



Cost of Non-Europe Report

Promoting free movement of citizens and businesses by simplifying the acceptance of certain public documents in the EU

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**Research paper
by ICF GHK**

Abstract

The Cost of Non Europe Reports are intended to evaluate the possibilities for gains and/or the realisation of a 'public good' through common action at EU level in specific policy areas and sectors. In particular, this study analyses the cost for citizens, business and other relevant stakeholders of the current state of play which requires the legalisation or similar formalities of certain public documents with formal evidentiary value in activities concerning more than one EU Member State.

AUTHOR

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List of abbreviations

CoNE	Cost of Non Europe
CJEU	Court of Justice of the European Union
EU	European Union
IA	Impact Assessment
TFEU	Treaty on the Functioning of the European Union
TEU	Treaty on European Union
OJ	Official Journal
SCM	Standard Cost Model

Executive summary

Policy context

Public documents are aimed at providing factual proof of acts of a public authority and as such are widely utilised in the day-to-day life of citizens and companies around Europe. They constitute essential elements of the lives of natural and legal persons.

Domestic public documents are presumed to be authentic, without additional proof unless in cases of serious doubts. The situation becomes more complicated when the operation involves transnational documents issued in a Member State different to the one of reception. Typically, foreign public documents will need to be presented to public authorities or private or semi-private entities (such as banks or notaries) when completing a transaction or requesting a service.

In these cases, the acceptance by the authorities of the receiving Member State of the documents issued in another Member State may be subjected to certain conditions. These conditions may relate to one or more of the following:

- The proof of their authenticity through legalisation or Apostille;
- The presentation of the document in a particular form such as a certified copy;
- The presentation of a certified translation.

These formalities represent additional costs to the citizens and businesses moving across borders and exercising their freedom of movement. They place the burden of the proof on the person who intends to enforce the validity of the document, which means that the acceptance of certain foreign public documents operates on a presumption of non-authenticity. Citizens and companies can therefore face obstacles exercising their right to free movement, as provided in Article 21 and 114 TFEU due to the acceptance problems existing with public documents.

Objectives of the report and methodology

This paper aims to estimate the Cost of Non Europe (“CoNE”) in relation to the acceptance of public documents. It has been prepared in response to the request by the Committee on Legal Affairs of the European Parliament to undertake such a report as part of the Committee’s broader reflection on civil law and supports the legislative negotiations on simplifying the acceptance of certain public documents in the EU.¹ CoNE refers to the costs (economic costs, social costs, costs related to incomplete protection of citizens’ rights) presently borne by EU citizens and economic operators due to the requirement of legalisation or similar formalities of certain public documents with formal

¹ Rapkay Report 2013/0119 (COD), available at [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=COM\(2013\)0228](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=COM(2013)0228)

evidentiary value. The paper also examines the extent to which a dispensation from legalisation and similar formalities relating to the documents lead to the facilitation of cross-border transactions.

In order to achieve these objectives, the first task was to gather data, building an inventory of secondary evidence on the potential issues that arise in relation to the acceptance of public documents and to make a selection of the most significant types of documents in terms of CoNE. Hypothetical realistic cases were developed for the documents, the non-acceptance of which incurs the greatest CoNE. Quantitative estimates of CoNE were subsequently made. The final task was to examine the benefits of legislating in this area in order to dimension the scale of CoNE that could be “saved”.

Scope

20 public documents are examined in the research paper, with the table below providing an overview of the category and types of public documents examined.

Category	Public Document Type
1: Documents relating to the individual	<ul style="list-style-type: none"> • Identity of a natural person • Signature of a natural person • Citizenship and nationality • Residence • Civil rights and electoral rights • Immigration status • Absence of a criminal record
2: Documents relating to family	<ul style="list-style-type: none"> • Civil status and family relationships of a natural person (including birth and death) • Parenthood • Adoption
3: Documents relating to property	<ul style="list-style-type: none"> • Inheritance and administration of estates • Real estate
4: Documents relating to taxation	<ul style="list-style-type: none"> • Tax obligations and status of a natural or legal person • Tax and customs status of assets
5: Documents relating to employment/education	<ul style="list-style-type: none"> • Academic/professional qualifications
6: Documents relating to social benefits and rights	<ul style="list-style-type: none"> • Health including officially recognised disability • Social insurance entitlements of all kinds
7: Documents relating to companies/businesses	<ul style="list-style-type: none"> • Legal status and representation of a company or other undertaking • Legal form and representation of other legal persons

The types of acceptance problems that can arise for the documents are, in essence, very similar. For certain documents an individual or company is requested to obtain a certified translation, to provide a certified copy of the document and in some cases, to have the document Apostilled/legalised. However, the scale of the problems arising varies

significantly from one public document type to another, depending on the number of citizens/businesses affected, the frequency of the specific problems arising and the costs involved. The research paper therefore focuses on the public documents identified as having the greatest CoNE due to the high frequency and costs of the problems occurring in day to day cross-border situations.

Key problems existing

The difficulties of acceptance of documents providing significant CoNE for citizens and companies are the following: (i) Passports and identity cards; (ii) Birth certificates; (iii) Death certificates; (iv) Criminal record certificates (v) Marriage/Civil Partnership certificates; (vi) Tax declarations/documents for physical persons; (vii) Academic qualifications; (viii) Professional qualifications; and (ix) Documents relating to company registration/representation and similar documents.

As an example, a significant CoNE occurs due to the variation in procedures for acceptance of marriage certificates existing. Sheila, a Dutch national, marries Guillaume, her French boyfriend in a romantic ceremony in Paris. The couple return to Amsterdam where they reside. In order to register as a married couple, they present their certificate to the town hall. The Dutch authorities request a certified translation of the marriage certificate. Following this, they also find that the content of the French marriage certificate lacks the necessary indication of the place and date of the marriage which is required by Dutch law, with the certificate therefore requiring legal certification. Additional information is therefore requested from the French authorities which need to be subsequently translated into Dutch. This results in some financial and emotional costs to the couple. It has been estimated that approximately 735 000 cases similar to Sheila and Guillaume's arise each year, with the average cost existing per case estimated to be €74. This amounts to an annual CoNE of €55 million per annum.

European Commission legislative proposal and Impact Assessment to combat existing problems

The recent Commission proposal on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union² intends to address the issues associated with public documents by removing both legalisation and Apostille formalities.

The scope of the proposal covers the acceptance of public documents related to: birth, death, name, marriage, registered partnership, parenthood, adoption, residence, citizenship, nationality, real estate, legal status and representation of a company or other undertaking, intellectual property rights and criminal records (Article 3). The proposal

² Proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses to simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012, COM(2013) 228 final

does not apply to the recognition of the content of these documents (Article 2). It provides an exemption for the public documents from being legalised or Apostilled, with Member States also precluded from requiring certified translations or certified copies of the documents when the originals are also presented. The proposal is to introduce multilingual standard forms concerning birth, death, marriage, registered partnership and legal status and representation of a company or other undertaking.

Estimation of CoNE

The approach taken to quantification in this paper is based on identified typical scenarios related to cross-border acceptance of certain documents. For each scenario, an estimate was made of the total number of cases per and the average unit cost. The latter comprises the following elements: (i) cost of certified translations; (ii) cost of Apostilles; (iii) cost of time spent on procedures related to acceptance of documents; and (iv) emotional and related costs involved.

The total CoNE estimated in relation to the acceptance problems existing amounts to approximately €358 per annum. The CoNE for different types of documents is given in the table below.

Public Document	CoNE (€ million)
Passports and identity cards	14
Birth certificates	59
Death certificates	14
Criminal record certificates	27
Marriage/civil partnership certificates	55
Tax declarations/ documents for physical persons	70
Academic qualifications	82
Professional qualifications	22
Company registration / representation & other documents (needed for public procurement)	15
Total	358

These estimates should be considered as the minimum likely CoNE effects because the scenarios considered did not include all the possible circumstances when cross-border acceptance of these public documents may be an issue.

The approach taken in this research paper differs from that taken in the European Commission's Impact Assessment ("IA") study that estimated the combined savings on legalisation and Apostille along with certified copies and certified translations could be between €200 and €330 million annually. Despite the different approach the results of this

study are similar to the one obtained in the IA. The point estimate presented is close to the upper bound indicated in the Commission's study.

The costs estimated are, however, only the direct costs. The problems related to the acceptance of certain public documents in the EU are likely to have wider impacts on individuals, families and companies, particularly small companies, considering their activities in other Member States. It is reasonable to assume that some potential cross-border 'mobility' of individuals (changing residence, taking up employment or studies in another country, etc.) and companies (e.g. participation in public tenders in other Member States) does not materialise because of the costs associated with acceptance of public documents and/or uncertainty on the level of such costs. In effect, the costs act as deterrents. Quantification of such indirect 'dynamic costs' of non Europe in acceptance of public documents is challenging and goes beyond the scope of this study. It may well be substantial, although clearly decisions on cross-border activities by people and business are determined by a range of factors including language, cultural differences, distance, price levels, access to services, etc.

The advantages of legislation

When examining the CoNE associated with the acceptance of certain public documents, it is clear that legislating in this area could resolve many of the current obstacles existing. The abolition of legalisation and Apostille as well as the simplified certification of copies and translations would reduce the associated CoNE.

The establishment of multilingual forms in all official languages concerning birth, death, marriage, registered partnership and legal status and representation of a company would allow individuals and companies to avoid the current costs associated with authenticating national public documents. These forms would be issued under the same conditions as the equivalent public document existing in the host Member State.

Simplifying the acceptance of public documents would facilitate the life of EU citizens and businesses when public documents are used in cross-border situations. By abolishing the current presumption of non-authenticity, citizens and businesses would be able to more freely exercise their right of free movement and freedom of establishment in another Member State without facing disproportionate obstacles.

Legislation would thus provide the following benefits:

- Reduce costs and time wasted for legalisation and Apostille;
- Reduce costs and time wasted for translation and certification;
- Reduce legal uncertainty and diversity of requirements currently existing when submitting public documents in different Member States;
- Reduce the risk of discrimination of EU citizens and companies when exercising their free movement and being treated in an unequal manner to citizens of the host Member State;

- Enhance citizens' confidence in moving across borders to gain benefits in another Member State.

While this assignment has estimated CoNE for some difficulties in acceptance of the key public documents affecting individuals and businesses within the EU on a frequent basis, it is recommended to undertake future work on the estimation of CoNE relating to areas where the overall impact of possible legislation may be significant but where information is difficult to obtain and requires further research. This would be particularly the case in relation to social insurance and health benefits as well as intellectual property rights.

1. Introduction

The “Cost of non-Europe Report on promoting free movement of citizens and businesses by simplifying the acceptance of certain public documents in the EU” is an assignment undertaken by ICF GHK on behalf of the European Parliament.

The Research Paper is in response to the request by the Committee on Legal Affairs in September 2013 to undertake a Cost of non-Europe (hereafter ‘CoNE’) report. The request is part of the Committee’s broader reflection on civil law and supports the legislative negotiations of the Rapkay Report.³ The paper builds on previous work by the EAVA Unit particularly the CoNE report on the perspective of a European code on Private International Law.⁴ The paper fits within a much wider body of evidence on the gaps and inconsistencies in European legislation which lead to unnecessary costs and legal uncertainty, which in turn has a negative impact on the workings of the internal market and constrains the increased free movement of businesses and persons within the EU.

1.1 Objectives of the research paper

This paper principally deals with the problems which occur in activities affecting more than one Member State due to the requirement of legalisation or similar formalities of certain public documents with formal evidentiary value.

The CoNE paper addresses the following questions in particular:

- What are the economic costs incurred due to the lack of acceptance of the identified public documents for the different stakeholders: EU citizens, EU residents, legal persons residing in the EU, economic operators, EU Institutions, Member State authorities (and other stakeholders);
- To what extent can a dispensation from legalisation and similar formalities relating to the documents lead to the facilitation of cross-border transactions and what economic benefits can therefore be expected?
- Which non-economic benefits can stakeholders (mainly citizens and administrations), as well as the Single Market as a whole, obtain from the simplification of the acceptance of public documents?

Estimating the CoNE has involved the quantification and/or monetisation of the costs and effects of a selection of hypothetical and real world examples, supporting a more qualitative assessment of consequences of the lack of acceptance of identified public documents.

³ 2013/0119 (COD)

⁴ Available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/504468/IPOL-JOIN_ET\(2013\)504468_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/504468/IPOL-JOIN_ET(2013)504468_EN.pdf)

1.2 Key concepts and definitions

This section outlines some of the key concepts and definitions used throughout the report.

