Legalisation Study Project Questionnaire: Page 1  18/07/2007 Confidential

Legalisation of Public Documents within the EU Member States

HUNGARY

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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 Error! Reference source not found.

PART I.A. General

I.A.1. European Community Law  
I.A.1.1. Introduction  
I.A.1.2. Implementation of specific measures

Preliminary note:
According to the doctrine of direct applicability of Regulations, even without proper internal legislation the Regulations would take precedence over contradicting domestic legislation. However, instead of pointing out the obvious about direct applicability of certain Community norms, the below paragraphs rather seek to show how the rules of the Regulations are reflected in and connect to domestic legislation.

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

Article 19 of Regulation (EC) No 1346/2000

Regulation (EC) No 1346/2000 was implemented in Act No. XLIX of 1991 on Bankruptcy Proceedings, Liquidation and Voluntary Dissolution (“Bankruptcy Act”) by Act No. XXVII of 2004 on the Amendment of Financial Legal Regulations for the Purpose of Approximation of Laws. Articles 6/B para. (3) and 6/C para. (2) of the Bankruptcy Act list the requirements for a liquidator appointed in a Member State other than Hungary to act in Hungary: the requirements include only the original document of appointment and its certified Hungarian translation and makes no mention whatsoever of further legalization requirements. The entire Act carries the provisions of the Regulation and makes specific references to it on several occasions. All major electronic legal databases carry the text of the Regulation in Hungarian which may be also cross-referenced by double-clicking from the text of the Bankruptcy Act.
Article 4(4) of Regulation (EC) No 1348/2000

While the Regulation, by way of its legal nature within Community law, is directly applicable in a Member State including Hungary, its provisions are not clearly reflected in the specific provisions of Hungarian law as of yet. On the other hand Article 4 (4) of the Regulation can be derived from the general provisions of legalization of judicial and extrajudicial documents in civil and commercial matters.

The top domestic authority on the question is Act No. III of 1952 (the “Civil Procedure Act”) which in its Article 195 para (7) first sentence, provides that public documents issued abroad bear the same legal status in Hungary as domestic documents if legalized by the respective Hungarian consular authority operating abroad. The second sentence makes an exception to international agreements. As to servicing requirements abroad, according to Article 100 para (1) Hungarian documents may be serviced abroad only by submitting to the Ministry of Justice, except for international agreements. However, Article 135 (1) point a) of the Act makes specific reference to the Regulation providing that the legal consequences of a party’s failure to attend a hearing have to be applied only if the requirements of the Regulation are met if the servicing of documents falls under the scope of the Regulation. Also, Article 136/A para (3) point a) refers to the Regulation in terms of the period of time for offering excuse for failure to challenge a court injunction. Note that double-clicking cross-reference to the Regulation in electronic database format is available only from Articles 135 (1) and 136/A (3).

The Commentary of the Civil Code (edited by Dr. Imre Szabó) briefly addresses the question when commenting on Article 195 para (7) and refers to only international agreements – specifying the Apostille Convention – bilateral agreements and reciprocity as exceptions from legalization.

The lower level source of provisions is the Information Communication of the Ministry of Justice No. 8001/2001 (IK 4.) on the Managing of International Cases which in Chapter IV. contains the details of legalization both for incoming documents and use of domestic documents abroad. While as a general rule legalization is compulsory, the Communication points out that international agreements or reciprocity may make legalization unnecessary both for incoming documents (points 72-73 of the Communication) and outgoing documents (points 79-80 of the Communication). For both cases the Apostille Convention is noted. The Information Communication is the official introduction of the practices of the Ministry for the wider public and is not considered to be a binding law.

In summation the present situation is, strictu sensu, compatible with the Regulation: the international agreement/reciprocity exception easily covers the Regulation. On the other hand taken the fact that the vast majority of relevant cases are vis-à-vis other EC Member States, the current wording of both the Civil Procedure Act and the Information Communication treats the majority of cases to the status of an exception while its main rule covers only the minority of cases. Especially the Information Communication of the Ministry of Justice which serves the purpose of informing the public definitely needs to be updated.

Article 56 of Regulation (EC) No 44/2001 – Judgments in civil and commercial matters

As to the enforcement of foreign judicial decisions in civil and commercial matters in
Hungary, Article 207 of Act No. LIII of 1994 on Court Enforcement makes it a requirement to attach to the request for enforcement the original court decision and if the court so requests, its Hungarian translation. Legalization is not mentioned as a requirement of any foreign judgment whether from the EU or not, because on the one hand foreign judgments are enforceable only if a specific law, international agreement or reciprocity so permits, and on the other because the Civil Procedure Act is a background law of the Act (Article 9 of the Court Enforcement Act). Note also that it is not a requirement that the translation be certified, although courts dealing with languages that the judge does not speak automatically ask for a certified translation. On the other hand Article 210/A para (1) states, that if the procedure of enforcement falls under Regulation 44/2001 and the rules of the Regulation and the Act collide, the Regulation has priority.
While not specifically regulated, the same applies to the recognition of a foreign judgment.

Finally as to the relation with the Civil Procedure Act, under Article 9 of the Act on Court Enforcement in questions not covered by the Act, the Civil Procedure Act is applicable. Leaving out the requirement of legalization for specific public documents from the Act on Court Enforcement may make the impression that rather than it being an indication that there is no requirement as such, the question is covered by the Civil Procedure Act. However, the reference of Article 210/A para (1) of the Act to the Regulation in specific cases under the scope of the Regulation prevails over the general reference to the Civil Procedure Act. Judgments from non-EU countries may come under the legalization requirement of the Act on Civil Procedure.

Article 56 of Regulation (EC) No 44/2001 – Documents certifying the authenticity of judgments, court settlements and authentic instruments in civil and commercial cases

As to incoming documents, under Article 207 of the Act on Court Enforcement an Article 54 certificate of the Regulation is not needed to file for enforcement. However, Article 210/A para (1) states that the rules of Regulation 44/2001 prevail if the enforcement procedure is covered by the Regulation.

As to outgoing documents, under Article 31/C para (1) of the Act an Annex V and VI certificate of the Regulation is issued on request by the Hungarian court. The Regulation and the annex numbers are contained in the text of the Article and in electronic database format the Regulation is double-click cross-referenced.

Finally under Article 9 of the Act on Court Enforcement in questions not covered by the Act, the Civil Procedure Act is applicable. While it is not indicated whether leaving aside the requirement of legalization for specific public documents in the Act on Court Enforcement is an indication that there is no requirement as such or that the question is covered by the Civil Procedure Act, either of the solutions leads to the same result: legalization is not required.

Article 56 of Regulation (EC) No 44/2001 – Documents appointing a representative ad item in civil and commercial matters

Under Article 37/B para (1) of the Act on Court Enforcement, if the debtor has no place of residence in Hungary, a representative ad litem has to be appointed. While this Article lists the conditions for the representative to be recognised in its capacity, such as the presentation of the appointment and its acceptance, legalization is not a condition.
Finally repeat it here, that under Article 9 of the Act on Court Enforcement in questions not covered by the Act, the Civil Procedure Act is applicable. While it is not indicated whether leaving aside the requirement of legalization for specific public documents in the Act on Court Enforcement is an indication that there is no requirement as such or that the question is covered by the Civil Procedure Act, either of the solutions leads to the same result: legalization is not required.

Article 57 of Regulation (EC) No 44/2001 – Authentic instruments in civil and commercial matters

Article 10 of the Act on Court Enforcement identifies five broad categories of instruments which may lead to enforcement procedure, including also instruments issued not by a court but by other bodies such as a notary public or criminal investigating authorities or the patent office or bar association of lawyers, etc. As to incoming documents, the court examines the instruments submitted by the applicant and decides whether it is enforceable or not. Chapter II of the Act contains the conditions of specific instruments to be enforceable and while some of the instruments may be issued only by a named Hungarian public body, those instruments which may be issued abroad contain no reference whatsoever to legalization of any kind.

As to outgoing documents, Article 31/C para (1) orders the Hungarian court to issue an Annex VI certificate on request. Regulation no. 44/2001 is named in the text of the Article and in electronic database format it is double-click referenced in Article 31/C para (1).

Article 58 of Regulation (EC) No 44/2001

According to Article 15 point c) of the Act on Court Enforcement, a Hungarian court may issue a writ of enforcement also in case of a settlement consented by a court. As a consequence, according to Article 206, the treatment of the enforcement of a court-approved settlement is the same as the enforcement of a judgment which was already discussed above (no legalization is required only a translation on request by the court).

Finally repeat it here, that under Article 9 of the Act on Court Enforcement in questions not covered by the Act, the Civil Procedure Act is applicable. While it is not indicated whether leaving aside the requirement of legalization for specific public documents in the Act on Court Enforcement is an indication that there is no requirement as such or that the question is covered by the Civil Procedure Act, either of the solutions leads to the same result: legalization is not required.

As to outgoing documents, as also discussed Article 31/C (1) orders the courts to issue an Annex V certificate under the Regulation on request.

Article 46 Regulation (EC) No 2201/2003 – Authentic instruments in matrimonial matters

As to enforcement by a Hungarian court, according to Article 210/B of the Act on Court Enforcement, if the enforcement of a judgment falls under the scope of the Regulation, the rules of the Regulations have priority over the Act.
The answer is the same as above: while legalization is not a condition under the Act on Court Enforcement, Article 9 of the Act on Court Enforcement directs us to the Civil Procedure Act in questions not covered by the Act. While it is not indicated whether leaving aside the requirement of legalization for specific public documents in the Act on Court Enforcement is an indication that there is no requirement as such or that the question is covered by the Civil Procedure Act, either of the solutions leads to the same result: legalization is not required.

As to outgoing documents, Article 31/C para-s (2) and (4) orders the Hungarian courts to issue the certificates of Annexes I-IV of the Regulation, partly ex officio, partly on request. The Regulation is double-click cross-referenced in the electronic version of the Act from this Article.

**Article 46 Regulation (EC) No 2201/2003 – Agreements between parties in matrimonial matters or matters concerning parental responsibility**

Incoming documents: same as above.

Outgoing documents: same as above. Because Article 15 of the Act on Court Enforcement makes enforceable agreements equal with judgments in terms of enforceability, Article 31/C (see above) equally applies here.

**Article 46 Regulation (EC) No 2201/2003 – Judgments in matrimonial matters or matters concerning parental responsibility**

Same as above.

**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)**

As to enforcement by a Hungarian court, according to Article 210/B of the Act on Court Enforcement, if the enforcement of a judgment falls under the scope of the Regulation, the rules of the Regulations have priority over the Act.

**Article 52 Regulation (EC) No 2201/2003, documents appointing a representative ad item in matrimonial matters or matters concerning parental responsibility**

As to enforcement by a Hungarian court, according to Article 210/B of the Act on Court Enforcement, if the enforcement of a judgment falls under the scope of the Regulation, the rules of the Regulations have priority over the Act.

**Article 27 of Regulation (EC) No 805/2004**

Regulation (EC) No 805/2004 was also introduced into the Act on Court Enforcement. According to Article 23/B of the Act, the Hungarian court automatically issues an enforcement closure for a foreign public document that is certified as a European enforcement order under the Regulation. Issuing an enforcement closure is the requirement for the enforcement procedure to commence. It is quite clear from the wording that no further requirements – such as legalization – are necessary, and that certification as a European enforcement order is under the Regulation – therefore, there is no doubt that the gap-filling rule of Article 9 of the Act does not direct us to the Civil Procedure Act. The electronic version of the Article contains a double-click direct reference to the Regulation.

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

As discussed above, European enforcement orders under the Regulation are exempt from legalization procedure in Hungary.
As to outgoing documents, Article 31/C para (6) of the Act specifically names all three Annexes and directs the courts to issue the annexed certificates of the Regulation. The wording of the Act contains both the number of the Regulation and names the annexes with double-click cross-reference to the text of the Regulation.

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

The relevant law in Hungary regulating legal aid is Act No. LXXX of 2003 on Legal Aid. The law has incorporated the said Directive. As to legalization, Article 60 of the Act specifically refers to the use of Article 16 standard forms of the Directive without legalization requirements. Several articles of the Act refers to the use of documents in the process but legalization is not mentioned as a requirement. What comes closest to legalization is the use of officially certified translations of foreign documents: Article 39 para (5) exempts clients from the use of certified translations of documents in foreign languages and from the condition to certify Hungarian documents in their foreign translations. Note, that the use of certified translations is usually even accepted in cases when legalization is not required, therefore it makes the situation of clients easier even compared to the general standard of the lack of legalization.

Closing Article 88 of the Act declares, that the provisions of the Act are compatible with Directive 2003/8/EC.

The Civil Procedure Act is not a general catch-all law of this Act.

Please kindly note that while the Hungarian law mentions Directive 2003/8/EC, the Questionnaire referred to Directive 2002/8/EC, albeit there is no doubt that we are discussing the same document.

**Free movement of goods (Article 23 EC)**

**Article 250 of Regulation (EEC) No 2913/92**

The leading domestic customs law is Act No. CXXVI titled Act on the Enforcement of Community Customs Law. The Act entirely overtakes Community customs law and offers only supplementing legislation concerning specific articles of Community customs law. Article 1 para (1) states that Community customs law is applicable in Hungary and has priority over domestic legislation. Paragraph 2 of the same Article enlists Community customs legislation, listing Council Regulation (EEC) 2913/92, Commission Regulation (EEC) 2454/93, Council Regulation (EEC) 918/83 and Council Regulation (EEC) 2658/87. The vast majority of the Act follows the sequence of numbering of provisions of the European Customs Code and makes specific supplementing rules connecting to the specific provisions of the articles of the European Customs Code. Article 250 is not referred to. However, the Act at no place contains any provision that would require legalization, while incidentally sometimes refers to customs-specific close-to legalization issues, always with the approach of allowing foreign documents/measures without further authentication, e.g. allowing foreign customs seals (Article 10 para (3)).

