

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Civil status documents challenges for civil registrars to circumvent problems stemming from the legal void

NOTE

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POLICY DEPARTMENT C: CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS

LEGAL AFFAIRS

Civil status documents - challenges for civil registrars to circumvent problems stemming from the legal void

NOTE

Abstract

Since the regulation of the civil status area differs between Member States, EU citizens encounter many problems settling their legally obtained civil status in another Member State. This leads to discrimination, hinders the free movement of persons within the EU and prevents EU citizens from exercising this right as well as the right of residence in the territory of Member States. The solution to these problems is not complicated; however, it depends on the motivation of Member States.

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EXECUTIVE SUMMARY

Those civil servants among us, who keep records of the civil status of individuals in European Union (hereafter: the EU) Member States, deal on a daily basis with the problems that EU citizens and residents encounter owing to disharmonized regulation in the area.

We live in an increasingly integrated Europe; however, legislation regulating civil status is considerably diverse. What is permitted in one country, is taboo in another. What national regulation makes possible in one country cannot be implemented in another. Not even names are written in the same way in all Member States. It happens too often that one man is recorded as the father of a child in one country; however, the same child has a different father in another country. A legal marriage of two persons from one country is not recognized in another. The civil status documents of an EU citizen, issued in one Member State, are not directly legally valid in another. Legally obtained civil status from one country is not necessarily recognized in all other Member States.

Different legislations, different ways of forming and changing civil status, different forms of common existence, different conditions for establishing and discontinuing mutual relations, different ways of recording civil status and different documents are only a few of the obstacles that European citizens have to live with.

EU citizens encounter considerable administrative difficulty when settling their civil status. Differing national rules regarding individuals' civil status lead to discrimination and hinder the free movement of people within the EU and the implementation of EU citizens' right to free movement and residence in the territory of Member States.

People in the EU have a reasonable expectation that their civil status will be regulated in an equal way, regardless of the country in which they may find themselves. They also have the right to expect that legislators will respect their needs over tradition or politics.

Member States and EU institutions should aim for elimination of problems regarding recognition of an individual's civil status. In doing so, the following guidelines should be observed:

- It is necessary to unify and liberalize rules regulating individuals' civil status across Member States.
- It is necessary to unify international private law in the civil status area.
- Civil status, as recorded in line with the legislation of one Member State, should also be recognized in other Member States.
- Documents proving an individual's civil status issued in one Member State should be recognized in all Member States.
- It is particularly important to settle the civil status of children. In the country of birth, in every country whose citizenship the child has, and in every country where the child resides during childhood, all records should include the same data about his parents and about his name. This is the only way to sufficiently protect the child's interests.
- Each individual should have the right to use his personal name, obtained under the legislation of one Member State, in the same form in all other Member States.
- The gender of an individual should be the same in all Member States.
- Documents about an individual's civil status issued in one Member State should be recognized in all other Member States with no additional formalities. Legal and administrative decisions regarding an individual's civil status, issued in one Member

- State, should be recognized in all other Member States with no additional procedures.
- It is necessary to establish such an exchange of personal data among Member States as to allow each individual to settle his civil status and that of his children in the simplest way possible in all countries of his affiliation.

The process of unifying national regulations in Member States would be a long procedure. However, since the problems in the area of modifying and registering civil status are pressing, EU institutions, if they want to resolve them at least in part, would have to act quickly. They would have to adopt a few measures to at least mitigate the present situation. These should include the following:

- Elimination of the need for notarized documents issued in Member States. Member States could implement this measure with a mutual agreement alone.
- Direct exchange of information about changes to civil status, which the country
 where the person changed his civil status would submit to the country where the
 person was born and whose citizen he/she is. This measure could also be
 implemented relatively quickly. It only requires an agreement between Member
 States.
- Direct exchange of data between the bodies that keep track of individual civil status in individual Member States.
- Introduction of a unified form for registering changes to civil status. I would like to
 add that this is not an urgent measure because registrars, who deal with civil status
 documents from the whole world, are trained to retrieve the data from them that
 they need for recording changes to civil status.
- One alternative would be to introduce a form that would include data in the national language of the country that issued the document and in English.
- Recognition of the names (first names and surnames) that EU citizens obtain in another Member State. Naturally, this measure should include EU residents as well as names that EU citizens and residents have legally acquired in other countries.
- Harmonization of the alphabetic characters used in registering civil status.
- Introduction of an EU register of EU citizens' civil status, into which Member States would feed the basic data about changes to civil status.
- Recognition of civil status that an individual has obtained or enjoys in one Member State by all other Member States.

