, the foreign documents that are not written in either Spanish or other official language in the respective Autonomous Communities must be accompanied by a translation.

Therefore, the foreign public document processed in accordance with the rules of the parallel international agreements has to be issued in accordance with law of the State where it was drawn up to produce evidentiary weight in the judicial proceedings of this State and be accompanied by a translation when this was not written in an official language.

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

There are no provisions in the Spanish legal order which states the requirements that the foreign public documents have to comply with in order to be equally admissible in administrative matters and produce the same evidentiary weight as equivalent domestic public document, Consequently, before the silence of the administrative law, it shall be applicable Article 323.2.I and II and 144 of *Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil* (BOE No 7 of 8 January 2000; corrigendum, BOE No 90 of 13 April 2000) in accordance with the Spanish Doctrine.

Save for the differences between documents notarised under common law and documents notarised under civil law.

II.A.4. National Law

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

The legalisation of the foreign public documents does not give them the same legal status as Spanish public documents in our legal order. According the Spanish doctrine, to be recognised as the latter documents, the foreign public documents have to comply with two requirements:

- Firstly, the foreign document has to be legalised or bore an Apostille.
- Secondly, the foreign document has to be issued or authorised by a foreign authority that fulfil similar functions to the Spanish authority

In relation to the second requirement, the *Dirección General del Registro y del Notariado*'s decision of 11 June 1999 states that in order to consider a foreign document as a "public document", the document issued in a foreign state must fulfil the requirements established for the Spanish public documents. This requirements are laid down in Article 1216 of the Civil Code (*Código Civil*) which states that:

- a) It shall be authorised by a Notary public or competent public authority
- b) It shall comply with the formalities laid down by law,

It means that the foreign public has to be issued or authorised by a public authority and comply with the formalities laid down by the law of the State where the document was issued or authorised.

We are not aware that there is, *de jure* or *de facto*, a distinction either as regards documents originating in different Member States or between types of documents. Moreover, in application of the Community instruments, there is not a distinction made

between types of document.

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

In order to be equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents, the foreign public documents have to fulfil certain requirements. These requirements are laid down in Article 323.2.I and II and 144 of *Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil* (BOE No 7 of 8 January 2000; corrigendum, BOE No 90 of 13 April 2000). Previously, they were regulated in Article 600 and 601 of the *Ley de Enjuiciamiento Civil de 3 de febrero de 1881* (*Gaceta de Madrid* of 5-22 de February 1881; corrigendum, *Gaceta de Madrid* of 5 March 1881).

According to Article 323, paragraph 2, subparagraph I and II, the foreign public documents have to fulfil two conditions:

- a) The public document has to be issued in accordance with the law of the State where it was drawn up to produce evidentiary weight in the judicial proceedings of this State.
- b) The document has to be bore an Apostille or legalised.

Finally, based on Article 144, the foreign documents that are not written in either Spanish or other official language in the respective Autonomous Communities must be accompanied by a translation.

Therefore, the foreign public document processed in accordance with 'national law', has to be issued in accordance with law of the State where it was drawn up to produce evidentiary weight in the judicial proceedings of this State and be accompanied by a translation when this was not written in an official language in order to be admissible in judicial proceedings and produce evidentiary weight as a equivalent domestic public document.

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

There are no provisions in the Spanish legal order which states the requirements that the foreign public documents have to comply with in order to be equally admissible in administrative matters and produce the same evidentiary weight as equivalent domestic public document, Consequently, before the silence of the administrative law, it shall be applicable Article 323.2.I and II and 144 of *Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil* (BOE No 7 of 8 January 2000; corrigendum, BOE No 90 of 13 April 2000) in accordance with the Spanish Doctrine.

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 difficulties of a legal nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents. The document can be used effectively after fulfilling the requirements of the Convention and no further

requirements under Spanish law may cause additional difficulties.

III.A.1.2. Practical

No difficulties of a practical nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents.

The costs of the implementation of the Convention expressed in money and effort are negligible. The length of the process established for the implementation of the Convention does not cause difficulties.

However, we should indicate that the fact that a Member State has ratified the Convention does not allow the legalisation process contemplated under domestic law may constitute a practical difficulty as sometimes the procedure for obtaining the Apostille may take longer than the legalisation by a Consul.