1.2.1 Cost of Non Europe

The CoNE refers to the costs (economic costs, social costs, costs related to incomplete protection of citizen's rights) presently borne by EU citizens and economic operators. In assessing the potential of the Single Market, these costs represent the benefits forgone by businesses and citizens due to the lack of acceptance of public documents in activities involving more than one Member State.

1.2.2 Public Documents

Public documents are defined as 'documents issued by authorities of a Member State and having formal evidentiary value relating to birth, death, name, marriage/registered partnership, parenthood, adoption, residence, citizenship and nationality, real estate, legal status and representation of a company or other undertaking, intellectual property rights and absence of a criminal record'.⁵

1.2.3 Legalisation

Legalisation is defined as the 'formal procedure for certifying the authenticity of a signature on a public document, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears'.⁶ The result of legalisation is that the 'foreign' public document has the same evidentiary value as the domestic public document as far as proof of its authenticity is concerned.

1.2.4 Simplification of the acceptance of certain public documents

The simplification of the acceptance of public documents relates to the procedure that applies when a public document from one Member State is accepted in another Member State. It must be emphasised that for the purpose of this paper, the acceptance of public documents does not relate to the recognition of status indicated by the public document itself (e.g. a document may indicate that a same-sex marriage took place, this paper is concerned with whether the document is accepted by a 'foreign' Member State not whether the status itself is recognised). The CoNE paper has not examined problems relating to the differences in applicable law since this falls outside the scope of the assignment.

With regard to the public documents examined, judicial decisions in civil and commercial matters, as well as those pertaining to matrimonial matters and matters of

⁵ Article 3(1) of Commission's Proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012

⁶ Article 3(1)(3) of Commission's Proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012

parental responsibility are automatically recognised between Member States, as provided for by the “Brussels I” and “Brussels II bis” Regulations.

Council Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“Brussels I”)⁷ applies to “civil and commercial matters whatever the nature of the court or tribunal” (Article 1). The scope of the Regulation does not extend to revenue, customs and administrative matters. The second indent of Article 1 also excludes the application of “Brussels I” to the status or legal capacity of natural persons, matrimonial property rights, wills and succession; insolvency proceedings; social security; and arbitration.⁸

Council Regulation 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation 1347/2000 (Brussels II bis)⁹ applies to civil matters related to divorce, separation or annulment and parental responsibility (Article 1). Article 1(3) specifies the areas which are not covered by the Brussels II Regulation, which include some areas of relevant for this assignment such as the establishment or contesting of a parent-child relationship; adoption decisions; name and forenames of the child.¹⁰

1.3 Scope

The public documents considered in this paper include those falling under the scope of the Commission’s 2013 legislative proposal for a Regulation on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union, which was accompanied by an Impact Assessment published by the Commission in April 2013.¹¹ The results of the Impact Assessment are outlined in Section 5.

The public documents examined were broken down further than in the Commission’s proposal, taking into account the amendments of the Rapkay report, and covered:

1. The identity of a natural person;
2. The signature of a natural person;
3. The civil status and family relationships of a natural person;
4. Inheritance and administration of estates;
5. Parenthood;
6. Adoption;
7. Residence

⁷ OJ L 12, 16.1.2001, p. 1-23

⁸ Regulation 44/2001 does not apply to Denmark. It was recast by Regulation 1215/2012 of 12 December.

⁹ OJ L 338, 23.12.2003, p. 1-29

¹⁰ The Regulation does not apply to Denmark.

¹¹ SWD(2013) 144 final Commission Staff Working Document Impact Assessment accompanying the document proposal for a Regulation on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012

8. Civil rights and electoral rights;
9. Immigration status;
10. Academic qualifications and academic record;
11. Health, including officially recognised disability;
12. Citizenship and nationality;
13. Real estate;
14. Legal status and representation of a company or other undertaking;
15. Legal form and representation of other legal persons;
16. Tax obligations and status of a natural or legal person;
17. Tax and customs status of assets;
18. Social insurance entitlements of all kinds;
19. Intellectual property rights;
20. Absence of a criminal record and/or entries in criminal records.

The Rapkay report provided amendments to the Commission's proposal as it was considered that the simplification of the acceptance of public documents should cover more areas and should apply to EU authorities.

1.4 Legal basis for EU action

The use and acceptance of public documents relates to two provisions of the Treaty on the Functioning of the European Union (TFEU): the free movement of citizens (Article 21) and the functioning of the internal market (Article 114).

Article 21(1) TFEU provides that every EU citizen shall have the right to move and to reside freely within the Member States' territory, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. The EU is empowered, by Article 21(2), to adopt provisions with the aim of facilitating the exercise of this right. The free movement of citizens is directly impacted by obstacles to the cross-border use and acceptance of documents.

With regard to the internal market, the European Parliament and the Council are empowered by the provisions of Article 114(1) TFEU to adopt measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. Obstacles that exist have a direct impact on the cross-border use and acceptance of documents which results in a negative impact on the full enjoyment of the internal market freedoms by EU businesses, as provided for in Article 26(2) TFEU and in Article 114(1) TFEU.

1.5 Method of approach

The paper provides the findings of three tasks, discussed in turn briefly in the subsections below.

1.5.1 Task 1 Data gathering and scoping of assignment

The first task built an inventory of secondary evidence on the potential issues that arise in relation to the acceptance of public documents, from: European Parliament; European Commission; consumer representative organisations (e.g. the European Consumers' Organisation); and legal and academic research sources, including articles, reports and presentations. This task also involved interviewing stakeholders in order to fill information gaps and develop an evidence base for the estimation of CoNE.

After gathering a more expansive and detailed evidence on the 20 types of public documents of interest, a selection of the most significant document types in terms of CoNE was made for Task 2 of the assignment.

1.5.2 Task 2: Quantification of the Cost of non-Europe (CoNE)

The first step in quantification of CoNE involved the identification of the stakeholders affected (individuals, household and businesses) and the impacts of relevance (economic and social) of the lack of acceptance of the selected types of public documents. The following categories of impacts were the most prevalent when considering the practical implications of possible simplification of acceptance:

- **Costs to the operation and conduct of business:** This relates to situations where the problems of the acceptance of public documents incur costs for business or which may constrain business activities (i.e. production, investment and employment). For example, significant time delays for establishing a company in another Member State due to the need to approve the certificate of incorporation.
- **Administrative/legal costs relating to acceptance:** Costs incurred by stakeholders in attempting to trade, applying to have their status accepted or requesting permission/ eligibility to entitlements cross border. Costs can relate to translation costs, Apostille, certification costs etc. The Standard Cost Model (SCM) has been used in such cases where data are available to quantify these CoNE;
- **Social (emotional) costs incurred by individuals and households for the inconvenience, loss of well-being and stress potentially caused by not having their public documents accepted in other Member States.** For example, the discomfort of having to proceed through an often long and personal administrative and legal process (e.g. in relation to adoptions, marriage and divorce, or in the division of a deceased relative's estate).
- **The deterrence factor:** Wider economic costs, driven primarily by the uncertainty and inconvenience described above due to business, legal and administrative costs which create a barrier to the movement of people, capital, goods and services in the internal market. As a consequence, businesses and individuals are less likely to participate in the internal market and therefore are unable to realise the benefits it could potentially generate.

The Standard Cost Model (SCM) was applied where feasible and involved using various existing data (primarily retrieved from Eurostat to ensure consistency). Assumptions

made (e.g. on unit costs of certified translations) largely followed the ones used in the Commission's Impact Assessment study.

1.5.3 Task 3 Recommendations and Reporting

This task firstly involved assessing the benefits of proposed simplification of acceptance measures to alleviate the CoNE by assessing the extent to which a dispensation from legalisation and similar formalities relating to public documents would lead to the facilitation of cross-border transactions and what proportion of the estimated total economic benefits could be realised from this and other potential measures.

Following this step, recommendations were made on how work could continue in this area.

1.6 Report Structure

The remainder of the report has the following structure:

- Section 2: Review of existing evidence;
- Section 3: Development of representative case studies;
- Section 4: Estimation of the Cost of Non-Europe; and
- Section 5: Concluding Remarks.

2. Review of existing evidence on CoNE

In order to estimate CoNE on the simplification of the acceptance of public documents, documentation existing on this issue has been mapped, with problems identified in relation to the public documents falling under the scope of the assignment.

This section provides an overview of the current situation relating to public documents and in Section 2.4 maps the problems that can exist for the 20 types of public documents.

2.1 Administrative formalities existing

Public documents are aimed at providing factual proof of acts of a public authority and as such are widely utilised in the day-to-day life of citizens and companies around Europe. They constitute essential elements of the lives of natural and legal persons.

Domestic public documents are presumed to be authentic, without additional proof unless in cases of serious doubts. The situation becomes more complicated when the operation involves transnational documents issued in a Member State different to the one of reception. Typically, foreign public documents will need to be presented to public authorities or private or semi-private entities (such as banks or notaries) when completing a transaction or requesting a service.

In these cases, the acceptance by the authorities of the receiving Member State of the documents issued in another Member State will be subjected to certain conditions. These conditions relate to one or more of the following:

- The proof of their authenticity through legalisation or Apostille;
- The presentation of the document in a particular form such as a certified copy;
- The presentation of a certified translation.

These formalities represent additional costs to the citizens and businesses moving across borders and exercising their freedom of movement. They place the burden of the proof on the person who intends to enforce the validity of the document, which means that the acceptance of foreign public documents operates on a presumption of non-authenticity. This presumption can be considered as a major hurdle to the right functioning of the freedom of movement and the Single Market since documents are presumed to not be authentic when crossing borders.

Public administrations also face costs related to the acceptance of public documents as they need to identify whether documents from another Member State need to be authenticated. This further increases the disproportionate costs and time caused by the related procedures.

The issues that exist in relation to public documents concerning identity of natural persons relate mainly to paper versions since electronic documents are covered by the

Commission's proposal for a Regulation on electronic identification and trust services for electronic transactions in the internal market.¹²

The procedures for the recognition of foreign public documents, from the most to the least stringent, are described in turn below.

2.1.1 Legalisation

According to Article 2 of the 1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (the Apostille Convention),¹³ legalisation is "the formality used to certify the authenticity of the signature on a document, the capacity in which the person signing such document has acted and, where appropriate, the identity of the seal or stamp which such document bears". Through this procedure, a foreign public document is given the same validity than a domestic document.

In practice, this means that both the Foreign Affairs Ministry of the issuing and the receiving countries need to certify that the document in question has been properly signed by the competent authority and, in some cases, that the stamp or the seal of the document are also authentic. This certification can also be done by the consular authorities of both countries.

This procedure is lengthy, costly and has been unevenly regulated by the Member States. Legalisation has then been progressively substituted by the less burdensome procedure of the Apostille, outlined below.

2.1.2 Apostille

The Apostille Convention intended to simplify the transnational circulation of public documents by establishing the addition of an internationally recognised certificate to the document in question (the so-called Apostille). This certificate is provided by the issuing state and needs to be in the form specified by the Convention (Article 4). The Apostille certifies the authenticity of the signature, the capacity of the person signing the document and, in some cases, the identity of the seal or stamp. The addition of an Apostille places the foreign document on equal footing as the domestic one in terms of validity.

According to its Article 1, the Convention applies to documents emanating from a public or a judicial authority (including prosecutors and clerks), administrative documents, notarial acts and other semi-private documents. The Convention does not apply to documents executed by diplomatic or consular agents (which are covered by a 1968 CoE Convention)¹⁴ nor to administrative commercial or customs documents.

¹² Proposal for a Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market, COM (2012) 238 final

¹³ Available at <http://www.hcch.net/upload/conventions/txt12en.pdf>

¹⁴ European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers, available at <http://www.conventions.coe.int/Treaty/en/Treaties/Html/063.htm>

All EU Member States and a number of third countries have ratified the Apostille Convention.

The Brussels 1987 Convention aimed at eliminating both legalisation and Apostille requirements between the Member States. However, due to lack of ratification, this Convention never entered into force and is only provisionally applicable in six Member States (Belgium, Denmark, France, Italy, Ireland and Latvia).

2.1.3 Certified translation

The receiving Member State normally requires foreign public documents to be translated in its own language, even if they are legalised or Apostilled. Public authorities may require the translation to be done by a certified translator, which can result in a very arduous and costly procedure. Certified translation is more costly than a standard translation undertaken by a non-certified individual.

This requirement has been partially eliminated in some sectors, such as in succession, small claims, payment procedures or certain services (as laid down by the Services Directive).

