

von Freyhold, Vial & Partner Consultants
- wissenschaftliche Berater und Gutachter -

Facilitating Life Events

Final Report
for the European Commission,
DG JLS - Directorate-General for Justice, Freedom and Security

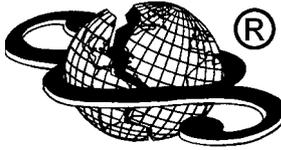
on the project No JLS/2006/C4/004
relating to a comparative study on the legislation of the Member States of the European Union
on civil status, practical difficulties encountered in this area by citizens wishing to exercise
their rights in the context of a European area of justice in civil matters and the options
available for resolving these problems and facilitating citizens' lives.

Contact:

von Freyhold, Vial & Partner Consultants
Mindener Str. 51
D-28205 Bremen
Tel.: +49.421.434 99086
Fax.: +49.421.434 0909
study@civilstatus.eu
www.freyvial.de

by: Dr. Birgit Feldtmann, Hanno v. Freyhold, Dr. Enzo L. Vial, Oliver Bühler

Bremen, October 2008



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Part I: Country Reports

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Part I: Legal Analysis

Introduction

The following comparative study provides a compilation and description of the EU Member States' legislation on civil status and of the practical difficulties encountered in this area by citizens wishing to exercise their rights in the context of a European area of justice in civil matters.

Background of the study is that, the phenomenon of mobility and migration leads to a significant proportion of European citizens who do not live at the same location and jurisdiction at which their civil status registrations have been made. It is believed that this causes certain difficulties with the registration of changes to civil status and with obtaining documents relating to such registration. The frontiers between the European member states still continue to present barriers that make it difficult or even impossible for European citizens to address an administrative office in another country, even in their country of birth or nationality, directly or without sometimes even having to travel personally to that particular office or having to pay for lawyers.

Generally, the legal framework of civil status matters is still subject to the national legislators. Thus, it can be expected that many difficulties result from the lack of harmonized legislation. Some of the rulings in the Member States may be outdated and call for improvement by themselves. While the obstacles as such are obviously a nuisance there is more to it: in many areas, jurisdictional borders are no barriers anymore. Thus, jurisdictional obstacles in the area of civil status registrations become a true barrier to mobility and to the further development of the European Union. Therefore, a substantive analyse of these national rulings will be the backbone of this study.

The first part will describe the systematic differences among the *jurisdictions* in all Member States listing the multitude of legal issues registrars have to handle with. Aside from the legal and practical requirements for civil status registrations or other actions, including the fees and other costs, this may cover also general civil law, family law, adoption laws, immigration laws, social security laws, administrative regulations and, additionally, bilateral and multilateral treaties as far as they apply. Further, the *practical framework* of civil status registration shall be described for each member state, i.e. the various functions of the civil status registries, the organisational base of civil status registries (e.g., being centralized or local based, status quo of computerisation, access for citizens from the relevant country as well as from abroad) and status and legal power of the civil status registrars.

The second part, the synthesis report, the results from the country reports are summarized and compared and brought into perspective with other information, such as statistical data and surveys conducted during the project. Based on these legal and the empirical results, proposals for Commission initiatives are made and discussed.

This study first attempts for the first time to provide an overview of the organisation and the relevant background of civil status registration in the jurisdictions of the Member States of the European Union, and in addition, of Croatia, Turkey and Switzerland. Croatia and Turkey are candidates for EU membership and Switzerland is closely related to the EU both geographically and by treaties. Moreover, all three additional countries are Member States of the CIEC and Turkey has ratified more CIEC Conventions than any other CIEC Member State. In addition to the CIEC treaties, Switzerland is particularly linked to more EU Member States by bilateral treaties than most of the Member States among each other.

The facts of national civil status registration are presented in the following country reports which provide detailed information for each state.

AT – Austria

1. Civil Registration System

a) Introduction

The civil status registration system in Austria is event based.

The official language in Austria is German. Minority languages such as Slovenian, Croatian, and Hungarian are spoken in some parts of the country. The records on the civil status are kept in German (Article 18, National Minorities Act). Whenever documents are presented in one of the languages of a national minority for an entry in the records on civil status, the authority shall have them translated (Article 19, para 2, National Minorities Act). Excerpts from the records on civil status shall be issued in the relevant minority language upon request (Article 20, para 2, National Minorities Act). According to the case law of the Constitutional Court (e.g. reference no. VfSlg. 14.452/1996), this shall also apply to cases in which the event resulting in an entry (e.g. a marriage) was not conducted in the language of the national minority, due to the absence of a request to this effect by the member of the national minority. The following ordinances on official languages are currently in force:

- Ordinance of the Federal Government designating the courts, administrative authorities and other agencies before which the Slovenian language is admitted as an official language, in addition to the German language (Federal Law Gazette No. 307/1977 in the version of Federal Law Gazette II No. 428/2000)
- Ordinance of the Federal Government designating the courts, administrative authorities and other agencies before which the Croatian language is admitted as an official language, in addition to the German language (Federal Law Gazette No. 231/1991 in the version of Federal Law Gazette No. 6/1991)
- Ordinance of the Federal Government designating the courts, administrative authorities and other agencies before which the Hungarian language is admitted as an official language, in addition to the German language (Federal Law Gazette II No. 229/2000 in the version of Federal Law Gazette II No. 335/2000)

The Federal Republic of Austria has a population of 8,298,923 (2007) and is divided into nine states (German: 'Bundesländer'). These states are then divided into districts (Bezirke) and independent cities. Districts are subdivided into 2357 municipalities (Gemeinden). There are 15 independent cities in Austria. They are called 'Statutarstädte' in Austrian administrative law. These urban districts have the same tasks as a normal district. A district is an administrative subdivision normally encompassing several municipalities. The State of Vienna, which is at the same time a municipality, is also subdivided into twenty-three districts, but these have somewhat different functions than in the rest of the country.

According to Article 10, Federal Constitution, the Federation has powers of legislation and execution pertaining to civil status, including the registration of births, marriages and deaths, and the change of names. The Federation used the legislative power to enact *inter alia* the Civil Status Law and the Standing Instructions for Registrars and their Supervisory Authorities. The aforementioned responsibilities are matters of indirect Federal administration. The administrative organ is the governor (Landeshauptmann/Frau) who is bound by instructions from the Federal Government and individual Federal Ministers and who is obliged, in effecting the implementation of such instructions, also to employ the powers available to him/her in his/her capacity as a functionary of the state's autonomous sphere of competence. For the Federal capital Vienna, in its

capacity as a state, the mayor has the function of the Governor. For the performance of civil status matters within their own sphere of competence, municipalities may by agreement cooperate in municipality civil status associations (Standesamtsverbände). Such an agreement requires a decree of the governor. The state legislature shall prescribe the organisation of the municipal civil status association and in this connection it shall provide for an association board, which must in any case consist of elected representatives from all member municipalities, and a civil status association chairman (Verbandsobmann).

Civil status registration is performed either by the mayor or by the civil status association chairman. On account of their factual connection with matters pertaining to the municipality's own sphere of competence, the mayor or chairman may transfer individual categories of matters to other authorities or members of official bodies for performance in their name. In these matters the authorities concerned or their members are bound by the instructions of the mayor. The governor and the state government are bound to check and supervise the municipal registration service. The state government is supervisory authority in fact and not as a matter of regulation.

The Central Register of Residence (CRR), (Zentrales Melderegister, ZMR)

The Central Register of Residence was launched on 01.03.2002, the same day as the new Register Law became effective. With the entry into force of the E-Government Act on 01.03.2004, the CRR became the hub for E-Government projects (e.g. the Citizen Card function, the Register of Persons and the Supplementary Register).

The Register of Persons is the basis of the CRR. It contains all identified natural persons with some relationship to Austria. These are persons residing / staying in Austria (Austrians and foreigners). In the Supplementary Register as an Add-On Register of the CRR, all Austrians living abroad and foreigners transacting electronic procedures with Austrian authorities, e.g. foreign carriers, are administered. The data of the Register of Persons and the Supplementary Register are updated online by the authorities responsible for residence registration for registering births, marriages and deaths in all the 2357 communities in Austria. Thus, a parallel central register contains the registration data (personal and residence data) of all Austrian residents while the local civil status registry offices still keep and maintain local registers. Civil status registry offices provide data, but they can also use the information of the CRR for their day to day business.

In the CRR, the source identification number is produced by a one-way encryption machine and is only processed by the owner. It is not allowed to be registered by the government. This personal PIN is coded for administration purposes. This means, that a person has the same electronic identity, both within and outside of the administration. Access to the CRR is only available by using a portal system involving specific roles and rights. The users are identified at their home portal and if they have the required authorisation, they may use the CRR via the application portal of the Federal Ministry of Interior.

Beside the various search options and the certificate of residence service, the CRR also serves other purposes, e.g. requests for civil status certificates. Since 2004 the CRR has been storing data from personal documents (certificate of birth, certificate of marriage, proof of citizenship). These data are stored directly in the CRR by the local civil status registry offices. Once these data are stored, there is no longer any need to enclose these documents for further electronic processes with public authorities. Citizens may make use of the electronic availability of verified registration data by requesting from the Central Residents Registry a confirmation of registration and stored documents. These documents are signed electronically with an official signature, stating the accuracy of the individual registration data has been verified. For the application, the applicant must complete the relevant online-form; then s/he has to be identified and to digitally sign the application. For this the user has to allow the server application to extract her/his identity link ("Personenbindung") from the

memory of the signature card or from the stored data on the server of the mobile phone provider. The user signs the form using his/her signature card again (including the entering of a PIN) and submits it. Payment is made either in advance using a special pre-payment procedure or directly online via credit card or direct debiting. After successful payment, the user may choose the online delivery option of the service offered by the Federal Chancellery, i.e., the user receives a notification from the delivery service that a certificate is waiting to be downloaded. The printout shows the public signature of the agency, which can be used to call up the certificate of the agency to authenticate its identity, and the hash value of the document which verifies its content. This paper version of the certificate can be presented to other administrative agencies.

Registry Offices and Staff

The 1126 Austrian registries of births, deaths and marriage are in

- cities where there are Federal police; the Municipal District Offices (Magistratische Bezirksamt)
- cities where there are no Federal police; the Municipal Offices (Bezirkshauptmannschaft or Gemeindeamt)

All registry offices are fully equipped with computer technology.

The main tasks of the registry offices are:

- Accepting applications for marriage ceremonies and performing marriage ceremonies;
- Registration of civil status events and maintaining the registers of births, marriages and death;
- Registering acknowledgements of paternity;
- Making decisions regarding official names;
- Issue of civil status certificates and certified copies from the registers;
- Reporting data of civil status events and their changes to various organisations (e.g. Federal statistics);
- Updating the Central Register of Residence
- Residence Registration (The registration of a newborn child at a residence may be effected at the same time as registering the birth at the registry office, provided that beforehand - generally at the hospital where the child was born - a Residence Registration Form has been completed. In this case, registration with the residence registration authority (Meldebehörde) is no longer necessary).

The approximately 6000 civil status registrars are civil servants, receive a regular salary and have support staff. As a matter of form, civil status registration is performed by the mayor or the chairman of the civil status association. If these officeholders do not have the necessary knowledge, these tasks may be delegated to civil servants who have passed an exam stipulated in the state laws. In some states basic training of two or three weeks is provided. There are no such regulations in the state laws of Tirol, Burgenland, Vorarlberg and Vienna.

The performance of civil status acts and the behaviour of registrars may be challenged. The proper authority is the governor, whose decision is subject to court appeal. Against the decision of the governor at first instance, legal action can be filed at the Federal Supreme Administrative Court or the Federal Constitutional Court.

National Association of Registrars

The Austrian Association of Registrars (Fachverband der Österreichischen Standesbeamten) and its 9 sub-units works to facilitate the development of a professional qualification and to provide training for those working in the Registration Service. Furthermore the Association promotes the recognition of the professional status of those working within the Registration Service, distributes information and advice, provides a consultative body, actively seeks development opportunities, promotes opportunities for the exchange of views, responds to government consultations, organises seminars and conferences and has established a website (<http://www.standesbeamte.at/>). The Association publishes a monthly professional journal.

b) Civil Status Records

The registry office keeps the civil status registers (Personenstandsbücher). These consist of a paper-based book of marriages, a book of births and a book of deaths. All registers are kept in duplicate. The registry office in Vienna (first district) has supra-regional tasks, in particular, in the recording of data concerning the civil status of Austrian nationals abroad or refugees and stateless people, whose usual place of residence is in Austria, and of births and deaths occurring on Austrian vessels. Furthermore the registry office in Vienna holds the registers of legal declarations of presumption of death and is responsible for authenticating legal proof of marriageability and any possible impediments to marriage and for the issue of certificates of no impediment if neither of the future spouses has ever resided in Austria. Finally the registry office deals with the change of name of anyone who has never resided in Austria.

Correction, Amendment of Civil Status Records

If certificates need amendments at a later date, remarks on the margin of the certificates (books) are used. Marginal remarks are a way of establishing a formal relationship between two civil status events, or between an event and a court decision. They are brief references to the new event or decision, in the margin of an event previously recorded or transcribed, changing the civil status of the person concerned. In addition, notes at the end of the certificates are used to provide simple information.

The registrar may correct false entries or margin remarks before the event is formally registered. He would also correct clerical errors and take care of any notes that come to his attention at any time. In addition, the registrar can correct the data regarding religion and residence as a result of investigation and/or notarial acts. In all other cases, correction must be ordered by the state government or the court.

Documents may be cancelled by the state government. In this case, the decision is mentioned in a margin remark. The delivery of an integral copy is possible. The reconstitution of a cancelled record is made by using a copy of the duplicate records. If the two originals are destroyed, the record is reconstituted *ex officio* by the registrar after investigation. If a birth, marriage or death certificate is lost, the Austrian government recommends a loss report be filed and this report be presented to the relevant authority authorised to issue a duplicate or a new document. We were informed by the Federal Ministry of Justice that personal status documents (birth certificate, marriage certificate, death certificate) may often be issued without a loss report.

Relevant authority to issue a loss report:

- the Lost and Found Office of the nearest municipal office or the Lost and Found Office of the municipality of Leoben and the Lost and Found Office of the municipality, or

- in Vienna, the Lost and Found Service locations of the Municipal District Offices and/or the Central Office of the Lost and Found Service, or
- in the other capital towns, as well as in Krems and Waidhofen/Ybbs, the Municipal Authority.

An official identification with photo must be presented. The Lost and Found Service locations of the individual Municipal District Offices are connected online with the Central Office of the Lost and Found Service. A fee must be paid.

Archives

In Austria there is no central register as such. A civil registry has existed only since 1938/39. Before then, only the various religious parishes kept birth, marriage and death registers. The old parish registers are now stored in their original parishes or in the archives of the respective diocese. Roman Catholic registers are stored in the Archive of the Archdiocese in Vienna and Archive of the Diocese St. Pölten.

Legalisation/Translation

The registry office does not accept foreign documents, which are not duly certified or bear the Apostille.