As reported in Part I, the recorded practical difficulties of the Convention have made reference to the following matters:

- Whether the authority to issue the Apostille is the competent authority: in case Sp2 it was argued whether the Second Chief Judge was competent or not; Spanish courts ruled that it was not proved whether the Second Chief Judge was not competent in Germany and therefore the Apostille was deemed to be valid
- Whether the country of origin is a member state of the Convention: case Sp5

The Spanish newspaper *EL País* of 31 December 2003 reported a case regarding the adoption of a child in Ukraine by two Spanish citizens. Ukraine had just ratified the Convention and the stamp of the Apostille was not available. Thus, the new parents could not legalise the judgement of the adoption, and such legalisation was required for the Spanish Consulate to issue the visa for the child. The matter was solved by applying the legalisation process contemplated in Spanish national law.

On the other hand, it should be highlighted that although the Convention provides for a model of the Apostille the member states of the Convention have adopted different formats for the stamp. In some countries like the USA each State has a different stamp. Furthermore, we could compare the simplicity of the stamp of Finland with the lushness of the stamp of Minnesota. The differences between the stamps of the different member states may entail a difficulty for the recognition of the Apostille.

III.2. Parallel international agreements

III.A.2.1. Legal

No difficulties of a legal nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents. The document can be used effectively after fulfilling the requirements of the applicable agreement and no further requirements under Spanish law may cause additional difficulties.

III.A.2.2. Practical

No difficulties of a practical nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents.

As reported in Part I, the difficulties may arise from the lack of knowledge of the exemption from legalisation contemplated in the parallel international agreements

(case Sp6, Sp7).

The costs of the implementation of the applicable agreement expressed in money and effort are negligible. The length of the process established for the implementation of the applicable agreement does not cause difficulties.

III.3. National law

III.A.3.1. Legal

No difficulties of a legal nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents. The document can be used effectively after fulfilling the requirements of national law and the further requirements under Spanish law do not cause additional difficulties.

III.A.3.2. Practical

No difficulties of a practical nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents.

The costs of the implementation of the national law expressed in money and effort are not significant. The length of the process established for the implementation of the national law may take longer than in other cases but does not cause difficulties.

PART III.B. Specific

1. Documents proving involuntary unemployment

No special difficulties recorded.

2. Documents proving a family relationship or other durable relationship

No special difficulties recorded.

3. Documents proving or contesting a parent-child relationship

No special difficulties recorded.

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

No special difficulties recorded.

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

No special difficulties recorded.

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

No special difficulties recorded.

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

No special difficulties recorded.

8. Documents proving a person's death

No special difficulties recorded.

9. Documents proving a person's date of birth

No special difficulties recorded.

10. Documents proving the establishment by incorporation of a company

No special difficulties recorded.

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

No special difficulties recorded.

12. Documents proving the latest banking accounts of a company

No special difficulties recorded.

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

No special difficulties recorded.

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 difficulties of a legal nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to a foreign public document where it is the Member State of a public document's origin. The document can be used effectively after fulfilling the requirements of the applicable agreement and no further requirements under Spanish law may cause additional difficulties.

IV.A.1.2. Practical

No difficulties of a practical nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents.

The costs of the implementation of the applicable agreement expressed in money and effort are negligible. The length of the process established for the implementation of the applicable agreement does not cause difficulties.

IV.A.2. Parallel international agreements

IV.A.2.1. Legal

No difficulties of a legal nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to a foreign public document where it is the Member State of a public document's origin. The document can be used effectively after fulfilling the requirements of the applicable agreement and no further requirements under Spanish law may cause additional difficulties.

IV.A.2.2. Practical

No difficulties of a practical nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents.

The costs of the implementation of the applicable agreement expressed in money and effort are negligible. The length of the process established for the implementation of the applicable agreement does not cause difficulties.

IV.A.3. National law

IV.A.3.1. Legal

No difficulties of a legal nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to a foreign public document where it is the Member State of a public document's origin. The document can be used effectively after fulfilling the requirements of the applicable agreement and no further requirements under Spanish law may cause additional difficulties.

IV.A.3.2. Practical

No difficulties of a practical nature are experienced by natural or legal persons as a result of any process administered by the Spanish authorities or the authorities of another Member State in relation to foreign public documents.

The costs of the implementation of the national law expressed in money and effort are not significant. The length of the process established for the implementation of the national law may take longer than in other cases but does not cause difficulties.

PART IV.B. Specific

1. Documents proving involuntary unemployment

No special difficulties recorded.

2. Documents proving a family relationship or other durable relationship

No special difficulties recorded.

3. Documents proving or contesting a parent-child relationship

No special difficulties recorded.

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

No special difficulties recorded.

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

No special difficulties recorded.

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

No special difficulties recorded.

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

No special difficulties recorded.

8. Documents proving a person's death

No special difficulties recorded.