2.1.4 Certified copies

Most Member States do not consider a simple copy as a public document. Therefore, certified copies of original documents may be requested before an Apostille is issued or the legalisation of the document is performed.

As with the certified translation, this requirement has also been partially eliminated in some sectors, such as services.

2.2 Legislative developments

This section provides an overview of legislative developments at EU level concerning public documents. The legislative instruments providing exemptions to legalisation are firstly briefly presented, with an overview then provided of the Commission's 2013 legislative proposal on simplifying the acceptance of public documents.

2.2.1 Legislative instruments providing exemptions to legalisation

Due to its lengthy and costly nature, legalisation has been gradually abolished in the EU. Some of the public documents for which legalisation have been eliminated are:

1. Legal aid applications (1977 Agreement and Directive 2003/8/EC)
2. Judgments and decisions on insolvency proceedings (Regulation 1346/2000)
3. Judgments in civil and commercial matters (Regulation 44/2001, "Brussels I")
4. Judicial and extrajudicial documents in civil and commercial matters, including evidences (Regulations 1348/2000 and 1206/2001)
5. Judgments in matrimonial matters and matters of parental responsibility (Regulation 2201/2003, "Brussels II bis")
6. Judgments on uncontested claims (Regulation 805/2004)
7. Orders for payment procedures (Regulation 1896/2006)

8. Documents required for the harmonisation of social security systems (Regulation 883/2004)
9. Professional qualifications (Directive 2005/36/EC), to a certain extent.

Additionally, in the last decades, Member States have been trying to ease the burden of recognising public documents, through the conclusion of Conventions and a number of bilateral and multilateral agreements establishing exceptions for Apostille and other formalities. This sectorial approach to the abolition of formalities has, however, not solved the fragmentation of rules applying to the recognition of foreign public documents.

2.2.2 Commission proposal on simplifying the acceptance of certain public documents in the EU

The recent Commission proposal on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union¹⁵ intends to address the issues associated with public documents by removing both legalisation and Apostille formalities.

The five objectives of the Commission's legislative proposal are:

1. To reduce practical difficulties caused by the identified administrative formalities;
2. To reduce translation costs;
3. To simplify the fragmented legal framework;
4. To ensure a more effective level of detection of fraud and forgery;
5. To eliminate risks of discrimination against EU citizens and businesses.

The scope of the Proposal covers the acceptance of the following public documents: birth, death, name, marriage, registered partnership, parenthood, adoption, residence, citizenship, nationality, real estate, legal status and representation of a company or other undertaking, intellectual property rights and criminal records (Article 3). The Proposal does not apply to the recognition of the content of these documents (Article 2).

Articles 4 to 6 exempt the mentioned public documents from being legalised or Apostilled; likewise, Member States are precluded from requiring certified translations or certified copies of the documents when the originals are also presented.

Article 7 allows public authorities from the receiving Member State to request information from the authorities of the issuing Member State in case of reasonable doubts.

Chapter IV of the Proposal introduces multilingual standard forms concerning birth, death, marriage, registered partnership and legal status and representation of a company or other undertaking. The templates of these forms are attached in the Annexes to the Proposal.

¹⁵ Proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses to simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012, COM(2013) 228 final

These multilingual forms shall be accepted by the authorities of the receiving Member State and have the same formal evidentiary value as the equivalent domestic public document. The use of the forms shall not be made mandatory and can coexist with other means of evidence (Article 15).

The Commission estimated that the combined savings on legalisation and Apostilles along with certified copies and certified translations could be between €200 and €330 million annually. The estimates presented by the Commission are considered when estimating CoNE for this assignment.

2.3 Categorisation of public documents

In order to understand the types of documents that are subject to administrative formalities when individuals move from one Member State to another, and the types of problems that can occur, the Study Team categorised the public documents into seven categories:

- **Category 1: Documents relating to the individual**
 - Identity of a natural person
 - Signature of a natural person
 - Citizenship and nationality
 - Residence
 - Civil rights and electoral rights
 - Immigration status
 - Absence of a criminal record
- **Category 2: Documents relating to family**
 - Civil status and family relationships of a natural person
 - Parenthood
 - Adoption
- **Category 3: Documents relating to property**
 - Inheritance and administration of estates
 - Real estate
- **Category 4: Documents relating to taxation**
 - Tax obligations and status of a natural or legal person
 - Tax and customs status of assets
- **Category 5: Documents relating to employment/education**
 - Academic qualifications
- **Category 6: Documents relating to social benefits and rights**
 - Health including officially recognised disability
 - Social insurance entitlements of all kinds
- **Category 7: Documents relating to companies/businesses**
 - Legal status and representation of a company or other undertaking
 - Legal form and representation of other legal persons

In addition to categorising the public documents, a list was developed of the types of documents that can be considered as falling under the types of public documents in question. These are outlined in Table 1 below.

Table 1 Public documents and Types of documents

Examples of documents	Cat. 1							Cat. 2				Cat. 3	Cat. 4		Cat. 5	Cat. 6		Cat. 7		
	Identity of a natural person	Signature of a natural person	Citizenship and nationality	Residence	Civil/Electoral Rights	Immigration Status	Absence/entries criminal record	Civil status and family relationships	Parenthood	Adoption	Inheritance/Administration of estates	Real Estate	Tax obligations/status of a natural or legal person	Tax and customs status of assets	Academic qualifications/records	Health including disability	Social insurance entitlements	Legal status of a company	Legal form	Intellectual property
Passport	X	X	X		X	X														
Identity Card	X	X	X		X	X														
Birth Certificate	X		X					X	X											
Driving Licence	X	X																		
Certificates on Name	X																			
Certificates on Gender	X																			
Death Certificate								X		X										
Social Security Card		X	X									X								
Residence Card		X	X	X	X	X														
Electronic Signature		X																		
Visa				X		X														
Voting Card					X															
Certification of Register on Electoral Roll					X															
Police Certificate							X													
Ministerial Certificate							X													
Certificate of cohabitation								X												
Certificate of marriage								X												
Certificate of registered/civil partnership								X												
Certificate of separation/divorce								X												
Adoption								X	X											

Examples of documents	Cat. 1						Cat. 2			Cat. 3		Cat. 4		Cat. 5	Cat. 6		Cat. 7			
	Identity of a natural person	Signature of a natural person	Citizenship and nationality	Residence	Civil/Electoral Rights	Immigration Status	Absence/entries criminal record	Civil status and family relationships	Parenthood	Adoption	Inheritance/Administration of estates	Real Estate	Tax obligations/status of a natural or legal person	Tax and customs status of assets	Academic qualifications/records	Health including disability	Social insurance entitlements	Legal status of a company	Legal form	Intellectual property
Certificate																				
Certificate of Paternity/Maternity								X												
Will										X										
Certificate from Land Register										X	X									
Title deeds											X		X							
Lease											X									
Diplomas, Certificates														X						
Declarations of attendance at academic institutions														X						
Transcription of records														X						
Tax certificate												X	X							
Tax declaration												X	X							
VAT card												X								
Health card															X					
Disability Card															X					
Medical certificate attesting disability															X					
Social Welfare declarations																X				
Company registration certificate																		X		
Company certificate																		X		
Power of attorney																		X	X	
Declaration of agency																		X	X	
Patent Certificate																				X

Note: Documents types highlighted in green are those chosen for the hypothetical cases, as outlined in Section 3.

As demonstrated in the table above, many similar documents are used for different purposes. When estimating CoNE, it needs to be considered that foreign authorities often retain the original document, forcing citizens to obtain a new document if they are requested to present the same document for another administrative purpose. Moreover, the certification of the document can often be limited to a certain validity period (due to the possibility that circumstances such as civil status has changed), after which a new document needs to be obtained. This can therefore mean that individuals and companies are required to re-apply for a new document and thus incur costs.

2.4 Mapping of public documents

For each of the 20 types of public documents of interest for this paper as proposed by the European Parliament rapporteur, the Study Team undertook a mapping of the practical implication of lack of acceptance, the likely scale of the impact (i.e. the number of businesses or citizens affected) and any available costs information. Table 2 provides the results of the mapping exercise.

Table 2 Mapping of public documents

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
Category 1: Documents relating to the individual	Identity of a natural person	<ul style="list-style-type: none"> - Passport - Identity Card - Birth Certificate - Driving Licence - Certificates on name/surname change (including marriage certificates) - Certificates on gender change 	<p>The identity of an individual relates to their name, their age and can also be linked to their nationality.</p> <p>Individuals in everyday life carry documents relating to their identity.</p> <p>While passports, identity cards and driving licences are universally recognised and therefore their holders do not encounter many administrative formalities compared to other documents, administrations still require citizens to produce certified copies of these documents when undertaking certain administrative processes. No Apostille or legalisation requirements exist, however.</p> <p>Problems can also occur, when</p>	All natural persons, citizens and residents, entering into cross-border movements in EU Member States.	<p>12.5 million people living in the EU countries are citizens of other EU Member States. 16.6 million EU-born individuals are estimated to live in a Member State other than the one in which they were born¹⁷.</p> <p>Documents such as passport, ID, driving licence are generally accepted though problems may arise when certified copies are requested which incurs costs on the individual. It is</p>	Low

¹⁶ Each public document type was provided with one of the following ratings:

Low - unlikely to prevent cross border activity

Medium - some deterrence likely;

High - likely to constrain free movement or the operation of the internal market

¹⁷ Unless otherwise indicated all data referred to in the table are from the Eurostat database.

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>individuals wish to register their name in another Member State, particularly when the form of the name is not recognised in the host Member State. This can be particularly an issue when an individual has changed name due to marriage or gender change, for example. Problems can therefore arise in relation to confirming identity when presenting documents such as birth certificates, certificates on name/surname change or on gender change.</p> <p>However, the scale of the problem with regards to individuals affected by gender or name change is likely to be very small given the low number of such changes happening in the EU. Citizens affected by name changing on the basis of marriage are more numerous. Marriage certificates are considered below.</p>		<p>assumed that 5 per cent of the total stock of EU citizens living in a Member State other than their own would need to provide a certified copy of their passport/identity card.</p> <p>Around 367,000 children were born in the EU in 2011 with at least one parent born in another Member State.</p> <p>At least around 143,000 foreign-born people died in the EU in 2011 (the figure is likely an underestimate).</p>	
	Signature of a natural person	<ul style="list-style-type: none"> - Passport - Identity Card - Driving Licence 	Individuals may be required to prove their signature in a Member State other than their own when	Natural persons, EU citizens and residents, in all EU	12.5 million people living in the EU countries are citizens	Low

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
		<ul style="list-style-type: none"> - Social Security Card - Residence Card - Electronic signature 	<p>entering into contracts and agreements such as the opening of a new bank account, the signature of a lease etc. In some instances, the signature will need to be certified. This can be the case, for example, when signing a declaration of renouncement of succession, when declaring approval in a contract etc.</p> <p>As with documents relating to the identity of a natural person, the signature of a natural person may be recognised in a host Member State if it is presented in a form that is common to all Member States, such as on a passport, driving license or identity card.</p> <p>Problems might arise when a signature is not the same as that presented on the identity card, for example if an individual uses a different name.</p> <p>The problems that could arise in relation to signatures are similar to those that can arise concerning the identity of an individual, with the</p>	Member States entering into cross-border transactions and movements	<p>of other EU Member States. 16.6 million EU-born individuals are estimated to live in a Member State other than the one in which they were born.</p> <p>Signatures particularly in the listed document types are generally recognised. The number of problematic cases where one could identify CoNE is very low.</p>	

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			types of documents causing the problems being the same in many instances.			
	Citizenship and nationality	<ul style="list-style-type: none"> - Passport - Identity Card - Birth Certificate - Social Security Card - Residence Card 	<p>The identification of citizenship and nationality should, in principle, be straightforward for individuals with nationality of an EU Member State. The presentation of a passport or identity card from one Member State is recognised in another.</p> <p>However, passports are not always accepted as proof of citizenship for certain purposes, with some Member States (e.g. United Kingdom and France) issuing distinct certificates of citizenship. These certificates may require certification and translation. Such certificates are required, for instance, to apply for a first passport.</p> <p>Difficulties in the acceptance of public documents relating to citizenship and nationality can relate to legal persons residing in</p>	Natural persons, EU citizens and residents, in all EU Member States exercising cross-border movements, particularly including natural persons legally residing in the EU who do not possess nationality from an EU Member State.	Around 670,000 non-EU citizens acquired citizenship of one of the EU Member States.	Low