The measures are listed in terms of their feasibility of implementation. While the measures regarding documents and exchange of data would be relatively easy to implement, the measures regarding alphabetic characters and register management would require considerable financial resources and are thus less feasible. The last measure – recognition of civil status obtained in another Member State – will be the most difficult to implement in entirety. The main reason for this is that the majority of Member States unfortunately still have reservations about same-sex partnership.

Unfortunately, the EU does not have the competence to regulate the civil status area. EU citizens encounter big problems because of a legal void in this area. One solution would be to transfer the competence for regulating this area from Member States onto EU institutions. Of course, the EU should follow the model of those countries which regulate the civil status area in a liberal and open way and observe changes in lifestyle and the way society functions.

1. GENERAL OBSERVATIONS RELATED TO RECORDING THE CIVIL STATUS OF AN INDIVIDUAL

Please allow me to first explain the source of my familiarity with problems in the area of civil status in the EU and, second, to explain why I claim so boldly that they need an urgent solution, which is not even complicated.

I have been working in the area of civil status for over 20 years. I am a registrar and Head of the Civil Status and Citizenship Department at the Administrative Unit Maribor, Slovenia. I have been a member of the European Association of Registrars (hereafter: Europäischer Verband der Standesbeamtinnen und Standesbeamten – EVS) Professional Council since 2003. I thus deal with problems of persons who want to settle their civil status both at my work and within the EVS. In the EVS, we address these problems and try to find ways of solving them. Through the EVS, I cooperate with colleagues working in the civil status area in 20 European countries. I also dealt with civil status problems in my doctoral dissertation, Individual's Civil Status - a Critical Overview of Domestic and European Legal Regulations, which I successfully defended in 2011.

Even though statutes from as early as the Middle and Modern Ages guaranteed individuals the same civil status no matter where they went, today that is no longer the case. Differing national legislations regulating motherhood, fatherhood, commencement and discontinuation of marriage and civil partnership, adoption, guardianship and personal names are the reason why EU citizens in different Member States of their affiliation enjoy different civil status. It is all too common that civil status obtained by an individual according to the legislation of one Member State cannot be exercised in another.

The following are only a few examples to indicate how burning these matters are:

- A child has different surnames and first names in two Member States. The problem
 has to do with variant spellings of the same name or completely different surnames
 and first names.
- Birth documentation of the same child lists different parents in each of two Member States, including that of his affiliation.
- A person has changed his first name or surname in one Member State; however, he cannot enforce the change in another Member State.
- A person's civil status differs from one Member State to another, including that of his affiliation.
- A person of legal age lives in a civil partnership or in a same-sex marriage in one State; however, in another, he/she is regarded as single.
- A person is declared as female in one Member State but as male in another or viceversa.
- In order to marry, individuals have to submit different documents in different Member States, including some documents that the country whose citizens they are or their country of birth, does not issue at all.
- Member States that have not signed mutual agreements about eliminating the need for document legalization require from one another other extracts issued on

international forms or even extracts notarized with the Apostille seal or various supra-notarizations.

- The exchange of data about an individual's civil status takes place by rule through diplomatic channels, which is time-consuming.
- Member States that have not signed mutual bilateral agreements about data exchange do not notify each other about changes to the civil status of EU citizens in their territory.

Rules in the field of civil status vary considerably among EU countries and are the result of traditional views about the individual and his relationship with other people. They have deep social and cultural roots. Consequently, despite the many problems encountered by citizens in settling their civil status, it is only with hesitation that countries change rules that refer to the basic social relations: relations within the family, between adults and children as well as between adult individuals.

International private law and international agreements can resolve the existing conflicts in the field of civil status only to a certain extent. Consequently, it is of utmost importance to harmonize and liberalize legislation in this area. It is in the interest of European citizens that a unified, liberal European legal order be established that will allow mutual recognition of civil status obtained in one country across all other Member States.

