



von Freyhold, Vial & Partner Consultants
- wissenschaftliche Berater und Gutachter -

Facilitating Life Events

Executive Summary

Final Report

for the European Commission,

DG JLS - Directorate-General for Justice, Freedom and Security

on the project No JLS/2006/C4/004

relating to a comparative study on the legislation of the Member States of the European Union on civil status, practical difficulties encountered in this area by citizens wishing to exercise their rights in the context of a European area of justice in civil matters and the options available for resolving these problems and facilitating citizens' lives.

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Summary of Results

1. There are 125.000 civil status registrars distributed among about 80.000 local registry offices, some with additional employees in Europe where civil status events are registered and where certificates can be obtained. These civil status registrars process up to 15 million civil status changes annually of which up to a third have a cross-border aspect.
2. All EU Member States and the three additional states which have been the subject of this study have a functional civil status registration system, administered by professional and qualified personnel, which has a high degree of accuracy and integrity as long as only civil status events occurring within that Member State are concerned.
3. There are three main types of civil registration systems in Europe: in event-based systems, each event is registered at the place where it occurs (variations include a central archive), in person-based systems, each civil status event is registered at one location for an individual person (variations include "family-based" registrations), and in central population registers, comprehensive information about individuals is stored in a central database, including information on civil status changes.
4. Some systems have and provide static information and certificates, never to be changed after the event has been registered, while others have and provide up-to-date information and certificates showing the status quo.
5. While practically all civil status registration offices are equipped with personal computers and other technology, some systems are, in essence, paper-based, other systems are fully digitised.
6. While each of the systems is functional as long as civil status events occurring within that Member State are concerned, every system may fail when civil status events occurring in other Member States need to be integrated (and vice versa), especially when such events occur in one of the other "groups" of Member States. As an example, if citizens from two Member States wish to marry, in some cases marriage may be conducted the same day and at no fees, while in other cases the same proceeding may cost up to € 1.000 and take 426 days. The same couple may be allowed to marry in one Member State and prohibited in another, and not for legal reasons but just for lack of documents that cannot be produced.
7. All Member States are party to multilateral or bilateral treaties concerning at least one aspect of civil status registration - but except for the Hague Convention on the Apostille there is no single treaty to which **all** Member States are party.
8. While there is a general level of agreement as to the main events which are registered, the type of registry and especially the content of the registration differ extremely: as an example, but for the date of birth, there is not one item of registration which all Member States can agree on with respect to the content of a birth certificate.
9. The rules of family law, and of private international law, which form the legal background of civil status registrations, differ significantly, and are partly deeply rooted in society and culture.
10. The rules of naming which form the legal background of certain civil status registrations, differ significantly, and are partly deeply rooted in society, culture, and language.

11. Citizens who have a civil status event to be registered are faced with a number of obstacles:
 - a. citizens from some Member States cannot even obtain civil status certificates from abroad (via means of distance communication), but are required to travel to the registry office in person (or send another person with proxy)
 - b. certificates from other Member States, once obtained, are not recognized without additional certification, which may be costly and time-consuming to obtain, and/or without translation
 - c. certificates from other Member States, once obtained, are not considered to be equivalent or sufficient
 - d. citizens who have another nationality have to provide additional information, additional certificates or otherwise face additional burdens
 - e. specifically in the case of marriage, it is made very difficult for some citizens to marry at the place where they may wish to marry, even if that place is the place of habitual residence
 - f. differences in the regime of names can lead to citizens having different names in different Member States.
12. The following policy objectives have been identified:
 - a. Maintaining and developing an area of freedom, security and justice, in which the free movement of persons, and of services, is ensured.
 - b. To support citizens in asserting their rights at Union level, especially the right to respect for their private and family life, their right to marry and to found a family, their right to a name and their right to an identity and to the proof thereof.
 - c. Specifically: to promote protection of citizens rights, reduce obstacles to the free movement of persons and services, avoid forgery, identity fraud and theft.

Summary of Recommendations

In order to fulfill these policy objectives,

13. It is recommended that European legislative measures be taken to ensure that, civil status certificates (and possibly all public documents) from a Member State must generally be accepted in all other Member States without any additional formalities, and that any kind of legalisation or certification, including the Apostille, is abolished for documents from other Member States, such a measure being necessary, overdue and without harm.
14. It is further recommended that European legislative measures be taken to ensure that, all types of additional requirements for citizens of other Member States, such as certificates of no impediment or certificates of law are abolished, such requirements being unjustified discrimination.
15. It is recommended to oblige Member States to provide civil status certificates to persons residing abroad in timely and reasonable fashion.
16. It is recommended to oblige Member States to provide civil status certificates which will be fully recognized in other Member States in form and content.
17. And it is recommended to create a European Civil Status Office as a clearing house; registrars in the Member State shall notify or contact registrars in other Member States through the European Civil Status Office to exchange information about registrations.
18. It is recommended that European legislative measures be taken to ensure that, the original registration of a name in any Member State which is registered in connection with a civil status event be recognized in all other Member States.