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>the EU who do not have EU nationality but rather nationality from a third country. Problems could arise when a third-country national legal residing in a Member State wishes to prove the amount of time they have been residing in the EU in order to acquire citizenship. These problems should, however, be mitigated by the implementation of the EU-wide uniform format for long-term third-country nationals residents introduced by Council Regulation 1030/2002.</p> <p>The determination and recognition of citizenship and nationality can also be an issue in relation to babies whose birth certificates need to be certified from another Member State before the individual can be recognised in that Member State. Acquiring nationality or citizenship of a Member State may be subjected to the provision of a birth certificate issued by a different Member State (in cases where parents wish to have two nationalities recognised</p>			

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			for their children, for example).			
	Residence	<ul style="list-style-type: none"> - Residence Card - Visa 	<p>Proof of address is required in order to carry out a number of administrative operations such as registration at the commune, registration for electoral rights etc. Individuals wishing to provide proof of address in another Member State would be required to show an official document from the national administration showing their registered address. Not all residence cards (where these exist) in the EU include addresses on the document.</p>	<p>Natural persons, EU citizens and residents, in all EU Member States exercising cross-border movements.</p> <p>Persons legally residing in a Member State of the EU who do not acquire EU nationality of citizenship.</p>	No CoNE identified	Low
	Civil Rights and Electoral Rights	<ul style="list-style-type: none"> - Passport - Identity Card - Residence Card - Voting Card (in some Member States) - Certification of register in the census/electoral roll 	<p>The EU Citizenship Report for 2013 outlined actions taken by the European Commission to remove obstacles to the effective exercise of electoral rights in European and local elections by the 8 million EU citizens of voting age living in an EU country other than their own.</p> <p>As explained above, passports and identity/residence cards are</p>	<p>Citizens and residents of EU Member States living in an EU country other than their own.</p>	<p>Approximately 10 million EU citizens of voting age live in an EU Member State other than their own. Low CoNE identified.</p>	Low

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>normally accepted in all Member States. Voting cards for one Member State would not need to be accepted or recognised by another Member State.</p> <p>In some cases, citizens have to prove that their civic and electoral rights have not been withdrawn. This can be the case, for example, when an individual wishes to take up a position in public office or work in the public sector. For this to occur, a certificate outlining electoral rights may need to be presented which could require certified translation and possible legalisation.</p> <p>Issues linked to the certification of register in the census/electoral rolls are estimated to be minor when it comes to cross-border situations.</p>			
	Immigration Status	<ul style="list-style-type: none"> - Passport - Residence Card - Visa 	EU citizens do not need to provide proof of their immigration status since they have the right to move freely from one Member State to	Persons legally residing in EU Member States from a third country.	No CoNE identified	Medium

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>another. The restrictions that currently exist for Bulgaria and Romania for entry into the UK will be lifted from 1 January 2014.</p> <p>Due to the legal instruments existing in the EU Immigration Acquis, many documents relating to immigration status, such as EU Visas are recognised by other Member States.</p> <p>It is likely that the problems relating to immigration status would be rather linked to the actual identity of the individual.</p>			
	Absence of a criminal record	- Certificate from Police/Ministry of Interior	Criminal records are used to demonstrate that an individual has no previous convictions in a Member State. They are predominantly required when applying for specific types of employment such as working in schools, working with vulnerable persons or working with confidential information. They can also be requested when undertaking	EU nationals, citizens and residents who are requested to prove a clear criminal record e.g. teachers, sports instructors, civil servants in confidential positions.	12.5 million people living in the EU countries are citizens of other EU Member States. 16.6 million EU-born individuals are estimated to live in a Member State other than the one in which they were born. It is estimated that the	Medium

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>certain training courses and for applying for positions in the public sector. Citizens who have resided in several Member States are often required to produce the document in respect of all states in question.</p> <p>Proof of absence of a criminal record can also be required, to apply for citizenship (e.g. Italy).</p> <p>It can also be requested to demonstrate that an individual is not a threat to the public security of a Member State which is one of the exemptions to the freedom of movement as set out in Directive 2004/38/EC. Previous studies have shown that the requirement of such a document is not a common practice.</p> <p>When an individual moves to a Member State other than their own and are requested to provide a criminal record, they need to submit a request to the competent authority in their own Member State. This leads to costs. The number of</p>		<p>certificate relating to criminal records would be requested in 25 per cent of cases relating to acquisition of citizenship and 0.25 per cent of the total stock of the EU population born in a Member State other than their own.</p>	

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			individuals who are requested to provide such a document is likely to be low.			
Category 2: Documents relating to family	Civil status and family relationships of a natural person	<ul style="list-style-type: none"> - Certificate of cohabitation - Certificate of marriage - Certificate of registered/civil partnership - Birth certificate - Death certificate 	<p>Civil status is associated with the identity of an individual. Different rules exist in the Member States for defining a child's name/surname, changing a surname upon marriage, changing an individual's first name/surname upon request and making other changes to civil status.</p> <p>Different documents are used to prove civil status and family relationships of a natural person.</p> <p>The main issue arising in relation to civil status is that statuses that exist in one Member State (e.g. same-sex marriage) do not exist in another. This therefore causes more of a delay when accepting documents that relate to these types of statuses. The scope of the report is however restricted to the formal acceptance of the documents and not to the effects that document may cause in</p>	Cross-border couples and families	<p>Out of the total of approximately 122 million married couples living in the EU some 13% have international dimension (2007 data).</p> <p>Applying the same percentage to new (2011) marriages it can be estimated that some 277,000 new marriages in a year have an international dimension, including around 166,000 intra-EU marriages.</p> <p>12.5 million people living in the EU countries are citizens of other EU Member States. 16.6 million EU-</p>	Medium

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>the receiving Member State, since this implies an approximation or harmonisation of laws which is beyond the scope of this study.</p> <p>With regard to marriage and registered partnerships, marriage and civil union certificates may need to be translated or Apostilled in other Member States.</p> <p>Couples who move across borders will require the presentation of their marriage/registered partnership certificates in order to provide proof of their union for residence and tax purposes. Marriage certificates may also need to be presented when filing for divorce.</p> <p>A death certificate/record can serve many different purposes and can be associated with civil status e.g. an individual wishing to prove they are entitled to marry due to their spouse being dead. A death record is required for families to transact business after the death of a relative. As with birth certificates, issues can</p>		<p>born individuals are estimated to live in a Member State other than the one in which they were born.</p>	

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			arise when accepting a birth certificate from one Member State to another.			
	Parenthood	<ul style="list-style-type: none"> - Birth certificate - Adoption decisions - Certificate of paternity/maternity 	<p>A number of different documents can be associated with parenthood decisions, proof of paternity etc.</p> <p>Parenthood needs to be proved in a number of different scenarios such as claiming social benefits (children's allowance), claiming tax credits, enrolling children in school, applying for the passport for a child etc.</p> <p>A birth certificate can be used as proof of parentage. By rule, a new-born child is entered in the birth register of the country where they were born. Some Member States practice the registration of a registry fact which means that they also enter in the birth register their citizens who were born abroad.</p>	Virtually all EU citizens and residents, whether they are children or parents may require to prove parenthood at some stage.	There were around 1.1 million births involving at least one foreign-born parent, of which around 367,000 involving at least one parent born in another EU Member State. Around 40 per cent of this figure, i.e. some 144,000 were born outside marriage.	Medium

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>Each Member State differs, with regard to the information that is recorded in the birth certificate e.g. name of the father. This can therefore cause problems when presenting the birth certificate in another Member State.</p> <p>A birth record is often a necessity. It is needed to obtain an identity card, admission to school, a work permit, the right to vote, eligibility for retirement, social security benefits, public assistance for dependent children, to prove citizenship etc.¹⁸</p> <p>Paternity certificates can also differ from one Member State to another. For instance, the rules on whether unmarried fathers have parental responsibility differ in Member States: some Member States only require the acknowledgement of the mother while others ask for the decision of a court. Paternity certificates may need to be</p>			

¹⁸ HvF Study page 8.

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			presented in certain instances. Due to the differences existing with these documents, administrative formalities such as Apostille and translation costs need to be fulfilled.			
	Adoption	- Adoption certificate	An adoption decision may need to be presented when individuals wish to reside in a host Member State with their adopted child. An adoption certificate could also be required to prove parentage. Adoption decisions carried out in accordance with the Hague Convention on Adoption of 1993 (which all EU Member State have signed) shall be recognised across Member States. The adoption certificate may however need to be translated or certified.	Citizens living in Member States other than their own or Member States other than where the child was adopted.	It is estimated that there are in the order of 700,000 adoptions per annum in the EU with approximately 3.2% living cross border.	Medium
Documents relating to property	Inheritance and the administration of estates	- Death certificate - Wills - Certificate from the Land Register	The proof of inheritance and the subsequent administration of estates undergoes a number of administrative and legal formalities in Member States due to the different forms of wills, death	EU citizens and residents inheriting or administering property in a cross-border scenario.	At least around 143,000 foreign-born people died in the EU in 2011 (the figure is likely an	Low

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			certificates and certificates from the Land Register. Documents relating to inheritance and the administration of estates may need to be presented to prove the gaining of new assets, for tax declarations etc. In many instances, a death certificate will be required to claim inheritance. Since the formats for death certificates vary from one Member State to another, these may require legal certification as well as translation which therefore implies a cost on individuals. Wills and decisions related to succession shall be recognised on the basis of Council Regulation 650/2012. Certificates from Land Register		underestimate). The number of potential cross-border inheritance cases was estimated as 290,000--370,000 ¹⁹ . An alternative (but similar) assumption is that around one in ten successions in the EU (i.e. 480,000 cases per year) have an international dimension ²⁰ . CoNE related to non-acceptance of selected public documents is likely to be very small in relative terms (i.e. in relation to the costs resulting from legal	

¹⁹ Copenhagen Economics (2011), Study on Inheritance Taxes in EU Member States and Possible Mechanisms to Resolve Problems of Double Inheritance Taxation in the EU.

²⁰ European Commission (2009), Commission Staff Working Document Accompanying the Proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of successions and on the introduction of a European Certificate of Inheritance.

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			from different Member States could be required for administering a real estate. These certificates may need to be Apostilled or translated.		differences between countries).	
	Real estate	<ul style="list-style-type: none"> - Title deeds - Lease - Certificate from the Land Register 	Individuals may be required to prove possession of real estate through the presentation of title deeds, long-term leases (e.g. lifelong lease) or a certificate from the Land Register. Certificate from the Land Register or title deeds may be requested for a range of reasons, from tax purposes to marriage dissolution procedures. These documents vary in format from one Member State to another which therefore requires administrative and legal formalities (and therefore costs) to be fulfilled.	EU citizens and residents capable of possessing real estate	<p>Potentially affecting all EU citizens. No reliable estimates on cross-border land possession have been identified.</p> <p>Proving of possessions by means of public documents likely to be mainly related to inheritance cases – see above.</p>	Low
Documents relating to taxation	Tax obligations and status of a natural or legal person	<ul style="list-style-type: none"> - Tax declaration - Tax certificate - VAT card - Social security card 	Tax documents are required both for citizens and companies wishing to establish themselves in another Member State.	Citizens and companies moving abroad or wishing to enter into a transaction for what	12.5 million people living in the EU countries are citizens of other EU Member States. Around 6.4	Medium

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
		- Certificates of property of movable and immovable assets	<p>Tax documents can be requested in a Member State to prove a person's or a company's compliance with the tax obligations in a different Member State where they may have been residing. Tax documents and certificate can differ from Member State to Member State in form and content, which can result in a lack of acceptance of documents across the EU.</p> <p>Tax documents need to be legalised or Apostilled and/or their certified translation needs to be provided, unless an exception exists in EU or international law.</p>	tax certificates are needed abroad.	<p>million of them are employed.</p> <p>In case of corporate taxation CoNE related to non-acceptance of selected public documents is likely very small in relative terms (i.e. in relation to the costs resulting from differences in tax regimes and treatment of international operations).</p> <p>It is estimated that there are almost 21 million SMEs in the EU with more than 44% involved in some form of international contact.²¹</p>	
	Tax and customs	- Tax certificate - Title deeds	The tax and customs status of assets is required when assets or an	EU citizens and companies moving		Medium