Austria has concluded bilateral agreements for the abolishment of any kind of legalisation either of public documents in general, or of civil status documents, with Belgium, Bulgaria, the Czech Republic, Germany, Denmark, Finland, France, Hungary, Italy, Luxembourg, Poland, Romania, Sweden, Slovenia, Slovakia, Croatia, Turkey and Switzerland.

In addition, Austria is a member of the International Commission on Civil Status Conventions (CIEC) and a signatory to various CIEC treaties and specifically to CIEC Convention No. 16 of 8 September 1976 on the issue of (multilingual) extracts from civil status records, (namely birth certificates, marriage certificates, death certificates) thus adding Spain, the Netherlands, and Portugal to the list of Member States with which a treaty exists making legalisation of civil status documents unnecessary.

Austria is also a party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this convention, parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a party.

Documents issued in a language other than German or English require to be translated by a court certified translator. Translations made by a court certified translator require no further authentication in order to be acknowledged in Austria. Copies and translations made abroad have to be authenticated, if need be by Apostille.

The authorities competent to issue the Apostille are listed in § 3 of the implementing statute (Bundesgesetzblatt 1968/28). Other than the Ministry of Foreign Affairs, the competent authorities are the Presidents of the courts of first instance, the nine *Landeshauptmänner* (Provincial Governors) and the nine *Landesregierungen* (Provincial Governments). The competence of these authorities depends on the type of document to be legalised. The statute designates the authorities competent to issue the apostille. Competence is distributed among those authorities as follows:

1) Bundesministerium für auswärtige Angelegenheiten (Ministry of Foreign Affairs), Legalisierungsbüro, Minoritenplatz 8, A-1014 Wien, being responsible for documents issued by the highest Federal authorities.

2) The presidents of the courts of first instance dealing with civil matters being responsible for documents issued in their area of jurisdiction by a) courts other than the highest courts; b) public prosecution authorities; c) notaries; and d) a chamber of notaries or bar association. The addresses of the courts of first instance can be found under <http://www.justiz.gv.at>

3) For all other documents, competence lies with

i) the Landeshauptmann (Provincial Governor), if the document was issued in the respective *Land* in matters of so-called indirect federal administration (*mittelbare Bundesverwaltung*), i.e. in cases where provincial authorities act on behalf of the Austrian Federation;

j) and the Landesregierung (Provincial Government) if the document was issued in the respective *Land* by an authority acting in execution of administrative competences of the *Land*.

The authority verifies the authenticity of the signature and the seal by comparing them to samples. The form of the Apostille is regulated in the annex of the implementing statute. The Apostille is, in principle, placed on the document itself. If there is not sufficient space on the document itself, the apostille is placed on an allonge. In such cases, the document and the allonge are non-detachably connected together. If the document consists of multiple pages, the pages are first non-detachably connected together. The Apostille is then placed on the last page. A rubber stamp is used to issue the Apostille; thus, the system used is mechanical.

An Apostille can be requested in person or in writing. The price charged by the Austrian competent regional courts for the issuance of the Apostille with regard to judicial and notarial documents is € 2,90. The Vienna Chief Executive Office charges € 16,40. Between 85% and 90 % of the Apostilles are placed on the document itself and signed personally. The fee can be paid in cash, by bank payment card or credit card. The Apostille is, in principle, issued immediately. For example, the Ministry of Foreign Affairs issues the Apostille within minutes if the applicant appears there personally (if the request is made by mail, the process must naturally take a few days).

Documents

Austrian citizens were until recently requested to provide proof of certain information, such as birth or marriage certificates, for conducting certain administrative procedures. Since the establishment of the CRR, this is no longer required. When a person registers with it, the relevant authority verifies the accuracy of the existing personal and nationality data by inspection of the relevant documents (standard documents) and then informs the CRR that the information is accurate. Even where no registration procedure is carried out, a person may request that the accuracy of the information be noted, provided he or she proves the accuracy by presenting the relevant documents. Thus, certain information need no longer be presented by the person concerned, but can be directly requested by the public authority from the CRR with the person's consent. Alternatively, the person may also present an electronically signed confirmation of registration issued by the CRR.

The following documents are issued by the registry offices:

- Birth certificate
- Marriage Certificate
- Death Certificate
- Stillbirth Certificate pursuant to Article 35, Civil Status Law
- copy of the civil status register; In contrast to the certificate which only represents an excerpt from the registry of births, deaths and marriage and only shows the fundamental content of the entries, a copy from the register has the full text of all entries contained in the register, such as all main entries which directly concern the event, the marginal remarks by

which the final main entry was corrected, the references which connect different entries and the notes.

- Certificate of No Impediment; If an Austrian citizen wants to get married abroad he/she may have to produce - in addition to other documents - an Austrian certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Austrian law and is valid for 6 months from issue. This certificate is issued by the registry office of the main place of residence.
- Confirmation pursuant to Article 55, Civil Status Law
- Transcriptions from family registers (for marriages before 1 January 1984)

Birth, marriage and death certificates may be issued either with or without mentioning the religion. On request the birth certificate may be issued without the parents' data.

Applications for documents may be made at the registry office:

- in person or by proxy
- by post, fax or telephone
- online if the birth, marriage or death of a person has already been registered (birth or death after 01.01.1939 or marriage after 01.08.1938); to order documents online the exact dates of the relevant person are required

Documents ordered may be sent by registered letter or picked up in person at the registry office.

c) Cost

All Austrian registry offices have a standard schedule of administration fees (BVwAbgV) and national charges (BGG).

- certification in the civil status registers: € 6.50 administration fee
- certification in the civil status registers of a event which occurred abroad or at sea: € 3.20 administration fee
- Issue of a certificate of No impediment: € 13.20 national charge plus € 7.60 administration fee
- Issue of all other civil status documents: € 6.60 national charge plus € 2.10 administration fee
- Issue of transcriptions from family registers (marriages before 1 January 1984); fee of € 9.80.

The fees must be paid in cash or by other means of payment (e.g. debit card or credit card) directly at the registry office. It is possible to pay fees online; there may be an additional fee of € 13.20 for the order of documents online.

d) Foreign relations

Foreign relations

Austrian civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and some registrars also of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member State (e.g. Belgium, Bulgaria, Czech Republic, France, Germany, Hungary, Italy, Luxembourg, Poland, Slovenia, Slovakia and Spain). Some Austrian civil status registrars receive information

about civil status acts and changes of their own citizens from Germany, Hungary, Italy, Poland, Slovenia, Slovakia and Switzerland.

Consular Services

Consular assistance is provided by Austrian representation (83 Embassies, 9 Consulates-General and 285 Honorary Consulates) and local representations or permanent missions of other EU Member States when there is no Austrian representation. There is no obligation to officially register one's permanent abode abroad.

Austrian consular officials generally do not exert the functions of a civil status registrar. The Austrian consular offices abroad transfer the acts drawn up abroad to the home country, where the information is arranged to be transferred to the registry offices. The role of the missions abroad is normally to report changes in the status of nationals (birth, marriage, death) which have taken place abroad to the relevant authorities in Austria so that they may be entered into the relevant civil status register. Austrian consular officials offer assistance to obtain civil status certificates (birth, marriage and death) for Austrian citizens from Austria and from the host country. They do not issue civil status certificates or a certificate of no impediment. Austrian representatives provide authentication services but are not authorized to make translations and translations cannot be authenticated by the consular officers. Austrian representatives are not authorized to help non-Austrian citizens obtain civil documents from Austria. Due to strict Austrian privacy laws, documents and official certificates may be requested only by the subject, spouse, children, and/or parents. Thus, the following information must be included in the request at least:

- Purpose for which the document is needed,
- Relationship to the person whose record is requested,
- Proof of that relationship by providing e.g. copy of the passport, copy of marriage certificate etc.

The Diplomatic and Consular Department of the Ministry for Foreign Affairs in Austria is unique in that it will help Austrian nationals to obtain civil status documents from abroad. A fee will be charged. For a birth or death to be recorded in the Austrian civil status register, the applicant should send the original birth certificate or death certificate to the Austrian embassy or consulate in the country where the child was born or death took place.

Consular officials at Austrian missions no longer solemnize marriages. When Austrians wish to marry abroad both partners should submit a "legal statement of family name" (namensrechtliche Erklärung) before leaving Austria as to which spouse wishes to take the other spouse's family name, one of the spouses wishes to add their own family name to the partner's last name by hyphenation, or if both spouses wish to retain their own family names. The "legal statement of family name" is then sent together with the original marriage certificate to the registry office in Vienna's First District. The registry office will issue an official document regarding the chosen names. If both spouses are already in a foreign country, they can submit their "legal statement of family name" to the mission before actually marrying.

Marriage Abroad

Consular officials at Austrian missions no longer solemnize marriages. When Austrians wish to marry abroad both partners should submit a "legal statement of family name" (namensrechtliche Erklärung) before leaving Austria as to which spouse wishes to take the other spouse's family name, one of the spouses wishes to add their own family name to the partner's last name by hyphenation, or if both spouses wish to retain their own family names. The "legal statement of family name" is then sent together with the original marriage certificate to the registry office in

Vienna's First District. The registry office will issue an official document regarding the chosen names. If both spouses are already in a foreign country, they can submit their "legal statement of family name" to the mission before actually marrying.

e) Law

Federal Constitution (Bundes-Verfassungsgesetz BGBl. Nr. 1/1930 zuletzt geändert durch BGBl. I Nr. 2/2008, B-VG); Civil Code of 01.06.1811 (Patent vom 1ten Junius (Allgemeines bürgerliches Gesetzbuch), JGS Nr. 946/1811 zuletzt geändert durch BGBl. I Nr. 113/2006, ABGB); Private International Law of 15.06.1978 (Bundesgesetz über das internationale Privatrecht BGBl. Nr. 304/1978 zuletzt geändert durch BGBl. I Nr. 58/2004, IPR-G); Nationality Act of 1985 (Bundesgesetz über die österreichische Staatsbürgerschaft BGBl. Nr. 311/1985 zuletzt geändert durch BGBl. I Nr. 4/2008, Staatsbürgerschaftsgesetz, StbG); Marriage Act of 06.07.1938 (Gesetz zur Vereinheitlichung des Rechts der Eheschließung und der Ehescheidung im Lande Österreich und im übrigen Reichsgebiet, dRGBl. I S 807/1938 zuletzt geändert durch BGBl. I Nr. 92/2006, EheG); Nobility Titles Repeal Act of 03.04.1919 (Gesetz über die Aufhebung des Adels, der weltlichen Ritter- und Damenorden und gewisser Titel und Würden StGBI. Nr. 211/1919 zuletzt geändert durch BGBl. Nr. 2/2008, AdelsaufhebungG); Act on First Names and Surnames of 22.03.1988 (Bundesgesetz über die Änderung von Familiennamen und Vornamen BGBl. Nr. 195/1988 zuletzt geändert durch BGBl. Nr. 25/1995, Namensänderungsgesetz, NÄG); Civil Status Act of 19.01.1983 (Bundesgesetz über die Regelung der Personenstandsangelegenheiten einschließlich des Matrikenwesens BGBl. Nr. 60/1983 zuletzt geändert durch BGBl. I Nr. 100/2005, Personenstandsgesetz, Civil Status Law)); Children Law of 2001 (Kindschaftsrechts-Änderungsgesetz BGBl. I Nr. 135/2000, KindRÄG); § 8 Midwife Act of 1994 (Bundesgesetz über den Hebammenberuf BGBl. Nr. 310/1994 zuletzt geändert durch BGBl. I Nr. 90/2006, Hebammengesetz, HebG); § 3 Registration Law of 01.03.1992 (Bundesgesetz über das polizeiliche Meldewesen BGBl. Nr. 9/1992 zuletzt geändert durch BGBl. I Nr. 45/2006, Meldegesetz, MeldeG); National Charges Act of 1957 Gebührengesetz BGBl. Nr. 267/1957 zuletzt geändert durch BGBl. I Nr. 105/2007, BGG).

Public Administration Charges Ordinance of 01.03.1983 (Verordnung der Bundesregierung über die Verwaltungsabgaben in den Angelegenheiten der Bundesverwaltung und über die Art ihrer Einhebung bei den Bundesbehörden BGBl. Nr. 24/1983 zuletzt geändert durch BGBl. I Nr. 5/2008 (Bundesverwaltungsabgabenverordnung, BVwAbgV); Civil Status Ordinance of 14.11.1983 (Verordnung des Bundesministers für Inneres zur Durchführung des Personenstandsgesetzes BGBl. Nr. 629/1983 zuletzt geändert durch BGBl. II Nr. 107/2004, Personenstandsverordnung, PStV); Standards and Samples Ordinance of 2004 (Verordnung des Bundeskanzlers über Standard- und Musteranwendungen nach dem Datenschutzgesetz 2000 BGBl. II 312/2004, Standard- und Muster-Verordnung 2004, StMV); Data Transmission Ordinance of 2004 (Verordnung des Bundesministers für soziale Sicherheit, Generationen und Konsumentenschutz über die von den Personenstandsbehörden an die Gebietskrankenkassen zu übermittelnden Daten BGBl. II Nr. 239/2004, Personenstandsdatenverordnung).

Standing Instructions for Registrars and Their Supervisory Authorities of 14.11.1983 (Dienstanweisungen auf Erlass des Innenministers 2127/184-IV/4/83, DA). Several state laws and federal and states decrees.

Current versions of the texts of the legislation are available: <http://www.ris.bka.gv.at/> (German).

Austrian private international law (IPR) is codified. The underlying law is the International Private Law Act (IPR-G) of 15.6.1978, Federal Law Gazette No. 304/1978. According to Article 53 IPR-G, international agreements are not affected by the IPR-G. They take precedence over the provisions of this Act – and other national conflict rules.

A person's personal status is interpreted in accordance with the law of the State of their nationality. If a person has more than one nationality, then the law of the State with which the person has the closest connection is decisive. However, in Austria and as far as Austrian courts and authorities are concerned, Austrian citizenship overrules any other citizenship which a person may have (except as far as *Garcia Avello* principles apply). For refugees and stateless persons, personal status is the law of the State in which they usually reside (Article 9, IPR-G). The use of a person's name is based on the laws that govern the personal status, on whatever ground the taking of the name is based (Article 13, IPR-G). The married name is, for example, not to be judged according to marital status but according to the name status. For the form of name designation declarations, the general formal status of Article 8, IPRG applies. Accordingly, the form of a legal act is to be judged according to the same law as the legal act itself; however, it is enough to comply with the formal requirements of the State in which the legal act is carried out. According to case law, a name taken under a previous personal status is not changed simply by changing the personal status (nationality).

The question of whether or not a child is legitimate is to be judged according to the personal status of the spouses at the birth of the child or, if the marriage had been dissolved beforehand, at the time of the dissolution. If the spouses have different personal status, the personal status of the child at the time of birth is decisive (Article 21, IPR-G). This also applies to questions of the presumption of paternity of the husband, the grounds for contesting legitimacy and also the question of who is entitled to contest legitimacy, as well as the time limits to contest the legitimacy. The requirements for the legitimation of an illegitimate child by way of a declaration of legitimacy (for example, as a result of national sovereignty) are to be judged according to the personal status of the father (Article 23, IPR-G). The effects of legitimacy and legitimation of a child are to be judged according to its personal status (Article 24, IPR-G). According to the legitimation convention (Federal Gazette 102/1976), legitimation by subsequent marriage of the parents is valid, provided it is valid under the national law of either father or mother. The requirements for determining and recognizing the paternity of an illegitimate child are to be judged according to the personal status of the child at the time of birth. Any later personal status of the child is decisive if this allows such determination or recognition, irrespective of the personal status at the time of birth. The law according to which paternity is determined or recognized is also decisive for contesting it (Article 25, IPR-G). The effects of the illegitimacy of the child are to be judged according to its personal status (Article 25, IPR-G). While for questions of parentage, the personal status at any given time is decisive, this is not so for questions of the relationship between the parents and child; here the personal status of the child is decisive.