PM Regulation No. 15/2004. (IV. 5.), a lower level regulation of the Minister of Finance, which implements the Act contains more specific rules on certificate of origins. Article 23/B of the PM Regulation deals with the purposes of EUR 1. certificates, stating, that its first copy serves the purpose of proving the origin of the
product. It makes no requirement for proof of origin or the legalization of the EUR 1. certificate.

Article 18 of the PM Regulation however, on the conditions of issuing an „approved exporter’s permission” towards countries with preferential treatment by the EC, lists the lack of refusal of authentication of EUR 1. certificates by either Hungarian customs authorities (if the certificate was issued in Hungary and an EC country requested authentication by the issuing Hungarian customs authority) or by the issuing EC customs authorities (in case authentication was requested by Hungarian customs authorities). This leaves the possibility open to request authentication of EUR 1. certificates by the issuing authority for the authority of the importing state. This may be the case of a follow-up inspection, such as the one under Article 78 of the European Customs Code.

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

As a general rule, Act No. CXL of 2004 on Public Administration Procedure (the “Public Administration Act) contains a similar catch-all provision as the Civil Procedure Act for civil procedure. Article 52 para (2) of the Public Administration Act prescribes that a foreign public document, or a foreign private document certified by a foreign court, public administrative body, public notary or other person capable of public certification has evidentiary power only if legalized by a Hungarian consular or like agency operating in the country of issuing the document. However, the same paragraph makes specific laws, international agreements and reciprocity an exception to the general rule. While the Public Administration Act is the background law of some of those specific instruments that regulate the specific forms of social benefits and healthcare services, it will be seen below that unless noted these instruments usually contain more specific rules referring to the Regulation and thus overriding the general rule of legalization. Even if an instrument does not specifically refer to the Regulation, the admission of any foreign document without legalization under the Regulation is an exception from the legalization requirement of the Public Administration Act under the international agreement exception clause of the Act.

Act No. LXXXIII of 1997 on mandatory health insurance contains the rules of participation of individuals in the health insurance sector in Hungary. While it is mostly concerned with local relations, Article 8/A extends its scope to employees, self-employed persons and dependants moving within the Community, stating, that their status is primarily regulated by the Regulation and the Act applies only insofar as it is compatible with the Regulation. Article 8/A specifically names the Regulation and the electronic version of the Act contains a double-click reference to the text of the Regulation. In specific, Article 29 para (3) deals with the conditions availing to the services of the health insurance system of foreigners under the Regulation and simply prescribes that in lack of a Hungarian social security number the presentation of a form or certificate as required by the Regulation is sufficient for healthcare services. Paragraph 8 of the same article states that the foreigner under the Regulation justifies its demand for participation in the health insurance system as it is prescribed by the Regulation. While there are several other formal requirements for foreigners (documents to attach) for health insurance, none is of a legalization nature. The specific references to the Regulation override the legalization requirement of the
Subject to further criterion, Act No. LXXX of 1997 on Social Security and Private Pension Benefits also covers EU citizens (Article 4 point u). While the Act contains several specific obligations in terms of submitting documentary evidence relating to facts important for social security (such as those relating to the employment of the worker), the issue of legalization is not addressed. Article 13 point a) of the Act contains the provision that the Act had to be applied in conjunction with the Community Regulation about the application of social care systems on the movement of workers, self-employed persons and dependants within the EC. Since the provision does not specify the number of the regulation (and no double-click reference is possible) only identifies its subject matter, a regulation currently in the making will automatically stand in the place of the current Regulation. Specific reference to the regulation automatically overrides the general rule of legalization of the Public Administration Act.

Subject to further criterion, Act No. III of 1993 on Social Administration and Social Services also covers people under the Regulation (Article 3 para (3) point b). According to Article 10 para-s (1) and (2), the applicant may be obliged to verify its claims regarding its financial situation. But since the allocation of social benefit is within the competence of local municipalities, the specific rules of procedure are to be worked out on the level of municipal self-governments (Article 10 para (1)). Under the same Article para (4), if any claim should be certified by an authority of a country of the Economic Economic Area or other country under similar international agreement with Hungary, the compulsory way of obtaining evidence is through the Hungarian State Treasury (rather than the municipality communicating directly with a foreign authority). While this is not a requirement of legalization, the client applying for social benefit is barred from submitting documents originating in foreign countries by himself, whether legalized or not.

Subject to further criteria, persons falling under the Regulation are also covered by Act
No. XXVI of 1998 on persons with disabilities (Article 23 para (2 pont b)). Practical conditions of entitlement to a disability benefit are dealt with by Articles 23/B-
23/D. While the application procedure starts with filing a claim, there is no requirement whatsoever of legalization of documents proving entitlement. Note however, that serious disability can be declared only by the National Institute of Medial Experts. According to Article 23 para (5), if the receiver of the benefit leaves for the territory of the European Economic Area or equivalent country for more than 3 months, continuation of the supply of the benefit takes place according to the Regulation. The electronic version of the Article contains double-click direct reference to the Regulation.

Governmental Decree No. 164/1995 (XII. 27.) on the traffic allowances of disabled people may also cover people falling under Regulation 1408/71 (Article 1 para (1) point c) of the Decree). While under Articles 8-9 a list of documents must be included, and Article 9/B lists those further items that documentary evidence has to be supplied by applicants under the Regulation, the Decree does not address the issue of legalization.

Finally, a specific taxation question No. 93 of 2004. issued by the Hungarian Taxation Authority and National Health Insurance Fund (OEP) declared there was no translation needed for the former E 101 certificate.

I.A.1.3. Judicial control

There have been no reported cases concerning any of the above provisions. Note, that although the reporting of cases does not cover all final judgments passed in Hungary, only a selection of judgments by the Supreme Court, Regional Courts of Appeal and County Courts, it is more likely than not that if a case had been passed relying on the above rules it would have made it into one of the case reporters. Therefore, the lack of reported cases almost absolutely certainly reflects the lack of any such cases. The reason for the lack of reported cases is that Hungary has been a member of the EU only for too short a time for any such cases to arise.


I.A.2.1. Status

We confirm that Hungary is party to the Apostille Convention. The document on the accession/ratification was deposited on April 18, 1972 and the Convention entered into force in Hungary on January 18, 1973.

I.A.2.2. Scope

Geographical scope:
The Convention is not extended beyond the original Members of the Convention by Hungary.

Material scope:
The Convention is applicable for public documents as set forth in the Convention, no special extension or restriction here either.

I.A.2.3. Legislative implementation

The law that promulgated the Convention was Decree with the Force of an Act No. 11 of 1973 and the implementing lower level legislation was IM-KüM Decree No. 9/1973 (XII. 29.), a joint decree of the Minister of Justice and Minister of Foreign Affairs. (A “decree with the force of an act” is a source of law from the Communist times: a decree passed by the government standing in the same place as an act of parliament was a means of centralized decisionmaking. No such form of lawmaking exists any more, but earlier
decrees with the force of an act may still be in existence, such as the one currently under discussion. This source of law will be abbreviated as „Tvr Decree” from its original Hungarian abbreviation.) For the provisions in English, see below.

I.A.2.4. Practical implementation

Issuance of an Apostille (applicable to all Member States):

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<th>Ministry of Justice</th>
<th>Ministry of Foreign Affairs</th>
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<tbody>
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<td>of persons arriving out</td>
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<td>11.</td>
<td>Fee. The fee is set</td>
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<td>and modified by legislation on duties. The fee produces no revenu</td>
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<td>on duties. The fee produces no revenu.</td>
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<td>19 Euros)</td>
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3. Please find below the form of the Apostille used in Hungary:

**APOSTILLE**

(Convention de la Haye du 5 octobre 1961)

1. **Ország.................................................................**
   **Pays:**

Ezt a közökrehatot
<table>
<thead>
<tr>
<th>6. The Apostille is issued in Hungarian and French according to the above form.</th>
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<tbody>
<tr>
<td>English language translation (the Hungarian text is overwritten with its English translation):</td>
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<tr>
<td><strong>APPOSTILLE</strong></td>
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<tr>
<td>(Convention de la Haye du 5 octobre 1961)</td>
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<td>1. Country: ...............................................................</td>
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<tr>
<td>Pays:</td>
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<tr>
<td>This public document</td>
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<tr>
<td>Le présent acte public</td>
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<td>2. a été signé par: ...............................................................</td>
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8. Case No: .................................................................................

9. Seal / stamp:

9. Sceau/timbre:

10. Signature:

Registration requirements:

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<th>Ministry of Foreign Affairs</th>
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<tr>
<td>2. Plans for modernization</td>
<td>n.a.</td>
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Competent authorities:

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<th>Ministry of Justice</th>
<th>Ministry of Foreign Affairs</th>
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<td>1. Competence</td>
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<td>The Ministry attests the following documents with Apostille</td>
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<td>Apostille certifying the stamps and the authorised</td>
<td>certifying the stamps and the authorised persons’ signature</td>
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<td>Ministry of Justice</td>
<td>Ministry of Foreign Affairs</td>
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<td>Courts</td>
<td>all other Ministries except for the Ministry of Justice</td>
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<td>Notary publics</td>
<td>All agencies of national jurisdictions</td>
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<td>National Translation Office</td>
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<td>3. Contact person</td>
<td>Mrs. Otto Bravacz, head of the Department of Private</td>
<td>Mr. Péter Balla, head of department</td>
</tr>
<tr>
<td></td>
<td>International Law</td>
<td>Külügyminisztérium 1027-Budapest Nagy Imre tér 4., Hungary</td>
</tr>
<tr>
<td></td>
<td>Igazsaguyi Miniszterium, Nemzetkozi Maganjogi</td>
<td>Tel.: 00-36-1-458-1000</td>
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<tr>
<td></td>
<td>Osztlay 1055 BUDAPEST, Kossuth Lajos tér 4.,</td>
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I.A.2.6. Empirical analysis

Both the Ministry of Justice and of Foreign Affairs requested a written description and justification of the project in Hungarian for the purposes of giving out relevant information and will reply in writing to all questions. When their reply arrives this Questionnaire will be updated and properly forwarded.

I.A.3. Parallel international agreements

I.A.3.1. Status

Multilateral agreements

   The ratification documents of Hungary were deposited on October 20, 1964.

   The ratification documents were deposited on July 13, 2004 and the Convention entered into force in Hungary on April 1, 2005.

3. The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (1972)
   The ratification documents were deposited on July 13, 2004 and the Convention entered into force in Hungary on September 11, 2004.

   The ratification documents were deposited on April 7, 1986 and the Convention is applicable in Hungary from July 1, 1986.

   The Convention entered into force in Hungary on December 17, 2006.

II. Bilateral Agreements

Bilateral international agreement between the following Member States and Hungary:

1. Austria and Hungary (April 9, 1965)
The ratification documents were changed in Budapest on July 28, 1967.

2. Belgium and Hungary (May 11, 1983)
The Convention was entered into force on April 1, 1984.

3. Cyprus and Hungary (November 30, 1981)
The Convention is applicable in Hungary from July 23, 1983.

The Convention is applicable in Hungary from February 12, 1990.

5. Finland and Hungary (May 22, 1981)
The ratification documents were changed in Helsinki on July 2, 1982. The Convention entered into force 30 days after such change.

6. France and Hungary (July 31, 1980)
The ratification documents were changed in Paris on December 9, 1981.

7. Greece and Hungary (October 8, 1979)
The Convention is applicable from August 14, 1981.

8. Poland and Hungary (March 6, 1959)
The Convention entered into force on February 27, 1960.

9. Italy and Hungary (May 26, 1977)
The Convention entered into force in Hungary after 30 days thereof.

10. Slovakia and Hungary (March 28, 1989)
The Convention is applicable in Hungary from February 12, 1990.

11. Yugoslavia and Hungary (March 7, 1968), applicable towards EU Member State Slovenia

I.A.3.2. Scope

Multilateral agreements

According to Article 9 decisions in maintenance obligations falling within the scope of the Convention are exempt from the legalization requirements.

According to Article 3, the documents used in such service are exempt from legalization or other equivalent formality.

3. The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (1972)
Article 3 is applicable in Hungary.

Article 23 is applicable in Hungary.

   Article 43 is applicable in Hungary.

II. Bilateral Agreements
   Bilateral international agreement between the following Member States and Hungary:

1. Austria and Hungary (April 9, 1965)
   According to Article 22 public documents issued by the courts, notaries or administrative authorities of a Contracting Party which contain official signature and stamp has the evidentiary weight of public documents in the state of the other Contracting Party. According to Article 23 such documents do not require any legalization.

2. Belgium and Hungary (May 11, 1983)
   According to Article 14 (i) documents issued by judicial authorities and attested by their stamps and (ii) documents on which the date of issuance, the authenticity of the signature or equation with the original document is certified by the said authorities are free from legalization or any similar measure.

3. Cyprus and Hungary (November 30, 1981)
   Article 8 of the Convention sets forth that documents issued in the territory of the Contracting Parties or certified by the authorities within their competence and attested with stamp have to be accepted in the territory of the other Contracting Party without further legalization.

   Documents issued by or certified and officially stamped by the competent authorities of the Contracting Parties can be used in the territory of the other Contracting Party without any further legalization. Furthermore, public documents of one of the Contracting Parties have the evidential weight of public documents in the other Contracting Party in accordance with Article 15 of the Convention.

5. Finland and Hungary (May 22, 1981)
   Documents issued or certified by the competent authorities of the Contracting Parties shall be accepted in the state of the other Contracting Party in the application of the Convention.

6. France and Hungary (July 31, 1980)
   The certified documents issued in the territory of the Contracting Party in accordance with its legal regulations have the same evidential weight as respective documents issued in the territory of the other Contracting Party.

   Furthermore, documents issued by the judicial or administrative authorities of the Contracting Parties do not have to be legalized.