²¹ SWD(2013) 144 final, page 12 and 13

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
	status of assets		<p>individual possessing assets move from one Member State to another.</p> <p>Tax documents need to be legalised or Apostilled and/or their certified translation needs to be provided, unless an exception exists in EU or international law.</p> <p>Given the status of the EU as a customs union, the acceptance of customs certificates is not an issue.</p>	from one Member State to another or receiving goods from a different Member State than that of residence.		
Documents relating to employment/educated	Academic Qualifications	<ul style="list-style-type: none"> - Diplomas, Certificates - Declarations of attendance at academic institutions - Transcription of records 	<p>Directive 2005/36/EC on the recognition of professional qualifications came into force in 2007. With this Directive, the EU has reformed the system for recognising professional qualifications to assist labour markets in becoming more flexible and to liberalise the provision of services. In 2013, the European Parliament adopted the modernisation of the Professional Qualifications Directive.</p> <p>Problems with the recognition of</p>	<p>Citizens and legally residing individuals moving across borders.</p> <p>Citizens applying for jobs/study programmes in another Member State or in their own Member State when they have studied abroad.</p>	<p>12.5 million people living in the EU countries are citizens of other EU Member States. Around 6.4 million of them are employed.</p> <p>16.6 million EU-born individuals are estimated to live in a Member State other than the one in which they were born.</p>	Medium

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>professional qualifications continue to occur in relation to qualifications from third countries that are not recognised.</p> <p>While qualifications are recognised, authentication and certified translations are still required. Individuals wishing to apply for work/study in a Member State other than their own will be required to provide proof of academic qualifications, particularly certified translations where the academic institute is recognised under existing EU instruments.</p> <p>Certified translation of academic records is usually required. Academic records can be very lengthy documents which raises the costs of translation. Furthermore, certified copies of academic qualifications and documents will normally be required.</p>		Around 600,000 students are enrolled at universities in foreign EU countries.	
6. Documents relating to	Health including	<ul style="list-style-type: none"> - Health card - Disability Card 	A number of types of documents exist relating to health and officially	EU citizens and residents with	There are 83 million EU citizens with some	Medium

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
social benefits and rights	officially recognised disability	- Medical certificate attesting disability	<p>recognised disability.</p> <p>While in their home countries, individuals with disabilities have a number of benefits in place such as concessionary fares to facilitate their mobility and inclusion in all areas of social, economic and cultural life. The benefits cannot, however, be transferred when these individuals travel to another EU Member State.</p> <p>No European Disability Card currently exists at EU level, nor does there exist the mutual recognition of disability cards and related entitlements.²²</p> <p>Problems can occur between Member States since the acceptance of disability cards and certificates may not always be granted from one Member State to another.</p> <p>Certificates of disability need to be translated and Apostilled or</p>	health cards moving from one Member State to another as well as individuals with officially recognised disabilities.	<p>kind of disability, some of whom exercise movement across borders.</p> <p>No CoNE identified related specifically to non-acceptance of public documents.</p>	

²² Information available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2FTEXT%2BWQ%2BP-2013-011810%2B0%2BDOC%2BXML%2BV0%2F%2FEN&language=RO>

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>legalised, unless an exception under EU or International Law applies. This may be costly and time-consuming for disabled citizens wishing to exercise their right to free movement. Medical certificates of other character may also be requested. For example, some employers or academic institutions require medical certificates stating that the prospective employee/student is in a good health condition. These may be issued by a public hospital in one Member State and having to be translated and certified before presenting it in a different Member State.</p> <p>The problems related to the acceptance of health cards across borders shall have been mitigated by the introduction of the European Health Insurance Card.</p>			
	Social	- Declarations of	Similarly to disability, social	EU citizens and	No significant CoNE	Medium

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
	insurance entitlements of all kinds	entitlements from Social Welfare	insurance entitlements of all kinds vary from one Member State to another, with different documentation needed to prove eligibility for such entitlements. These differences require, therefore, administrative formalities when individuals move from one Member State to another. Complications can exist in relation to proof of social entitlements for children allowances, state pensions etc.	residents eligible for social insurance entitlements living in a Member State other than their own.	identified related specifically to non-acceptance of public documents.	
7. Documents relating to companies/business	Legal status and representation of a company or other undertaking	<ul style="list-style-type: none"> - Company registration certificate - Company certificate - Power of attorney - Declaration of agency 	Member States differ in the format for providing legal status to companies and undertakings. Authentication and certified translations are therefore needed when companies establishing branches abroad. Companies wishing to establish	Companies	Data indicate at least 5,000 intra-EU cross-border wins in public procurement contracts. The number of intra-EU cross-border bids is likely to be at least 32,500 ²³ .	Medium

²³ EU public procurement data currently analysed by ICF GHK in the context of another assignment indicate an average of around 6.5 bids per public tender. Around 5,000 intra-EU cross-border wins only for the above EU threshold public procurement was calculated in Ramboll and HTW Chur (2011), Cross Border Procurement above EU Thresholds (based on 2007-2009 data).

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			themselves in a Member State other than their centre of main interest will need to provide proof of legal status of a company.		<p>It is estimated that there are almost 21 million SMEs in the EU with more than 44% involved in some form of international contact.²⁴</p> <p>In case of establishing companies abroad CoNE related to non-acceptance of selected public documents is likely small in relative terms (i.e. in relation to the other costs). However, for SMEs, this is likely to have a deterrent effect.</p>	
	Legal form and representation of other legal persons	<ul style="list-style-type: none"> - Power of attorney - Declaration of agency 	Since the national rules on legal form and representation of other legal persons differ, the documentation required also differs. There therefore can be doubts as to whether an individual has capacity	Companies and individuals seeking to exercise a power of representation in a Member State different of that	It is estimated that approximately 277 billion transactions between the Member States occur per year, with approximately	Medium

²⁴ SWD(2013) 144 final, page 12 and 13

Category	Public document type	Examples of Documents	Description of acceptance problem	Stakeholders affected	Scale (as of 2011)	Deterrence Factor ¹⁶
			<p>of the agent to bind the principal. This can require significant amount of paper work to prove this power.</p> <p>Powers of attorney, declaration of agency or other public and semi-public documents certifying the capacity of an individual to bind another legal or natural person may be required to be translated and/or Apostilled, which may imply a significant cost.</p>	where the power was awarded.	<p>166 billion (60%) involving agents.</p> <p>It is assumed that approximately 13 billion transactions are cross-border (8%)</p> <p>No significant CoNE identified related specifically to non-acceptance of public documents.</p>	
	Intellectual property rights	- Patent certificate	<p>Problems exist when patent owners (both legal and natural persons) exercise an economic activity in a Member State other than that where the patent was registered.</p> <p>The recognition of intellectual property rights can be affected by the presentation and certification of patent certificates from another Member State.</p>	Natural and legal persons with intellectual property rights	Though problems can occur with patents, there are no significant CoNE identified related specifically to non-acceptance of public documents.	Medium

2.5 Consultation of stakeholders

In addition to mapping existing literature relating to public documents, a number of stakeholders were invited to undertake a telephone interview in order to obtain a further insight into the CoNE relating to the acceptance of public documents. Due to the short timeframe for the assignment, the Study Team examined the responses of the relevant stakeholders to the Commission's Green Paper on 'Less bureaucracy for citizens'.²⁵ Case examples were drawn from their contributions as well as information on the public documents of most relevant. These case examples were used by the Study Team when drawing up hypothetical cases in Section 3 below. The list of stakeholders contacted is provided in Annex 2.

²⁵ Available at http://ec.europa.eu/justice/newsroom/civil/opinion/110510_en.htm

3. Development of representative case studies

The purpose of this section is to elaborate the problems arising for the public documents identified as having the greatest CoNE. For the public documents of most relevance to EU citizens, the elaboration involves operationalising the problem using real world and/or hypothetical examples, identifying the stakeholders affected and considering the scale of relevant impacts.

In order to undertake the assignment within the timeframe, it was necessary to reduce the scope of the public documents to be examined for the hypothetical case studies. Table 3 below provides an overview of the documents initially discarded and the reasons for discarding them.

Table 3 Reasons for discarding types of public documents

Public Document	Reasons for discarding
Signature of a natural person	<p>The signature of a natural person is linked to the identity of a natural person. The problems that can arise in relation to signature are thus similar though it is assumed that the frequency of problems associated with the signature of a natural person are lower than those relating to identity.</p> <p>Problems can arise when an individual's signature needs to be certified when making a declaration (e.g. renouncement of succession rights) or when entering into a contract. While a certified signature would be required in these cases, the issue that arises in cross-border situations relates to the validity of the document, with the problem not solely relating to signature. An overlap exists with the requirement to certify the entire document where the signature is included. The number of problematic cases where one could identify CoNE purely relating to signature in a cross-border case is very low.</p>
Citizenship and Nationality	<p>Problems can arise in relation to proof of citizenship and nationality in cases where a certificate of citizenship needs to be presented in another Member State. This is the case when Member States do not consider passports as proof of citizenship. This citizenship certificate can require translation and certification. Though this problem can arise, it is considered that the scale is low in relation to EU citizens moving from one Member State to another, with citizenship certificates often used in cases involving third countries or third-country nationals. This therefore does not have a significant impact on the free movement rights provided in the TFEU.</p>

Public Document	Reasons for discarding
Residence	<p>Similarly to citizenship and nationality, the types of documents associated with residence are in many cases in standard form in the Member States. This allows the Member States to recognise the documents easily and therefore reduces the time and costs of administrative and legal formalities.</p> <p>While a certificate may be necessary for proof of residence address, the number of cross-border cases where this can be an issue are low. Though proof of address could be needed for proving habitual residence for tax purposes, the use of tax certificates could also be used, a document which is covered further in this section.</p>
Civil rights and electoral rights	<p>When natural persons move from one Member State to another, they may request to exercise their civil and electoral rights in the host Member State. In many instances, the presentation of a residence card/identity will provide these individuals with a relevant form of identity to exercise their right.</p> <p>For citizens wishing to enter public office or wishing to act as a public servant, proof that electoral rights have not been withdrawn may need to be presented. The CoNE in terms of administrative costs for the individual amount to very little due to the low frequency of use in cross-border situations. However, the costs in terms of breach of rights are arguably infinite.</p> <p>Further information on this matter is available following the European Commission's Report on evaluating the 2009 European Parliament elections.</p>
Immigration Status	<p>This public document will not be examined due to the EU Immigration Acquis providing for the recognition of immigration documents such as Schengen visas. Though long-term national visas are issued by Member States and are not Schengen visas, these can be recognised when a third-country national moves across a border due to the visa being included in the individual's passport.</p>
Intellectual Property	<p>Though problems concerning intellectual property rights can arise when a natural or legal person moves from one Member State to another, the Commission is currently in the process of resolving these issues with the introduction of an EU unitary patent. Due to this ongoing work on this matter, the CoNE has not been estimated in this report.</p>

Following the initial discarding of some documents, the Study Team examined the remaining public document types in turn by setting up hypothetical examples of problems that could exist. The core team then discussed each hypothetical case in order to establish whether it would be possible to estimate CoNE for each, with considerations also provided on the availability of information and the scale of the assignment. The sub sections below detail a hypothetical case for each public document type and details, where relevant, whether the possibility existed to estimate CoNE (as further elaborated in Section 4).

3.1 Problems relating to the identity of a natural person

The problems relating to the identity of a natural person are twofold.

Firstly, while passports and identity cards are universally recognised, citizens are often required by administrations in host Member States to provide a certified copy of their identity card or passport when fulfilling registration requirements etc. Individuals therefore incur a cost relating to this certification.

Secondly, problems relate to the acceptance of public documents which present the identity of an individual as different to that classified in another original document (e.g. a birth certificate). For example, problems are encountered by individuals when they are prevented from the right to select, define and use their first name and surname in their country of citizenship or residence. Conflicts exist between the authorities of the home country of an EU citizen which is responsible for issuing personal documents and the country of his or her habitual residence where a different name has been registered and is being used by such persons in daily life. Difficulties in acceptance can also arise in relation to the gender of an individual when a gender change has occurred.

Box 1 Example relating to the identity of a natural person

Case Example 1

Natalia, a Spanish national, moves to France to begin cookery school in Paris. Following three months residence, she goes to the local town hall to register. In order to prove her identity, she presents her passport to the administrative authorities. They request a certified copy of her passport for identity purposes and indicate that a photocopy of the passport is not sufficient. Natalia incurs a cost in undertaking this certification process.

Case Example 2

Identity by gender

Lars, a Danish transsexual, lives in Nuremberg, Germany. He is underdoing legal and social transition in Germany following his operation. All of his documentation registers him as a male. However, his Danish passport still indicates that he is a female since Danish law requires a sex change operation to be done on Danish territory. Lars therefore encounters problems when travelling or when required to present his passport since a conflict exists relating to his gender. These problems create administrative and legal costs for Lars as he attempts to resolve the issue relating to his passport in Denmark.