9. Documents proving a person's date of birth

No special difficulties recorded.

10. Documents proving the establishment by incorporation of a company

No special difficulties recorded.

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

No special difficulties recorded.

12. Documents proving the latest banking accounts of a company

No special difficulties recorded.

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

No special difficulties recorded.

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

1. There are no legalisation requirements or other similar or equivalent requirements as regards incoming or outgoing public documents or rules concerning the effects of foreign public documents satisfying such requirements and procedures that overtly discriminate on grounds of nationality (whether between Spain and other Member States or between different Member States).
2. There are no requirements and procedures or effects rules that otherwise appear discriminatory or operate in a discriminatory manner.
3. The requirements and procedures or effects rules are potentially liable to hinder or make less attractive the free movement of goods, persons, services or capital between the Member States because they entail one more formality to be complied with.
4. The rationale for the requirements and procedures and effect rules is the avoidance of doubt.
5. There are no situations in which the requirements and procedures or effect rules would appear to be irrational.
6. The requirements and procedures and effect rules are effective. In practice they guarantee that their aims are achieved.
7. There are no situations in which the requirements and procedures or effect rules would appear to be ineffective.
8. The requirements and procedures and effect rules are convenient and there does not appear to be less burdensome ways of achieving the same aims.
9. The requirements and procedures and effect rules are proportionate to the objectives pursued. There are no particular cases where a requirement or a procedure or effect rules is excessively given its aims.
10. The failure to comply with the requirements and procedures entails the lack of validity of the document, and may entail as a consequence the dismissal or refusal of recognition and enforcement (see case Sp 3).
11. No alternative requirements and procedures or effect rules have been adopted to reduce the administrative or other burdens.
12. There have been developments in this field in Spain. No requirements or procedures have been added, modified or abolished.

V.A.1.2 Effects rules

Same as above.

It should be highlighted that the Apostille refers to the signature of the document only. We could see in case Sp 4 how the Notary Public’s signature was authenticated by the Clerk of New York Supreme Court and then the Clerk’s signature was then authenticated by the Apostille. There was a double legalization but the Court

understood that although the signature legalized by means of the Apostille was not the signature of the Notary Public, the signature of the Notary Public had been authenticated. Thus, the document was deemed to be valid.

On the contrary, if a private document bears the signatures legalized by a Notary Public and it is provided with the Apostille, it remains a private document and it is not converted into a public document by virtue of the Apostille itself. As mentioned in Part II, article 1216 of the Civil Code provides for certain formalities in order for a document to be considered a public document, i.e. the requirement that the Notary attests the capacity of the signatory of the document.

V.A.2. Parallel international agreements

V.A.2.1 Requirements and procedures

Same as above.

V.A.2.2 Effects rules

Same as above.

V.A.3. National law

V.A.3.1 Requirements and procedures

Same as above.

V.A.3.2 Effects rules

Same as above.

PART V.B. Specific

1. Documents proving involuntary unemployment

n/a

2. Documents proving a family relationship or other durable relationship

n/a

3. Documents proving or contesting a parent-child relationship

n/a

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

n/a

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

n/a

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

n/a
7. Documents proving a person's professional qualifications (diplomas)
n/a
8. Documents proving a person's death
n/a
9. Documents proving a person's date of birth
n/a
10. Documents proving the establishment by incorporation of a company
n/a
11. Documents proving the constitution of a company, including any official translation thereof
n/a
12. Documents proving the latest banking accounts of a company
n/a
13. Documents proving the deposit of cash or certificates of deposit
n/a

PART VI – Suggested action

VI.1. European

The action which at a European level may usefully be taken towards developing a system which will allow an effective cross-border use of public documents whilst ensuring the protection of the national legal orders of the Members States against risks such as fraud are:

- The establishment of European Standard Forms for public documents;
- The co-operation between Member States' competent authorities through the establishment of concise contact and competence lists;
- The establishment of a central European Register.

VI.2. Intergovernmental

The action which at an intergovernmental level may usefully be taken towards

developing a system which will allow an effective cross-border use of public documents whilst ensuring the protection of the national legal orders of the Members States against risks such as fraud are:

- The establishment of the same format for the stamp of the Apostille;
- The fixation of a deadline for issuing the Apostille;
- The implementation of the E-Apostille Pilot Programme launched by the Hague Conference on Private International Law.

VI.3. National

The action which at a European level may usefully be taken towards developing a system which will allow an effective cross-border use of public documents whilst ensuring the protection of the national legal orders of the Members States against risks such as fraud are:

- The taking of measures to improve the information regarding the requirements and procedures.