

## Freedom of movement for EU public documents

Around 2.5% of the EU population is resident in a Member State (MS) other than that of their origin. In the past decade, increasing numbers of EU citizens have taken advantage of free movement within the internal market, wishing to live, work or study in another MS. However, according to the European Commission, this freedom may be curtailed in practice by the need for European citizens and legal persons to have the host State recognise public documents and certificates from their State of origin. For example, problems are experienced in cases related to driving licences, accessing social services or tax benefits, avoiding double taxation, looking for a job, and getting married or divorced.

### International framework

At international level, the 1961 [Hague Convention](#) abolishing the requirement of legalisation for foreign public documents (the so-called "Apostille convention") specifies the modalities through which a document issued in one of the signatory countries can be certified in order to be produced for legal purposes in all the other signatory States. The standardised Apostille, while simpler to obtain than legalisation, still represents a significant administrative burden for citizens.

### Current situation within the EU

The [Convention of 25 May 1987](#) abolishing the legalisation of public documents among MS has however not entered into force, having been ratified only by [eight](#) Member States (seven of which apply the Convention provisionally amongst themselves). As a result, this issue has to be dealt with on a "case by case" basis through a variety of varying bilateral agreements. According to the [European Commission](#), every year, several hundred thousand public documents have to be legalised or certified in order to be recognised in Member States other than that in which they originated. For instance in a cross-border situation, a university institution may require certified copies of school documents, whereas it does not require this for domestic documents. This kind of differentiation creates additional costs, notably when [public documents](#) are needed for cross-border or international economic activities. Such burdens for EU citizens who are not nationals of the requesting country are widely seen as incompatible with a common EU area of freedom, security and justice, in which discrimination between EU citizens on the basis of nationality is not allowed. To help overcome this situation, the EU has adopted several sectoral laws, establishing standard forms which do not require national certification (such as the Succession Regulation, European Small Claims Procedure Regulation, and the [European Order for Payment Procedure Regulation](#)).

### A new general EU framework?

The Commission has submitted to the European Parliament and to the Council a [legislative proposal](#) aiming to remove both legalisation and Apostille formalities for a range of public documents (such as birth certificates, or company registration certificates) in situations where they need to be presented in a different MS. This proposal concerns only the formalities required for the presentation of public documents, and does not aim to create an obligation to recognise the content of a given document. Founded on Article 21(1) TFEU (freedom of citizens' movement) and Article 114(1) TFEU (internal market) the plenary will vote on the first-reading [report](#) by the Legal Affairs Committee (rapporteur Bernhard Rapkay, S&D, Germany). The Committee voted to establish a greater number of multilingual standard forms for public documents, and also wants the future Regulation to cover a broader range of public documents than those listed in the Commission proposal, including certain documents of EU institutions, agencies and bodies. With Member States still discussing the proposal, it is unlikely that a first-reading agreement will be possible during the current legislature.

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