7. Greece and Hungary (October 8, 1979)
   Documents issued by an authority within its competence or certified documents issued in the appropriate form and attested by stamp in the territory of a Contracting Party shall be accepted by the other Contracting Party without any further legalization.
8. Poland and Hungary (March 6, 1959)
Documents issued by the competent authority within its competence or certified and attested with an official stamp in the territory of a Contracting Party to be used in the territory of the other Contracting Party do not need to be legalized.

Public documents issued by the competent authority of a Contracting Party shall have the evidential weight of the public documents in the territory of the other Contracting Party.

9. Italy and Hungary (May 26, 1977)
Legalization is not necessary in case of documents issued by the competent authorities in the appropriate form or certified and attested with an official stamp.

10. Slovakia and Hungary (March 28, 1989)
Documents issued by or certified and officially stamped by the competent authorities of the Contracting Parties can be used in the territory of the other Contracting Party without any further legalization. Furthermore, public documents as of one of the Contracting Parties have the evidential weight of public documents in the other Contracting Party in accordance with Article 15 of the Convention.

11. Slovenia and Hungary (March 7, 1968)
According to Article 71 legalization is not necessary in case of public documents issued, signed and officially stamped by the courts or other institutions of a Contracting Party in case of using such public documents before the courts or other institutions of the other Contracting Party. The above shall apply to the certified copies of the said public documents.

Furthermore, as set forth in Article 72, the public documents issued by the competent authorities of the Contracting Parties have the same evidential weight.

I.A.3.3. Legislative implementation

Multilateral agreements

Hungarian legislation:
-Tvr Decree No. 7 of 1965

Hungarian legislation:
-Act XXXVI of 2005

3. The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (1972)
Hungarian legislation:
-Act CXVI of 2004

Hungarian legislation:
- Tvr Decree No. 14 of 1986
Hungarian legislation:
- Act CXL of 2005

### Bilateral Agreements

Bilateral international agreement between the following Member States and Hungary:

1. Austria and Hungary (April 9, 1965)
   Hungarian legislation:
   - Tvr Decree No. 24 of 1967
   - 115/1967. (IK. 11.) Ministry of Justice Order

2. Belgium and Hungary (May 11, 1983)
   Hungarian legislation:
   - 64/1984 (XII.21.) Government Decree

3. Cyprus and Hungary (November 30, 1981)
   Hungarian legislation:
   - Tvr Decree No. 19 of 1983

   Hungarian legislation:
   - Act LXI of 1991

5. Finland and Hungary (May 22, 1981)
   Hungarian legislation:
   - Tvr Decree No. 25 of 1982

6. France and Hungary (July 31, 1980)
   Hungarian legislation:
   - Tvr Decree No. 3 of 1982

7. Greece and Hungary (October 8, 1979)
   Hungarian legislation:
   - Tvr Decree No. 21 of 1981

8. Poland and Hungary (March 6, 1959)
   Hungarian legislation:
   - Tvr Decree No. 5 of 1960

9. Italy and Hungary (May 26, 1977)
   Hungarian legislation:
   - Tvr Decree No. 11 of 1981

10. Slovakia and Hungary (March 28, 1989)
    Hungarian legislation:
    - Act LXI of 1991

11. Slovenia and Hungary (March 7, 1968)
Hungarian legislation:
- Tvr Decree No. 1 of 1969

I.A.3.4. Practical implementation

**Multilateral agreements**

The Minister of Justice arranges the enforcement of the Convention.

The Minister of Justice arranges the enforcement of the Convention.

3. The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (1972)
The Minister of Justice arranges the enforcement of the Convention.

The Minister of Justice arranges the enforcement of the Convention.

The respective Minister arranges the enforcement of the Convention.

**Bilateral Agreements**

Bilateral international agreement between the following Member States and Hungary:

1. Austria and Hungary (April 9, 1965)
According to Section 10 of 115/1967. (IK. 11.) Ministry of Justice Order in case of any doubt raised in connection with the Convention the acting authority has to request for the statement of the Ministry of Justice.

2. Belgium and Hungary (May 11, 1983)
The Ministries of Justice of the parties inform each other upon request on legislation, court decisions or any other legal issues.

3. Cyprus and Hungary (November 30, 1981)
The Contracting Parties inform each other upon request on their legislation.

The central authorities of the Contracting Parties inform each other upon request on their legislation.

5. Finland and Hungary (May 22, 1981)
The central authorities of the Contracting Parties inform each other upon request in case of questions rised in connection with the application of the Convention on their legislation.

6. France and Hungary (July 31, 1980)
n.a.
7. Greece and Hungary (October 8, 1979)  
The Ministries of Justice of the parties inform each other upon request on legislation.

8. Poland and Hungary (March 6, 1959)  
n.a.

9. Italy and Hungary (May 26, 1977)  
The Ministries of Justice of the parties inform each other upon request on legislation.

10. Slovakia and Hungary (March 28, 1989)  
The central authorities of the Contracting Parties inform each other upon request on their legislation.

11. Slovenia and Hungary (March 7, 1968)  
n.a.

I.A.3.5. Judicial control  
No cases reported to any of the multi- or bilateral treaties.

I.A.4. National Law  
I.A.4.1. Legislative framework  

| Preliminary note: although the Explanatory notes of the Questionnaire ask for copies of the original and English translation of the relevant provisions about legalization, some of the below laws omit legalization in fact by not mentioning it. I did not make a translation of the paragraphs of the laws from which legalization is omitted just to show that legalization is not required. We sometimes refer to other conditions in the lists where legalization should most logically be placed, just like that the original or its certified copy or certified Hungarian translation has to be submitted, but since these conditions do not include legalization, I did not translate them.

As to incoming documents, their status – whether legalization is needed or not – is dealt with by those laws that are applicable to the different circumstances in which a document may need to be used.

As to judicial procedure in civil and commercial matters, Article 195 para (7) of the Civil Procedure Act states: “(7) A jelen § rendelkezéseit a külföldi közokiratra is alkalmazni kell, feltéve hogy azt a kiállítás helye szerint illetékes magyar külképviseleti hatóság felülhitelesítette. A magyar állam által kötött eltérő nemzetközi megállapodás esetében a felülhitelesítésre nincs szükség.” This, in English is: “(7) Provisions of this Article are to be applied to foreign public document provided that it is legalized by a competent Hungarian mission authority in the country of issuing the document. Legalization is not needed in case of international agreements by the Hungarian state.” Provisions of Article 195 (the preceding paragraphs) deal with the evidentiary weight of public documents in the civil procedure.

The requirement of legalization also extends to private documents and to representation: “198. b) a meghatalmazásnak, valamint a peres eljárás céljára kiállított nyilatkozatoknak és az igazságügy-minisztéri rendeletében a szükséghez képest megjelölt egyéb magánokiratoknak csak akkor van a 196. §-ban meghatározott bizonyító ereje, ha azokat a kiállítás helye szerint illetékes magyar külképviseleti hatóság hitelesítette (felülhitelesítette).” |
"198 § b) an authorization of representation and statements made for the purposes of the litigation procedure and other private documents over those necessary in terms of the Decree of the Minister of Justice have the evidentiary weight of Article 196 if they are legalized by the Hungarian mission agency in the country where the document was issued."

Representation authorizations issued abroad also fall under a legalization requirement, as provided by Article 69 para (3):

“(3) Representation authorizations issued abroad have to be contained in a public document or certified private document. Article 198 point b) applies to the legalization of such representation authorizations."

The text of the Act relating to legalization has been intact since 1954 (only its numbering has changed), and the reasoning to this 1954 law is not available.

Court enforcement has its own procedure regulated by Act No. LIII of 1994. As mentioned, legalization is not a requirement. As to the enforcement of foreign judicial decisions in civil and commercial matters in Hungary, Article 207 of Act No. LIII of 1994 on Court Enforcement makes it a requirement to attach to the request for enforcement the original court decision and if the court so requests, its Hungarian translation.

Legalization is not mentioned as a requirement of any foreign judgment whether from the EU or not, because on the one hand foreign judgments are enforceable only if a specific law, international agreement or reciprocity so permits, and on the other because the Civil Procedure Act is a background law of the Act (Article 9 of the Court Enforcement Act).

Note also that it is not a requirement that the translation be certified, although courts dealing with languages that the judge does not speak automatically ask for a certified translation. On the other hand Article 210/A para (1) states, that if the procedure of enforcement falls under Regulation 44/2001 and the rules of the Regulation and the Act collide, the Regulation has priority. While not specifically regulated, the same applies to the recognition of a foreign judgment.

The official reasoning of the Act treats the entire chapter of enforcement of foreign judgments in one short section and makes no mention of legalization.

Act No. CXLI of 1997 on Real Estate Registry also refers to the requirements of the Civil Procedure Act on public documents (para (3) of Article 34 of the Real Estate Act). However, since real estate registry entries also substantially depend on private documents (contracts), it prescribes the use of apostille for private documents as well, albeit documents without apostille may be allowed to serve basis as an entry in the Real Estate Registry within discretionary power.

The following is the excerpt of the relevant provisions of articles 35 and 36:

“(2) Ha a magánokiratot külföldön állították ki, és nemzetközi megállapodás másként nem rendelkezik, vagy eltérő viszonyossági gyakorlat nem áll fenn, a nyilatkozattevő aláírását (kézjegyét) a magyar külképviseleti hatósággal kell hitelesíttetni, illetőleg az aláírás (kézjegy) hitelesítésére jogosult külföldi szerv által történt hitelesítést kell a magyar külképviseleti hatósággal hitelesíttetni (diplomáciai hitelesítés, illetve felülhitelesítés). Ahol magyar külképviseleti hatóság nem működik, az aláírást
(kézjegyet) a magyar állam érdekeit képviselő állam külképviseleti hatóságával kell hitelesíttetni. Eltérő nemzetközi megállapodás fennállását a bejegyzést kérő félnek kell megjelölni, illetve arra hivatkozni. Viszonossági gyakorlat fennállásáról az Igazságügyi Minisztérium állásfoglalása az irányadó.

(3) Ahol magyar külképviseleti hatóság nem működik, és a magyar érdekeket más állam külképviseleti hatóságai sem képviselik, a nyilatkozattevő aláírását (kézjegyet) csak az okirat kiállítása helyén érvényes jogszabályok szerint erre jogosult szervnek kell hitelesíteni.

(4) Nincs szükség a külföldön kiállított magánokirat diplomáciai hitelesítésére, illetőleg felülhitelesítésére, ha az okiratot hitelesítési zárókapcsolattal (Apostille) látták el. 36. § (1) A külföldön kiállított magánokiratot, ha hitelesítéssel vagy hitelesítési zárókapcsolattal (Apostille) nincs ellátva, a földhivatal állásfoglalás végett a földművelésügyi és vidékfejlesztési miniszter útján az igazságügy-miniszterhez terjeszti fel. A felterjesztésben hivatkozni kell azokra a méltánylást érdemlő rendkívüli körülményekre, amelyeket a kérelemben előadtak. Egyebekben a külföldön kiállított magánokiratra megfelelően kell alkalmazni a belföldön kiállított magánokiratra vonatkozó rendelkezéseket.”

“(2) If the private document was issued abroad, and unless international agreement or reciprocity provides differently, the signature of the person making the statement has to be legalized by the Hungarian mission authority abroad, or the certification of the signature by the competent foreign body has to be legalized by the Hungarian mission authority abroad (over-certification or diplomatic legalization). Where there is no Hungarian mission authority, the signature has to be legalized by the foreign mission authority representing the interests of the Hungarian state. It is the client who has to refer to international agreement providing differently. The existence of reciprocity practice is verified by the Ministry of Justice.

(3) Where there is neither a Hungarian mission abroad nor a mission of a state representing the interests of the Hungarian state, it is sufficient if the signature of the person making the statement is certified by the body competent according to the laws of the place of issuing the document.

(4) The document does not need diplomatic legalization or over-certification if it contains an Apostille-closure.

36. §
(1) If the private document issued abroad is not legalized or does not contain Apostille, the Registry of Deeds submits it, via the Minister of Agriculture and Rural Development, to the Minister of Justice to decide about the use of the document. Extraordinary equitable circumstances that were contained in the application will also have to be referred to in the submission. In other aspects the rules applicable to private documents issued abroad are the same as those issued domestically. The reasoning of the Act only repeats the rule but gives no further explanation why it is required.

Article 52 of the Public Administration Act provides, that

“(2) A külföldön kiállított közokirat, illetőleg a külföldi bíróság, közigazgatási szerv, közjegyző vagy egyéb közhitelességgel felruházott személy által hitelesített magánokirat – hacsak az ügyfajtára vonatkozó jogszabályból, nemzetközi szerződésből, illetve
(2) A public document issued abroad, and a private document certified by a foreign court, administrative authority, notary public or any other person bestowed with public trust bears, under Hungarian law, evidentiary weight only if the Hungarian mission authority of the country of issuing the document furnished it with diplomatic legalization, unless it follows differently from the law regulating the specific branch of cases, an international agreement or practice of reciprocity. A document issued in a language other than Hungarian is admissible only if accompanied by a certified Hungarian translation, unless the law regulating the specific branch of cases provides otherwise.

(3) Unless the law provides otherwise, the authority may require the certified translation of the document in the procedure, or if obtaining the document may be disproportionately difficult, the client may make a statement instead of producing the document. In this case the client has to be informed about the legal consequences of false statements.

The official reasoning of the Act only repeats the provision in different words but gives no explanation why legalization was introduced.

As to criminal procedure, Act No. XXXVIII of 1996 on International Criminal Cooperation deals with the question of use of foreign public documents in the procedure. While the Act has no general rule on the application of foreign public documents, it does list the conditions of cooperation of different kinds, such as the taking over or handling over the procedure, charges made at foreign investigating authorities, extradition, taking over of enforcement, etc. The list of conditions does not include legalization, only the original documents of the procedure or their certified copies (para (2) of Article 78), the final judgment or its certified copy (para (2) of Article 79), originals of house search or other warrants or their certified copy (para 4 of Article 80). Other articles deal with translation questions, but not any mentioned legalization.