It is important to respect diversity and traditions; however, at the same time, we need to bear in mind that civil status does not only concern individual countries and their national legislation; instead, it also concerns residents who live in the EU and have connections to more than one country.

The civil status area is linked with human rights such as the following: the right to life, the right to health and integrity of the body, the right to mental integrity, the right to privacy, the right to private and family life, the right to a name and the right to a personal identity. If an individual cannot enforce a change of civil status that was made in accordance with the legislation of one Member State in another one, this is a violation of his human rights. Much to my regret, I can claim that in the area of civil status EU citizens' human rights are often violated.

The European Court of Human Rights has ruled several times on the question of whether human rights were violated in various civil status settlement procedures. In its decisions, the Court has warned above all about the violation of the right to respect the protection of private and family life (Article 8), the right to marriage (Article 12) and the prohibition of discrimination (Article 14).

The EU Court of Justice has likewise made rulings in cases that were connected with EU citizens' civil status. The decisions in the Garcia Avello¹ and Grunkin-Paul² cases prove that there exists an urgent need for unification of legislation in all civil status areas in Member States, and that all Member States should recognize civil status that a person has obtained in the territory of another Member State.

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¹ Garcia Avello Case, nr. Rs. C-148/02, 2 October 2003.

² Stefan Grunkin and Dorothee Regina Paul Case, nr. Rs. C-353/06, 14 October 2008.

2. PROPOSALS OF SOLUTION TO THE PROBLEMS - CHALLENGES FOR MEMBER STATES AND EU INSTITUTIONS

The question remains, of course, whether the EU should adopt measures, or whether it should call upon Member States to unify the civil status area. The experience of us registrars, unfortunately, shows that we cannot expect Member States themselves to change the legislation in this area. Not only do Member States show no interest in unifying their legislation; instead, they disregard the legislation of other countries when changing their own. It is also not possible to detect a tendency to liberalize the rules; on the contrary, procedures to change individual civil status are becoming even more complicated.

It may seem that I am simplifying certain issues; however, this is not at all the case. Member States should keep in mind that, by at least partly simplifying and unifying the legal provisions and procedures related to civil status, they would improve legal protection for their citizens and at the same time improve legislation in this area. The legal order of a particular country loses more than it benefits if its citizens have a different civil status at home than in some other country. Thus, someone who is considered married in one country but not in another could marry a second time in the second country. Persons also use as identification documents issued in one country; however, the name in these documents differs from the personal name in the records of their country of affiliation. In such cases, it is difficult to establish a connection between data about the same person. A child can also have different parents in different countries, and thus different legal representatives who are responsible for him.

2.1. Civil status documents

Individual countries register civil status in different ways and use different civil status documents with different data in them. EU citizens and residents experience many problems such as the following:

- Regardless of his citizenship, a newborn child by rule is entered in the birth register
 of the country in whose territory he is born. Some Member States practice
 subsequent registration of a registry fact, which means that they also enter in the
 birth register their citizens who were born abroad. Owing to differences in national
 legislations, the child may have one first name, surname or parents in the country of
 birth and different ones in the country that subsequently registers his birth.
- In the Netherlands, it is not uncommon for a child to have two mothers or two fathers or only the father listed in the birth register. Many other Member States do not permit registration of same-sex parents. I must add that the Netherlands plans to go even further: it will perhaps be possible to split parental care among three parents. In most other Member States, however, national regulations do not permit registration of a child with same-sex (or multiple) parents.
- An individual's civil status is kept track of in various registers; some countries do not
 even keep a comprehensive civil status register. Some countries keep civil status
 registers of their citizens, but not those about foreign citizens that are born in their
 territory. If the country whose citizen is the foreigner does not practice subsequent
 registration of a registry fact from abroad, it may happen that the person's civil
 status will not be kept track of in any country.

 EU citizens encounter considerable problems when settling their civil status in other Member States. A person who changed his civil status outside of his country of citizenship often does not know that he should also do so at home. Since many EU countries do not have bilateral agreements about mutual exchange of data concerning changes to civil status, individuals must settle their status by themselves.