The adoption of a child depends both on the personal status of the adopting parents, and of the child as far as consent of the child or of a third party to whom the child is related under family law is concerned. The effects of the adoption of a child are to be judged according to the personal status of the adopting parent, and in the case of adoption by spouses, according to the law that is decisive for the personal legal effects of the marriage. The field of application of Article 26 IPR-G includes the material requirements for the adoption of a child, such as the age of the adopting parents, the difference in age between the adopting parents and the child or the question of whether and under what conditions the existence of the adopting parents' own children bars adoption of a child.

The form of a marriage in Austria is to be judged according to Austrian law. The form of a marriage abroad is to be judged according to the personal status of each of the persons marrying, although it is also sufficient if the formal requirements of the place in which the marriage took place have been complied with (Article 16, IPR-G). The requirements for marriage and nullity of a marriage and the requirements for annulling the marriage, as opposed to divorce, are to be judged for each of those marrying according to their personal status (Article 17, IPR-G). According to Article 18, IPR-G, the personal legal effects of marriage are to be judged according to the common personal status of the spouses; if there is not a common personal status, then according to the last common personal

status, if one of them has kept it. Otherwise, they are to be judged according to the law of the State in which both spouses usually reside; if no such residence exists, according to the law of the State in which both had their last usual residence, if one of them has kept it. In accordance with Article 20, IPR-G, divorce is to be judged according to the law that is decisive for the personal legal effects of the marriage. Separation is unknown under Austrian law. Conjugal community and partnership are not expressly regulated under Austrian law either.

f) eGovernment

The overview of the eGovernment situation in Europe is an extract from the ePractice factsheets available at: <http://www.epractice.eu/factsheets>

Online Services for Citizens

Portal

The Austrian government internet portal is called "HELP" and is located at, <http://HELP.gv.at>. It is designed to guide citizens through administrative procedures based on 'life situations' such as birth, marriage, passports, death, rather than based upon administrative structures. HELP is designed to provide Austrian citizens and residents with a single point of entry to detailed information about public services and administrative procedures, organised around approximately 200 life events. As well as providing information, the portal also enables citizens to download official administrative forms and to conduct an increasing number of procedures online. A service called 'Official Procedures Online' (Amtsweg on-line) has been developed, enabling the delivery of interactive and transactional services. HELP.gv.at continues to be developed further into a transactional portal interconnected with regional and local government systems.

Corporate Network Austria (CNA)

The Corporate Network Austria (CNA) is a high-speed and high safety public Austria-wide area data network that is operated by the Federal Data Processing Centre. It connects all federal government departments and agencies, social security agencies, and the nine regional authorities. The regions have their own networks connected to the CNA.

Citizen Card

A central component of the Austrian eGovernment-strategy is the Citizen Card (Bürgerkarte) which is a smart card embedded with an electronic signature and a digital certificate, and which enables citizens to securely access electronic public services and complete administrative procedures electronically. In electronic communication with the administration, natural persons are identified on the basis of sector-specific personal identifiers. A 'source PIN' is derived from the person's unique identification number (ZMR number as stored in the Central Register of Residents) by way of an encryption process and stored on the Citizen Card in an electronically signed form. This source PIN serves as the basis for generating sector-specific personal identifiers. A person's source PIN can be controlled only by the legitimate holder of the Citizen Card, and cannot be stored directly in applications. The application of two encryption processes (encryption of the ZMR number in the source PIN and derivation of the sector-specific personal identifier from the source PIN) guarantees a high level of data protection.

Electronic delivery service

In 2004, the Austrian Government launched an official electronic delivery service (Zustelldienst), designed to enable administrative procedures to be conducted by citizens from the application stage to delivery via internet. The service allows public administrations and citizens to exchange

messages with the guarantee that messages are effectively sent and received. It provides users with official acknowledgements of receipt, and registered mails delivered by the system have legal status. In order to subscribe to the service, a user needs to have a digital signature. The system is compatible with the Citizen Card. The official electronic delivery service is designed to gradually replace paper-based notifications from public authorities to citizens and businesses. The specification of the Delivery Service has recently been extended and now includes the option to generate paper based deliveries e.g. by automated printing. This provides a single interface for the administration but alternative means of delivery for citizens and businesses.

ePayment

In 1991 a co-operative platform founded by Austria's largest banks was founded. In cooperation with federal state representatives a specification for e-payment standards was developed designed to guarantee a comprehensive standard for online payment transactions. This standard facilitates direct payment through utilisation of the various online banking systems. Credit card and mobile phones based payments are supported as well.

Civil Status Certificates

Various application forms and online request of civil status certificates are available.

2. Republic of Austria - Birth

a) Registration of Birth

Every birth of a child occurring in Austria is entered in the register of births at the registry office relevant for the place of birth. The birth must be reported ("declaration of Birth") to the relevant registrar within one week after the birth in the following order (Article 18, Civil Status Law, Article 8, Midwives Law):

- by the head of the hospital in which the child was born,
- by the doctor or midwife who was present at the birth,
- by the father or mother, provided they are legally capable,
- by the authority or department of the Federal Police (Dienststelle) investigating the birth, or
- by other persons who have personal knowledge of the birth.

As a rule, the registration of the birth of legitimate children is done by the head of the hospital in which the child was born. For illegitimate children it is done by the mother or the grandparents. There is no application fee either for the registration of birth or for the issue of the birth certificate. Prior to entry in the register of births and at the latest within one month after the birth, the persons authorized to apply for registration must provide in writing the first name of the child. The declaration must be submitted in duplicate. The second specimen is transmitted by the registrar to the National Population Statistics Organisation. Delayed declaration is an offence. The penalty for an offence is a fine of € 218.00 (Article 57, Civil Status Law).

If a birth is registered in Vienna, it is possible to apply at the same time at the registry of births, deaths and marriage for a certificate of naturalisation for the child.

Under Austria's system of "anonymous birth", women may give birth in a hospital free of charge and without stating their identity. The decision to live without the child can be retracted until the legal procedures for an adoption have been brought to a close, provided the guardianship court permits it. Proof of identity as the mother may be given by means of genetic examination. To prevent mothers from giving birth to children in situations of distress without medical assistance

and abandoning them, baby hatches and other procedures for anonymous births were created. The law treats babies found in baby hatches as foundlings (Article 211 General Civil Code). If a child is a foundling and his or her name is not known, or in the case of an anonymous birth, after investigation by the police, the registry office is obliged to transmit a report to the governor stating the sex and the age as estimated by a public health officer. The governor determines the first name(s) and surname of the child and authorizes the registry office to register the birth.

Stillborn babies are not registered in the birth records but only in the death records. The stillborn children may be named and for this purpose, special documents are available at the civil status registry offices. If the child is born alive but dead on declaration, the child is entered into the register of births and its death is entered into the register of deaths.

Declaration of birth occurring abroad to a Austrian national, or on a vessel sailing under Austrian national colours or on an aircraft to the Austrian authorities is not obligatory (Article 2 (2) PStG). A person may apply for the registration of a child's birth abroad if he/she has legal interest in the registration.

b) Documents

In addition to the declaration the following documents must be presented:

- Birth certificates of the parents (mother's birth certificate if the child is born outside marriage);
- Marriage certificate (except single mothers);
- Divorced mothers should present the divorce decree, and widowed mothers should present the death certificate of the spouse;
- Residence Registration Form (Meldezettel) as to the primary residence of the parents (or the single mother) or the registrar may inspect the Civil Registration Register (ZMR, Zentrales Melderegister);
- Proof of citizenship of the parents (with current family name) of the parents or of the single mother (for Austrians);
- Documentary proof of academic degrees;
- Special medical birth statement of the doctor or the midwife if the birth is not reported by the head of the hospital;
- Written declaration of the first names of the child (can be presented within one month);
- Passport and document proving citizenship (for foreigners).

Certificate of registration (Meldezettel) can be obtained directly from the registering authority, in some newsagents or by form (download) at www.help.gv.at registration/cancellation of registration).

c) Birth Certificate

The birth certificate is issued by the registry office of the location in which the child was born. If the child was not delivered at home, then the registry office nearest to the hospital where the child was born is responsible.

- In independent cities: in the Municipal District Registry Office (Standesamt des Magistrats)

- In all other Austrian municipalities: in the Municipal Registry Office (Bezirkshauptmannschaft or Gemeindeamt)

Pursuant to Article 19 (4) of the Civil Status Act the birth certificate contains the

- Surname, and the first names of the child
- Time and the place of the birth of the child
- Sex of the child
- Surnames and first names of the parents and their residence, day, place and registration of their birth, as well as their affiliation to a church or church society legally recognized in Austria

As set out above, when changes occur, the birth certificate generally is not amended at a later date but marginal notes are made to the birth certificate (Article 22, Civil Status Law). Marginal notes relating to descent which can be written in the margin of birth certificates include recognition and legitimation. If the child is adopted, only the adopting parents are to be given as parents. The father does not have to be indicated on the birth certificate. Adoption is mentioned in a marginal note to the birth certificate (Article 22, Civil Status Law). Adoption can take place by means of an "incognito" adoption or an "open" adoption. In the first instance, the name and address of the future adopting parents are not revealed. Where the restrictions attaching to incognito adoption apply, a copy or an extract showing affiliation can be obtained only by the authorities, the adopting parents or the adopted person, provided that he or she has reached marriageable age (Article 37 Civil Status Law).

A transgender person may have alterations made in the birth certificate after the change of gender. The birth certificate is reissued in the changed gender of the transgender person. The mention of the change of gender is indicated in the margin.

d) Recognition

Mothers do not need to legally acknowledge their children since the parent-child relationship follows from the birth itself (Article 137b, General Civil Code). So the birth certificate must bear the mother's name, which is sufficient to establish maternal affiliation in accordance with the maxim "*mater semper certa est*". A maternity certificate is not envisaged in Austrian legislation. Nevertheless such a document may be issued upon request. In the special case where a child has been conceived with the sperm of a third party using medically assisted reproduction techniques, Article 20 of the Fortpflanzungsmedizingesetz (Reproductive Medicine Act) provides the child, after the age of 14, with the right to inspect information from the records on its natural father that must be kept by the hospital, thus expressly providing the right of a child conceived with the aid of modern medical reproductive technology to know its descent.

Article 138(1), General Civil Code provides that the father of a child is, in the following order, either:

1. the man who at the date of the birth was married to the child's mother, or
2. the man who acknowledged paternity, and finally
3. the man whose paternity is judicially established.

According to Article 138c, General Civil Code, a child is assumed to be legitimate (and the husband to be the father of the child) provided that it was born during a marriage or within 300 days after the end of the marriage as a result of the husband's death. A child born within 300 days after dissolution or annulment of its mother's marriage is assumed to be legitimate, provided that the former husband

voluntarily acknowledges paternity or whose paternity is judicially established (Article 138d General Civil Code). This assumption can be invalidated only by a court decision which establishes that the child is not from the mother's husband. Articles 156, 158 General Civil Code provide that the mother's husband and the child may contest the legitimacy within a two-year time-limit upon knowledge of the circumstances which cast doubt on the child's legitimacy, but not before the birth of the child. If a child is born after 300 days have elapsed it is assumed that it is illegitimate (Article 138c (1) General Civil Code). Paternity of an illegitimate child can be established only by judgement (Article 163 General Civil Code) or by acknowledgement (Article 163c General Civil Code).

Paternity may be voluntarily acknowledged at:

- any Children and Youth Office (Article 41 (1) Youth Welfare Law);
- any Civil Status Registration Office (Article 53 (1) Civil Status Law) free of charge;
- an Austrian consular office abroad if the man is an Austrian citizen;
- at the District Court (Bezirksgericht);
- at a Notary Public.

The following documents must be presented by the father:

- Photo ID
- Birth Certificate
- Residence Registration Form
- Certificate of naturalisation (passport for foreigners)
- Documentary proof of academic degrees.

Acknowledgement has to be declared in person and may not be revoked. It is possible to acknowledge paternity of an unborn child; such a declaration must be filed at the registry office in Vienna. The legal guardian shall ensure that paternity is established, unless establishment of paternity would be disadvantageous to the well-being of the child, or the mother uses her right not to disclose the name of the father. The mother of a child who makes use of her right not to disclose the name of the father must be made aware of the consequences (primarily in respect of residence and inheritance rights) by the Children and Youth Office if paternity is not established (Article 163a (2), General Civil Code). The Children and Youth Office is informed of the birth of every child - including legitimate children - by the registration authorities (Article 17, Civil Status Ordinance), and shall advise the child's legal guardian and, if necessary, offer assistance. The child's legal guardian may entrust the Children and Youth Office with examining and establishing the child's paternity (Article 212 General Civil Code). The acknowledgement of paternity does not require the consent of the child or the mother but they will be informed by the registrar maintaining the birth register. The mother and child may challenge the acknowledgement within a two-year time-limit and paternity can be invalidated only by a court decision.

Article 163e General Civil Code provides a simplified procedure for the establishment of paternity for cases where all those involved are aware that the paternity as established is not accordance with the biological facts. In such cases, contentious proceedings in which the child concerned would be the defendant and, should the case be lost, would have to bear the cost risk associated therewith, are avoided. If, at the time of acknowledgement, another man's paternity has already been established, the acknowledgement shall take legal effect when a generally binding declaration has been made by the child to the effect that the other man is not the father of the child concerned. However, any acknowledgement of paternity declared at a time when another man's paternity had been

established shall be effective if the child's mother names the person acknowledging paternity as the child's father and the child consents to the acknowledgement. In the case of minors, the relevant Children and Youth office, in its capacity as the legal representative, shall provide its consent. In doing so, it shall consider the minor's wishes to the greatest possible extent. The acknowledgement shall be effective as from the time of the declaration. The man whose paternity had been established may object to the acknowledgement in court.

The fatherhood of an illegitimate child may also be decided on request of the man or the child (Article 163 General Civil Code). A man who had sexual intercourse with the mother within a period of not more than 300 and not less than 180 days before the birth is assumed to be the father of an illegitimate child. In the course of paternity proceedings of an illegitimate child, evidence is presented to prove descent by means of serological blood testing or DNA testing.