As to domestic criminal procedure, Act No XIX of 1998 – the new Criminal Procedure Act – mentions no discrimination whatsoever regarding the origin of documents within the criminal procedure. Investigating authorities have a wide discretion to evaluate documentary evidence, there is no requirement of legalization before a public (or private) document of foreign origin is allowed in the procedure.

While the many specific rules used in the procedure by the Civic Register are extensively dealt with by under Part I.B.2.2. of this Report, Article 7 para (1) of the Tvr Decree No. 17 of 1982, 6/2003. (III. 7.) about the Register, the Conclusion of Marriage and Wearing of Name (the “Registry Decree”) provides that where a public document is required in the procedure under the Decree for the propose of an entry into the Marriage
Register of a foreign citizen proving that the marriage has no statutory obstacle, unless an international agreement provides differently, documents of foreign citizens must be legalized. However, under para (2) if the Ministry of Foreign Affairs or the Hungarian Mission of the country in question declares a public document impossible to obtain, a personal statement by the client is sufficient.

"7. §
(1) In the procedure of the Civic registry and in the marriage procedure, unless this law provides differently, data to be registered and the statutory conditions of marriage have to be supported by documentary evidence. Documents in foreign language have to be accompanied by a certified Hungarian translation. The proof of non-Hungarian citizens for admissibility to marriage have to be accompanied by diplomatic over-certification, unless an international agreement provides differently.

(2) Instead of the presentation of document, a personal statement may be made if, according to the written statement of the Ministry of Foreign Affairs or the foreign representative agency of the given country the document can not be obtained from abroad."

The legalization requirement of Article 7 was introduced only in 2002, by Act No XLV of 2002. The official reasoning to this Article – why legalization was made a criterion – reads as follows:

"The number of foreigners from various countries of the world who have had a Civic Register event in Hungary has substantially increased. The Civic Register is a record of public trust where every data entered into has to be evidenced by a document. It has happened on several occasions that the document presented by the client was false or falsefied or was not issued by the foreign authority entitled to do that. In order to prevent such cases it is justified to introduce in the civic register and marriage procedures – as is
with court, guardian office and other authorities – diplomatic legalization, unless bi- or multilateral treaties provide differently.”

Foreign documents are used in connection with education to a great extent. However, legalization is usually not a requirement. The following specific fact patterns are regulated in Hungary. The most frequent fact pattern is the recognition of foreign diplomas. Act No C of 2001 on the Recognition of Foreign Certificates and Diplomas, which is applicable to proving degrees obtained in the course of basic, secondary, higher and scientific level education, vocational, technical and specialized training outside the common course of training, as a main rule, abolished legalization, but leaves some like possibility for cases of doubt. Paragraph 8 of Article 8 reads as follows:

“(8) Az elismerési és honosítási eljárásban a külföldön kiállított bizonyítvány vagy oklevél magyar külképviseleti hatóság felülhitelesítése nélkül is bizonyító erővel rendelkezik. Az eljáró hatóság azonban indokolt esetben előírhatja, hogy a bizonyítványt vagy az oklevelet külföldi illetékes hatóság felülhitelesítsé, illetve a kérelmező nyújtson be olyan, külföldi illetékes hatóság által kiállított igazolást, amely tanúsítja, hogy a bizonyítvány vagy az oklevél a kérelmezőt külföldön szabályozott szakma gyakorlására jogosítja fel.”

In English:

“A certificate or diploma issued abroad bears evidentiary weight in the procedure of recognition and naturalization without legalization of the Hungarian mission authority operating abroad. However, the proceeding authority may, if justified, prescribe that the certificate or diploma be over-certified by a foreign competent authority, or the applicant should submit a statement issued by the competent foreign authority, that certifies that the certificate or diploma entitles the applicant to pursue a regulated profession abroad.”

Obviously, the Act prescribes several other conditions (that the copy of the diploma – not the diploma – be certified, that its translation be certified, etc.), but those do not relate to legalization. The reasoning of the Act only repeats the provision in other words but offers no further explanation. Note, that the lack of the legalization requirement is effective only of November 1 2005, therefore the May 2005 Response of the Hungarian Government in the issue to the questionnaire of the Hague Conference on Private International Law in this regard is outdated (see http://www.hcch.net/index_en.php?act=conventions.publications&dtid=33&cid=41).

The second most frequent case is the admission of foreign citizens in the course of higher education is Hungary. This includes the use of several foreign documents (ie lower level diplomas from the country of origin) but Governmental Decree No. 157/2001 (IX. 12.) which lists the conditions of participation of foreigners in Hungarian higher level education does not mention legalization. Act No. LXXIX of 1993 on Common Education (the “Common Education Act”) also does not make it a requirement that legalization be necessary for foreign documents submitted to schools, although at certain instances makes it a discretionary power of the school, on request advised by the Minister of Education, to decide about the fate of foreign documents. Other than referring to the law on the recognition of foreign diplomas, the laws on adult education and non-common technical and other education are also silent on any legalization requirements if foreign documents (other than certificates and diplomas) appear before them. In the process of academic advancement of professors, often foreign public documents are used to show certain achievements (ie. foreign scientific award). Act No CXXXIX of 2005 on Higher Education (the “Higher Education Act”) delegates the right to universities to designate the requirements of advancement, which may in principle require legalization of foreign documents, although it has not been a practice. Another case is when a foreign
institution of higher education wants to commence educational activity with a branch in Hungary. According to para (1) of Article 116 of Higher Education Act, certain foreign facts (such as the one that the institution is legally accredited as a university abroad and its diploma counts as a state-accredited public document abroad) must be proven “beyond credibility” in order to gain status. This may, but may as well not include legalization in certain cases.

Use of foreign documents relating to language exams (language exam certificates issued abroad) is regulated by Decree No 26/2000 (VIII. 31.) of the Minister of Education on the Naturalization of Language Exam Certificates Issued Abroad. While the Decree lists the conditions of application which, according to para (2) of Article 8 include both a certified copy of the original language exam certificate and its certified Hungarian translation, legalization is not required.

Act No XXXIII on the Patent Protection of Inventions prescribes, in its Article 52 para (2), that:

“(2)12 Szabadalmi ügyekben idegen nyelvű beadványokat is be lehet nyújtani, a Magyar Szabadalmi Hivatal azonban – indokolt esetben hitelesített – magyar nyelvű fordítás vagy felülhitelesített okirat benyújtását írhatja el."  

“(2) In patent cases also foreign language submissions may be made, the Hungarian Patent Office may nevertheless require a Hungarian translation of the submission which, if justified, has to be certified, or may require the submission of a legalized document.”

The reasoning of the document only contains information about several sections together pointing out that the provisions reflect the interests of the Patent Office. However, the reasoning also states that the leaving open the legalization requirement only if the Office finds it justified is a step towards easing the burden of clients, because in the course of mandatory representation by a Hungarian representative, the authorization issued abroad does not require legalization (and henceforth Article 94 about the conditions of representation does not contain the rule of legalization). This is a rule easier than the legalization of foreign representation rule of the Civil Procedure Act (see above).

As to outgoing documents, the main rule logically would be that the legalization requirement be decided by the country of destination. The country of origin may not tell another country how it should treat documents that are incoming documents from the point of view of the place of destination.

Act No LXXIX of 1993 on Common Education, in its Article 113 prescribes, that

“113. § Ha az iskolák okiratait külföldön kívánják felhasználni, azokat hitelesíteni kell, illetve megfelelő felülhitelesítéssel kell ellátni, feltéve, hogy nemzetközi szerződés másképpen nem rendelkezik. A hitelesítést az iskola fenntartója, helyi önkormányzat által fenntartott iskola esetén a jegyző (főjegyző) végzi el, és az Oktatási Minisztérium, a Külgüümiszértérium és az okirat felhasználása szerinti állam magyarországi külképviselete hitelesíti felül."  

113. § If documents of schools are to be used abroad, those have to be certified and
properly legalized, unless an international agreement provides differently. Certification is issued by the maintaining body of the school, who is represented by the municipal clerk (town clerk) in case the school is maintained by the local municipality. Legalization is issued by the Ministry of Education, the Ministry of Foreign Affairs and the Hungarian mission authority operating in the country of destination of the document."

As to the procedure of apostille, the relevant provisions are Article 15 of Act No XLVI of 2001 on Consular Protection and Chapter No IV of Information Communication No. 8001/2001 (IK.4.) of the Ministry of Justice.

As to the Consular Protection Act:

"15. §
(1) Amennyiben nemzetközi szerződés eltérően nem rendelkezik, a külföldi közokirat magyarországi felhasználása céljából a konzul felülhitelesítheti a fogadó állam hatóságának az okirat szereplő aláírását és bélyegzőlenyomatát, feltéve, hogy az okirat kiállítására jogosult hatóság aláírás- és bélyegzőmintáját a fogadó állam közölte.
(2) Amennyiben nemzetközi szerződés eltérően nem rendelkezik, külföldi felhasználás céljából a Külügyminisztérium konzuli feladatokat ellátó szervezeti egysége felülhitelesíti a magyar minisztériumok vagy országos hatáskörű szervek által kiállított okiratok szereplő aláírást és bélyegzőlenyomatot.
(3) A (2) bekezdésben említett hatóságok megküldik a külföldi felhasználás céljából okirat hitelesítésére jogosult munkatársaik aláírás- és bélyegzőmintáját a Külügyminisztérium konzuli feladatokat ellátó szervezeti egységének, s előzetesen értesítenek az abban bekövetkező változásokról.
(4) A felülhitelesítést meg kell tagadni, ha az okirat, a kiállító hatóság aláírása vagy bélyegzője valódiságát, vagy a kiállításra való jogosultságát illetően kétféle merül fel."

In English:

"15. §
(1) Unless an international agreement provides differently, for the purpose of the use of a foreign public document in Hungary, the Consul may legalize the signature and seal on the document of the authority of the hosting country, provided, that the hosting country communicated the signature and seal of the authority entitled to issue the document.
(2) Unless an international agreement provides differently, the organizational unit of the Ministry of Foreign Affairs in charge of consular duties may, for the purpose of use abroad, legalize the signature and seal on documents issued by Hungarian ministries or authorities with nationwide jurisdiction.
(3) Authorities mentioned in paragraph (2) send the sample of signature and seal of their staff who are entitled to certify documents for foreign use to the organizational unit of the Ministry of Foreign Affairs entrusted with consular duties, and preliminarily communicate any changes to it therein.
(4) Legalization must be denied if doubt arises as to the validity of the document, the signature or seal of the issuing authority or the title of the authority to issue the document."

The relevant passages of Information Communication No. 8001/2001 (IK.4.) of the Ministry of Justice are the following:

"IV. FEJEZET
OKIRATOK HITELESÍTÉSE ÉS FELÜLHITELESÍTÉSE

A magyar külképviseleti hatóság által kiállított, hitelesített és felülhitelesített okiratok
69. A külföldön kiállított közokiratnak, illetőleg magánokiratnak általában abban az esetben van a belföldön kiállított közokirattal, illetőleg magánokirattal azonos bizonyító ereje, ha az illetékes magyar külképvisaleti hatóság állította ki, vagy hitelesítette, illetőleg felülhitelesítette [Pp. 195. § (5) bek.; 198. § b) pont].

70. A magyar külképvisaleti hatóság által külföldön kiállított közokiratnak a belföldön kiállított közokirattal, a magyar külképvisaleti hatóság által külföldön hitelesített magánokiratnak pedig a belföldön hitelesített magánokirattal azonos a bizonyító ereje. A konzul (konzuli tisztviselő) okirat-készítési és okirat-hitelesítési jogkörét az egyes államokkal hatályban lévő két- és többoldalú konzuli szerződések részletesen szabályozzák.


Diplomáciai felülhitelesítéssel el nem látott külföldi okiratok elfogadása

72. Nincs szükség a külföldön kiállított okirat diplomáciai felülhitelesítésére, ha nemzetközi szerződés ennek a mellőzését teszi lehetővé. Nemzetközi szerződések, illetőleg a viszonosság irányadó annak elbírálásánál, hogy mely külföldi szerv által milyen módon kiállított (hitelesített) okiratot kell a belföldön kiállított közokirattal azonos bizonyító erejű közokiratnak tekinteni, illetőleg a belföldön hitelesített magánokirattal azonos bizonyító erejű hitelesített magánokiratnak elfogadni. Nemzetközi szerződés és viszonosság hiányában az általános belső jogszabályok irányadók.


74. Diplomáciai felülhitelesítésre lehetőség van olyan esetben, ha az adott államban nem működik ugyan magyar diplomáciai képviselet, de ott akkreditálva van más államban tevékenykedő magyar külképvisalet. Nincs azonban mód a külföldön kiállított okirat diplomáciai felülhitelesítésére, ha az okirat kiállítási helye szerinti állammal Magyarországnak nincs diplomáciai kapcsolata, illetőleg ha az szünetel és a magyar külképvisaleti hatóság feladatát e vonatkozásban más állam külképvisaleti hatósága sem látja el. Az ilyen államban kiállított okirat elfogadhatóságára kérdésében a bíróság (közjegyző) mérlegelés alapján dönthet. Ha a bíróság (közjegyző) szükségesnek tartja, az okiratot az elfogadhatóság kérdésében való állásfoglalás végét megküldi a Nemzetközi Jogi Főosztálynak. A Függelék IV. része felsorolja a jelenleg működő magyar külképvisaleti hatóságokat.
75. A bíróság (közjegyző) eljárásában a hitelesítéssel, illetőleg diplomáciai felülhitelesítéssel el nem látott okiratot olyankor is elfogadhatja, ha nemzetközi szerződés (viszonosság) a hitelesítést, illetőleg a felülhitelesítést nem teszi mellőzhetővé, és annak egyébként jogi akadálya sem volna. Ilyen esetben a bíróság (közjegyző) a Nemzetközi Jogi Főosztály véleményét kéri, és a Pp. 199. § alapján dönt. Az okiratot véleményezés végétt az esetleges mellékletekkel (pl. fél kérelme), valamint a méltánylást érdemlőnek látszó körülmények megemlítésével (pl. perérték, illetőleg az örökrész értéke, esetleg a fél személyes körülményei) kell felterjeszteni. A külföldi felhasználásra szánt okiratok hitelesítése és felülhitelesítése

76. A bírónak (ügyintézőnek) a külföldi felhasználásra szánt iratokon, illetőleg az irodavezetőnek a külföldi felhasználásra szánt iratokkal az iratmásolat hitelesítési záradékán lévő névaláírását a bíróság elnöke hitelesíti. Az irodavezetőnek a külföldi felhasználásra szánt kiadás hitelesítési záradékán lévő aláírását a bíróság elnöke és a bíróság elnöke nem hitelesíthet. A bírósági elnöki hitelesítés szövege: „XY (teljes név és hivatali állás megjelölése) névaláírását hitelesítem” (keltezés, aláírás, az aláírás alatt a bírósági elnök teljes neve és hivatala).