- Member States are very rigid in insisting that the client submit one particular document: for example, an international registry extract instead of that used for domestic purposes; or the judgment awarding a divorce even though the client has an extract or certificate that includes data about the divorce.
- In some Member States, the birth register extract includes civil status data applicable at the time when the extract is generated. If the person involved has changed his civil status or name, or if his parents have changed their names, the extract will show the data that was entered in the birth register last and is valid at the time when the extract was issued. In most European countries, parents' personal names in the birth register always remain as they were at time of the child's birth. Individuals may have problems in either case when proving their degree of kinship.
- Some Member States also check the data in the extract or in the civil status certificate issued in another Member State, even though the civil status document is an official document and the data in it considered true until evidence to the contrary is provided.
- Most Member States demand that the document must be notarized and translated if
 it has been issued in a Member State with which they do not have a bilateral
 agreement that would do away with the need for document legalization and the
 states are not signatories of the same international agreement on issuing
 multilingual extracts.

2.1.1. Proposals

- Each Member State should recognize the validity of each extract or other public civil status document of an individual that has been issued by the responsible body of another Member State without notarization or other similar formality. In cases of justified doubt, the body that has received the document should be able to verify the authenticity of the document directly with the body that has issued it.
- All Member States should use a unified form that would prove an individual's civil status.
- Individual documents should not require an excessive amount of data to be filled in.
- Extracts about an individual's civil status issued in one Member State on a standard form should be recognized in another Member State without a translation. For this purpose, each EU country should publish online the content of its extracts in its official language, accompanied at least by an English translation.
- One alternative would be to introduce a form that would include data in the national language of the country that issued the document, and in English. Let me point out here that in 2008 the European Association of Registrars prepared a dictionary with

around 350 expressions that are used in procedures related to changes in civil status. Since then, the dictionary has been translated into 18 European languages.³

- The data provided in a civil status document issued in accordance with the valid legislation of one Member State should be subject to verification only when a justified doubt about the accuracy of the data appears.
- The word "parent" should replace the words "mother" and "father" in all of the boxes in the birth extract and all other civil status documents that contain data about the parents.
- All Member States should allow persons in their civil status registers to obtain extracts and certificates from these registers in the quickest and easiest possible way.
- In order to make a note in the register about the death of a foreign citizen, the data from his passport or ID card should be sufficient.

2.2. Data exchange

Civil status data exchange between all Member States has not yet been regulated. It is restricted to a few bilateral and multilateral conventions that commit the states-signatories to notifying other states about certain changes. As a result, countries have very few data about changes to an individual's civil status that have taken place abroad.

Even though data exchange between Member States is not yet legally regulated, some companies are already developing programs that would make possible secure civil status data transfer among countries. Unfortunately these attempts are once again completely uncoordinated, with no real mutual cooperation.⁴

The study Facilitating Life Events – Part II⁵ proposes three methods of civil status data exchange among Member States. The first proposes direct transnational cooperation of civil servants working in this field. The second method is to pass information through a special central office in each Member State. The third proposes a special European office that would be used for communication between civil servants in different countries.

Since a portion of this communication already takes place between European bodies and registrars and is quick, of high standard, and without additional costs, I consider this method of communication to be the most appropriate.

Of course, owing to linguistic barriers, registrars should use a unified form for exchange of data.

³ The dictionary for registrars is a welcome aid in understanding the content of a civil status document. The dictionary was prepared with the help of colleagues who work in the civil status area; I therefore suggest that the EU advises Member States to use this dictionary. This could help simplify procedures involved in civil status changes. The dictionary is available at http://www.evs-eu.org/.

⁴ European Civil Registry Network (ECRN). Project of the International Commission on Civil Status (Commission Internationale de l`État Civil - CIEC), the Secure Identity Across Borders Linked (STORK) system.

⁵ Feldtmann, v. Freyhold, Vial, Bühler, Facilitating Life Events - Part II: Synthesis Report - Final Report for the European Commission, DG JLS - Directorate-General for Justice, Freedom and Security. URL=»http://www.freyvial.de/Publications/Civil_Status_in_Europe_Synthesisreport.pdf«. 7. 10. 2009.

2.2.1. Proposals

- Member States should exchange data about all personal civil status changes that involve several countries and, in particular, the data related to birth, parenthood, adoptions, marriage, partnership, personal name changes and other changes that have an impact on personal status registers.
- All documents that regard EU citizens' personal status should be exchanged among Member States.
- The above mentioned data and documents should be directly exchanged between registrars and public servants working in the area of individuals' civil status.