3. Republic of Austria - Marriage

Only civil marriage is legal in Austria, although a religious ceremony may follow the legal wedding. Currently Austria offers no national, domestic forms of same-sex partnership regulation. Unregistered cohabitation is recognised. Following the decision of the European Court of Human Rights in the case of *Karner vs. Austria* (2003), cohabiting same-sex partners are entitled to the same rights as unmarried cohabiting opposite-sex partners.

a) Personal Requirements/Impediments to Marriage

Austrian law does not require a period of residence in Austria prior to marriage. For both men and women the marriageable age is 18 years. If the persons that wish to marry have not yet come of age, they need the consent of their legal guardian or the person with care and legal responsibility, or a court decision that will replace the missing consent. Upon application, the court may declare a person who has reached the age of 16 years to be of marriageable age, if the future spouse is of age and if that person appears to be mature enough to get married. Blood relations in straight lineage (mother and son - father and daughter - grandmother and grandson - grandfather and granddaughter) and siblings of both full and half-blood cannot marry and such an attempted marriage would be null and void. A person who is married cannot marry a second time, unless the earlier marriage has been dissolved. The civil registrar will check before every marriage whether any of these obstacles are present.

A marriage is furthermore null and void if it was not contracted in the manner prescribed, if one of the spouses was legally incompetent, unconscious or mentally deranged when the marriage was contracted, or if the marriage was contracted solely or primarily for the purpose of enabling one of the spouses to take the surname of the other or to acquire his or her nationality without any intention to create the basis for a marital relationship. Other impediments to marriage are:

- if at the time it was concluded one of the spouses was of not legally competent and his/her legal guardian did not consent to the marriage,
- if when the marriage was contracted one of the spouses did not know that he or she was contracting marriage or if he or she did know but did not wish to state that he or she wished to enter into matrimony,
- if one of the spouses was mistaken about the identity of the other spouse,
- if at the time the marriage was contracted he or she was mistaken about any circumstances pertaining to the other spouse which would have prevented him or her from entering into matrimony had he or she known of the situation and properly appreciated the implications of marriage,

- if he or she was induced into entering into matrimony by malicious deception about essential facts, or if he or she was unlawfully forced by means of threats to enter into matrimony.

b) Preliminary Procedure

If either party to the marriage is an Austrian citizen, or resides in Austria (regardless of citizenship), the application for marriage must be filed at the registry in the locality of that residence; if both parties reside in Austria, application is filed at either one of the registry offices.

Relevant authority:

- The Association of Registries of Births, Deaths and Marriages or the Municipal Registry Authority (Civil Registration Office)
- In Vienna: the Municipal District Registry Office (MA35 - also competent for persons who had never their residence in Austria)

If no primary residence or domicile exists in Austria, the registry office of the last primary residence is considered the relevant authority. If both parties to the marriage are non-Austrians and non-residents, the application should be filed at the registry of the first district of Vienna (Municipal District Registry Office No. 35).

The earliest possible time to reserve the date for the marriage at the registry office is six months before the planned wedding. A minimum period no longer applies however the average waiting time in major towns is between two and six weeks. For the filing of the application at the registry office both the bride and bridegroom must be present in person. Only in a few exceptional cases is the presence of only one of the engaged couple acceptable.

When filing the application at the registry office the registrar checks the legal proof of marriageability and any possible impediments to marriage based on the declarations of the engaged couple and the certificates and proof presented. The engaged couple must also inform the registrar of the surnames they will use after marriage. If one of the engaged couple does not speak German, they must be accompanied by a court sworn interpreter.

In case of doubt regarding the capacity to marry of one of the spouses or the validity of the documents, the registrar may refuse to carry out the marriage ceremony. In these cases the applicant may appeal to the administrative authorities. A foreign bride or bridegroom must present the registrar with a certificate of no impediment. In the absence of such a document, the capacity to marry is verified by forwarding the documents for approval of the marriage to the appropriate Superior Court (Oberlandesgericht). After payment of the court fees, the file is returned to the registrar, who may then schedule the date of the wedding.

c) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Austria. In the absence of such a document, the capacity to marry is verified by forwarding the documents for approval of the marriage to the appropriate Superior Court (Oberlandesgericht). After payment of the court fees, the file is returned to the registrar, who may then schedule the date of the wedding.

If an Austrian citizen intends to get married abroad he/she may have to produce - in addition to other documents - an Austrian certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Austrian law and is valid for 6 months from issue. The certificate is issued by the registry office of the main place of residence of one of the future spouses. If no primary residence or domicile exists in Austria, the registry office of the last primary residence is considered the relevant authority. If both parties to the marriage are non-

Austrians and non-residents, the application should be filed at the registry of the first district of Vienna (Municipal District Registry Office No. 35). The cost is € 13.20 national charge plus € 7.60 administration fee.

d) Marriage Ceremony

After successful registration, the marriage ceremony itself may take place at any registry office in Austria by an official of this registry and in the presence of both future spouses and at least two witnesses (identity card required). The ceremony may be conducted outside the official offices and outside the official office hours. Confessional or ritual marriages, as well as marriages conducted at an embassy, are not legally recognized.

Wedding dates can be arranged online in Linz, Mödling and in Vienna.

e) Documents

Basic documents for bride and bridegroom for the registration of the marriage at the Registration Office:

- Extract from the register of birth of each spouse (issued at most six months before the planned marriage)
- Proof of Identity / Photo ID (amtlicher Lichtbildausweis)
- Proof of residence (registration certificate, driver's license or latest tax slip)
- Certificate of naturalisation, if any
- Documentary proof of academic degrees
- for people who have not reached the age of majority
 - consent of the legal proxies and legal guardians (gesetzliche Vertreter)
 - declaration as to the marriageable age of majority (from the regional court) if the person has reached the age of 16 and the future partner has reached the age of majority

If the engaged couple has one or more mutual premarital (illegitimate) children:

- Birth certificates of all mutual premarital children
- Acknowledgement of paternity of the mutual premarital children (if the father's name is not mentioned in the birth certificate)

If one of the engaged couple was married before:

- Marriage certificates of **all** previous marriages
- Proof of the annulment of **all** previous marriages
 - Divorce decree (absolute and final), or
 - Death certificate of spouse

Additional Documents for foreigners:

- Certificate of no impediment to marriage not older than six months.
- Passport or certificate of naturalisation
- Proof of residence

- Accepted Geneva Convention Refugees: confirmation of refugee status

f) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- marriage date
- place of marriage
- surnames before marriage
- surnames after marriage
- academic degrees and profession
- home address
- religion
- date of birth
- place of birth
- country of birth
- nationality
- marital status
- date of divorce
- number of previous marriages
- number of children
- name, address, date of birth, place of birth, birth certificate number and nationality of dependent children

g) Cost

- € 13.20 state fee for the registration of marriageability

Fees for conducting the marriage ceremony:

- € 5.45 administration fee for marriage ceremonies conducted during the official office hours and in the official offices of the registry office
- € 54.50 administration fee for marriage ceremonies conducted outside the official offices
- € 10.90 administration fee for marriage ceremonies conducted outside the official office hours

The fees are paid upon the application of the marriage and are paid back if the marriage does not take place.

h) Divorce/Separation/Annulment

Separation is not known to the Austrian legal system.

A divorce or annulment can only be granted by the courts. Disputes concerning divorce or annulment of marriage, or the determination of the existence or non-existence of a marriage fall within the exclusive jurisdiction of the District Court for the area in which the spouses are or were

last habitually resident. If at the time proceedings were instituted neither spouse was habitually resident in that area, or if they were not both habitually resident in the country, the court in whose area the respondent is habitually resident, or in the absence of any such habitual residence, that in which the petitioning spouse is habitually resident, shall have exclusive jurisdiction, and otherwise the District Court of Vienna, Inner City. Such disputes fall within the domestic jurisdiction of the Austrian courts if either spouse is an Austrian citizen, if the respondent, or in the case of a petition for annulment against both spouses at least one of them, is habitually resident in the country or if the petitioner is habitually resident in the country and either both spouses were last habitually jointly resident in the country or the petitioner is a stateless person or was an Austrian citizen at the time marriage was contracted. Although this will be the exclusive place of jurisdiction, it is permissible to agree upon a different place of jurisdiction.

4. Republic of Austria – Name

In Austria, children are given first names and a surname.

a) First Name

Under Article 21 Civil Status Law in conjunction with Article 154 General Civil Code, the child is generally given his or her first name(s) by the parents. Prior to entry into the register of births at the latest within one month after birth, the persons authorized to apply for registration (normally, both parents for children born in wedlock or the mother for children born out of wedlock) must state in writing the first name(s) they wish to give to the child. If the married parents cannot agree, the court of guardianship that must decide on the first names shall be informed.

The first given name should reflect the gender of the child. A first name is not assigned if it conflicts with the good morals of society. In theory the number of first names is not limited, but also subject to limitation of good morals or the. Court decisions have decided that while seven first names were permitted, 13 first names were not allowed. If the registrar thinks that the chosen name or names may be detrimental to the child's interests the registrar may refer the matter to the court of guardianship.

b) Surname / Family Name

A child born in wedlock (legitimate child) receives the common family name of its parents (Article 139 General Civil Code). If the parents have no family name in common, the child shall be given one of the two surnames of the parents on which the parents have decided, either before their marriage or upon marriage; and if no such decision was made, the child gets the surname of the father. Under Article 165 General Civil Code, an illegitimate child is given the surname of its mother at the time of its birth. Upon later legitimation of a child, the surname is given according to Article 139 General Civil Code; children aged 14 or older must give their consent (Article 162a General Civil Code). If a spouse is later legitimated, the family name can be changed by mutual agreement; otherwise only the surname of the legitimated person is changed (Article 162b General Civil Code). A child whose family name derives from the later legitimated spouse only adopts his/her new family name; children aged 14 or older must give their consent (Article 162c General Civil Code). Consent must be declared at the registry office within three years after legitimation (Article 162d General Civil Code).

c) Stillborn

Pursuant to Article 28 (2) Civil Status Law the stillborn child may be given a first name on request. The family names of the parents are entered into the register of death. For this purpose, special documents are available at the civil status registry offices. If a person does not know his or her names or in the case of anonymous childbirth, the governor determines the name.

d) Name Change

An Austrian citizen's first name and surname can only be changed by an act from a competent Austrian authority, even if he/she has dual nationality. The same applies to stateless persons, persons with unsettled nationality as well as refugees who have their usual residence in Austria. First names and surnames may only be changed for good reason as stipulated in the Austrian law concerning the change of name (Namensänderungsgesetz - NÄG, Federal Gazette No. 195/1988). The change of the first name or surname may only be carried out once every 10 years unless the change of name is carried out pursuant to Article 2(1) 6-9 Change of Name Law.

The competent Austrian authority is pursuant to Article 7, Change of Name Law:

- In independent cities: the Municipal District Registry Office
- In all other Austrian municipalities: the Municipal Registry Office
- In Vienna: the Municipal District Registry Office No. 35 (also competent for persons who had never their residence in Austria)

The reasons for an application for a different first name by request are:

- The present first name is ridiculous or offensive.
- The present first name is not suitable to be used due to its difficult spelling or pronunciation.
- The applicant is of foreign origin and wishes to obtain a first name which will facilitate his/her residence in Austria.
 - This request must be filed within two years after the acquisition of the Austrian nationality.
- The applicant wishes to continue to use a first name which he/she thought in good faith he/she was entitled to do
- The applicant wishes to continue to use a first name, which he/she rightfully received or used in the past.
- The first name and surname as well as the day of the birth of the applicant corresponds with another person in such a manner that this may lead to confusion.
- The applicant wants to avoid harmful consequences of social or economic nature arising from the first name.
- The applicant wishes another first name for other legal reasons (Wunschname, desired first name).
- The minor adoptee shall bear another first name.
 - This request must be filed within two years after the adoption or the acquisition of the Austrian nationality.
- The first name does not fit the person's gender.
- The applicant has changed his/her religious affiliation and wants to abandon the first name relating to the previous religious community or wants to acquire a first name relating to the new religious community.
 - This request must be filed within two years after changing the religious affiliation.

The reasons for an application for a new surname by request are:

- The present surname is ridiculous or offensive.

- The present surname is not suitable to be used as a surname due to its difficult spelling or pronunciation.
- The applicant is of foreign origin and wishes to obtain a surname which facilitates his/her residence in Austria.
 - This request must be filed within two years after the acquisition of the Austrian nationality.
- The applicant wants to continue to use a surname which he/she thought in good faith he/she was entitled to do
- The applicant wants to continue to use a surname, which he/she rightfully received or used in the past.
- The first name and surname as well as the date of the birth of the applicant corresponds with another person in such a manner that this may lead to confusion.
- The applicant wants the surname, which he/she would have attained by a legal act which had a limited validity in time but has without fault failed to act within the time limits of that act.
- The applicant wishes to obtain a double surname pursuant to Article 93 Abs. 2 General Civil Code, whereby his/her own surname is added before or after the spouse's name.
- The applicant has a double surname pursuant to Article 93 Abs. 2 General Civil Code and wishes to bear a common surname without having his or her previous surname being added.
- The applicant wants to receive the surname of the parents, grandparents or another person from whom the surname is derived, which has been changed or has been requested to be changed.
- The applicant is under age and is to receive the surname of the person, who has guardianship or long-term care of him/her.
- The applicant can give convincing reasons why the change of his/her surname is necessary, in order to avoid other unreasonable disadvantages.
- The applicant wishes another surname for other legal reasons (Wunschname, desired surname).

A change of surname into a double name or hyphenated surname is not possible in Austria, except in connection with a marriage, so that children do not have double surnames (Article 139 General Civil Code). Nevertheless a few families exist in which not only the parents but also the children bear a double name. These names have not been adopted by a marriage ceremony but have historical roots, mostly through adoption, and have been handed down over generations.

Required documents

- completed application form
- proof of residence (Bestätigung der Meldung)
- birth certificate
- marriage certificate (if applicable)
- final judgement(s) on divorce (if applicable), incl. an official divorce acknowledgement
- nationality certificate
- official identification card or passport

- proof of academic degree(s) if applicable

Rules pertaining to children under 18

Changing the name of a 14 year old child is subject to the child's personal consent. Children aged 10 to 14 must be heard before deciding (Article 1 (2) Change of Name Law).

Cost

Upon good reason being shown:

- State fee € 13.20

In the absence of a reason (desired name):

- State fee € 352.50
- Administration fee € 163.00
- If the name is returned to the original German name the fee is € 407.00.

Name Change upon Marriage

According to Article 93 General Civil Code in its current version, future spouses now have several possibilities to choose a surname, as well as the surname of their children. Before or at the wedding the engaged couple may decide to use the "previous surname" of either spouse, as their joint surname. In the absence of such a decision, the "previous surname of the bridegroom" becomes the joint surname. The spouse who is to use the "previous surname" of the other spouse as the joint surname, may declare to the civil registrar or at the wedding to the effect that the previous name will either be put before or after the joint surname. In this case, a hyphen is put between the two names and it becomes mandatory to use this double surname ("mandatory double name"). Every engaged person may also declare to the civil registrar before or at the wedding that he/she wishes to continue using his/her "previous surname", which up to 30 April 2007 may also be the "alternative double name" acquired at an earlier marriage, in accordance with article 72a and e, Civil Status Law. However, whenever such an "alternative double name" from an earlier marriage continues to be used upon a person's statement, article 72a Civil Status Law requires that the double name used be noted in the marriage register (arts. 13 (1) and 25, Civil Status Law). With the entry in the marriage register, the use of the earlier "alternative double name" becomes mandatory.