Case Example 3

Identity by name

Allison, an Irish national living in Belgium, marries her long-term boyfriend, Hank, in Ireland. Following her marriage, Allison orders a new passport and includes her husband's surname. One year later, Allison goes to the Town Hall in Leuven, where she resides, in order to renew her residence card. She is asked to present her passport as a proof of identity. The officials in the town hall outline a problem due to her surname being different on both her residence card and her passport. Since Allison has not formally changed her surname in Belgium, due to restrictions in law, a problem exists in the recognition of her new surname. The town hall in Belgium is required to contact the relevant authorities in Ireland in order to certify Allison's name. This causes financial and emotional costs for Allison.

Barriers to estimating CoNE

The estimation of CoNE relating to the certification of passports and identity cards will be undertaken in this research paper.

Though problems can arise with the acceptance of public documents relating to the identity of a natural person concerning gender and name, the number of cases where CoNE would be an issue is very low. In the United Kingdom, for example, approximately 1000 people had undergone a sex reassignment surgery between 1999 and 2009, amounting to approximately 100 people a year. The number therefore who would be affected by acceptance of public documents in another host Member State would be very low, with it difficult to estimate CoNE. However, it can be assumed that where problems do arise, the indirect costs associated, such as emotional costs, could be high.

3.2 Problems relating to criminal record certificates

The provision of criminal record certificates can be particularly burdensome for individuals exercising their free movement rights. Such documents are requested in a number of different instances such as for the application of citizenship in another Member State and for applying for different types of employment/training opportunities. This can therefore incur a cost on individuals.

The box below provides an overview of a problem that can exist.

Box 2 Example relating to criminal record certificates

Francesco, an Italian national, applies for a position to work in the Belgian Ministry for Children as a Government Social Worker. Following 10 years of work as a Social Worker in Genoa, Francesco worked for 3 years in The Hague. Following an offer of employment in Brussels, Francesco is requested to provide a criminal record certificate from Italy and the Netherlands in order to prove the absence of any criminal record. Francesco incurs a significant cost in undertaking this activity and also faces delays in moving to Brussels.

3.3 Problems relating to civil status and family relationships of a natural person

The definition of civil status remains the competence of the Member States. Civil status events relate to the birth of a child, marriage, cohabitation, divorce or death. This may occur either in the Member State of origin or in another Member State. In general, civil status documents are issued on the request of an individual. Applications can be made through a variety of different forms such as by post, in person or by proxy.

Member State citizens are often requested to present civil status documents on certain occasions particularly when registering changes to civil status to the citizen or to a relative. When citizens wish to marry, they are requested to present their birth certificate. A requirement exists in some Member States to register the birth of a citizen or a resident even if it has occurred abroad.

For some civil status registrations, citizens of other Member States are required to produce additional documentation since they are citizens of another Member State. Such documentation can include a certificate of law or a certificate of no impediment. A certificate of no impediment can be particularly burdensome to obtain. The authority issuing the document requires full details of the individual's status such as evidence in the form of birth and marriage certificates, divorce decrees and any other relevant additional information. All records therefore are required to be reviewed. The persons requiring this certificate might need to provide documents to a number of Member States if their spouse is a different nationality.

Other documentation is also required in some Member States. In Bulgaria, Luxembourg and Romania, for example, a medical certificate is required to be submitted with the application of marriage.

A number of problems can exist relating to the acceptance of public documents on civil status and family relationships of a natural person. Hypothetical cases are presented in Box 3 below.

Box 3 Examples relating to civil status and family relationships

Birth

Case Example 1

Monica and Piotr, both Polish nationals, welcome the birth of their baby son Martin in Warsaw. Following his birth, Martin's birth is registered on the national register. Due to the job opportunities existing in Ireland, the family decide to emigrate. Upon arrival to the country, they wish to register Martin in a crèche. In order to do so, they must submit Martin's birth certificate to the competent authority in order to place him on the waiting list. The Irish authorities do not recognise the birth certificate and request Apostille as well as translation. Monica and Piotr incur financial costs due to these formalities and suffer a delay in finding a crèche for Martin. This places an additional burden on the family, with Monica needing to stay at home and look after the baby during this time.

Case Example 2

Salvatore, an Italian national and his wife Helga, a Swedish national, welcome the birth of their baby daughter, Sofia, in Hungary. They wish to travel to Rome in order to meet the new grandparents. To do so, the couple wish to apply for an Italian passport for Sofia. They must submit the Hungarian birth certificate to the Italian consulate in Budapest in order for the application to begin. This birth certificate requires translation and/or certification. This causes significant delays for the couple who are hindered from travelling and thus exercising their free movement until the matter is resolved.

Marriage

Case Example 1

Sheila, a Dutch national, marries Guillaume, her French boyfriend in a romantic ceremony in Paris. The couple return to Amsterdam where they reside. In order to register as a married couple, they present their certificate to the town hall. The Dutch authorities find that the content of the French marriage certificate lacks the necessary indication of the place and date of the marriage which is required by Dutch law. Additional information is therefore requested from the French authorities which need to be subsequently translated into Dutch.

3.4 Problems relating to Parenthood

Proving parenthood varies from one Member State to another. Different delays can be encountered when requiring administrative formalities to be filled between Member States for proving parenthood.

One of the key documents for proving parenthood is the presentation of a birth certificate. As already outlined in Section 3.3 above, birth certificates are required for many instances of public life. Birth certificates can be required to be Apostilled and translated in Member States when presented.

Parenthood can also be proven through the presentation of a certificate of paternity or maternity (in cases of surrogacy). The medical certificate associated with paternity/maternity can also encounter acceptance issues when they are presented in another Member State as well as translation costs. Box 4 below provides an example of a problem that can exist.

Box 4 Example relating to parenthood

Case Example

Fabio, a national of Portugal, fathers a child with Josefina, a married woman from Malta. Josefina moves back to Valletta with her baby and reunited with her estranged husband. Fabio wishes to gain visitation rights to his child. Though not named on the birth certificate, Fabio does possess a medical certificate attesting paternity. In order to begin a process in Malta for visitation rights, he is required to present proof of paternity. This certificate needs to be translated which results in a cost for Fabio as well as a delay leading to emotional turmoil.

3.5 Problems relating to adoption

Rules differ significantly in relation to adoption in the Member States. Member States differ with regard to the legal age thresholds for the adopting parents, to the person who needs to consent to the adoption and to whether the parents can be of the same sex. The differences in law in relation to adoption can in some instances be linked to the documents that are required to be provided.

Adoptions are, however, recognised under the 1993 Hague Convention. In some cases, certificates relating to adoption may need to obtain a certified translation if the child moves to another Member State. An example of a problem of document acceptance that can exist is outlined in Box 5 below.

Box 5 Example relating to adoption

Case Example

Geoffroy and his partner Caroline adopt a child, Sophie, in Belgium. Due to Caroline's profession as a Flamenco dancer, they decide to move to Barcelona. Upon arrival, they wish to register Sophie in local state school. They present the adoption certificate to the local authorities as a proof of their parenthood. This requires a certified translation which leads to financial costs for the couple as well as emotional costs and time delays for Sophie's entrance into school.

Obstacles to estimating CoNE

While some problems relating to adoption may exist in cross-border cases, it is considered that the scale of this phenomenon is low with not much data available on this matter.

3.6 Problems relating to inheritance and the administration of estates

Not only public documents drafted by Member States can encounter problems but also legal documents such as deeds or legal acts drafted by lawyers. Documents relating to inheritance and the administration of estates may need to be presented in order to prove the gaining of new assets.

An example of 'costs' associated with document acceptance that can be faced is outlined in Box 6 below.

Box 6 Example relating to inheritance and administration of estates

Case Example

Jasper, a British national, is residing in a villa in Spain following retirement. Suddenly, he suffers a heart attack and dies. Jasper has written a will in his hometown in Cumbria, England concerning the administration of his estate. Jasper's son, Casper, goes to his father's solicitor in Cumbria. He is requested to provide a death certificate in order to begin the formalities for administering the estate. Jasper's death certificate is written in Spanish and is not recognised by the British authorities. It therefore requires Apostille

and translation. Following the recognition of the death certificate, Casper wishes to sell Jasper's villa, which he inherited, in Spain. He presents a legal act drafted by his solicitor proving he has inherited Jasper's estate. This document requires Apostille and translation in Spain before Casper is allowed sell the villa.

Barriers to estimating CoNE

While problems can arise in relation to documents concerning inheritance and the administration of estates, the problems that arise result mainly more from the legal differences existing between Member States. The CoNE related to non-acceptance of selected public documents is likely to be very small in comparison to the overall legal costs associated with administering an estate.

3.7 Problems relating to Real Estate

As with inheritance and the administration of an estate, individuals may be required to prove possession of real estate through the presentation of title deeds, leases, or a certificate from the land register. These documents vary in format from one Member State to another. Examples are provided in Box 7 below.

Box 7 Example relating to Real Estate

Case Example 1

Sophie and Peter, an English couple, were married for 45 years. After one year of marital separation where Sophie spends the majority of her time in their villa in Cannes, they decide to divorce. In order to do so, they must present their joined assets as well as all assets obtained during their marriage. The title deeds of their villa in Cannes need to be presented in England. This requires Apostille and translation costs which are high due to the length of the title deeds.

Case Example 2

Gerard, a French actor, moves to Belgium in order to gain from the tax benefits in the country. Following his first year of residence, he submits his tax forms. He is required to present an overview of his real estate status in France. Gerard provides a title deed for his apartment on Ile St Louis in Paris. Though the title deed is written in French, the Belgian authorities require legal formalities to be fulfilled before it is recognised. Gerard incurs financial costs for this.

3.8 Problems relating to academic/professional qualifications

In many instances of cross-border movement of EU citizens, academic qualifications require a certified translation as well as a certification of authenticity from the university/academic institute of origin.

With regard to qualifications, though Directive 2005/36/EC on the recognition of professional qualifications simplifies the cross-border circulation of public documents, administrative problems such as translation and certification still occur as the Directive does not provide for the explicit exemption of public documents within its scope from

legalisation or a similar formality. Moreover, not all qualifications will fall under the scope of the Directive. Examples are provided in Box 8 below.

Box 8 Example relating to academic qualifications

Case Example 1

Emilia, an Irish national, applies to study a Master's Degree in Belgium. In order to submit her application, she is required to provide translated and certified copies of her Degree Certificate from her Irish University. This costs her €50 which is a financial burden to her due to her student status. Upon arrival in Belgium, she discusses this issue with her Spanish and Greek friends who also indicate that they have incurred costs with Natalia, a Spanish student, incurring costs of €150.

Case Example 2

Following graduation in Ireland, Emilia works as a lawyer in Dublin. Due to her passion for EU law, she moves to Brussels. In order to register at the Bar Association, she is required to provide proof of her qualifications. The administration has doubts as to whether the public documents relating to her qualifications are adequate and therefore request additional information from the Irish authorities. This requires an additional certification process to be undertaken, with Emilia therefore incurring a cost.

3.9 Problems relating to health including disability

No European disability card currently exists. When citizens therefore move from one Member State to another they are faced with the formality of providing evidence of their health needs and/or of their disability. Medical certificates are required to be translated into the language of the host Member State. Documentation can also be required from national authorities such as the Departments of Social Welfare. Box 9 below provides an example of a problem that can exist.

Box 9 Example relating to health including disability

Case Example

Mathieu, a UK national, is partially sighted. In the UK, he is entitled to a disability allowance including a guide dog. Being an opera singer, Mathieu moves to Vienna to continue his training. He is not able to bring Dexter, his guide dog with him from the UK. He goes to the Office for Disabilities in Vienna to request a guide dog. In order to do be eligible for this, he needs to provide medical certificates from the UK as well as certification of his disability. This requires both Apostille and translation costs for Mathieu. Due to these administrative formalities, Mathieu does not receive his guide dog for 5 months and suffers emotional costs.

Obstacles to estimating CoNE

While problems can occur with regard to accepting public documents relating to social insurance entitlements, the CoNE relating to the acceptance of public documents is considered to be low in comparison to the CoNE associated with recognising the actual disability in another Member State. The recognition of disability falls outside the scope of the assignment. Moreover, concrete information on problems existing in this area is difficult to accumulate within the timeframe and scale of the research paper.

3.10 Problems relating to social insurance entitlements of all kinds

Social insurance entitlements (children's allowance, access to healthcare, state pensions etc.) vary from one Member State to another, with different documentation needed to prove eligibility for such entitlements. Examples are provided in Box 10 below.

