

Position Paper

UEAPME¹ position on the European Commission's Green Paper on "Less bureaucracy for citizens: promoting free movement of public documents and recognition of the effects of civil status records"

General remarks

UEAPME welcomes the European Commission's initiative to launch a consultation on the Green Paper on "less bureaucracy for citizens: promoting free movement of public documents and recognition of the effects of civil status records".

The European Commission has published a Green Paper on "Less bureaucracy for citizens", more precisely on the promotion of free movement of public documents (and recognition of the effects of civil status records). The Green Paper should be considered as the first stage in a process to make sure that public documents – related to citizens living, working and travelling in other EU countries – circulate without the need for additional procedures.

This issue concerns our businesses only indirectly. UEAPME welcomes all initiatives that results in reduced administrative burden not only for citizens, but also for the public administration which deals with these formalities. UEAPME has always stressed that the reduction of administrative burdens and red tape for SMEs is also beneficial for society in general as it leads to more efficient public authorities and thus less costs. We namely welcome provisions such as enhanced cooperation between national administrations resulting in a common recognition of documents or introduction of exchange of documents in electronic version if this does not result in a decrease of legal certainty. Therefore, provisions aimed at facilitating and simplifying the administration and free circulation of documents between Member States are more than welcome by SMEs.

However, it also needs to be kept in mind that there is no definition of "public documents" in the Green Paper of the Commission and that the definition of it varies in the different Member States.

Answers to the questions of the consultation

Question n°1: do you think that the abolition of administrative formalities such as legalisation and the apostille would solve the problems encountered by citizens?

- Abolition of administrative formalities would be an important step towards the simplification of administrative procedures in all Member States. Beside the time and money saved it would be an important signal that the Member States harmonise their administrative systems and by doing so are showing that European citizenship is not only a formal and political issue. However, it can be considered

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is 55820581197-35.

that necessary form requirements need to be kept. In addition, there ought to be clear rules on which public documents from public authorities of other Member States will be officially recognised.

Question n°2. Should closer cooperation between Member States authorities be envisaged, in particular as regards civil status records, and if so, in what electronic form?

- Closer cooperation between the public authorities of Member States should be the rule in the EU as it is of interest and it has only advantages, both for the institutions themselves as for the persons involved. In addition, the abolition of administrative formalities assumes enhanced cooperation between national administrations.

UEAPME recommends examining the possibility to use existing information networks (IMI) or the one under preparation for better interconnection of EU-27 public administrations that would facilitate the control of the facts mentioned in the documents certifying the civil status in all Member States.

An interconnection and cooperation in electronic form is welcomed in order to ensure that in case of doubts, the originality of the public documents can be checked without cost or time consuming measures. It should also be kept in mind that civil status records require adequate data protection measures.

Question n°3: What do you think about the registration of the person's civil status events in a single Member State? Which place would be the most appropriate: place of birth, Member State of nationality or Member State of residence?

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Question n°4 Do you think it would be useful to publish the list of national authorities competent to deal with civil status matters or the contact details of one information point in each Member State?

- Of course, citizens have often a hard time to find out the correct authorities in another Member State, therefore such a list of national bodies in the field of civil status would be extremely helpful, if it does not remain unnoticed. Another possibility would be to create information centres in each Member State where these data or a contact would be delivered to the applicants.

Question n°5. What solutions do you recommend in order to avoid, at least limit, the need for translation?

- The ideal solution would be the introduction of unified templates/standard forms for documents certifying civil status such as birth certificate, certificate of a wedding or divorce, death certificate, certificate of citizenship etc. However, certified translations will remain necessary whenever the content of public documents is broader than just information about the civil status.

Question n°6. What kind of civil status certificates could be a subject of European status certificate? Which details should be mentioned on such a certificate?

- See response 5. Data indicated on European status certificate should include basic data: name and surname, surname before the wedding, date and place of birth, citizenship, place of residence (when delivered) and status (the definition should be harmonised). In addition, it needs to be considered carefully whether a public authority should issue a civil status document in a language which is not one of the official working languages.

Question n°7: Do you think that civil status issues for citizens in cross-border situations in the EU could be effectively solved by national authorities alone? In this case should not the EU institutions provide at least some guidance to national authorities (possibly in the form of EU recommendations) to ensure minimum consistency of approaches with a view to finding practical solutions to the problems faced by citizens?

- We recommend a gradual realisation of steps that would lead to the harmonization of basic documents. It would be good to use the experience with the European driving licence and gradually harmonise key documents used when certifying the data regarding civil status. However, such steps need to be authorised by EU law, it needs to be kept in mind that e.g. for family law the EU has no authority to regulate anything concerning the material scope of it. Also it needs to be ensured that legal certainty of public documents is guaranteed. .

Question n° 8. What do you think of automatic recognition? To which civil status situations might this solution be applied? In which civil status situations might it be considered unsuitable?

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Question n°9. What do you think of recognition based on the harmonisation of conflict-of-law rules? To which civil status situations might this solution be applied?

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Question n° 10. What do you think of the possibility of citizens choosing the applicable law? In which civil status situations might such a choice be applied?

- Considering that quite a number of substantial rights and obligations arise from the civil status which affect not only private but also public interests, it is evident that citizens must not be able to choose the applicable law.

Question n°11. In addition to automatic recognition and recognition based on the harmonization of conflict-of-law rules, do you think that there are other solutions which could provide a response to the cross-border effects of legal situations linked to the civil status?

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Additional Remark: Although it is not the topic of the consultation, and much is already done in this field, we think that also for diplomas it could be an option at least to harmonise or standardise the form of official diplomas of recognised training and education institutions, or a certain label in order to make it easier to recognise them as such. It would be also very useful to have the curricula in a digital way and in a lingua franca in order to facilitate their acceptance in another Member State.

Brussels, 18 May 2011

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