If the parents use a joint surname, the child will be given that name. When different names are used by the spouses, the parties must determine before or at the wedding the surname of any children legitimised by or who will be born in the course of that marriage. It may either be the "previous surname" of the father, or the "previous surname" of the mother, with the exclusion of the alternative double surname. If the parties do not choose a name, the child will be given the "previous surname" of the father. Double names cannot be transferred to a child.

As these rules only become effective in 1995, permission to adopt double-barrelled names or to readopt former/maiden surnames can be applied for, if the marriage took place before 1 May 1995, by providing an official certificate or an officially recognized document.

Required documents

- completed application form
- proof of residence
- birth certificate

- marriage certificate
- final judgement(s) on divorce (if applicable) incl. an official divorce acknowledgement
- nationality certificate
- official identification document or passport
- proof of academic degree(s) if applicable

e) Name Change upon Divorce

Since 1 May 1995 persons whose marriage has been dissolved may state, in a public or in an officially certified document, to the civil registrar that they wish to resume the use of an earlier surname (which may be any earlier surname), according to article 93a, General Civil Code. The surname derived from a spouse from a divorced or dissolved marriage may only be adopted again, if there are children from that earlier marriage. The state fee is € 13.20.

Required Documents

- a completed application form
- a birth certificate
- a marriage certificate
- a final judgement(s) on divorce
- a proof of citizenship
- an official identification or passport
- proof of academic degree(s) if applicable

f) Change of Gender

According to the Austrian law on the change of name, a change of the first name is to be refused "if the first name requested is not common or if it does not fit the gender of the applicant as a forename". In this case "gender" is not to be understood as a biological or a sociological criterion, and not at all as gender identity, but exclusively as that entry in the register of births, which is fixed at the birth by the medical doctor or the midwife. Thus transgender persons may only adapt their first forename to their gender identity if after a sex-change operation the change of gender was permitted or if they choose a gender-neutral first name. The state fee is € 13.00.

g) Minorities

There is no requirement in Austrian law that the name must be in German, nor does the surname have to be German, notwithstanding the requirement that the first name should reflect the gender of a child. Article 5 (3) of the Civil Status Ordinance provides that a person's names are to be registered on the basis of a document in the Latin alphabet and must be recorded as a true copy of the original letters and characters. Distinctive characters not used in the German language are nevertheless used in civil status registers. The civil status register must be kept in German (Article 18, National Minorities Act). If documents are submitted for entry in the civil status register in a national minority language, the authority will have them translated. Conversely, copies from the civil status register must be translated into the language of the national minority concerned (Article 20, National Minorities Act). According to the case law of the Constitutional Court (reference VfSlg. 14.452/1996), this also applies if the procedure to be recorded (e.g. a wedding ceremony), is

not conducted in the language of a particular minority, because there was no request by the member of that national minority.

As a result of the law modifying the right to use a specific name, which amended the law concerning the change of name, people are now more or less free to change their name. This law enables members of a linguistic minority who have a Germanised name to change their name into its original version in the minority language. For a member of a minority group, such change will be deemed an important reason, leading to the change being free of charge (Article 2 (1) 10 –Change of Name Law).

BE – Belgium

1. Civil Status Registration System

Belgium's civil registration system is event-based.

Official languages are Dutch, French and German. In the Bilingual area of Brussels-Capital, civil status acts are performed in Dutch or French. In the four language areas (the Dutch, French and German language area), occasionally referred to as linguistic regions, all civil status acts are performed in their respective language but everybody can obtain from the governor free of charge a translation into another official language. In municipalities with language facilities (municipalities with special legal provisions to protect the rights of their (historic) linguistic minorities), it is possible to relate with the registry offices in an official language other than that of the language area within which the municipality lies. In those municipalities, French-speakers in Flanders and Dutch- and German-speakers in Wallonia, and French-speakers in the German language area may obtain civil status documents in their mother tongue.

Belgium has a population of 10 584.500 (2007) and is divided into three communities, three regions, and four language areas. The Flemish Region (Flanders) and the Walloon Region (Wallonia) each comprise five provinces; the third region, Brussels-Capital Region, is neither a province, nor does it contain any. Together, these comprise 589 municipalities, which in general consist of several sub-municipalities. Antwerp and Bruges are divided into districts as far as the civil status registration is concerned. Each district is de facto a municipality. The language areas have no offices or powers and exist de facto only as precise geographical circumscriptions serving to delimit the empowered subdivisions.

a) Registry Office and Staff

The municipalities are governed by the Municipalities Law. Since 1 January 2002, the municipal law has become a Regional competence in nearly all its aspects. The municipalities perform a series of mandatory tasks which are identical for each province. Art 164 of the Belgian Constitution of 1831 states that the municipalities' mandatory tasks include organizing civil status records. According to Art. 125 (2) of the Municipalities Law of 24.6.1988, the municipal council is incumbent of the leadership of register of births, marriages and deaths. Accordingly, Belgium provides about 600 Civil Registry Offices, all of which are equipped with computer technology. The registration system is fully computerized but there are additionally hard copies for every act.

For civil status registrations in Belgium, those 600 executive and de facto civil status registrars are the mayors or elected aldermen of the commune. If the mayor or alderman refuses to act as a registrar, the municipal council has to appoint the deputy mayor or deputy alderman or a lay judge. The mayor or alderman, being the civil status registrar, performs marriage ceremonies and, even in practice, signs responsible for all civil status documents. It is a political, electorate office and, therefore, there are no regulations for any professional training. Registrars undergo training usually when new legislation enters into effect.

In practice, much of the preparatory work, including the review of documents, will be delegated to municipal clerks. The number depends on the number of inhabitants of the municipality. Also, certified copies of certificates may be issued by a clerk on behalf of the mayor and signed in proxy.

The civil status registrars, i.e. the mayor or aldermen, are independent in performing civil status acts. Courts exercise control functions in case of conflicts. The authorities who exercise monitoring functions are the prosecutor of the King or the colleague of the mayors and aldermen. They have the right to make observations, but the registrar is not held to conform to the results.

Other officers of civil status are the diplomatic and consular officials, certain army officers based overseas (Article 88 CC), navy officers or captains of trading vessels for the births and deaths at sea (Article 59, 60, 86 and 87 CC) and aircraft commanders for the births and the deaths which have occurred during a flight (Article 1 and 7 Aviation Act of June 27.06.1937). The army preserves the civil status acts which they have drawn up. The Defence Minister preserves the registers when the army units have returned. Only in the districts of Antwerp and Bruges, information of the registers of births, marriages and deaths can be shared in order to facilitate the delivery of copies and extracts.

b) Association of Registrars

In Flanders, the Association of Registrars (Vlaamse Vereniging van Ambtenaren en Beambten van de Burgerlijke Stand, VLAVABBS) is working to facilitate the development of a professional qualification and provide training for those clerks working in the Registration Service. Furthermore, the Association promotes the recognition of professional status of those working within the Registration Service, disseminates information and advice, provides a consultative body, actively seeks development opportunities, promotes opportunities for the exchange of views, responds to government consultations, organises seminars and conferences and has established a website (<http://www.vlavabbs.be>). The VLAVABBS is a member of the European Association of Civil Status Registrars, EVS).

In Wallonia, the 262 municipalities of Wallonia are all members of the Union of Cities and Municipalities (Union de Villes et Communes de Wallonie, UVCW). Inter alia, the UVCW organises training sessions for local civil servants and councillors on all matters of administration including civil status registration and provides information through specialised publications, a library and the Inforum database as sources of legal and administrative information, and a website (<http://www.uvcw.be/>).

Privately, the Vanden Broele publishing house provides literature on matters of civil status, including a loose-leaf compilation on civil status matters in other countries, and seminars and qualification for civil servants both in Flemish and in French.

c) Correction, Amendment and Cancellation of Civil Status Records

Rectification of civil status certificates is governed by Articles 1383 to 1385 of the Judicial Code. The person concerned has to file a petition with the Court of First Instance (Article 1383). The President of the Chamber designated to hear the matter gives directions for the petition to be communicated to the ministère public (district attorney / representative of the government) and appoints a judge-rapporteur; the petitioner is invited to appear at a hearing in order to present his case (Article 1384). The operative provisions of any judgement ordering rectification are transmitted to the Registrar of Births, Marriages and Deaths who will forthwith enter particulars thereof on his registers and endorse them in the margin of the certificate to be amended; thereafter, the certificate will only be issued bearing the rectifications ordered (Article 1385). Petitions for rectification of consular certificates or certificates deposited at the Federal Public Service Foreign Affairs are filed with the court of Brussels.

No provision in law envisages the cancellation of civil status acts but cancellation can be pronounced by a court. The act will not be destroyed nor crossed out, but cancellation is mentioned in the margin of the certificate as well as in the population register. The delivery of a copy or an extract of a cancelled act is possible, but these documents will be marked as cancelled. Certificates of the Registry of Births, Deaths and Marriages are registered in a register that has to be kept in double. The reconstitution of a cancelled or lost record is made by the court by filling the gap with a copy of the double stored records. The doubles are preserved by the clerk's office of the court of first instance. If the two originals are destroyed or lost, the acts can be reconstituted by the court using titles and declarations of witnesses. If an act was omitted or cannot be produced, the court can compensate it by a judgement holding place of the act. Engaged couples who have no possibility to produce a birth certificate can compensate this by sworn affidavit. For refugees and stateless people, the Chief-General of the Police issues documents and certificates which, normally, would be issued for a foreigner by his national authorities.

d) Access

The publicity of the registers of births, marriages and deaths is regulated by Article 45 of the Civil Code. This provision stipulates in particular that: "Only the public authorities, the person whom the act concerns, his/her spouse or surviving spouse, his/her legal representative, his/her ascendants, his/her descendants, his/her heirs, their notary and their lawyer can obtain a certified copy of an act of the marital status going back to less than one hundred years, or an extract of this act mentioning the descent of the people whom the act concerns." Formal proof of the person concerned is required. The kind of proof depends on the person requiring documents. If a person asks for an extract, an ID/passport is sufficient. If the document in question is required by a third person, a signed and legalized mandate from the person concerned as well as a copy of his/her ID card must be produced. All documents can be produced for people living in Belgium independent of their residence status and even if they are living in Belgium illegally. If a Belgian national is living abroad (even illegally), birth and the marriage certificate will be produced. The president of the Magistrates' Court may, upon application showing legitimate interest of family, scientific or other nature authorize to carry out given research or to have delivered a certified copy or an extract. Direct consultation of the records is not possible.

e) Procedure, Cost, Time and Payment

Various extracts or certified copies of civil status acts can be obtained either in person at the communal office, by sending a written request with indication of the recipient, by fax, by proxy through any third party, by power of attorney to a licensed attorney at law, through Belgian consular offices abroad, through foreign consular offices in Belgium and by modern technology. (Most of the municipalities accept applications by email). Registry Offices issue documents for the area of their own municipality, only. The short-form certificates of civil status which third parties may procure does not state the descent or sex of the persons concerned (Article 45 par. 1, first sub-paragraph, of the Civil Code), but only their place and date of birth, family name and forenames. The cost of every document issued is between € 5,00 and € 6,50 depending on the municipality. The fee can be paid cash in € or by wire transfer. Documents are issued immediately if the application is made in person. In case of other application, the time depends on the type of payment. As soon as the payment is registered on the account the document is transmitted (even by fax).

f) Archives

The public archives are governed by the law of 24 June 1955 which organises the General State Archives and the State Archives in the Provinces (16 deposits). Together these institutions form a federal scientific establishment placed under the administrative authority of the Federal Office for

Scientific, Technical and Cultural Affairs (OSTC). The law prescribes the conditions under which all public archives must be transferred.

g) Legalisation/Translation

The registry office does not accept documents, which are not duly certified. In principle, the documents coming from foreign countries intended for use in Belgium must be legalized by the respective foreign country or bear the Apostille, where applicable.

Belgium is party to the Convention abolishing the legalisation of documents in the Member States of the European Communities, signed at Brussels on 25 May 1987 along with Cyprus, Denmark, France, Italy, Latvia, and Ireland. Belgium has bilateral agreements with the Netherlands, Germany, the United Kingdom, the Grand Duchy of Luxembourg and Switzerland for mutual recognition of documents without any further legalisation formalities.

Belgium is a party to the (CIEC-) Convention No. 16 of 8 September 1976 on the issue of (multilingual) extracts from civil status records, birth certificates, marriage certificates, death certificates, thus the respective documents from Austria, Bosnia and Herzegovina, Croatia, France, Germany, Italy, Luxembourg, Macedonia, the Netherlands, Portugal, Serbia and Montenegro, Slovenia, Spain, Switzerland and Turkey are also exempt from legalisation. In addition, Belgium has bilateral agreements with Austria, Croatia, Czech Republic, Portugal, Romania, Slovenia, Slovakia, Sweden and Turkey abolishing the need of legalisation either for public documents in general, or for civil status documents.

Copies of documents are permitted, but such copies must be legalized or made of the original documents, which have the certification (Apostille) on it. Certificates that were drawn up in a foreign language must be translated by a sworn translator into Dutch, French or German depending on the official language of the municipality in Belgium holding the register in which the certificate will be entered. If a Belgian citizen is depositing a certificate at the Federal Public Service of Foreign Affairs, he may choose any of Belgium's three official languages. The list of sworn translators in Belgium can be obtained from the clerk in the court of first instance. The signature of a sworn translator abroad must also be legalised.

In Belgium the Service of the federal Public Foreign Affairs Service in Brussels is competent for the issuance of Apostilles.

The Apostille can be requested in person, by registered mail, by mail, by e-mail, by fax, etc., although the actual addition of the Apostille naturally requires the presentation of the original documents. One can either go personally to the appropriate department with the documents, or send them by post. In this case, it is preferable to send them by registered mail. One can also charge someone with the task to submit a document for Apostille, in which case no authorisation must be presented. The competent authority verifies the authenticity of the signature, the capacity in which the person signing the document has acted, and the identity of the seal or stamp which the document bears. For this reason, a Legalisations Service has been

established at the Federal Public Service Foreign Affairs. A very extended database of specimen is kept up with the signatures of all useful Belgian governments (clerks of the courts, municipal and local authorities and other competent civil servants) and a comparison is made in relation to those specimen. The card-index is still used to check the signatures. However, they will be scanned soon. On the other hand, the Federal Public Service Foreign Affairs has already introduced the names, quality, the dates of entry in function, the place of exercise of the function, etcetera, into the information processing system. Depending on the size of the document, the Apostille issued by the competent authority is placed on the public document itself or on an allonge. When the public

document consists of multiple pages, the Apostille is affixed on the last page, after the signature on the document. The system used for the issuance of an Apostille is electronic.