77. A külföldi felhasználásra szánt okiratot, így a bíróság, közjegyző által ügykörében, a megszabadított formában elkészített iratokat, a bíróság (a bíróság elnöke), közjegyző által hitelesített iratokat, az OFFI által készített és az okirathoz csatolt hiteles fordítást (fordításhitelesítést) stb. általában diplomáciai felülhitelesítéssel kell ellátni.

78. A külföldi felhasználásra szánt okiratokon (a hiteles kiadásokon és a hiteles másolatokon) a bíróság elnöke, illetőleg a közjegyzőnek, az OFFI-nak az aláírását és pecsétjét a Nemzetközi Jogi Főosztály hitelesíti felül. Az OFFI hitelesítését (aláírását és pecsétjét) a Külügyminisztérium is felülhitelesítheti. Az Igazságügyi Minisztérium aláírását és pecsétjét általában a Külügyminiszter, a Külügyminisztériumét pedig annak az államnak a külképviseleti hatósága hitelesíti felül, amelyben az okiratot fel kívánják használni.

79. Nincs szükség a bíróság által ügykörében, a megszabadított formában elkészített irat felülhitelesítésére (a bíróság elnöke hitelesítésére), ha nemzetközi szerződés vagy viszonosság ezt mellőzhetővé teszi.


81. Az iraton lévő aláírás hitelesítése aláírásonként 300 Ft; a külföldi használatra szánt iraton lévő aláírásnak valamely igazságügyi hatóság vezetője által történő hitelesítése aláírásonként 500 Ft; az ilyen hitelesítésnek az igazságügy-miniszter által történő hitelesítése, felülhitelesítése 1 000 Ft illeték alá esik. [Az illetékekről szóló 1990. évi XCII. tv. 29. § (4) bekezdéséhez közzétett melléklet VI. pontja.]
82. Külföldről érkezett kérelemre a bíróság a külföldi felhasználásra szánt okiratot (pl. hiteles iratmásolatot) nem közvetlenül adja ki a félnek, hanem a Nemzetközi Jogi Főosztálynak küldi meg továbbítás céljából. Ilyen esetben a bíróságnak nem kell gondoskodnia az illeték előzetes lerovatásáról, és az okiratot nem azt nem kell feltüntetni, hogy az illeték lerovása nem történt meg, sem azt, hogy a másolat elkészítése, a hitelesítés és a felülhitelesítés címén milyen összegű illeték alá esik. A Nemzetközi Jogi Főosztályal azonban közölni kell a le nem rótt illeték összegét és az esetleges költségmentességére (illetékmentességre) vonatkozó adatokat.

In English:

“CHAPTER IV
CERTIFICATION AND LEGALIZATION OF DOCUMENTS
Documents issued, certified and legalized by the Hungarian mission authority abroad

69. Public and private documents issued abroad usually have evidentiary power equivalent with public and private documents issued domestically if they were issued, certified or legalized by the competent Hungarian mission agency abroad [Civil Procedure Act Article 195. para (5); Article 198. point b)].

70. Public documents issued by the Hungarian mission authority abroad have identical evidentiary power with public documents issued domestically, private documents certified by the Hungarian mission authority abroad have identical evidentiary power with private documents certified domestically. The powers of issuing and certifying documents by the consul (consular clerk) are specifically regulated by existent bi- and multilateral agreements.

71. The Hungarian mission authority abroad normally legalizes document issued by or certified by the competent foreign authority – often notary public – the way that it certifies the signature and seal of the competent Ministry of Foreign Affairs (diplomatic over-certification). Legalization (over-certification) of the document by the Ministry of Foreign Affairs competent by the place of issuing usually takes place as a result of the certification chain provided by the internal laws of the given country. In case of documents legalized (over-certified) by the Hungarian mission agency abroad, Hungarian courts usually do not have to investigate the identity of the foreign authority issuing (certifying) the document.

Recognition of foreign documents lacking legalization

72. Diplomatic over-certification of documents issued abroad is not needed in case an international agreement so provides. Out international agreements or reciprocity decide the question of what method of issuing (certification) of a document by which foreign authority has to be given identical evidentiary power with domestically issued public documents, and what document has to be treated identically as a domestically certified private document. In the lack of international agreement or reciprocity, internal laws are applicable.

73. With regard to certain countries legalization of documents may be unnecessary in terms of the The Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (incorporated by Decree with the Force of an Act No 11 of 1973). Within the sphere of application of the Convention the court has to examine whether the document contains a proper „Apostille” closure under the
74. Legalization is possible also in case there is no Hungarian mission authority in a specific country but a Hungarian mission authority operating in another country is accredited to this state as well. However, legalization of documents issued abroad is not possible if Hungary has no diplomatic ties with the country of the place of issuing, or if the diplomatic relationship is temporarily halted and the foreign mission authority of no other state represents Hungary in the given state. Admission of a document issued in such country is under the discretionary right of the court (notary public). If the court (notary public) so considers, it may submit the document to the Department of International Law for guidance. Annex No IV lists the currently operating Hungarian mission authorities abroad.

75. The court (notary public) may also allow a document lacking certification or legalization even if an international agreement (reciprocity) makes certification or legalization compulsory, and there would be no legal obstacle to perform certification or legalization. In such cases the court requests the legal opinion of the Department of International Law and decides on the ground of Article 199 of the Civil Procedure Act. The document submitted must be accompanied with annexes (ie the client’s application) and the listing of all circumstances apparently equitable (the value of litigation, the value of the share of the beneficiary of the estate, personal circumstances). Certification and legalization of documents for use abroad

76. The president of the court certifies the signature of the judge (clerk) on the document for foreign use, and the signature of the office head on the certification closure of the copy of the document for foreign use. Signature of the office head on the certification closure of an estreat does not have to be certified by the president of the court. The certification text by the president of the court is: “I hereby certify the signature of XY (name and position)” (date, signature, under the signature the full name and position of the president of the court).

77. Documents for foreign use, such as documents issued in proper form by courts and notary publics within their field of operation, documents certified by the court (president of the court), notary public, certified translations by the Hungarian Office for Translation and Attestation Company attached to the documents usually undergo the process of legalization.

78. The Department of International Law legalizes the signature and seal of the president of court, the notary public and the Hungarian Office for Translation and Attestation Company on documents (including certified estreats and certified copies) destined for foreign use. The certification of the Hungarian Office for Translation and Attestation Company (signature and seal) may be legalized by the Ministry of Foreign Affairs as well. The signature and seal of the Ministry of Justice is usually legalized by the Ministry of Foreign Affairs, and the signature and seal of the Ministry of Foreign Affairs is usually legalized by the foreign mission authority of the county of the designated use of the document.

79. Documents issued by courts within their competence in the given form need not be legalized (and certified by the president of the court) if international agreement or reciprocity puts it aside.

80. Legalization of the Ministry of Justice (its signature and seal) needs not be further
legalized, if international agreement or reciprocity puts it aside. In connection with specific states, the procedure of Decree with the Force of an Act No 11 of 1973 (Annex point I. 73.) promulgating the The Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents is applicable. Accordingly, the Ministry of Justice issues an „Apostille” with a legalization closure (IM-KÜM Decree No. 9/1973 (XII. 29.) of the Minister of Justice and Minister of Foreign Affairs). Documents issued in states participating in the agreement can, without further legalization, be used upon the legalization closure of the Ministry of Justice (and concerning documents not relating to the justice system, by the Ministry of Foreign Affairs).

81. Duties to apply for legalization of signatures on documents is 300 Ft per signature, certification of a head of a unit of justice on documents destined for foreign use is 500 HUF; and the certification of such signatures by the Minister of Justice is 1,000. HUF. [Annex point No VI of the Act No XCII. Of 1990 on duties, Article 29 para (4)] (REPORTER’S NOTE: this paragraph has been outdated!)

82. Upon request from abroad the court does not give out the document for foreign use (ie a certified copy) directly to the client, but forwards it to the Department of International Law. In such a case the court does not have to establish if the duty has been primarily paid, neither does the fact whether the duty has been paid or the amount of duty for preparing a copy, certification or legalization need to be noticed on the document. The Department of International Law needs to, however, be informed about the amount of unpaid duty and arising data about exemption for the duty paying obligation.”

I.A.4.2. Scope

1. As to the geographical scope of national legalization rules, for incoming documents, the specific rules prescribing legalization apply to all documents originating in all foreign countries of the world recognized by Hungary, except for EU Member States in case there is European secondary legislation (see instruments I.A.1.), other members of the Hague Convention (see I.A.2.) and other international agreements (I.A.3.)

As to outgoing documents, laws under I.A.4.1. apply to Hungarian documents. As to the legalization service rules, documents originating from any country of the world recognized by Hungary may come under their scope if the legalization requirement stands for vis-à-vis the given country. For details see I.A.4.1.

2. As to incoming documents, the general rule is that legalization requirements are not set by the type of document but by the procedure in which they are used. Ie any public document in a civil procedure or administrative procedure falls under the legalization criterion of either the Civil Procedure Act or the Public Administration Act general legalization rule. However, specific rules for specific documents, such as a marriage obstacle certificate, a foreign diploma may occasionally have their own rules. All these were discussed in the preceding point.

As to outgoing documents, the legalization requirement for the foreign use of specific Hungarian documents is rare. School documents of common education are the only specific example, see above.

As to the legalization service, foreign consular authorities (or like authorities) provide for the legalization of any kind of foreign public document on request. Special laws may prescribe the legalization of foreign private documents such as a representation in civil
procedure or a contract for an entry into the Real Estate Registry. All these were discussed in detail above.

As to outgoing documents, the Ministry of Justice legalizes documents issued by ministries and authorities with nationwide jurisdiction. Even if documents of lower level bodies – such as school documents – are legalized, they are only dealt with by the Ministry of Justice after they have been certified by the competent ministry – Ministry of Education for school documents.

I.A.4.3. Practical implementation

The consular officer legalizes the signature and stamp on the documents issued by the issuing state’s authority if the template of the relevant signature and stamp was submitted to him by the issuing state. According to the practice the consular officer is in possession of the signature and stamp of the issuing state’s Minister of Foreign Affairs. Therefore, the consular officer can demand from the clients to submit a document issued by the Minister of Foreign Affairs (i.e. after going through the chain of legalization of the respective country). As this procedure takes time and may be expensive the consular officer usually legalizes documents issued by authorities on the lower level of the legalization-chain if their signature and stamp is known by him ex officio in order to secure the interests of Hungarian citizens.

I.A.4.4. Judicial control

N/A

PART I.B. Specific

I.B.1. Introduction

I.B.2. Specific documents

1. Documents proving involuntary unemployment

There is no document in Hungary to specifically prove the fact of involuntary unemployment as such. However, there is a document issued by the last employee, which is called certificate necessary for the determination of unemployment benefit (in short also called unemployment certificate) the purpose of which is to be used to determine unemployment benefit (see the entire MüM Decree). Employment Centres organized on a county-level pass the individual decisions for the unemployment benefit, which comes closest to what may be considered as proof of involuntary unemployment, and there are job seeking contracts between the employment centres and the unemployed which might have equal effect. While unemployment benefit decisions are individual decisions of a public administration nature, job seeking contracts have more of a private contract nature and are less capable of serving as public documents. The relevant sources of law are Act No. IV of 1991 on Job Assistance and Unemployment Benefits and MüM Decree No. 4/1997. (I. 28.) of the Minister of Labour Affairs on the certificate necessary for the determination of unemployment benefit.

2. Documents proving a family relationship or other durable relationship

Family relationship or other durable relationship is either proved by public document certificates issued by the Civic Register or proved by other kinds of public documents usually with the participation of a public notary or by court documents.
The Civic Registry organized on the level of municipalities holds the Register which is a public register of the facts noted therein. Tvr Decree No. 17 of 1982, 6/2003. (III. 7.) about the Register, the Conclusion of Marriage and Wearing of Name (the “Registry Decree”) and its implementing decree of the Minister of Interior, BM Decree No. 6/2003 (III. 7.) (the “BM Decree”) are the legal sources.

Documents originating in the Register proving family relationship are the following:

A birth register (Articles 32-34 of the Register Decree) is capable of documenting the mother-child and father-child relationship.
A marriage register (Articles 35 of the Decree) proves the matrimonial relationship.
Private individuals may apply for a certificate of the register: a birth certificate or a marriage certificate which are both public documents (Article 40 of the Decree).

While the use of multiple birth certificates and marriage certificates is capable of publicly proving all kinds of family relations (e.g. birth certificates with the same parents prove brother/sisterhood; birth certificates of a parent and his/her child prove the relationship of grandparent-grandchild, etc.), there is no register of life partnership. As an alternative to using multiple certificates, under Article 40 para (3) the client may request a special public document by the Register to prove facts that are not contained in a single certificate, such as further-reaching family relationship.