2.3. Registers

In the majority of Member States, fundamental events related to individual civil status, i.e. birth, marriage or partnership and death, are entered in a register for the area where the event happened.

In some Member States, registry facts about their citizens that have taken place abroad are entered into their registers subsequently. In this case, birth, marriage and registered partnership are recorded in two countries. It is not very likely that both registers will have been kept up-to-date. Consequently, the civil status in them will not be identical. The problem becomes even more complicated if the person or his spouse is a citizen of a third country with a legal practice of entering facts subsequently.

The problem is that, in different countries, different data are entered into civil status registers. While Slovenia, for example, kept track of individuals' complete civil status in the register of births before the electronic registry was introduced, in some other countries, registers of birth are used only to register births. Some registry systems thus only contain static data that never change after the event has been registered. In other systems, the data is updated and changed.

Problems that appear with respect to various civil status registers include the following:

- The data that is entered upon registration of basic registry facts differ from one country to another.
- The recording of registry facts takes place in different ways. In some countries, for example, the parents themselves have to report the birth of a child even if he is born at a health institution; in others, the health institution in which the child was born is obliged to submit the data.
- There exist different methods of changing already registered personal data. Some
 countries do not update birth entries. The data in the register remain the same as
 upon birth regardless of subsequent changes to the civil status of the person
 concerned. In some countries, the data is partly changed, while in some countries,
 all civil status data are updated.
- One particular problem involves the alphabetical characters used in the civil status registers, which also differ from one country to another. There are very few Member

States where in the ID and civil status documents all letters of the Latin alphabet can be used.

There exist almost as many ways of noting registry facts and changes to civil status as there are Member States. I could hardly find two countries where civil status is recorded in exactly the same way. Unified civil status registration is thus an urgent need; however, at the same time it is almost impossible to implement. Member States are increasingly aware of the importance of recording and keeping track of civil status electronically; however, when setting up such registers, they disregard information technology used for managing civil status registers and legislation in the neighboring countries.

2.3.1. Proposals

- Individuals' civil status should be recorded in the same way in all Member States.
- All changes to civil status should be recorded in the birth register or some other civil status register in the place of birth or in the central civil status register in the country of birth.
- All registers of individuals' civil status should contain all alphabetical characters of EU languages based on the Latin alphabet. This is the only way we will be able to transliterate individuals' first names and surnames in every Member State. First names and surnames that originate from countries that use other alphabets, such as Bulgaria or Greece, would in all other Member States have to be transliterated in the Latin alphabet following the same transliteration rules.

The idea of an EU register with selected personal data from registers of individual countries, which would then be available to responsible civil servants in other EU countries, thus unfortunately is more an illusion than a plausible future event. The problems that need to be resolved first include different methods of recording civil status, different registers and the question of personal data protection.

2.4. First name and surname

First name and surname are identification signs of each individual and a basic unit of data used in recording civil status. All civil status registers, manual or electronic, include these two fundamental facts. It is therefore particularly hard to understand that individuals are prevented from using the same first name and surname in all Member States.

Member States have different rules for defining the child's first name and surname, changing the surname upon marriage, changing the individual's first name and surname upon request and making other changes to civil status. Countries also use different alphabetical characters to record first names and surnames.

Individuals encounter incredible problems when prevented from exercising the right to select, define and use their first name and surname in their country of citizenship or residence. It is an undeniable fact that various forms of discrimination exist in the area of personal names.

The following problems appear in the area of first names and surnames:

- Persons who have obtained a first name and surname in accordance with the legislation of one Member State cannot use the same first name and surname in another one.
- Citizens have their first name and surname written in one form in their personal documents in one Member State, however, in a different form in another Member State.
- The parents choose a surname for the child in one country; the child then follows one of the parents into another country. There are many children, in particular dual citizens, who end up with one surname in the country of one of the parents and another one in the country of the other parent.

Even though first name and surname are important components of civil status used to identify an individual, individuals sometimes have to exercise all legal means to be able to use the first name and surname obtained in accordance with the law of one Member State in another. The European Court of Human Rights and the EU Court of Justice have addressed many cases of persons who sued countries for not allowing them to use the same first name and surname in all countries of their affiliation.