There is a statutory fee of 10,00 € for an Apostille set by the Ministers of Foreign Affairs, Budget and Finance. The level of the fees is determined by the tariff of the consular taxes. If documents are presented at the counter the fee can be paid in cash or by Bancontact (bank payment card). The processing time is 0 to 48 hours (depending on the number of documents). Documents sent by post can be paid by bank transfer. The total process approximately takes five minutes. However, one should not neglect the aspect of the preliminary analysis of the case. For example, the interrogation of the applicant to determine if the document is appropriate within the framework of his file and to find out if legalisation is even necessary. When the document is sent by mail, the total approximately takes ten days.

h) Foreign relations

Generally there is little connection or communication between Belgian and foreign Civil Registry Offices. A common problem arises with the names of persons. For instance, the double surname of Spanish nationals can normally not be registered under Belgian law. If the parents insist, they have to inscribe the child's first name at the Spanish embassy and ask for a passport. With this passport, the child can be inscribed with the Spanish name in Belgium. Information about civil status acts and changes of foreign citizens that occur in Belgium are transmitted to the foreign authority only if it is known that the other State requires such information (e.g. Germany) but there exists a lack of information exchange between the EU Member States. Belgium receives such information of Belgian nationals from abroad only on a random basis (e.g. Austria, Germany, Luxembourg and the Netherlands).

i) Consular Services

Belgium is represented abroad by over 100 Embassies and Consulates-General. For Belgian nationals, all changes to civil status are governed by Belgian law. Belgian law applies even if nationals live abroad. If nationals live abroad, they must inform their local Belgian embassy or consulate of all changes to their civil status.

A Belgian citizen can obtain a registration certificate whilst abroad by requesting it from the relevant local authority. Friends or family at home can also do this for him. The advantage of asking friends or family is that they can also have the certificate(s) legalised and pay all costs (issue and legalisation). If this is not possible, a Belgian can also request the certificate via Federal Public Service Foreign Affairs. All requests must be sent in writing to: FPS Foreign Affairs, Service Etat civil, Rue des Petits Carmes 15, B-1000 Bruxelles. It is possible to fax the request to +32 (0) 2 501 84 69 or e-mail it to: C3.2-NA@diplobel.fed.be. If the document is obtainable, a deposit will have to be paid. Registration certificates issued for Belgians abroad can be entered into the Belgian registers or deposited in Belgium. This means that it will always be possible to easily obtain full or short form certified copies which can otherwise be very difficult or even impossible to obtain in many countries (for example, because civil status registers have been destroyed during a war or natural disaster). Certificates from other countries or certificates issued by Belgian embassies or consulates can be entered into the civil status registers held by the municipality competent at the place of residence in Belgium. If the applicant is a non-resident in Belgium, it is possible to enter the certificate into the civil status register held by the municipality of the last place of residence, where the parents live, where the applicant was born in Belgium or with the City of Brussels. The applicant must include revenue stamps to the value of € 6.45 with the application. These stamps may be purchased from post offices and should not be stuck on or be marked in any way. If the applicant is paying by bank transfer, proof of payment of the sum of € 6.45 to account number 679-2006056-96 held at Poste, B-1000 Bruxelles in the name of 'affaires consulaires financières, bureau

F102' should be attached to the application. The following information should be also included on the transfer: 'C3.2 N.A + surname and first name of the person for whom the certificate is intended + type of certificate requested (e.g. birth certificate, marriage certificate, family record book)'. If the applicant is making a payment from abroad, he/she will also need to include the IBAN code (BE65 6792 0060 5696) and the SWIFT code (PCHQBEBB) on the transfer. Revenue stamps are the preferred means of payment. Before making a payment, the applicant is advised to find out by e-mail whether or not the certificate has been deposited. For full or short form certified copies of certificates that have been entered into the civil status registers held by a municipality, the applicant should contact the municipal authority. If the marriage certificate has been deposited at Federal Public Service Foreign Affairs, it is possible to request a family record book from this body based on the same procedure and again, the cost is € 6.45. The authorities abroad will decide if a Belgian registration certificate is valid in that country. The certificate will have to be legalised unless an agreement exists between Belgium and the country concerned that makes other provisions.

Consular officials at Belgian missions do not offer assistance to obtain civil status certificates for Belgian citizens from Belgium but assume limited duties of those which are reserved for registrars in their country.

The birth of a child abroad should be registered with the local authorities who will issue a birth certificate. This document will be recognised in Belgium if the certificate has been issued by the relevant authority in accordance with standard procedures in that country. Diplomatic and consular officials with notarial powers may draw up notarial deeds acknowledging children, provided that the father acknowledging the child is a Belgian national. However, since such deeds are related to civil status, in practice these deeds are drawn up by officials who are empowered to act as registrar. A Belgian embassy or consulate can also issue a birth certificate for Belgian citizens who are born in that area. The birth declaration will be transmitted to the Ministry of Foreign Affairs, where an extract of the birth record can also be obtained. A birth certificate, a certificate acknowledging a child's parentage and a marriage certificate issued by another country can be entered into the Belgian registers. This means that it will always be possible to easily obtain full or short form certified copies in Belgium by Belgian nationals for use with Belgian authorities. If a Belgian national dies abroad, the authorities in that country should, in principle, issue a death certificate which should then be presented to the Belgian embassy or consulate. If that is not possible, the Belgian embassy or consulate can issue the certificate.

Belgian diplomatic or consular officers are authorized to perform marriages but in practice they rarely conduct civil marriages. In some countries, local authorities require an affidavit of law outlining the provisions for marriage contained in the Belgian Civil Code. This certificate can be obtained from the Federal Public Service of Justice, Direction générale de la législation et des Libertés et Droits fondamentaux, Service Droit de la Famille, Boulevard de Waterloo 115, B-1000 Brussels (Tel. +32 (0) 2 542 65 11 website www.just.fgov.be, E-mail: info@just.fgov.be).

The cost for consular acts in civil status matters vary from € 10,00 to € 20,00, some acts are free of charge.

j) Registration Certificate

A Belgian citizen can obtain a registration certificate whilst abroad by requesting it from the relevant local authority. Friends or family at home can also do this for him. The advantage of asking friends or family is that they can also have the certificate(s) legalised and pay all costs (issue and legalisation). If this is not possible, a Belgian can also request the certificate via Federal Public Service Foreign Affairs. All requests must be sent in writing to: FPS Foreign Affairs, Service Etat civil, Rue des Petits Carmes 15, B-1000 Bruxelles. It is possible to fax the request to +32 (0) 2 501

84 69 or e-mail it to: C3.2-NA@diplobel.fed.be. If the document is obtainable, a deposit will have to be paid.

Registration certificates issued for Belgians abroad can be entered into the Belgian registers or deposited in Belgium. This means that it will always be possible to easily obtain full or short form certified copies which can otherwise be very difficult or even impossible to obtain in many countries (for example, because civil status registers have been destroyed during a war or natural disaster). Certificates from other countries or certificates issued by Belgian embassies or consulates can be entered into the civil status registers held by the municipality competent at the place of residence in Belgium. If the applicant is a non-resident in Belgium, it is possible to enter the certificate into the civil status register held by the municipality of the last place of residence, where the parents live, where the applicant was born in Belgium or with the City of Brussels. The applicant must include revenue stamps to the value of € 6.45 with the application. These stamps may be purchased from post offices and should not be stuck on or be marked in any way. If the applicant is paying by bank transfer, proof of payment of the sum of € 6.45 to account number 679-2006056-96 held at Poste, B-1000 Bruxelles in the name of 'affaires consulaires financières, bureau F102' should be attached to the application. The following information should be also included on the transfer: 'C3.2 N.A + surname and first name of the person for whom the certificate is intended + type of certificate requested (e.g. birth certificate, marriage certificate, family record book)'. If the applicant is making a payment from abroad, he/she will also need to include the IBAN code (BE65 6792 0060 5696) and the SWIFT code (PCHQBEBB) on the transfer. Revenue stamps are the preferred means of payment. Before making a payment, the applicant is advised to find out by e-mail whether or not the certificate has been deposited. For full or short form certified copies of certificates that have been entered into the civil status registers held by a municipality, the applicant should contact the municipal authority. If the marriage certificate has been deposited at Federal Public Service Foreign Affairs, it is possible to request a family record book from this body based on the same procedure and again, the cost is € 6.45. The authorities abroad will decide if a Belgian registration certificate is valid in that country. The certificate will have to be legalised unless an agreement exists between Belgium and the country concerned that makes other provisions.

k) Law

Civil Code of 21.03.1804 (Code Civil, Burgerlijke Wetboek); Nationality Act of 28.06.1984 (Code de la nationalité belge, Wetboek van de Belgische nationaliteit) ; Name Act of 15.05.1987; Royal Decree on First Names and Surnames of 25.08.1794; Consular Act of 04.05.1999; Municipalities Law of 24.6.1988 (Nouvelle Loi Communale, Nieuwe Gemeentewet)

A current version of the Civil Code is available at: <http://www.ejustice.just.fgov.be/loi/loi.htm> (French and Dutch)

l) eGovernment - Online Services for Citizens

Portals

The federal portal Belgium.be, launched in November 2002, is both the institutional site of the Belgian Federal Government and an eGovernment portal providing a single entry point to information and services for citizens, businesses and civil servants. A new version of the portal is gradually being set up so as to reflect the specificities of the various Federal departments as well as ensure content and services' quality, flexibility and user-friendliness. In addition, there are regional portals for Flanders, Wallonia and Brussels region Community portals: French-speaking Community and German-speaking Community.

Network

FedMAN is a Federal Metropolitan Area Network connecting the administrations of 15 federal ministries and government services buildings in Brussels. FedMAN offers 80,000 federal civil servants a shared high-speed network and a number of related services supporting the delivery of eGovernment. The shared network allows federal government buildings to communicate more efficiently and with greater security. FedMAN is operational since September 2002.

eIDcard

Belgium started an Electronic Identity Card project in 2000. The card was officially launched in March 2003 with a pilot project in 11 communes. Following the successful test distribution of about 70.000 cards, large-scale distribution started in September 2004. The country's 578 remaining municipalities now have until the end of 2009 to complete the transition. By then, every Belgian citizen and permanent resident will be required to own an electronic ID card and 8 million cards will be in circulation. The Belgian eID card contains all the information included on the traditional identity card and will continue to act as an identification and travel document. However, it already offers or will offer several other possibilities, including an eSignature allowing access to restricted on-line services, making internet use safer by providing an on-line means of identification, the electronic submission of official documents, and so on. Pursuant to the privacy legislation, the federal portal cautiously checks the identity and access rights of the service users.

Civil Status Certificates

Requests of certificates are handled by individual municipalities (communes). The federal portal Belgium.be provides access to general information on the procedures related to obtaining these certificates. In the Brussels Region, a secure electronic counter system named IRISbox and featuring the use of digital signatures enables citizens to securely request and pay for civil certificates online (birth, marriage, death, residence, nationality, etc.). Payment is made for a set of 10 certificates at once. The system is provided by the Computer Centre for the Brussels Region (CIRB) and is currently used by 5 of the 19 municipalities of the Brussels Region.

Belgian citizens have the right to consult their data in the National Register. Traditionally, this procedure was done by filing an official request and waiting some time until the petition was handled. Now citizens can consult their personal data online using the My File service, a secure paperless procedure of the Belgium National Register. Official documents can be downloaded and transmitted. These include birth certificates, family composition documents, civil status documents, etc. These official documents are electronically signed by the National Register, and can be used for official business. The eID card, its authentication certificate and a PIN code enable access to citizens' personal files.

2. Kingdom of Belgium - Birth

As from their birth, children have the right to a status. Every birth must be registered. The birth notification is made by the Registrar of the birthplace by the father, the mother or both, or by any person who was present at the birth. In Belgium, births are required to be declared by the parents within 15 days (Civil Code, art. 55). The registrar can grant an extension of three days. In case of further delay, the act cannot be drawn up any more and a court decision will take the place of a birth certificate. In both cases, the law envisages a penalty of 8 days imprisonment and/or a fine. The birth notification must be made with the help of the production of the statistical form "birth notification of an alive child" and supplemented, if necessary, by the booklet of marriage. A medical certificate issued by the doctor or the midwife, identity cards of the declaring person(s) and the family record book, if parents are married, must be presented when the birth is notified.

At the time of the declaration, the following forms are delivered:

- the certificate for the maternity benefit;
- the certificate for indemnity of pregnancy and/or rest within the framework of the sickness and disability insurance; and
- the obligatory certificate of vaccination against polio.

Birth occurring on a vessel has to be notified to the commander of the vessel. The latter has to produce a birth certificate which must be deposited by him in Belgium, at the office of the shipping commissioner, or if outside Belgium at the Belgian consulate. If the birth occurs on an aircraft, the birth certificate has to be issued by the captain of the aircraft and notified at the nearest civil status registry of the first place of landing in Belgium or at the nearest Belgium embassy/consulate of the place of landing abroad.

Stillborn children are entered in the register of deaths. First names cannot be given to stillborn children but there is no objection to their being entered into the family book. For a child alive at birth but dead before declaration, a birth and a death certificate are issued.

Foundlings must be registered within three days. The person who discovered the child has the obligation to give it to the registrar with the clothing and to declare the circumstances (time and place) of the discovery. The registrar draws up a detailed report which is forwarded to the court. The report will state the circumstances of the discovery, the apparent age of the child and the sex. Two names, of which the second is used as surname, are assigned to the child by the court, the finder or the registrar. A verbal lawsuit is registered and holds place of the birth certificate.

a) Birth Certificate

The birth record indicates characteristics about:

- the child's first name, surname, sex, date and place of birth;
- first name, surname, age, residence, date and place of birth of the parents; and
- first name, surname and residence of the informant.

b) Recognition

The naming of the mother on the birth certificate establishes maternity and, if she is married, paternity in respect of her husband (Civil Code, art. 315). If a child's parentage has not been established in accordance with Belgian law at the time of birth, the child may be acknowledged at a later date by the biological father and/or biological mother. A child's parentage can be acknowledged in the birth certificate, a separate registration certificate or in a deed drawn up by a solicitor. However, a child's parentage cannot be acknowledged in a will. A child can be acknowledged before or after birth. It is even possible to acknowledge a child's parentage if the child is already an adult. The mother only needs to officially acknowledge the child if a birth certificate has not been issued or if her name does not appear on the birth certificate. Neither the father nor the child is required to give their consent to the acknowledgement of parentage. Acknowledgement by the mother is extremely rare. Acknowledgement is only possible if paternity remains to be established or if paternity has been annulled by a court (denial of paternity). If paternity of the child has not been denied for one reason or another, it is possible to contact the court of first instance of the child's place of residence in Belgium. If the child lives abroad, it is possible to contact any court of first instance in Belgium. If the father is married to a woman other than the child's mother, the acknowledgement of parentage must be approved by the court of first instance. A child's parentage can only be acknowledged if the necessary consent is given. If the

child is under 15 years of age, the mother must give her consent. If the child is between 15 and 18 years old, both the mother and the child must give their consent. If the child is over 18 years of age, consent is only required from the child. With regard to the right of children to know their parents, since the Act of 31 March 1987, Belgian law permits establishment of the dual affiliation of all children born out of wedlock, with the sole exception of children born of parents between whom there is an absolute impediment to marriage (Arts. 161, 162, 363 and 370 of the Civil Code). Such children, formerly known as "incestuous", can have only a single affiliation, usually descent from the mother, since this is automatically established through the naming of the mother on the birth certificate. The reason for this prohibition is that it is considered to be in the interest of the child for it not to be officially proclaimed that there exists a link of affiliation in respect of relations within too close a degree (father-daughter, mother-son, brother-sister, etc.), which could harm the child socially and psychologically.