While a family relationship is primarily proved by the above documents, public documents that may also prove a family relationship may also be the following:
Article 27 para (3) of Act No. IV of 1952 on Marriage, Family and Guardianship (the “Family Act”) provides that one of the forms in which a marriage settlement can be concluded is a public document (usually before a notary public).
Article 31/A para (1) of the Family Act provides that one of the forms in which an agreement about the use of the common housing facility after the termination of the marriage can be concluded is a public document (usually before a notary public).
According to Article 37 para (5) of the Family Act, the declaration of fatherhood of the child must be made before a Civic Register, a court, a guardian office, a mission of Hungary abroad or a notary public where it is entered into the registry and can be certified by a public document. This applies to cases where from the time of conception until giving birth the mother was for no period married.
Article 86 para (3) provides that while the parents may conclude an agreement about the sharing of the practicing of the right of representation of the child, one of the forms in which the agreement can be effectively made is a public document (usually before a notary public).
Article 96 para (1) prescribes that one of the forms for the parent to provide about guardianship is a public document.

While none of these documents are made with the purpose of proving the family relationship, they do contain facts about family relationship and may eventually be used for such purposes with the evidentiary force of public documents. This may be the case if a certificate by the Civic Register is destroyed and replacement would take too long time, or if the Register is destroyed.
Finally, a judgment relating to family relationship is a public document proving the family relationship inherent therein. This applies to all aspects regulated by the Family Act, including not only litigation between contradicting parties but also the court declaration of facts on request, including family relationship, such as the court declaration of fatherhood (Article 38) or motherhood (Article 40).

Legalization of documents proving a family relationship may come into play in three different regards. Firstly, in case an entry in the Registry is based upon a foreign public document, should that be legalized in Hungary? Secondly, do like foreign documents need to be legalized for use within Hungary? Thirdly, what is the process of legalization of such documents issued by Hungarian authorities for use abroad?

As to the first issue, while the Public Administration Act (see above) is not a background law to the decrees and the Family Act, the decrees have their own rules on legalization. Article 7 para (1) of the Register Decree provides that where a public document is required in the procedure under the Decree for the purpose of an entry into the Marriage Register of a foreign citizen proving that the marriage has no statutory obstacle, unless an international agreement provides differently, documents of foreign citizens must be legalized.

However, under para (2) if the Ministry of Foreign Affairs or the Hungarian Mission of the country in question declares a public document impossible to obtain, a personal statement by the client is sufficient. A further exemption for foreigners to show documentary evidence is contained in Article 20 para (1). Documents in a foreign language must be accompanied with a certified Hungarian translation. Documents proving citizenship (passport or like documents) need not be legalized (Articles 8 para (2) and 12 para (3)), but the Registrar may make an entry into the Register only after the supervising authority has consented to the use of the foreign document (Article 61/A para (1) of the BM Decree) if it relates to the citizenship of a child with previously unknown citizenship. As a further exception, under Article 3 para (2) point d) of the Register Decree, foreign documents presented for an entry into the marriage register are to be evaluated individually.

This means that it is the discretionary power of the supervising authority to allow a foreign document not legalized to serve as basis for an entry if it is convinced that the document is authentic. Point e) of the same Article provides that foreign Civic registry public documents are obtained by the supervisory body of the Hungarian Register. This provision is used when the client is unable to submit its foreign register data or when, under the previous point, the authenticity of the foreign document is in question. Finally, under point g) of the same Article foreigners may be exempted from showing certain otherwise obligatory documentary evidence. Note however, that these exceptions relate only to the procedure for the Marriage Register.

On the other hand Article 41 para (2) of the BM Decree orders the Registrar to forwards all documents and records of a foreigner wishing to get married in Hungary to the supervising authority for certification of the appropriateness of the foreign documents. Under para (3) the statutory term of a minimum 30 days for the conclusion of the marriage after filing commences only after the supervising authority consented to the use of the foreign documents.

Article 39 of the Register Decree deals with the situation when an event that gives rise to an entry into the Register happens to a Hungarian citizen abroad. Under para (1) in this situation the entry has to be made into the Register, in the course of which, unless
unavailable, under para (2) a certificate of the foreign Register entry has to be obtained, accompanied with a certified Hungarian translation. Note, that legalization is not specifically required.

Article 25 para (2) point b) of the BM Decree provides that if the basis of an entry into the Hungarian Register is a foreign judgment in a matrimonial matter, a declaration of fatherhood before a foreign court or a decision of fatherhood by a foreign court, the foreign public document (judgment, court-certified declaration or court decision) has to be submitted to the Ministry of Justice for approval. The only exception to this is (para (3) of the Article) Regulation 2001/2003 if applicable. The Regulation is double-click cross-referenced from the electronic version of the Decree. Under Article 38 para (2) the same applies if the basis of an entry is the termination of a matrimonial relationship by a judgment of a foreign court. Under Article 25 para (2) point c) except for entries concerning Hungarian citizens if the basis of an entry to a Hungarian Register is any other foreign document (public or private), its use by the Registrar must be consented by the supervising authority.

Under Article 30 of the BM Decree if an entry into the Register contains a foreign location (town, city, village, other municipality), its current foreign name has to be used, accompanied with a prior Hungarian name in brackets if the place earlier had official Hungarian name. Documents about these facts need not be legalized.

There are no specific rules about the legalization of foreign documents for the basis of any of the Family Act agreements in form of a public document.

As to the second question, whether foreign certificates of Civic registers need to be legalized for use in Hungary, the answer to the question is that it depends on the purpose of the use of the foreign certificate. If its use is for the purpose of an entry into the Hungarian Register, the above rules apply. For use in judicial proceedings and in public administration, they are covered by the general rules on the use of foreign public documents and will be dealt with in the chapter on incoming documents.

As to the third question, both decrees contain specific rules on the cross-border operation of certificates of the Civic Register. Article 3 para (2) point e) of the Register Decree authorizes the supervising authority of registers to officially forward Hungarian registry documents abroad, thereby naming an authentic source of the registry entries. This provision makes it possible for foreign authorities to obtain Hungarian Register information from the source, thereby making legalization unnecessary for the client. Further rules relate to issuing different documents for use abroad, such as the acknowledgement that a Hungarian citizen has no existing marriage for the purpose of getting married abroad – of course they are obtained by the client and the foreign authority may decide whether or not legalization is required. Under Article 41 para (5) of the Register Decree, Hungarian registrars ex officio notify the mission by the citizenship of a foreigner about Register events of the person upon international agreement or reciprocity. The rule makes it unnecessary for the foreigner to obtain legalization of the Hungarian Register certificate concerning his data, since his country has official knowledge of the relevant facts through its mission operating in Hungary. Article 102 of the BM Decree on the implementation of this rule adds that if there is no mission of a country in Hungary, the Ministry of Foreign Affairs receives the Register data of the foreigner.

As to other issues, the legalization of outgoing documents proving family relationship falls under the general rules and as such, it was be covered under Part I.A.4. about outgoing documents.
### 3. Documents proving or contesting a parent-child relationship

The aspect of this question not yet covered under the preceding title is the contesting of parent-child relationship. Contesting a parent-child relationship, including the assumption of fatherhood (Article 44 para (1) of the Family Act), has to take place by a court proceedings. Therefore, the document that proves the contesting of the relationship is the claim addressed to and received by the court. That the validity of the parent-child relationship is being contested is not entered into the Register. Contesting the parent-child relationship does not require evidence by public documents – any kind of evidence may be used to prove fatherhood.

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

Except for a few public documents where persons are identified not by their names but by other identifiers like codes, the name of a person appears in all public documents. The sole purpose of some of them is the designation of the name of a person and other basic personal data, like a Birth Certificate, while other documents, like a diploma or driving license or military discharge order have other purposes and rely on documents in the first category about the name of the individual. While it is hard to draw the exact line between the two categories (ie., where do you place a passport?), the evidentiary weight of documents in the second category should not be underestimated, since in case of unavailability of documents in the first category they may as well be used as evidence of the name appearing therein.

The primary source of name of Hungarian citizens in public documents is the one appearing in the Birth Register or Marriage Register. (Article 27 of the Register Decree)

The first public document indicating a person’s name is the agreement of parents about the family name of their unborn child in case they both keep their original family names after marriage. This agreement is entered into the marriage registry. This agreement may be modified until the name of the new born baby is registered. (Article 18 para (1) of the Register Decree)

The second public document about the name is the Birth Register / Birth Certificate – this is called “name on birth”. (Article 27/A of the Register Decree) The name on birth may be modified on request by the decision of the Interior Minister in form of a public document. The decision of the Minister is an equal proof of the new name. The new name has to be entered into the Register. If the basis of the change of the name is an event that took place abroad and that has to be entered in the Register according to the Hungarian rules, the change of the name is permissible only if the event is entered in the Hungarian Register as well. This may be the case if the name of the child is requested to be changed because the parent changed his/her name abroad. (Register Decree Articles 28-28/A)

The third public document is, again, the Marriage Register, indicating the married name (Register Decree Article 27/B). The choices of name as married name are contained in the Family Act. In case the name of a Hungarian changes because of marriage abroad into a name contradicting the rules of the Hungarian language, it is presumed to be a change permitted by the Minister of Interior (Article 27/B para (7)).
Names of foreigners follow the rules of their citizenship or place of origin, albeit if entered into a Hungarian register, the family name is followed by the forename (Article 29). While there are further rules in the Register Decree permitting more flexibility for foreigners and their children in the choice of names, those do not concern legalization and will not be explained further here.

Courts also have subject-matter jurisdiction to establish the name of a person in very specific circumstances, ie when an ex-wife is found guilty of a crime the husband may request the court to order the wife to cease wearing the name of her ex-husband (Article 26 para (2) of the Family Act) or when successfully challenging the presumption of fatherhood results in the change of the name of the child. Judicial decisions in these cases become the bases of a change of entry in the Register, but are, in special circumstances capable of proving the name beyond the purposes of the Register as well.

In very specific cases a decision of the Guardian Office becomes the basis of the entry into the Register, and as such, the public document originally proving the name is the decision of the Guardian Office. This is the case when the identity of the father of the child is unknown and the mother petitions for a fictious name for the child (Family Act Article 41).

Parallel with the Register, the Ministry of Interior also maintains an overall database of the personal data of citizens, regulated by Act No LVI of 1992 (the “Database Act”) and implemented by Governmental Decree No 146/1993 (X. 26.). The system covers, besides Hungarian citizens, also European Economic Area citizens with a residence permit in Hungary. (Database Act Article 4 para (2)). While the Database is, in principle also traced back to the Register, it also contains data other than the one in the Register while some other data of the Register is not contained in the Database. It may occasionally also happen in practice, that there is divergent basic personal data in the two records about the name, ie when someone obtained a doctoral degree (“dr” in front of the name) but requested the change of the name only with one of the two registers. Basic documents issued upon the Database that are capable of proving the name are the identity card, place of residence card, passport, driving license. Citizens may request a certificate about their data on the record.

On a daily basis in everyday life the most frequently used documents to prove identity are the identity card and the passport.

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

A marriage may be either declared invalid or terminated. As to invalidity, according to the Family Act Article 13 para (1), it can be only declared by a court by an invalidation judgment. The judgment is the authentic source of invalidity. The invalidity ruling of the court is the basis of noting invalidity in the Register (Register Decree Article (35) para (2) pont b)).

According to Article 17 para (1) of the Family Act, termination may occur on two grounds: either by the death of one of the parties or by a final divorce judgment of a court. According to para (2) of the same Article, a marriage is considered to be terminated by death upon a death certificate of the Civic Register, or a final court decision establishing the fact of death or final court declaration of death. Documentary
evidence of death will be covered in a separate section.

The termination of marriage either by death or by divorce judgment is entered into the Marriage Register of the Civic Register (Register Decree Article 35 para (2) point b)).

As to legalization of documents used in the court proceedings of either invalidity or divorce, the general rules already covered under I.A.1. apply. As to legalization of documents in the proceedings of the Register, see I.B.2.2.

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

While it is not defined what the difference between documents under Question 6 and 7 is, we deal with papers of the common course of education under Question 7 and all other documents proving legal establishment/qualifications. By the “common course of education” we cover higher level education (PhD or equivalent, master’s degree or equivalent, bachelor degree or equivalent), secondary school education (a link between primary school and higher education) and primary school education. Everything else is covered under Question 6. We do not deal with qualification higher than PhD: those rather reflect overall scientific performance than professional qualification (like a “habilitation”) or are accompanied with membership (like a membership of the Academy of Sciences), although they do have some aspect of qualification. We will equally skip primary school and kindergarten level education: while that is also a link in the chain of education, it qualifies for nothing more than entry to secondary/primary school. Legalization of kindergarten certificates should rather be covered at the free movement of dependants along with workers than the free movement of services.

Specific qualifications that are not available through the common course of education are strictly regulated by laws. Act No. CI of 2001 on Adult Education specifies the rules of general, technical or language training outside of the common course of education. Organizations qualifying for adult training and therefore offering their specific diplomas may range from the same organizations that offer general education (secondary schools, universities) to a variety of legal persons meeting the conditions to offer such training. Act No. LXXVI of 1993 on Special Technical Training further elaborates rules of technical training and has set up a National Training Register which lists all available types of technical training. Schools accredited for pursuing the activity may offer their own certificates after completion of the training programme. Finally, from accountants to professionals of road transport, several specific qualifications are regulated by specific decrees. It varies whether the different end-certificates are issued by the schools themselves or in cooperation with a professional body or a supervising ministry. Experts of all areas fall under the scope Decree No. 31/2004 (XI: 13.) of the Ministry of Education briefly called the Experts’ Decree which lists the different areas in which a publicly recognised expert status may be obtained and sets up the Professional Registry of Experts. The Registry issues personal Expert Certificates to the expert which is a public document certifying the expert status of the individual.