With the decisions in the Garcia Avello and Grunkin-Paul cases, the EU Court of Justice adopted not only minimal standards in the personal name area but, in the broad rationale of its judgment, the minimal standards for recognizing civil status in the EU. The court was of the opinion that personal name differences must not be grounds for discrimination on the basis of citizenship, nor impede the rights of EU citizens to free movement and residence.

The EU Court of Justice based its decisions on the first paragraph of Article 18 of The Treaty Establishing the European Community, which guarantees each EU citizen free movement and residence in the territory of Member States, in accordance with the agreements and executive regulations of the EU. According to legal theoreticians, this provision has become a tool with which it will be possible to prejudice the national legislation of Member States even in the areas where the EU does not yet have legislative powers (Mansel, 2010, p. 2009).⁶

Owing to the importance of first name and surname for identification of an individual and civil status registration, it is even more urgent to form a unified EU legal order in this area. It is particularly important to ensure that EU citizens and residents will be able to use the personal name they have obtained according to the regulations of one EU country in the same form in all Member States.

2.4.1. Proposals

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• First name and surname obtained in accordance with the regulations of one Member State should be recognized in all other Member States.

⁶ MANSEL, Heinz-Peter, THORN, Karsten and WAGNER, Rolf. Europäisches Kollisionsrecht 2009: Hoffnungen durch den Vertrag von Lissabon. Praxis des Internationalen Privat- und Verfahrensrecht – IPRax. 2010, Vol. 30, Iss. 1, pp. 1–27.

 Every citizen and resident of the EU should have the right and duty to use the first name and surname obtained in accordance with the regulations of one Member State in all other Member States.

- Evidence about first name and surname should take the form of an extract or certificate issued on the basis of civil status registers. The first name and surname entry in a public document issued on the basis of a civil status register should serve as evidence about first name and surname that would be valid in all Member States, on the condition that changes to first name and surname be kept track of in civil status registers. In the opposite case, individuals should be able to prove their first name and surname with the identification document that they use to prove their identity abroad.
- All Member States should use the list of alphabetical characters with all the letters and diacritical characters of the official EU languages of all Member States that are based on the Latin alphabet.

2.5. Personal status

The civil status of a Member State citizen should be the same in all Member States. Member States should ensure mutual recognition of any civil status that a person obtains legally in another Member State.

It is particularly important to settle the civil status of children. In the country of birth, in every country whose citizenship the child has and in every country where the child will reside during childhood, all registers should include the same data about his parents and his personal name. This is the only way to sufficiently protect the child's interests.

2.5.1. Proposals

It would thus be necessary to unify the laws regulating individuals' civil status in Member States. Since unification of regulations cannot be expected to happen anytime soon, European countries should do the following:

- consistently respect the decisions of the European Court of Human Rights and the EU Court of Justice (the Grunkin-Paul case);
- sign international conventions in the area of individuals' civil status that regulate mutual recognition of documents concerning and changes to civil status;
- adjust the norms in international private law so as to allow a broader recognition of civil status changes that happen in the territory of another country;
- transfer onto EU institutions the authority to adopt supranational law in the civil status area;

Moreover, the EU should use supranational legal norms to set the foundations of civil status regulation and define basic relationships between individuals in this area and start a complete unification of the civil status area.

3. THE PROPOSALS OF THE EUROPEAN ASSOCIATION OF REGISTRARS

The EVS has been calling for a unification and liberalization of civil status regulation since its establishment in 2000. It has adopted the following proposals for regulating this area:

- In the Graz statement, adopted at the 3rd EVS congress in Graz, Austria, in 2003, the registrars proposed a simplification of marriage procedures and an elimination of unnecessary hindrances in these procedures.
- At the 5th congress in Noordwijkerhout in the Netherlands in 2005, a document the civil status form – was presented, which could be used in a uniform way by all Member States.
- In the statement that was adopted at the 6th congress in Engelberg, Switzerland, in 2006, EVS proposed a simplification of procedures in the area of defining and changing personal names, and supported the initiative that all citizens of any Member State have the same name in all Member States.
- At the 7th congress in 2007 in Gent, Belgium, a statement was adopted that regulates issues regarding the civil status of children: motherhood, fatherhood, personal name and adoption.

All statements are available on the EVS website: http://www.evs-eu.org/erklarugen.html.