3. Kingdom of Belgium - Marriage

In Belgium, marriage is a civil contract as described in Book I, Title V of the Belgian Civil Code (arts. 144 to 227). Chapter I deals with the prerequisites, chapter II with the formalities, chapter III with opposing claims, chapter IV with annulments. Title II deals with acts of the Etat Civil, and Chapter III describes the way a marriage takes place (Arts. 63 to 76). Article 21 of the Belgian Constitution states that the religious celebration of marriage must not precede the civil marriage by the public officer (*officier de l'état civil*). Religious marriage is without any legal effect. It is neither a substitute for, nor a condition of, civil marriage. The law of 13.02.2003 (*Loi ouvrant le mariage à des personnes de même sexe et modifiant certaines dispositions du Code civil*) allows the marriage of persons of same sex.

Registered partnership should be understood to refer in fact to the 'legal cohabitation' created by the Law of 23 November 1998 (*Loi instaurant la cohabitation légale*, *Moniteur Belge*, 12 January 1999). This legislation entered into force on 1 January 2000 after the adoption of the Royal Decree (*Arrêté royal*) of 14 December 1999, *Moniteur Belge*, 23 December 1999. In Belgium registered partnership is open to same-sex and to different-sex couples, and even to couples of close relatives. It is not quite clear whether it is open to foreigners and/or non-residents.

The registered partnership is registered on the local registry of the population, held in the local municipality and there is no notification in the margin of the birth act. Articles 75 and 1475 of the Civil Code, respectively concerning marriage and registered partnership, stipulate that the civil status registrar of the municipal administration where the spouses / partners have their common domicile (the *officier de l'état civil*) is exclusively competent to celebrate marriage or to receive a declaration that partners intend to enter into a registered partnership.

a) Personal Requirements/Impediments to Marriage

In order to get married in Belgium, one of the parties must reside in the country. There is no specific period of residence. If neither of the parties has a permanent residence in Belgium, one of them may establish a residence for this purpose. Upon arrival in Belgium, the party must register with the communal authorities in the district of residence and request a Certificate of Residence for Marriage Purposes (*Bewijs van Woonst voor Huwelijksdoeleinden / Certificat de Domicile pour mariage*). If one (or both) of the prospective spouses is a non resident national, the application for marriage can be made at the municipality where one of the nationals has been inscribed prior to their emigration(s) or where the family is still living.

Since 1990, the minimum age for marriage, both for men and for women, is uniformly fixed at 18 and parental consent is no longer required (Article 144 of the Civil Code). It is possible to obtain permission for marriage at a younger age "on serious grounds" at the juvenile court. There is a ban

on marriage between direct ascendants and descendants (Section 161 of the Civil Code). This rule applies both to blood relatives and to adoptive family (Section 363 and 370 of the Civil Code). The ban is also valid as regard collaterals. Marriage is forbidden between brother and sister (Section 162 of the Civil Code). This ban extends to adoptive children of the same parents (Section 363 of the Civil Code). Marriage is forbidden between uncle and niece and between aunt and nephew (Section 163 of the Civil Code) but this ban may be lifted by the King for serious grounds (Section 164 of the Civil Code). As marriage is prohibited to any person who is already married, it is the second marriage which must be pronounced null and void in such a case (Section 188 of the Civil Code).

Publicising the marriage being an essential condition for the validity of the act, a clandestine marriage, celebrated outside the presence of spouses or witnesses, is invalid. The presence of the registrar being vital, so that the exchange of the parties' consents is duly instanced, the absence of this municipal representative constitutes a ground for nullity of the marriage.

b) Preliminary Procedure

Those wishing to enter into marriage must declare that intention beforehand to the registrar of births, deaths and marriages of the district where one of the future spouses has a registered residence as described before the registrar. The statement is made either by the couple, or by one of the future spouses with a legalized statement of the absent future spouse that proves his/her consent to the marriage. The requirement of publication of the banns has been abolished in 2000. The registrar draws up a document of the declaration, which is entered into the register of declarations of marriage. During this declaration of marriage, documents proving the identity of the future spouses are submitted to the registrar. The registrar also checks to ensure that the conditions laid down for entering into marriage are fulfilled. The marriage cannot be solemnised before the 14th day following the date on which the certificate of declaration of marriage is drawn up. If the marriage is not celebrated within six months, a new declaration is necessary. Exceptions concerning the exoneration from the declaration, the withdrawal of the period or the extension of the deadline can be granted by the prosecutor of the King, e.g., in the case of serious illness. There has to be an official application for this exception filed with the prosecutor. Oppositions can be made by the spouse, the ascending relatives and within very narrow confines, certain other people and the public ministry. Objection must be delivered by a bailiff to the future spouse(s) and the registrar. A court must decide on request within ten days.

The Civil Code enables registrars either to suspend the celebration for two months in order to make further enquiries if the conditions prescribed for its conclusion are not met or to refuse the celebration if they consider that the celebration would be contrary to public policy, or to postpone the ceremony if there is a strong presumption that the said conditions are not satisfied. This is the case when, for example, the officer has the feeling, on the basis of certain items of evidence, that the intended marriage is a bogus marriage. The circular of 17 December 1999 cites as examples the following factors which, save in quite exceptional cases, need to be present in combination to justify a refusal to celebrate the marriage: a great difference in age between the man and the woman, the fact that the two persons concerned do not speak the same language, have never met, make mistakes regarding each other's names or nationality, the circumstances in which they got to know each other or their professional activities, the fact that one of the two is involved in prostitution or that the marriage has been arranged by a third party. The refusal of the registrar can be challenged in front of the court of first instance within one month. In case of suspension if the registrar does not decide within the two months, the marriage must be celebrated.

c) Documents

Several documents must be added to the declaration of marriage

- a certified copy of the birth certificate of each spouse (may not be older than three months), or, if these cannot be produced, a notarial act delivered by the Justice of Peace of the birth or residence place and approved by the Court of First Authority, and if this last cannot be produced, an affidavit sworn to by the engaged couple at the time of the marriage ;
- proof of identity, such as a copy of the identity card of the engaged couple, of the passport or a copy of the legal document which replaces it;
- consent of the juvenile court in case of a minor;
- a proof of inscription in the register of the population, the register of the foreigners or the register of waiting or a proof of the current residence (may not be older than one month);
- a proof of nationality;
- a proof of state of single person, or, if necessary, a proof of dissolution or cancellation of the former marriages; and
- any other authentic document revealing that the legal conditions for the celebration of the marriage were met, for example the certificate of habit, the judgement of exemption of the condition of age, the reduction of the time of declaration of the marriage, etc.

A law of 03.12.2005 has simplified the formalities. The parties do no longer have to give evidence or copies of information which is already available in the population register or in the foreigners register or which can be obtained by exchanging information between municipalities. This simplification of the steps to be achieved by the future married couple came into effect on 01.02.2006.

On the other hand, civil status changes of Belgian citizens that have occurred abroad need to be duly entered into the relevant civil status records before a marriage can take place. In particular, if a divorce has occurred abroad, the judgment needs to be presented to the registrar of that marriage in Belgium so that a marginal remark can be added to marriage registration, marriage certificate and the family record book, and then to the registrar at the place of residence so that the entry in the population register is rectified. The existence of a marriage contract must be declared and is registered upon marriage.

d) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in Belgium. In practice the presentation is considered as useful.

If a Belgian citizen intends to get married abroad he/she may have to produce - in addition to other documents - a Belgian certificate of no impediment. This certificate is not issued by civil status registration offices in Belgium but a similar document can be obtained from the Belgian embassy or consulate. In some countries, local authorities require an affidavit of law outlining the provisions for marriage contained in the Belgian Civil Code and which can be obtained from the Federal Public Service of Justice. While these certificates are accepted in some Member States, both certificates are not treated as a certificate of no impediment in all surveyed countries, for instance not in Germany.

e) Marriage Ceremony

Marriages are celebrated daily in the mornings from Monday to Saturday. The spouses must appear in person, in the presence of two witnesses who have to be at least 18 years old and have to show their ID cards. Marriage by proxy is allowed in wartime only. The marriage must be solemnised in public at the municipal authority building (town hall) in the district where the declaration of

marriage was made, before the registrar of births, deaths and marriages. The registrar is not limited to authenticating the consent of the parties but also performs the wedding ceremony. Normally, the procedure has to be in the language of the province/municipality. However, in practice this requirement is not strictly followed. For instance if it shows that one of the parties is not able to understand the language, the registrar will do his best to translate himself or to invite the family to translate. Otherwise, a translator has to be present. The spouses have to bear the costs of the translator.

Objections against the celebration of marriage may be raised by the registrar, by the spouse of one of the parties to prevent bigamy and by the parents of one of the contracting parties. Disputes about such objection are decided by the court of first instance.

f) Marriage Certificate

Contents of the Declaration of Marriage (selected information). The record on the marriage certificate indicates:

- marriage date;
- place of marriage;
- surnames before marriage;
- surnames after marriage;
- home address;
- date of birth;
- place of birth;
- nationality;
- marital status; and
- date of divorce.

g) Family Record Book

While the family record book is not mentioned by statute, several legal and various ministerial provisions envisage the existence of a booklet. The civil registrar at the city hall will give couples marrying in Belgium a marriage certificate in the form of a Family record book. This book is an official document for proving parentage, the legal relationship between children and parents. It is also given to the spouses by the Federal Public Service Foreign Affairs when marriage was celebrated in a foreign country. Even though there are no precise provisions concerning the data content it contains normally the extract of the couples marriage certificate to be complemented later on by extracts from children's birth certificates, death certificates and, conceivably, deeds of divorce and separation. The booklet cannot be used as a basis to make copies or extracts of acts but it allows people to obtain civil status records and national identity cards. In case the marriage is annulled, the family record book has to be returned to the registrar and will probably be destroyed.

h) Cost

The services for the celebrations of marriage are free. For celebrations by the official outside regular hours or the registry office an admission is charged (€ 50,00 – € 65,00). The cost of the booklet of marriage differs between € 10,00 to € 20,00.

i) Divorce/Separation/Annulment

An end can be put to a registered partnership upon the unilateral will of any of the partners, without the need for any particular justification (Art. 1476 (2) of the Civil Code). The civil status registrar simply registers this unilateral notification by one partner, who must declare explicitly his/her desire to end the partnership but is not even required to give a justification. Therefore, there will never be any need to resort to the judge to end the registered partnership.

There are two kinds of divorce in Belgium: divorce on specific grounds and divorce by mutual agreement. Divorce on specific grounds is based on the violation by one of the spouses, duly proven by the other spouse, of one of the obligations resulting from marriage. These violations are, on a limitative basis, specified in law.

Divorce on specific grounds may be based on de facto separation for a period of at least two years. Divorce by mutual agreement is realised via the persistent and solemn manifestation of the desire of both spouses to bring an end to their marriage. Each of the spouses must be 20 years of age (Section 275 of the Civil Code) and the marriage must have been contracted at least two years before the filing of the petition (Section 276 of the Civil Code). In all cases in which the spouses may file for divorce, they may also file a petition for separation (Section 1305 of the Judicial Code). Separation consists in fact of a simple loosening of the marriage bond, the principle of which remains. Separation removes only the obligation to cohabit and the obligation of assistance.

The judge competent to hear a petition for divorce or separation on specific grounds or a petition for the conversion of separation on specific grounds into divorce is the judge for the last conjugal residence or the defendant's domicile (Section 628 of the Judicial Code). Regarding mutual agreement, the law does not define the venue; the spouses contact the court of first instance of their choice (Section 1288a, paragraph 2, of the Judicial Code). However, the spouses can mutually consent to the divorce, and the convention organizing their separation can be passed before a public notary. In these cases, the role of the judge is then to ratify this agreement.

The absolute grounds for annulment are failure to have reached puberty, incest, bigamy, and the illicitness and incompetence of the registrar. Annulment has the effect of cancelling the marriage, both for the future and for the past. Nullity is effective, retroactively, on the day of the marriage. All the effects of the marriage disappear. The marriage is deemed never to have existed. When the spouses are in good faith, that is, when they have been unaware of the existence of a ground for nullity, the court may decide that the marriage is declared null and void only for the future, whilst it maintains its effects for the past. When one of the spouses is acting in good faith, the marriage produces its effects only with regard to this spouse. The child born during the marriage or within 300 days of the annulment keeps his mother's husband as his father (Section 315 of the Civil Code). In accordance with Section 202 of the Civil Code, marriage also produces its effects in favour of children, even if no spouse has acted in good faith. The petition for annulment of the marriage is brought before the judge for the defendant's domicile (Section 624 of the Judicial Code).

Spouses wishing to seek application or registration of a foreign court decision in divorce, in separation or in annulment matters in Belgium, present the documentary evidence to the registrar in the town concerned, namely, the town where the marriage took place or the town of the domicile of one of the spouses.

4. Kingdom of Belgium -Name

In Belgium, children receive one or more first names and a surname.

Stateless people or refugees who are not named can apply to the Ministry of Justice for a name. This requires a Royal Decree for surnames, but 'only' a Ministerial Decree for first names. No

special language rules exist for members of the national minorities. Neither pen names nor nick names or nobility or academic titles are registered.

a) First Name

One cannot choose a ridiculous or indecent first name, neither a diminutive nor a first name which does not make it possible to determine the gender. (Only the first given name has to show the gender). An exaggerated high number of first names can be refused. The first names are chosen by the person to whom descent is established first. If descent is established at the same time to two persons, the first names can be chosen by one of them, the other can object at the juvenile court.

b) Surname

If the child is born with Belgian nationality, Belgian law is applied to determine the child's surname. Article 335 of the Civil Code lays down rules for determining the surname to be given to children born in or out of wedlock on the basis of three principles:

- Precedence of attribution of the name of the father in the case of simultaneous establishment of affiliation (Art. 335, Para. 1): if descent from the mother and descent from the father are established at the same time, the child takes the father's name.
- Stability of the surname unless expressly decided otherwise by the parents (Art. 335, Paras. 2 and 3): if only descent from the mother is established, the child takes the surname of the mother, and the fact of the child being recognized subsequently by the father does not entail any change in the surname, unless the father and mother together, or either one of them if the other has died, declare in an instrument drawn up by the Registrar that the child is to take the surname of the father. This declaration must be made within one year from the date when the persons making the declaration have received notice of establishment of affiliation and before the child's majority or emancipation. An annotation concerning the declaration is made in the margin of the certificate of birth and other instruments concerning the child.
- Protection of the moral interests of the conjugal family (Art. 335, Paras. 2 and 3): in cases where the child is born of a father married to a woman other than the mother at the time of conception, the child takes the surname of his or her mother, who will usually be the person with whom he or she lives. If the father and the mother, or either of them, wish to avail themselves of the possibility of declaring that the child born in such circumstances and whose descent from the mother was established first is to take the father's surname, they may not do so without the agreement of the woman to whom the father was married at the time when affiliation was established. Subparagraph 2 of this paragraph 3, while being designed to protect the moral interests of the family of origin, should, however, be modified or amended on the occasion of the forthcoming reform of affiliation legislation. A preliminary issue having been referred to it in this connection, the Arbitration Court considered that article 335, paragraph 3 (2), violated the Constitution (now Arts. 10 and 11 of the Constitution).