As to language knowledge, while language exams may be several and of different kinds, a language exam certificate which is a public document is the one which is the result of an exam of a state-accredited language-exam centre. According to para 10 of Article 3 of Governmental Decree No 71/1998 (IV. 8.) on the Procedure of State-Accredited Foreign Language Exam and Language Exam Certificates, the result of the language exam is recorded in a database operated by a specialized state agency, while the public...
document the examiner receives is the language exam certificate, which contains a copy
of the record entry. Clients may receive an equally authentic second-copy.

Finally, a driving license, which may also qualify for certain job opportunities, is issued
by the Ministry of Interior.

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

The public documents proving professional qualifications are the diplomas and
certificates issued by the different units of education. Usually these documents are
issued upon other documents like the study database of schools, the entries in student
registration books, etc., but these documents in themselves are not capable of proving
the qualification. The qualification inherent in a diploma is more than the summation of
all exam marks entered into a school report.

Unlike data in the Register, the data in diplomas is usually not reflected in any other
public document. In very exceptional cases an individual may request the court to issue
a declaratory judgment about his/her qualification which may happen if a diploma is lost
and the issuing school refuses to re-issue it on request. In this case the judgment may
serve as documentary evidence of the qualification until the new diploma is re-issued.

As to qualifications in higher education, PhD or equivalent degrees may be awarded by
doctoral schools operated by universities, master or equivalent degrees by universities
and bachelor or equivalent degrees by college level institutions. Institutions may be
state, church, or foundation operated. The institutions that may grant a degree in higher
education are listed under Annex No. 1. of Act No CXXXIX of 2005 on Higher Education.
Institutions not on the list do not qualify for offering higher education diplomas, and
although sometimes private initiatives advertise themselves as such, they either face
court proceedings or clarify in small-caps explanations of their materials or study
contract that they are not accredited by the state and are not able to offer a state-
recognized degree. Diplomas are public documents that have to meet severe conditions
(para (5) of Article 62 of the Act).

As to secondary school level diplomas, Act No. LXXIX of 1993 on Common Education
defines the types of secondary schools, which include vocational specialized technical
school, vocational school, grammar school, basic art school and institution for students
with disabilities (Article 20 ovf the Act). The highest diploma is the general certificate of
education which is compulsory for grammar schools and art schools and may be
obtained for other types of school students. Other schools issue their own specialized
certificates, although students must be facilitated to go for the general certificate of
education.

### 8. Documents proving a person’s death

The ultimate document to prove death is the Civic Register which also handles the
Death Registry (Register Decree Article 36). The public document issued upon the
Death Register is the Death Certificate. An entry of death into the Death Register may
be based upon three documents. One is a mortician’s certificate of death (Article 10 para
(3) of the Register Decree), while the other two are judicial decisions. Decree No. 1/1960
(IV. 13.) of the Minister of Justice (the “Death Decree”) contains the rules of both the
declaration of death and the procedure to establish death. A declaration of death is a presumption and takes place when a person disappeared for more than five years and had not made any life signal (Article 23 of the Civil Code, also Article 1 of the Death Decree), while establishing death is a procedure by which the court certifies that a person is dead albeit no public document proves it. This happens when the death of the person is known but not documented, such as people who died in a known mass accident or serious disaster. (Article 20 of the Death Decree). While it is not clear if a mortician’s certificate is a public document, the judicial decisions are public documents.

9. Documents proving a person’s date of birth

The birth of a person is registered in the Birth Registry (Article 32 of the Register Decree) and the document issued about the entry is the Birth Certificate. An entry into the Register can be made upon a medical report of birth (Article 9 para (1)). The registrar may also, out of his/her own motion, initiate an entry if the medician fails to provide the requested report, yet birth took place (Article 9 para (5)). Finally, in rare cases when an elderly person’s record is not available in the Register, it may be accepted to use earlier (church-administered) registers that were in use before the Second World War.

Also, like with names, many other public documents also contain the date of birth which trace back to the Birth Register. In everyday life the most frequently used documents to prove date of birth are the identity card and the passport. Also, in case the Birth Register is not available (destroyed), or the Birth Certificate is lost and replacement would take too much time in the circumstances, these other documents usually equally prove the date of birth even if a Birth Certificate would be needed.

10. Documents proving the establishment by incorporation of a company

The newest sources of establishment by company incorporation are Act No IV of 2006 on Companies (the Company Act) and Act No V of 2006 on Public Data of Companies, Procedure of Court of Registries and Winding Up (the Registry Court Act). Note however, that the system of incorporation of companies has existed in Hungary since 1875.

Registering companies is managed by the Courts of Registry, a special body organized by county courts (Article 1 para (1) of the Registry Court Act), in cooperation with the Company Information and Electronic Company Procedure Service of the Ministry of Justice (Article 1 para (2) of the Registry Court Act).

The existence of a company consists of two phases. After the articles of the company have been submitted to the Court of Registry, the company is already, to a limited extent, capable of pursuing economic activity – called a pre-company (Articles 15-16 of the Company Act). In this case the public document that the applicant receives proving the status of the company is a Receiving Record of the Court of Registry of the application to be registered as a company (Company Act Article 15 para (3), Article 44 para (2) of the Registry Court Act).

The company gains full legal status after it has been registered in the Company Register by the Court of Registry of the county in which the company has its seat (Company Act
Article 17 para (1), Registry Court Act Article 2 para (2)). The Company Register is public (Company Act Article 17 para (2), Article 10 and 11 of the Registry Court Act), anyone can access its data (Article 12 para (1) of the Registry Court Act).

The Court of Registry may issue three kinds of public document: a Company Copy, a Company Excerpt and a Company Certificate (Article 12 para (1) of the Registry Court Act). All three documents may contain the establishment by incorporation of the company – the difference between them is basically whether they contain all, only current, or just specific data about the company, depending on the content of the request (same Article and para). The Registry Court Act and its annexes contain the list of all data (both for all company forms and those only for specific forms of companies) that the Company Register contains.

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

While the constitution of a company is, as such, a private document, a form of public document can be obtained in two ways. Firstly, although the Company Register does not contain the constitution of the company (Articles 24-29 of the Registry Court Act lists the data of all companies contained in the Company Register), in specific situations it may, in fact, hold the constitution of the company. The Registry Court Act contains annexes for constitutions of different companies: these are forms which serve as pro-forma articles of companies, containing only those pieces of information that are necessary for the Company Register. If a company choses to have a pro-forma company, the Company Register will, in fact, have the constitution of the company and can issue a public document about it as described above. As to foreign language certificates, according to Article 42 of the Registry Court Act, it is possible to submit with the Hungarian language application for registration an accompanying document of the certified translation of all data that appears in the application in an official language of the European Union. In this case the Register contains company information in all languages in which the application was filed and is able to provide the public documents in all these languages. In all other cases the Hungarian Office for Translation and Attestation Company provides the official translation – not just for constitution of companies but any document submitted before it.

The other option is to have the document certified as public document by a notary public which is again an option for any kind of document not just a company constitution.

12. Documents proving the latest banking accounts of a company

Bank accounts are maintained by banks which are private bodies. They do issue excerpts of bank accounts which they duly sign and stamp but these are not considered to be public documents. It may, just like any other document, be certified by a notary public, yet the notary public may not verify the validity of data therein or that the excerpt of the account is authentic.

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

Some forms of deposit of cash produce no public document but are simple contractual
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arrangements. These are: deposit of cash by banks, by attorneys at law, deposit at a public notary (while deposit of cash at a noraty public may be connected with a public document, the documents – an acknowledgement of receipt and a record – provided by the notary public upon taking over the deposit are not considered to be a public document (Articles 162-165 of Act No. XLI of 1991 on Notary Publics). Documents about deposit by cash at a court executor are regulated very strictly (Articles 48-52/A of Decree No. 1/2002 (I. 17.) of the Minister of Justice) and come close to being public documents yet they are not. The only public document about deposit of cash is made at a deposit at a court, about which the court makes a regular judicial decision (Article 22 para (1) of Decree No. 27/2003 (VII. 2.) of the Ministry of Justice on Deposits at Courts).

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

OVERVIEW OF PART II Error! Reference source not found.

II.A.1. European Community Law

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

While the implementing and connecting domestic measures have been discussed under I.A.1., we have found no indication or data that the effect of the implementation of the said Community law provisions would do away from what is prescribed in the law. Neither have we found any further specific provisions that would add different effects to the foreign public documents under the scope of the Community instruments than what is added to Hungarian documents. We are not aware of any relevant distinction made in Hungary between documents of Hungarian origin and documents of other Member States relating to the discussed Community instruments. We are not aware of any relevant distinction made in Hungary between types of documents in contradiction with the provisions of the applicable Community instruments.

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

Since Hungary has only recently joined the European Union, there have been no reported cases concerning any of the European instruments listed under this section. Moreover, while reporting cases covers only a selection of all cases decided finally, it is more likely than not that there have not been any cases concerning the listed European instruments. But it is reasonable to assume that the respective foreign public documents which fall under the scope of the Community law provisions described in Part I are equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents. The fact that Hungary has been a Hague Convention country since 1973 and also the fact that there have been several other international agreements as listed where Hungary is a member has made judges aware of the legalization issue and its specific international treatment. Extending it to also European instruments should cause no difficulties in the judicial process. Note again however, that there have been no cases with such content.

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

Foreign public documents which fall under the scope of the Community law provisions described in Part I are in principle equally admissible in administrative matters and produce the same evidentiary weight as equivalent domestic public documents. However, it is likely that sometimes the administrative staff is not aware of the relevant Community legislation, especially at provincial municipalities, and this may occasionally
result in difficulties for clients which may be solved the easiest if the client relies on the relevant Community legislation. Thus, clients who do not know the relevant Community law and are therefore not aware of their rights, may eventually suffer detriments. Note however, that this criticism often also applies to other aspects of public administration and it is not a specific problem related to legalization. Problematic areas also include the slow handling of cases or the lack of coordination of sharing of official information between the different authorities. The more frequently an authority meets cases with foreign documents is the less likely that it is uninformed about the lack of specific legalization requirements.

As to Hungarian documents to be used abroad, a series of incidents have been in the press throughout 2005 and 2006 about the so-called “SoKo action” of German investigating authorities against Hungarian workers working in Germany on the basis, inter alia, that the so-called E-101 certificates about the domestic social security status of the guest-worker issued by the Hungarian social security authority for the purpose of social security protection in Germany (the state of destination) were not permitted at all in the police procedure. As a result workers and their employers were charged with social security deception. It seems that in the court proceedings that were later brought along before German courts by the Hungarian companies charged by the German police authorities, courts have started to admit that the German authorities did not have the right to question the admissibility of the Hungarian documents. Most cases are still pending and information is based on press reports.


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

Foreign public documents to which an apostille has been attached in accordance with the Hague Convention are recognized as public documents in Hungary. I am not aware of any relevant distinction made in Hungary between documents of Hungarian origin and documents of other Member States party to the Hague Convention, neither between types of documents in contradiction with the provisions of the Hague Convention.

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

Foreign public documents which have been processed in accordance with the rules of the Hague Convention are equally admissible in judicial proceedings and produce the same evidentiary weight as equivalent domestic public documents. Eventually since Hungary has been a member of the Convention since 1973 and since until the change of the political system the arrangement of cases with an internationality element was politically much more strictly supervised than today, there has been a judicial awareness developed concerning the handling of foreign related cases concerning several aspects including legalization rules under international instruments.

On the other hand since the Hungarian Civil Procedure Act (Act No III of 1952) introduced the system of the free weight of evidence (Article 166 (1) of the Civil Procedure Act) which allows the judge to consider all evidence on the merits freely without setting any compulsory hierarchy of evidence or list of conditions for their admission, sometimes even foreign public documents which lack the necessary legalization under the Convention are given evidentiary weight in the process (see also case GK BH 1997/546. in Annex No 1).

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

See II.A.1.3.
II.A.3. Parallel international agreements

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

We are not aware of any relevant distinction made in Hungary between types of documents in contradiction with the provisions of the international agreements discussed above. Neither are we aware of any detrimental treatment of Hungarian documents to be used in the Member States of the different conventions. Note however, that the Ministry of Foreign Affairs will, in writing, send a memorandum to us for the purposes of the research to confirm the answers upon the experiences of the Hungarian consular missions. If that memorandum arrives after the completion of the Questionnaire, its findings will be attached at that later time.

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

Same as II.A.1.2.

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

Same as II.A.1.3.

II.A.4. National Law

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

A foreign public document which meets the requirements of national law – including legalization requirements – is recognized as a public document and has the same legal status as the Hungarian public documents have.

I am not aware of any relevant distinction made in Hungary between documents of Hungarian origin and documents of other States which meet the requirements of national law.

I am not aware of any relevant distinction made in Hungary between types of documents which have processed in accordance with national law.

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

Same as above.

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

Same as above. The procedure in which public documents are used the most frequently are those before the Civic Register and therefore it is in this procedure that the staff is most prepared of the legalization rules.

PART III – Incoming documents: Difficulties

OVERVIEW OF PART III Error! Reference source not found.

PART III.A. General

Note: the methodology of the research concerning practical difficulties for both incoming and outgoing documents, as well as practical questions of Part V and the Empirical Analysis included a phone interview with both the relevant personnel of the Ministry of Justice and Ministry of Foreign Affairs. It turned out that they would require a written description and justification of the project in Hungarian, request a written list of questions and will answer in writing. The Ministry of Foreign Affairs also offered to send a memorandum to foreign missions of Hungary abroad on our request. It is likely that a follow-up report based upon answers received after the submission of the present report will follow.

III.A.1. Legal

Reports suggest that the rules of the Hague Convention are usually properly applied abroad concerning Hungarian public documents. While this is the main rule with the treatment of foreign incoming public documents, there have been some complaints that officials of some municipal Real Estate Registries were unaware of the Convention and demanded that public documents issued abroad in connection with entries into the Real Estate Registry be legalized over the Convention.

On the other hand, concerning judicial proceedings of a civil character, the use of foreign public documents uncertified even in terms of the Convention were admitted as evidence under the free weight of evidence doctrine of the Civil Procedure Act. (See GK BH 1997/546 in Annex No 1.)