The European Association of Registrars has thus adopted several important documents that could help unify the civil status area across Member States. Although all these documents were sent to the national governments in the countries that are members of EVS and were presented to the EU institutions, practically nothing has changed so far.

CONCLUSIONS

Unification of legislation in the whole of EU is a need even if the idea sounds utopian. However, we should bear in mind that unification in the area of civil status in the Member States is urgent.

EU citizens are no longer tied to only one country. They are increasingly mobile. Regardless of why an individual is in a given country, it is of utmost importance that he/she has no problems in settling and having his civil status recognized.

The EU must maintain and develop an area of freedom, security and justice that will guarantee free movement of people. It is necessary to ensure that EU citizens will be able to exercise their rights, in particular the right to protect their private and family life, the right to marriage and the right to create a family, the right to a name and the right to an identity and to prove identity in the same way in all Member States. We have to enable them to exercise these rights in the simplest possible way.

In order to settle the area of civil status in the EU, it is necessary to unify the laws that regulate this area in Member States or transfer the authority for settling this area onto EU institutions. These are no doubt the only efficient ways; however, they will require several stages. Member States should be aware that, by hindering a person who has legally changed his civil status in another Member State, they are merely blocking recognition of this change; however, this has no effect on the current situation. It is a fact that the person's civil status has changed. It is also a fact that the person will be able to exercise this change in some Member States. What do the countries actually achieve by not recognizing a change or a fact? Practically nothing, the effect can be the opposite because the person who is denied a civil status change by a certain country can "legally" demand some other change that is completely contrary to the current situation. Thus, a person who is in a same-sex partnership in one country can marry in another Member State if this country does not acknowledge his partnership. This may at first sight sound unbelievable; however, it is unfortunately part of EU reality.

Countries do not pass legislation only for their own citizens living on their territory. An increasing number of individuals live outside their country of citizenship, and an increasing number of third countries nationals reside in a given member state. National legislators should thus provide support both to their citizens living abroad and to third countries nationals living on their territory. However, they can only effectively achieve this by liberalizing and, above all, unifying rules and by stepping outside the national mindset and tradition, both of which today no longer have a place in the field of civil status.

For the time being, the discrepancies between national legislation in the field of civil status are primarily settled by international conventions and international private law. The adoption of supranational legal norms regarding the regulation of civil status could lead to unified regulation of this field, at least on EU territory. Supranational legislation would establish a direct relationship between an individual and supranational institutions. Making an individual the subject of supranational law could help him/her protect his/her civil status. Legal norms adopted at the supranational level would prevent an individual's civil status from being regarded in a different way in a different country, given that the actual state of play remained the same.

The registrars and other civil servants among us who work in the civil status area are aware of the problems that result from discrepancies in national legislations. We bring these problems to the attention at congresses; we have also drawn the attention of national legislators and EU institutions to them. However, there is little we can do when dealing with a client who wants to settle his civil status, when the legislation we have to use does not permit us to do this for him/her. Particularly complicated are the procedures in which we cannot enable the client to enforce a civil status that he/she has legally obtained in another Member State.

We are aware that it is almost impossible to comprehend that the same person could enjoy a different civil status in different countries; however, national rules are what we have to comply with.

As registrars, we welcome activities of the EU related to settling the civil status area. The Court of Justice of the European Union has already highlighted the importance of the equality of EU citizens' civil status in all Member States. Unification and liberalization of national rules on the EU level in the area of civil status are imperative because of the protection of human rights and the fundamental freedoms of EU citizens, as well as the implementation of rights that pertain to EU citizenship. For this reason, we support every effort of the EU to improve the situation in this area, and we are prepared to cooperate and assist in the best way we can.

In conclusion, let me emphasize once again: Every EU citizen should be allowed to enjoy the same civil status in all Member States, because only this way can he exercise all the rights pertaining to EU citizenship.

Aside from the urgently needed unification of civil status regulations, I must certainly also mention the following:

- an urgent need to settle mutual recognition of documents issued in Member States without the need for notarization and translation and
- an urgent need for direct exchange of civil status documents between Member State bodies.

In these ways alone, we could simplify the procedures involved in civil status change for the majority of EU citizens.

It will be a pleasure for the European Association of Registrars to help provide information about the procedures in the area of civil status that the EU will need as well as to form proposals for solving problems presented in this paper.

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