Box 10 Example relating to social insurance entitlements

Case Example 1

Anette, a German national, worked in Berlin for 25 years before moving to Belgium upon marrying her husband. At the age of retirement, Anette wishes to begin claiming her state pension. She has worked in two Member States, she is entitled to some state pension in both. However, the German authorities request information regarding her employment status in Belgium since moving there 15 years ago. This requires translation.

Case Example 2

Lydia, a single mother from Reims, France, moves to Berlin. In France, she has received children's allowance for her two children, Chloe and Morgane. Due to her status as a single mother, she has received additional funding from social welfare. Though Lydia is a single mother, she is still married to her husband who abandoned her. Upon arrival in Berlin, Lydia attempts to claim similar social welfare for her children. She also attempts to request funding as a single mother. The authorities in Germany do not recognise her single status since she is still married. She therefore needs to provide proof from the Social Welfare Department in Reims as well as proof of her civil status. Lydia incurs significant financial costs in doing so.

Obstacles to estimating CoNE

As with problems relating to health including disability, the main CoNE associated with this problem relate to the recognition of different statuses existing in Member States which are then linked to social insurance entitlement. Estimating CoNE relating to the acceptance of public documents is thus difficult to undertake within the timescale of the assignment.

3.11 Problems relating to tax obligations and status of a natural or legal person

Directive 2011/16/EC provides for administrative cooperation in the field of taxation, with Member States tax authorities invited to actively cooperate in the exchange of information. However, the Directive does not explicitly provide for an exemption from legalisation for public documents in this area. The need to legalise public documents which relate to tax obligations can have an impact on both natural and legal persons who exercise free movement within the Member States. Box 11 below provides examples of both.

Box 11 Example relating to tax obligations and status of a natural or legal person

Problems relating to natural persons

Case Example

Wouter, a Dutch national, worked from January to August in France but was subject to taxation in France for the working period spent in the Netherlands (September to December) as he was qualified as a tax residence in France for the entire fiscal year. Due to this, Wouter claimed a tax credit in France for the double taxation he suffered. The French authority requested a formal document from the Netherlands declaring the amount of taxes paid. Wouter presented the declaration to the French authorities but they did not accept it as the translation was not certified according to their national requirements.

Problems relating to legal persons

Case Example

Slick, a modern jewellery company based in Dublin with 15 employees, has been operating for three years. Following a huge bout of publicity after its jewellery was worn by Penelope Cruz at the Oscars, *Slick* decides to open a boutique in Madrid in order to tailor for its expanding Spanish market. Following other administrative formalities in establishing a company in Spain, *Slick* requests some tax credits from Spain due to its centre of main interest being in Ireland and the fact that the company was not operating for the entire fiscal year. The Spanish authorities request tax certificates from Ireland which need to be Apostilled and also translated. This process takes 3 months. Due to the delay in sending the documents, *Slick* is fined for not submitting their tax declarations on time. This causes a financial cost for *Slick*.

Obstacles to estimating CoNE

While tax obligations and status of a natural person can have a high CoNE, in case of corporate taxation, CoNE specifically related to non-acceptance of public documents is likely very small in relative terms (i.e. in relation to the costs resulting from differences in tax regimes and treatment of international operations). Moreover, the CoNE of difficulties in acceptance of public documents from another Member State that could arise in relation to legal persons is a cost that tends to be accepted by companies when they make the decision to move to another Member State.

3.12 Problems relating to tax and customs status of assets

Some problems can arise relating to tax and customs status of assets when natural or legal persons move from one Member State to another. These problems relate mainly to the acceptance of the tax certificates and other fiscal declarations concerning the assets. Problems are similar to those outlined in Section 3.11 above.

Obstacles to estimating CoNE

Though some problems may arise relating to tax and customs status, it is considered that problems relating to the acceptance of documents concerning customs status would be low due to the benefits of the internal market which remove obstacles to the free movement of goods across borders. Goods moving from one Member State to another would therefore not face issues with regard to the acceptance of custom certificates.

There is a lack of information existing on problems relating to tax and customs status which also creates a difficulty in the possible estimation of CoNE.

3.13 Problems relating to legal status of companies

The manner in which companies are formed differs from one Member State to another. This is the case for both incorporated and unincorporated companies. The differing rules relating to the formation, and thus the legal status of companies, is linked to the type of documentation which is provided as well as requested by Member States. Box 12 provides examples of problems that can exist.

Box 12 Examples relating to legal status of companies

Case Example 1

Three Austrians agree to set up a limited company in the United Kingdom with its seat in Cardiff. One of the parties is a minor while another is a company. In accordance with legislation in the United Kingdom, articles of incorporation are drafted as well as other statutory documents (e.g. declarations). All documents are sent to the three parties in order for them to be signed. The documents are then submitted to the Companies House in order to register the company in the UK. The Austrians wish to set up an ancillary company in Vienna following the company's success. When registering the articles of incorporation, the Company Registrar firstly requires translation of the documents. Following translation, the Registrar questions the fact that one of the parties is a minor. Legal formalities therefore need to be fulfilled with their counterparts in the UK before the Austrian authorities provide the company with legal status to operate in Vienna.

Case Example 2

A French company wishes to buy land in Bulgaria in order to develop its activity in that Member State. During the acquisition transaction there is a problem with the legalisation of the company's documents. They are translated into Bulgarian and are certified with an Apostille. In spite of this, the Bulgarian notary requires the legalisation of the documents. The company wasted time and money on this activity.

3.14 Problems relating to legal form and representation of other legal persons

Most contracts in international commerce are concluded either by organs of a company or by agents. National rules on agency differ widely, with a lack of European PIL provisions on agency.

Within median to large companies, it is necessary to provide employees with agency rights in order to enter into contracts on behalf of the company. Since the national rules on legal form and representation of other legal persons differ, the documentation required also differs. There therefore can be doubts as to whether an individual has capacity of the agent to bind the principal. This can require significant amount of paper work to prove this power. An example is provided in Box 13 below.

Box 13 Example relating to legal form and representation of other legal persons

Case Example

Nick, an Executive Director of an English foundation, HKY, has power of attorney to enter into contracts on behalf of the foundation in Poland. After expansion of their Polish office, Nick enters into a contract to purchase a lease for the office in Warsaw. The notary acting on behalf of the office building questions whether Nick has the power to represent HKY in this deal. Nick is required to prove power of attorney which requires Apostille and a certified translation. This incurs costs but also delays in finalising the lease and beginning business activities in Poland.

4. Estimation of the Cost of Non-Europe

The purpose of this section of the report is to quantify the CoNE based on the case studies developed in the previous section. An overview is first provided of the quantification results from the European Commission's Impact Assessment (IA) Study (Section 4.1). The approach to quantification of CoNE and results are then outlined in subsequent sections.

4.1 Quantitative results from Commission IA Study

The approach taken in this report differs from that taken in the European Commission's Impact Assessment (IA) study. The IA study calculated costs per type of formality, distinguishing between Apostilles, legalisation, certified copies of public documents, and certified translation of public documents. In each case the IA identified indicative data or made assumptions on the annual number of relevant documents / procedures and their average cost. The product of the two was taken as an indicative estimate of CoNE. [Table 4](#) below summarises the results of quantification from the IA study.

Table 4 Summary of quantification results from the IA study

Procedure	Underlying data / assumptions	Estimated annual cost
Apostille	Around 1.4 million Apostilles for intra-EU use Average unit costs: EUR 13.2	>EUR 25 million
Legalisation	0.14-0.28 million legalisations Average unit costs: EUR 16.5	EUR 2.3-4.6 million
Certified copies	Around 3-4 million certified copies (implicit), one hour and EUR 2-3 needed per copy	EUR 75-100 million
Certified translations	Around 1.6 million documents, average size 3 pages Average cost per page: EUR 30 per page	EUR 100-200 million
Total		EUR 200- 330 million

4.2 Method for quantifying CoNE

The approach to quantification taken in this paper is based on identified typical scenarios related to cross-border acceptance of certain documents. For each scenario, an estimate is constructed of the total number of cases per year and the average unit cost.

The latter comprises the following elements:

- Cost of certified translations;
- Cost of Apostilles;
- Cost of time spent on procedures related to acceptance of documents (e.g. obtaining certified copies);

- Emotional and related costs involved (e.g. due to consequences of delay in acceptance of documents).

One other potentially important cost component that is not quantified in this report is related to legal uncertainty on procedures to be followed and rules to be applied. This issue is qualitatively discussed below.

4.3 Documents to be quantified

Following the examination of hypothetical cases for 13 types of public documents, as outlined in Section 3 above, the study team began the process of estimating CoNE. During this process, a number of public documents from the list were discarded due to the low/lack of likely CoNE associated with them, as outlined in Section 3 above. The study team focussed on the types of public documents where the lack of acceptance was likely to have the greatest CoNE due to the high frequency of problems occurring in a number of different hypothetical cases.

The documents studied are the following:

- Passports and identity cards;
- Birth certificates;
- Death certificates;
- Criminal record certificates;
- Marriage/civil partnership certificates;
- Tax declaration/documents for physical persons;
- Academic qualifications;
- Professional qualifications; and
- Company registration / representation & similar documents.

4.4 Estimation of CoNE

This section provides an overview of indicative quantitative estimates. They are based on a number of assumptions introduced below and should be treated as suggesting the magnitude of likely costs rather than providing a precise estimate.

Certified translations

Certified translations are a significant element of costs in case of many documents. However, it is important to note that linguistic diversity is an important feature of the EU. Hence, CoNE as analysed in this report only relates to the fact that certain documents require certified translation instead of a standard or own translation. This CoNE can be compared to cases where standardised multilingual forms would be a viable policy option which would not require translation costs to be borne by any party. Certified translation costs vary between Member States and this study follows the IA in assuming the EU average cost of EUR 30 per page. This is contrasted with the assumed average rate of EUR 5 per page for a standard translation. This last assumption is based on the observation that many documents have few words per page, and many of these

are either standard headings (e.g. name, address, date, etc.) or own names (such as family name, street address, name of a company, etc.) and hence are very easy to translate. This also takes into account that in the case of some documents, multilingual forms are a viable alternative implying no translation costs at all. Hence, certified translation is assumed to be associated with CoNE to the value of EUR 25 per page (i.e. the difference between EUR 30 and EUR 5).

When calculating CoNE, it must be borne in mind that some EU Member States share the same language. Hence, for some cross-border cases, no translation costs will exist. For example, an Irish national moving to the United Kingdom would not incur any translation as the original public document is already in English. Based on calculations of the ratio of Member States' population born in another EU Member State with the same language as the host Member State to the total population born in another EU-28 Member State, it is assumed that in 7 per cent of cross-border cases involving public documents no translation would be necessary.

Apostille and legalisation

Some Member States will have agreements in place which exempt the need for Apostille and legalisation. A proportion of the overall number of cases where public documents might need to be certified will fall under this category. There is a multitude of bilateral treaties abolishing legalisation and Apostille requirements. Some Member States have many such agreements in place (e.g. Poland), while others have hardly any (e.g. Sweden, UK). Their coverage also differs considerably. It is assumed that in around 20 per cent of cases where Apostilles are typically required between EU Member States this will not be necessary due to existence of a bilateral agreement to that effect²⁶.

The cost of time spent on arranging for necessary translations, certification, Apostilles etc. is calculated on the basis of the EU average hourly labour cost as reported by Eurostat (EUR 23 per hour in 2011).²⁷

All calculations and assumptions are consistently based on 2011 data. For this year almost all necessary data are directly available from Eurostat and in only few cases approximation based on past trends are needed. Data for 2012 are less complete. Given relative stability of relevant socio-economic variables, 2011 data can be considered as providing a good approximation of the current situation.

Table 5 provides the overview of indicative quantitative estimates.

²⁶ The European Parliament study focusing on the situation in six EU member states suggest that the median number of such treaties is between 7 and 8. This corresponds to just above 25 per cent (7.5 treaties out of 27 possible ones). In view of their potentially limited coverage, i.e. excluding certain documents the share is reduced to 20 per cent. European Parliament (2008), Comparative study on authentic documents. National provisions of private law, circulation, mutual recognition and enforcement, possible legislative initiative by the European Union. PE 408.329

²⁷ The average is calculated for EU27, but due to its size the inclusion of Croatia does not sizeably affect the average figure. Eurostat, Labour costs in the EU27, news release 54/2013 - 10 April.