III.A.2. Practical

See above.

III.2. Parallel international agreements

III.A.1. Legal

Reports suggest that both the rules of parallel agreements are usually properly applied abroad concerning Hungarian public documents and the treatment of foreign incoming public documents is also properly carried out by Hungarian authorities.

On the other hand, concerning judicial proceedings of a civil character, the use of foreign public documents uncertified even in terms of the Convention can be admitted as evidence under the free weight of evidence doctrine of the Civil Procedure Act. (See also GK BH 1997/546 in Annex No 1.)

III.A.2. Practical

Reports suggest that both the rules of parallel agreements are usually properly applied abroad concerning Hungarian public documents and the treatment of foreign incoming public documents is also properly carried out by Hungarian authorities.

III.3. National law

III.A.1. Legal

Concerning judicial proceedings of a civil character, the use of foreign public documents uncertified even in terms of the Convention can be admitted as evidence under the free weight of evidence doctrine of the Civil Procedure Act. (See also GK BH 1997/546 in Annex No 1.)

III.A.2. Practical

See above.

PART III.B. Specific

1. Documents proving involuntary unemployment

According to the research made no relevant data for difficulties was found.

2. Documents proving a family relationship or other durable relationship

The number of cases in marriage procedures before a Hungarian Civic Register in which the foreign document proving the lack of legal obstacles to marriage turned out to be
3. **Documents proving or contesting a parent-child relationship**

According to the research no relevant data for difficulties was found.

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

No reported problems found.

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

See question No. 2. above.

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

No relevant data for difficulties was found.

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

While there is no legalization requirement for foreign diplomas to be naturalized in Hungary, a certificate issued by a foreign supervising authority may be requested in the procedure to prove the authenticity of the certificate or that the holder of the diploma is entitled to pursue a specific profession thereupon. The rule was introduced because some attempts were made where the incoming documents (diplomas) were issued by non-existent institutions or by institutions that would not, in their country of origin, qualify to provide for a degree in higher education. (Probably based upon the same kind of offers that the author of this Country Report has received by the hundreds in the past years in his electronic mailbox as SPAM, some offering diplomas from the territory of the EU.)

8. **Documents proving a person’s death**

No relevant data for difficulties was found. Note, that the Hungarian judicial declaration or establishing of death does not necessarily require public documentation and therefore
9. Documents proving a person’s date of birth
No relevant problems were reported.

10. Documents proving the establishment by incorporation of a company
No relevant problems were reported.

11. Documents proving the constitution of a company, including any official translation thereof
No relevant problems were reported.

12. Documents proving the latest banking accounts of a company
There is no public document issued about this fact in Hungary and consequently there is no need for proof of a foreign banking account to be a public document, legalized or not. The account history report issued by the bank is sufficient.

13. Documents proving the deposit of cash or certificates of deposit
No relevant problems were reported.

PART IV – Outgoing documents: Difficulties

OVERVIEW OF PART IV

PART IV.A. General


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<th>IV.A.1.</th>
<th>Legal</th>
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<td>No problems were reported.</td>
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<th>IV.A.1.</th>
<th>Practical</th>
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<td>For someone living in the countryside, an attestation submitted and arranged in person takes an entire working day especially if travel is made by public transportation. Also, that the procedure can be arranged only on two specific days may be below demand. Attestation in person is made only on Tuesday and Thursday between 9-12 and 14-16 hours, in Budapest V, Kossuth square 4.</td>
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IV.A.2. Parallel international agreements
IV.A.2.1. Legal
No problems were reported.

IV.A.2.2. Practical
See IV.A.1.2.

IV.A.3. National law
IV.A.3.1. Legal
No relevant data for difficulties was found.

IV.A.3.2. Practical
Same as IV.A.1.2.

PART IV.B. Specific

No difficulties for any of the specific documents have been discovered in the research. Note, however, that the written answer by the Ministry of Foreign Affairs may reveal more information in this regards.

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.1.1 Requirements and procedures

1. No such legalisation or similar or equivalent requirements were found.

2. No such legalisation or similar or equivalent requirements were found.

3. No such legalisation or similar or equivalent requirements were found.

4. –

5. The legalisation requirements and procedures do not appear to be irrational.

6. Because there have not been reported problems with the operation of the Convention, it seems that the rules are effective. However, the problems of falsified or improper foreign certificates about the lack of marriage obstacles signal, that the exception clause of Article 3 of the Convention has to be applied carefully.

7. Under Article 69 para (1) of the Civil Procedure Act a representation authorization issued abroad has to be in a public document including a certified private document which, under Article 198 point b) has the evidentiary power of a public document only if legalized. This rule has been regularly circumvented by dating representation authorizations as if they were issued domestically.

8. They appear to be necessary or at least reasonable. As an exception, a representation authorization in a civil procedure to be in a form of a legalized public
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The legalisation requirement of documents proving the lack of marriage obstacles was introduced in 2002, see under III.B.2. The general requirement of legalization was introduced, as a main rule in public administration in 2004, following the report by the Ombudsman in 2003 on the ambiguities of excessively lengthy procedure about the immigration applications of Chinese citizens in the end of the nineties. One of the reasons was the complicated coordination procedure between different authorities (Public Administration Office, Immigration Office, Ministry of Foreign Affairs and Ministry of Justice) to find out about the legalization requirements of the documents of Chinese citizens certified by Chinese public notaries. The questions included whether the legal aid treaty on civil and commercial matters between China and Hungary is applicable to immigration procedure, and if not, in lack of a general clause in the then-applicable State Administration Act and immigration laws, what kind of legalization document is required of Chinese public documents. One of the findings of the report was, that there has to be a general rule about legalization of foreign public documents in public administration and hence Article 52 para (2) of the new Public Administration Act was passed. Legalization was abolished as of 1 November 2005 in the recognition of diplomas and certificates. Note, that Article 8 para 8 of Act No C of 2001 on the recognition of diplomas still requires, as a safeguard clause, certification by the respective foreign authority, should doubt arise in the procedure.

V.A.1.2 Effects rules

1. According to the research made no such effects rules were found.

2. According to the research made no such effects rules were found.

3. That foreign public documents that were not properly legalized lack any evidentiary weight in public administration (see point 10 below) definitely makes the practice of Community freedoms less attractive as if the official were free to decide – like in civil procedure (see point 10 below) – if it attains any evidentiary weight to it or not. While in civil procedure the effect of the lack of legalization has been minimized by the doctrine of the free weight of evidence, even though the Public Administration Act also introduced
the free weight of evidence rule (see point 10 below), non-legalized documents are an exception.

4. It is most likely that the Act considered most officials in public administration not to be in possession of the knowledge to practice proper discretionary power when deciding about a foreign public document which is non-legalized. Also, the number of possible complaints against the denial of admission of non-legalized foreign documents is zero if their denial is excluded by law and not by the discretionary power of the authority.

5. That the effect of the lack of legalization in public administration as a general rule is that the document has no evidentiary power seems irrational. Some evidentiary weight, depending on the circumstances of the case could be attained to it, if the authority so finds. In case the authority is unable to decide, superior authorities or the ministry may be called upon to provide aid.

6. They seem to be effective and guarantee that the evidentiary weight be what the law calls for them to be.

7. The doctrine of free weight of evidence of civil procedure (see point 10 below) really is an escape for non-legalized documents to be used even if their specific effects rule would be that they do not possess the same evidentiary weight as a public document.

8. The effects rule that public administration admits only legalized foreign documents properly legalized as evidence seems unnecessary. The solution of civil procedure would result in a more sophisticated use of foreign public documents.

9. See above.

10. The consequence in judicial matters in civil procedure is that the evidentiary power of the document remains under the doctrine of the free weight of evidence of the Civil Procedure Act (see also BH 1997.546.). Eventually if other evidence also supports the statements in the un-legalized public document or if no doubt whatsoever arises in connection with the foreign public document failing the legalization requirements, they may as well be found evidence of the facts therein. Also, because under Article 195 para (5) of the Civil Procedure Act unless some other law specifically excludes public documents may also be rebutted, the effects of legalization on foreign public documents become quite relative.

In administrative matters the general rule according to Act CXL of 2004 is the following: those documents which do not meet the requirements of legalisation do not have any evidentiary weight. Note that foreign public documents lacking the proper legalization lack evidentiary weight even though Article 50 of the Act introduces the free weight of evidence in public administration as a general rule as well. It seems disproportionate to deprive documents not properly legalized of all evidentiary power and not let the official consider whether or not to attain any evidentiary power to them.

11. Free weight of evidence as an option to parties is an alternative to legalization. Note however, that free weight of evidence has more significant uncertainty as to the outcome, yet it may be left to the client (whether in civil procedure or public administration) to decide whether submit the documents as they are and trust that they are positively evaluated or go for the more burdensome procedure of legalization.

12. The effects rule of the requirement of legalization of Article 52 of the Public
Administration Act is that the document lacking proper legalization bear no evidentiary weight. (Discussed above.)

V.A.2. Parallel international agreements

V.A.2.1 Requirements and procedures

The findings under the Hague Convention apply here as well.

V.A.2.2 Effects rules

The findings under the Hague Convention apply here as well.

V.A.3. National law

V.A.3.1 Requirements and procedures

The findings under the Hague Convention apply here as well, plus:

8. The rule that prescribes the legalization of any school issued document within common education to be legalized if aimed at foreign use under Article 113 of the Common Education Act seems unnecessary. It would be more reasonable to have the opportunity of legalization of outgoing school documents by the Ministry of Education only if it is needed by the country of destination.

V.A.3.2 Effects rules

The findings under the Hague Convention apply here as well.

PART V.B. Specific

While the Questionnaire is based upon the concept of differentiating between the different kinds of documents, our submission is that the justification of legalisation be primarily divided upon the procedures in which the documents appear and only exceptionally relate to specific documents.

The reason is that the ability to make sure, on its own or following legalization the validity or authenticity of the seal or stamp and signature of a foreign public document is constant for the same kinds of authorities and other public bodies acting in the same procedures and usually does not change from document to document.

In this regards, unless there is relevant international cooperation between the states concerning specific procedures, documents appearing in procedures between public administrative bodies not specialized in international cases, legalization should remain the main rule. The reason is that if an organ of public administration has little practice of dealing with and identifying the authenticity of foreign public documents, there is no other way for it to know if the document is authentic or not. The official of a provincial Real Estate Registry for example has little knowledge to be able to make sure if the seal or signature of the public document before it is valid or if the issuing body at all exists without some form of legalization. It would, for example, be hard for an official of a provincial Hungarian Civic Register official to tell whether the municipality the seal of which is claimed on an alleged foreign certificate from as far as Portugal really exists, and vica versa. Within a domestic setting, as an example using Hungary, the list of all public bodies issuing public documents is known to all other public bodies, seals and stamps of the same kind of bodies follow the same format, and since contact information is also publicly known, any verification in case of doubt can be arranged by a phone-call. Agencies that usually deal with foreign related issues may, just like in case of the recognition of foreign diplomas the Hungarian law provides, be free to admit foreign papers free of legalization but nevertheless require in case doubt arises.
However, in both court proceedings and public administration the free weight of evidence should be left as an option for persons not wishing to opt for legalization, with the risk of the document not being admitted. This may be an option when there is other evidence supporting the same facts and since all the evidence altogether is convincing, there is no need to rely on one specific piece of public document (see also GK BH 1997/546).

**PART VI – Suggested action**

**OVERVIEW OF PART VI**

**VI.1. European**

The condition of abolishion of legalization in different procedures is the creation of domestic-like easy accessibility of identification information of the name, seal/stamp and signature sample of those public bodies which may pass resolutions of specific subject matters, give excerpts or copies of public register entries of the same kind, or issue certificates of the same kind of facts. A subject-matter by subject-matter compilation of identification data available to all bodies operating with the same administrative procedures in all MS-s, containing contact information and the way of working out the official method of submitting verification requests and servicing such information for the purposes of different relevant procedures would be able to create the trust in foreign documents sufficient to abolish legalization and keep it, or equivalent procedures, for cases of doubt only. This option would most probably be much more cost-effective and be both faster and easier to achieve than setting up uniform or central registers within the EU context.

**VI.2. Intergovernmental**

Anything that contributes to realizing the goals on the European level but may eventually require intergovernmental action may come here.

**VI.3. National**

To provide for proper adhesion to the present rules it is necessary to continuously uphold awareness of the employees of the different authorities (including small provincial offices as well) on the relevant Community law regulations and international agreements in order for them to be able to act in these cases properly.

Basic laws that contain rules on legalization – most importantly the Civil Procedure Act and the Public Administration Act – need to include reference to EC instruments in their general provisions. While the exception of international treaties and reciprocity from legalization requirements is an existing one, a reference to EC law should be included as well.

The Information Communication of the Ministry of Justice is silent on European law, and while it does contain reference to the Hague Convention, international conventions and reciprocity, the majority of the cases would be covered by EC law. Therefore, a reference has to be contained therein.

Article 113 of the Common Education Act which obligatorily prescribes legalization of outgoing school documents should be annulled. It makes no sense to demand legalization of domestic documents for foreign use if even the country of destination does not require it.
The opening time of the legalization service of the ministries will have to be reconsidered. It reflects an age when borders were much more closed and movement of goods, persons, services and capital was far more limited.

The legalization requirement of representation authorization in civil procedure seems to be ineffective. It either should either be terminated or certain exceptions should be brought under, such as the one that if a permanent domestic legal representative acts on behalf of a foreign client before certain bodies (such as the Patent Office), legalization of the representation authorization issued abroad should be unneeded when acting before a domestic court.

National steps should be taken to contribute to the would-be EU-wide database of authenticity information of bodies of public administration, and authorities should be prepered to admit any such system. After its completion the main rule should be the lack of legalization and save it only for cases of serious doubt, choice of the client, or for documents outside the EU or uncovered by other international agreements.