Table 5 Quantitative estimates of CoNE in relation to non-acceptance of certain public documents

Public documents / procedure	Scale	Average Unit Cost	Estimated annual cost (EUR million)
Passports and identity cards	<p>It is assumed that certified copies of passports and/or IDs will need to be used by 5 per cent of the total stock of EU citizens living in another EU Member State.</p> <p>Total: 627,000 cases per year.</p>	<p>Comprises of 1 hour of time spent on arranging certified copies.</p> <p>Total: EUR 23.</p>	14
Birth certificates	<p>It is assumed that birth certificates need to be used in another EU Member State for 75 per cent of newly born children of foreign (EU) born parents and 3 per cent of the EU-born population living in another EU country (given that birth certificates are needed in different life situations).</p> <p>Total: 773,000 cases per year.</p>	<p>The average unit cost is estimated to comprise of the following:</p> <p>A certified translation of a 1 page document.</p> <p>Moreover, in 50% of cases, an Apostille might need to be used.</p> <p>Approximately 1.5 hours of time.</p> <p>In 10% of cases, it is assumed that emotional costs would incur, which are set as double the sum of other costs. These emotional costs can e.g. relate to potentially significant delays until parents of newly born child can go to their home country (i.e. only after receiving passport from their home country).</p>	59

Public documents / procedure	Scale	Average Unit Cost	Estimated annual cost (EUR million)
Death certificates	<p>It is assumed that 50 per cent of international deaths (EU and non-EU that are not separable in the data) will require death certificates to be used in another EU Member State.</p> <p>Total: 72,000 cases per year.</p>	<p>Total: EUR 76.</p> <p>This comprises of certified translation of a 1 page document, in 50 per cent of cases an Apostille, 1.5 hours of time, and emotional cost (set as double the sum of other costs) given that additional formal procedures add burden to a situation that is typically already very difficult emotionally.</p>	14
Criminal Record Certificates	<p>It is assumed that that documents proving the absence of criminal record (or showing its details) will be needed in case of 25 per cent of cases of acquisition of citizenship by citizens of other EU member states and (for other work-related and other reasons) by 0.25 per cent of the total stock of population born in another EU member state</p> <p>Total: 436,000 per year.</p>	<p>Total: EUR 189.</p> <p>Comprises of certified translation of a 1 page document, in 50 per cent of cases an Apostille, and 1.5 hours of time.</p> <p>Total: EUR 63.</p>	27
Marriage / civil partnership certificates	<p>It is assumed that 75 per cent of international (intra-EU) marriages in any given year and 0.5 per cent of the total stock of couples will marriage / civil partnership certificates to be used in another EU Member State.</p> <p>Total: 735,000 cases per year</p>	<p>Comprises of certified translation of a 1 page document, in 50 per cent of cases an Apostille, and 2 hours of time.</p> <p>Total: EUR 74.</p>	55

Public documents / procedure	Scale	Average Unit Cost	Estimated annual cost (EUR million)
Tax declaration / documents (physical persons)	It is assumed that 10 per cent of EU citizens employed in another EU Member State will need to deal with acceptance of their tax documents in another EU Member State. Total: 640,000 cases per year.	Comprises of certified translation of a 3 page document, in 50 per cent of cases an Apostille, and 1.5 hours of time. Total: EUR 109.	70
Academic qualifications	It is assumed that 75 per cent of international (intra-EU) students in any given year and 1 per cent of the total stock of EU citizens employed in another EU Member State will need to use documents related to their academic qualifications in another EU Member State. Total: 515,000 cases per year.	Comprises of certified translation of a 4 page document, in 50 per cent of cases an Apostille, 1.5 hours of time and in 10 per cent of cases emotional cost (set as double the sum of other costs) that can be e.g. related to delay in being able to take up employment. Total: EUR 159.	82
Professional qualifications	It is assumed that 10 per cent of the total stock of EU citizens employed in another EU Member State will need to use documents related to their professional qualification in another EU Member State. Total: 640,000 cases per year.	Comprises of 1.5 hours of time spent on arranging certified copies. Total: EUR 35.	22

Public documents / procedure	Scale	Average Unit Cost	Estimated annual cost (EUR million)
Company registration / representation & similar documents (needed for public procurement)	<p>The focus is on cases involving cross-border public procurement only, so providing a lower bound of cost estimates. When bidding for public contracts in another EU Member State companies need to present a range of documents related to their registration, representation, financial situation, etc. Based on available data on above-threshold cross-border public procurement (around 5,000 wins multiplied by an average of 6.5 bids per tender) the total is calculated as 33,000 cases per year.</p> <p>Total: 33,000 cases per year</p>	<p>Comprises of certified translation of a 15 page document, 3 Apostilles, and 4 hours of time.</p> <p>Total: EUR 471.</p>	15
Total			EUR 358 million

The approach taken for the quantification implies that the magnitude of results is best seen as a lower bound of likely effects. This is mainly because the scenarios considered above do not cover all the possible circumstances when cross-border recognition of certain public documents may be an issue.

While the approach taken to quantification is different from the one applied in the IA study, the results are broadly similar. The point estimate presented above is just above to the upper bound indicated in the IA study.

5. Concluding remarks

This section presents some concluding remarks concerning the simplification of the acceptance of certain public documents.

5.1 Estimates of the benefits of proposed measures to alleviate the CoNE

Table 6 provides an overview of the total CoNE estimated in relation to public documents examined within the scope of this assignment, which amounts to approximately EUR 358 million per year.

Table 6 - Estimated Cost of non-Europe per annum

Public Document	CoNE (€ million)
Passports and identity cards	14
Birth certificates	59
Death certificates	14
Criminal record certificates	27
Marriage/civil partnership certificates	55
Tax declarations/documents for physical persons	70
Academic qualifications	82
Professional qualifications	22
Company registration / representation & similar documents (needed for public procurement)	15
Total	358

The deterrence factor

The costs calculated above are, however, only the direct costs. The problems related to the acceptance of certain public documents in the EU existence are likely to have wider impacts on individuals, families and companies, particularly small companies, considering their activities in other Member States. The share of potential cross-border mobility of individuals (changing residence, taking up employment or studies in another country, etc.) and companies (e.g. participation in public tenders in other Member States) does not materialise as costs associated with acceptance of public documents and/or uncertainty on the level of such costs act as deterrents.

Quantification of such 'dynamic costs' of non Europe in acceptance of public documents is difficult and goes beyond the scope of this study. It may well be substantial, although clearly decisions on cross-border activities by people and business are determined by a range of factors including language, cultural differences, distance, price levels, access to services, etc.

5.2 The advantages of legislation

When examining the CoNE associated with the acceptance of certain public documents, it is clear that legislating in this area could resolve many current obstacles existing. The abolition of legalisation and Apostille as well as the simplified certification of copies and translations would reduce the current identified CoNE existing.

The establishment of multilingual forms in all official languages concerning birth, death, marriage, registered partnership and legal status and representation of a company would allow individuals and companies to avoid the current costs associated with authenticating national public documents. These forms would be issued under the same conditions as the equivalent public document existing in the host Member State.

Simplifying the acceptance of public documents would facilitate the life of EU citizens and businesses when public documents are used in cross-border situations. By abolishing the current presumption of non-authenticity, citizens and businesses would be able to more freely exercise their right of free movement and freedom of establishment in another Member State without facing disproportionate obstacles.

Legislation would thus provide the following benefits:

- Reduce costs and time wasted for legalisation and Apostille;
- Reduce costs and time wasted for translation and certification;
- Reduce legal uncertainty and diversity currently existing when submitting public documents in different Member States;
- Reduce the risk of discrimination of EU citizens when exercising their free movement and being treated in an unequal manner to citizens of the host Member State;
- Enhance citizens' confidence in moving across borders to gain benefits in another Member State.

While this assignment has estimated CoNE for some of the key public documents affecting individuals and businesses within the EU on a frequent basis, it is recommended to undertake future work on the estimation of CoNE relating to areas where the overall impact of possible legislation may be significant but where information is difficult to obtain and requires further research. This would be particularly the case in relation to social insurance and health benefits as well as intellectual property rights.

Annex 1 - References

EU legislation

- Council Regulation 1346/2000 on insolvency proceedings²⁸
- Council Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I)²⁹
- Council Regulation 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters³⁰
- Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes³¹
- Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents³²
- Council Regulation 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation 1347/2000 (Brussels II)³³
- Regulation 805/2004 creating a European Enforcement Order for uncontested claims³⁴
- Regulation 883/2004 on the coordination of social security systems³⁵
- Directive 2005/36/EC on the recognition of professional qualifications³⁶
- Regulation 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure³⁷
- Treaty on the Functioning of the European Union (Consolidated Version)³⁸

Other EU instruments

- Proposal for a Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market, COM (2012) 238 final
- Proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses to simplifying the

²⁸ OJ L 160 , 30/06/2000 P. 0001 - 0018

²⁹ OJ L 12, 16.1.2001, p. 1-23

³⁰ OJ L 174, 27.6.2001, p. 1-24

³¹ OJ L 26/41, 31.1.2003

³² OJ L 16, 23.1.2004, p. 44-53

³³ OJ L 338, 23.12.2003, p. 1-29

³⁴ OJ L 143 , 30/04/2004 P. 0015 - 0039

³⁵ OJ L 166, 30.4.2004, p. 1-123

³⁶ OJ L 255 30.9.2005, p. 22/142

³⁷ OJ L 399, 30.12.2006, p. 1-32

acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012, COM(2013) 228 final

- European Commission (2009), Commission Staff Working Document Accompanying the Proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of successions and on the introduction of a European Certificate of Inheritance, SEC/2009/0410 final
- SWD(2013) 144 final Commission Staff Working Document Impact Assessment accompanying the document proposal for a Regulation on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012

Instruments at International Level

- 1961 Hague Convention abolishing the requirement of legalisation for foreign public documents
- 1968 European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers
- 1993 Hague Convention on Adoption

Statistics

- Eurostat data

Studies

- Copenhagen Economics (2011), Study on Inheritance Taxes in EU Member States and Possible Mechanisms to Resolve Problems of Double Inheritance Taxation in the EU.
- Cost of Non-Europe Report, CONE 3/2013 A European Code on Private International Law
- European Parliament, "A European Framework for private international law: current gaps and future perspectives", 2012
- European Parliament, "Civil status documents-challenges for civil registrars to circumvent problems stemming from the legal void", 2012
- European Parliament, "Current gaps and future perspectives in European private international law: towards a code on private international law", 2012
- Rapkay Report 2013/0119 (COD)
- European Parliament, "Life in cross-border situations in the EU (a comparative study on civil status)", 2013

Literature

- A. Lamassoure, Member of the European Parliament, "The citizen and the application of Community Law. Report to the President of the Republic, 2008" available at <http://www.alainlamassoure.eu/liens/975.pdf>
- Feldtmann; v. Freyhold, et al: Facilitating Life Events, a report for the European Commission, 2008

³⁸ OJ C 326, 26.10.2012

Other

- ECRIS (European Criminal Records Information System)-
<http://ec.europa.eu/justice/criminal/european-e-justice/ecris/>
- Parliamentary question P-011810-13-
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2F%2FTEXT%2BWQ%2BP-2013-011810%2B0%2BDOC%2BXML%2BV0%2F%2FEN&language=RO>
- Public consultation on Green Paper on "Less bureaucracy for citizens"-
http://ec.europa.eu/justice/newsroom/civil/opinion/110510_en.htm
- Ministry of Justice, Spain-
http://www.mjusticia.gob.es/cs/Satellite/es/1200666550200/Tramite_C/1215326297910/Detalle.html
- Ministry of Foreign Affairs, Spain-
<http://www.exteriores.gob.es/Portal/es/ServiciosAlCiudadano/SiEstasEnElExtranjero/Paginas/Legalizaciones.aspx>
- Government of the United Kingdom- <https://www.gov.uk/get-document-legalised>
- The Hague Conference on International Private Law-
http://www.hcch.net/index_en.php

Annex 2 - Stakeholder consultation

The stakeholders contacted for the purposes of the Research Paper are provided in Table A.1 below, with an overview of the response outcome.

Table A.1 Stakeholders invited for a telephone interview

Stakeholder consulted	Outcome
Society of Trust and Estate Practitioners	Outstanding
European Dignity Watch	Outstanding
Councils of Bar and Law associations of Europe	No information to provide for the interview
Hague Conference on Private International Law	Telephone Interview in week of 2 December 2013
European Association of Registrars	Telephone Interview 12 November 2013
European Association of Craft, small and medium sized enterprises	Outstanding
International Commission for Civil Status	Outstanding
Council of the Notariats of the European Union	Outstanding
European Civil Registry Network	Outstanding

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