In the matter of full adoption, the rules concerning the surname are similar to the aforementioned; in the event of simple adoption, Belgian law offers several possibilities. For example, the adopted child may choose to take the surname of the adoptive parent, keep its own surname or keep its own surname followed by the surname of the adoptive parent. Following international adoption abroad, the child will be given the surname mentioned in the adoption certificate.

Under Belgian law, marriage does not have any effect on the spouses' surnames. Each spouse keeps the surname that he/she had before he/she was married unless he/she is also a national of another EU Member State having different rules. In practice these specific rules concerning the name in

case of marriage are very often ignored. It is accepted that, spouses, in most cases the wife, use the surname of the other spouse in private life "praeter legem" or the couple use both names connected with a hyphen. The use of the name of the other spouse in private life is possible without his/her agreement. For professional matters the consent of the other spouse is necessary. In case of cancellation /divorce, the right of using the others name is usually extinguished.

c) Name Change

The surname of a child with Belgian nationality can only be modified under Belgian law. A change of name abroad is not recognised in Belgium. It is possible to change surname or first name(s) in a separate document which is not a certificate acknowledging a child's parentage or an adoption certificate. Under Belgian law, a name is in principle considered fixed for life, but under exceptional circumstances, a person may apply to the Ministry of Justice for a name change (Art. 2 of the Law concerning Names and First Names of 15.05.1987). This requires a Royal Decree (Arrete Royal, Koninklijk Besluit) for surnames, but 'only' a Ministerial Decree for first names. The application shall be submitted by the person concerned in person or by his or her legal representative. The new name must not cause confusion or cause damage to the bearer or others. Examples of requests that are usually considered favourably:

- a person stuck with a ridiculous last name that is causing him/her great embarrassment or emotional distress;
- bearing a foreign name which hinders integration
- (for minor children) following legal adoption or recognition of paternity.

The Royal Decree is published in the Official Gazette of the country. Within sixty days everybody can file an objection. The King examines the objection and makes a justified decision. The change of the surname has no effect on the surname of children already born unless they are mentioned in the decree. In case of gender recognition the court decision concerning the status has also effect concerning the first name. Like aforementioned the change of the first name is part of the Minister's of Justice competence. Today any kind of first name is eligible whereas beforehand only gender neutral names were accepted.

In order to reduce the difficulties associated with the possession of dual nationality, the Belgian authorities suggest that children adopt only the first part of their father's surname, if there is more than one. Exceptionally, and in particular where there are few connecting factors to Belgium, a surname may be conferred in accordance with foreign law, in particular where the family has lived in a country other than Belgium in which the child has been registered under the double surname, in order not to affect adversely that child's integration. In recent years, the administration claims to have adopted a more flexible approach, particularly in the case where a first child born under Spanish jurisdiction has a double surname in accordance with Spanish law, whereas the second child, which has Belgian and Spanish nationality, bears the double surname of its father in accordance with Article 335(1) of the Belgian Civil Code, in order to re-establish the same surname within the family.

d) Cost

The change of name has to be notified to the Ministry of Finance for it to claim the registration fees. The registration fee for changing the surname is € 49,00. In case of adding another name or changing capital letters into small letters, the fee is raised to € 740,00. The registration fee for changing the first name is € 490,00 unless the first name leads to embarrassment, is confusing or for other good reason in which case the registration fee is reduced to € 49,00.

BG – Bulgaria

1. Civil Status Registration System

The civil status registration system in Bulgaria is event based. A central population register is maintained receiving data from the civil status registrars but it does not replace the civil status registries.

The official language is Bulgarian. All civil status acts are performed in Bulgarian. Nowadays the Bulgarian language is written in the Cyrillic script and occasionally in the Latin. With accession of Bulgaria to the European Union on January 1, 2007, Cyrillic became the third official alphabet of the EU. There are various systems for romanisation of Cyrillic text, including transliteration to convey Cyrillic spelling in Latin characters, and transcription to convey pronunciation, among them: Standard Cyrillic-to-Latin transliteration systems include: ISO 9:1995, from the International Organization for Standardization and Volapuk encoding, an informal rendering of Cyrillic text over Latin-alphabet ASCII. In computing, several different coding standards have existed for this alphabet, among them: CP866 also known as GOST-alternative, ISO/IEC 8859-5, MIK, Windows-1251 Former standard encoding in GNU/Linux for Belarusian and Bulgarian, but currently displaced by UTF-8, GOST-main and Unicode.

Bulgaria has a population of 7.679.290 (2007) and consists of twenty-eight provinces (oblasti, singular oblast). The provinces are subdivided into 287 municipalities.

a) Registry Offices and Staff

The Civil Registration and Administrative Service Department is maintained by more than 1000 employees scattered in 265 local authority offices in Bulgaria and acts under the Citizen Registration Directorate General of the Ministry of Regional Development and Public Works (MRDPW) with the cooperation of the Ministry of Justice and the Personal Data Protection Commission.

The number of the local offices of the General Directorate for Civil Registration and Administrative Services (GD CRAS) is equal to the number of Administrative Regions in Bulgaria – 28. There is one local office in every Administrative Region. In the General Directorate for Civil Registration and Administrative Services are working civil servant registrars; those are municipality servants who have been authorized by the mayor to perform the function of an official in charge of the civil status; some of these servants are only responsible for the register of population; some of the civil servants registrars are also administrating the register of population. In the GD CRAS is a support staff responsible only for administrating the register of population. These are not civil servant registrars and they do not have access to the civil status registers. The educational requirements are correspondent to the requirements for the different positions as defined in the job descriptions: for chief, senior and junior experts – academic degree (Bachelor or Master) and a relevant professional experience; for chief, senior and junior specialists – high school degree and a relevant professional experience

The salaries are paid upon a monthly basis and are settled by law in the range between 250 – 500 BGN (€ 125-250) depending on the position.

The mayor of the municipality is the official in charge of the civil status on the territory of the municipality. The mayor of a municipality implements the functions of an official for the civil status. The secretary of a municipality shall organize and be responsible for the activity of the units for civil registration. The secretary is appointed by the mayor to organize the municipal administration, to address the working conditions of the staff, to oversee the activities of the registrar and to address and/or organize citizen complaints. His or her powers are not tied to the

term of office of the municipal council. The Local Self-Government and Local Administration Act assigns powers to the mayor of the municipality as delegated tasks of local authorities in the case of performing the functions of a state registrar civil servant, functions that he may delegate with a written order to the mayors of the mayoralities (mayoralities and the districts are component administrative territorial units of the municipalities) where civil status registers are maintained, to the deputy mayors and to municipal administration officials.

The local GD CRAS offices are 100% IT equipped. The municipal offices are in the process of installing IT equipment. It should be noted that there are differences in the equipment in the different civil status offices throughout the country, specifically – the offices in small towns are less well equipped.

Each district is headed by a district governor appointed by the Council of Ministers. He has the assistance of deputy governors appointed by the Prime Minister and of a regional administration. In pursuance of the Administration Act, the district governor ensures observance of the laws on the territory of the district, exercises control over the legality of the acts and actions of local authorities and administration, including civil status registrations. In addition to the administrative control to which local authorities are liable, they are also subject to judicial and civil control. For complaints against administrative acts issued by the municipal authorities the relevant regional court pronounces; for the acts of district governors and the municipality of Sofia, the Supreme Administrative Court.

The municipal administration is responsible for the maintenance of ESGRAON at municipal level. The Ministry of Regional Development and Public Works is responsible for the maintenance of the Automated Databases at regional and national level. The data therein are entered on the basis of the paper or electronic notes referred from the municipal administrations to the regional level. Data are provided to ESGRAON on a weekly basis by the following institutions and their divisions:

- Ministry of Interior data from applications for Bulgarian identity documents and data of the issued identity documents;
- Ministry of Foreign Affairs data on documents related to civil registration received through diplomatic and consular channels;
- Ministry of Justice courts judgements concerning civil status entries in the registers or restriction of a person's judicial ability and related documents to be entered in the Population Registers;
- Ministry of Health birth and death notifications; data of children under 3 years of age placed at childcare institutions; data of individuals placed for an extensive period of time at a medical establishment;
- Ministry of Education and Science data on education (degree and speciality); data about children from 3 to 18 years of age placed at childcare institutions;
- Ministry of Labour and Social Policy data about individuals placed at social institutions.

b) Unified System for Civil Registration and Administrative Service of the Population (ESGRAON)

ESGRAON is a national system for civil registration of the individuals in the Republic of Bulgaria and a source of personal data thereof. ESGRAON functions at national, regional and municipal level. It has the following functions:

- create and maintain civil status registers and population registers;
- create and maintain automated databases on the basis of the population registers;

- be the standard keeper of the unique administrative identifier for individuals (PIN)
- create and maintain the national classification of present and permanent addresses in the Republic of Bulgaria;
- information provision and administrative servicing of the legislative, executive and judicial power.

The Automated Databases ensures:

- the registration, maintenance and updating of the civil registration data;
- preservation and maintenance of the chronology of changed civil registration data;
- accuracy, comprehensiveness and interrelatedness of the civil registration data.

The data in the Automated Databases is entered at municipal, regional and national level at one time at the place of occurrence of the event or of the change. The data coming from other information systems is entered centrally with a note to inform the municipal level. ESGRAON data is provided to:

- Bulgarian and foreign citizens and persons without citizenship they refer to, as well as to third persons when the data are crucial for the creation, existence, change or termination of their lawful rights and interests;
- state authorities and institutions, according to their legal powers;
- Bulgarian and foreign legal entities on the basis of a legal or judicial act or a permission of the Personal Data Protection Commission.

ESGRAON data can also be provided to foreign representations through the Ministry of Foreign Affairs on the basis of bilateral and multilateral agreements or with the permission of the Personal Data Protection Commission. The refusal to provide data from the Databases can be appealed under the rules of the Administrative Procedure Code.

c) Civil Registration

Civil registration means the recording of the events of birth, marriage and death in civil status registers and the recording of data on persons in the population registers. Civil registration includes a set of personal data distinguishing a person from all other persons in society and in the family as the bearer of subjective rights, such as name, citizenship, family status, kinship, permanent address, etc. The civil registration of individuals in the Republic of Bulgaria is based on the data in their civil status acts and the data in other acts specified by the law.

The civil status acts are official written documents. The civil status officials registers therein the events of birth, marriage and death. Civil status registers keep record of the vital events concerning all Bulgarian citizens and foreign nationals on the territory of the Republic of Bulgaria.

The population registers keep record of all Bulgarian citizens and all foreign nationals. Entries into the civil status registers are made at the place of occurrence of the event. Entries into the population registers are made at the municipality of the individual's permanent address. The civil registration includes the collection, processing, keeping and provision of data which:

- define the personal identity;
- define the relationships between persons related in the direct line in the first degree and in the collateral line in the second degree;
- indicate the permanent and present address;

- indicate the degree and type of education;
- keep record of imposed legal restrictions.

Civil registration data is given to the Bulgarian and foreign citizens as well as to persons without citizenship that they refer to, to third persons when these data may affect the occurrence, existence, change or termination of their lawful rights and interests, to state authorities, according to their legal powers and Bulgarian and foreign legal entities, if provisions thereto are made in a statute or an act of the judiciary.

d) The Personal Identity Number (PIN)

The PIN is given to every person and is used as an administrative identifier of the individuals subject to registration. This number is unique and identifies the individual unequivocally.

e) Civil status acts issued to Bulgarian citizens abroad

Bulgaria attempts to maintain a full record of changes to the civil status of citizens of Bulgaria taking place abroad. Registrations of civil status about events for which there are no data on the territory of which municipality they have occurred shall be compiled at the municipality or the mayoralty on which territory the event has been established. According to Art. 70 par. 1, the registration of a child born abroad is obligatory. A Bulgarian citizen who has a change of civil status and who has obtained a civil status registration at a local civil status authority abroad is obliged to obtain a certified copy or excerpt thereof and to refer or send it to the Bulgarian diplomatic or consular official in the respective country together with a note of his/her permanent address in the Republic of Bulgaria within six months of issuance. If the Bulgarian citizen has been unable to refer or send the act issued by a foreign local civil status authority to the Bulgarian diplomatic or consular official, he or she must hand it directly to the civil status official at the municipality of his/her permanent address together with the legalised certified translation in the Bulgarian language. A diplomatic or consular representative of the Republic of Bulgaria abroad who learns of the birth, marriage or death of a Bulgarian citizen in the country of his/her accreditation, but no certified copy or excerpt of the relevant act has been received at his/her office within 6 months of occurrence of the event, must without delay attempt to get hold officially of the necessary documents. The copies or excerpts of the civil status acts together with the duly certified and legalised translation into the Bulgarian language must be referred to the Ministry of Foreign Affairs of the Republic of Bulgaria and then forwarded to the permanent address of the Bulgarian citizen. Within three months of receiving of an act issued by a local body or after issuance at the diplomatic or consular representation, the respective official of the Republic of Bulgaria refers a certified copy to the Ministry of Foreign Affairs of the Republic of Bulgaria. The official copies of acts received at the Ministry of Foreign Affairs, not later than 15 days after receiving, are forwarded to the municipalities in the following manner:

- for birth to the municipality of the mother's permanent address; if she is not a Bulgarian citizen to the municipality of the father's permanent address;
- for civil marriage to the municipality of the husband's permanent address; if he is not a Bulgarian citizen to the municipality of the wife's permanent address;
- for death to the municipality of the decedent's permanent address.

After compiling the act the civil status official at the municipality will send, when requested or officially, the birth or marriage certificate or an excerpt copy of the death act to the Ministry of Foreign Affairs, which forwards it to the diplomatic or consular representation for handing over to the persons concerned. The data in the act (name, parents etc.) shall be entered without change on the basis of the received copy. If the copy does not contain all the necessary data required under this

law data from other documents of the person or from the register of the population shall be used. If it is not possible all the data to be filled, only the available shall be entered. Upon essential differences in the names of the persons, additional documents for identity shall be presented. Change of the data in the presented documents shall be admitted by judicial order.

f) Civil status acts at sea

In the event of birth, civil marriage or death on a ship out at sea the captain makes an entry in the ship log and draws up the act. Birth or death acts must be issued within 24 hours of occurrence of the event. The captain of the ship refers copies of the civil status acts to the civil status office at the municipality in the first Bulgarian port of entry of the ship or at the Bulgarian diplomatic or consular representation in the country whose port the ship has entered. If there is no Bulgarian representation in the country, the captain of the ship refers the copies to the Bulgarian diplomatic or consular official at the nearest country with Bulgarian diplomatic or consular representation. The civil status official or the Bulgarian diplomatic or consular official then refers the copies of the acts issued on board to the relevant municipality as above. The Bulgarian law of Registration of Birth does not provide any special rules for cases of occurring of a birth onboard of an aircraft.

g) Civil status acts issued to the military officers in emergency cases

Civil status acts for the military outside the territory of the Republic of Bulgaria or on the territory of the country but unable to notify the civil authorities due to military activities are issued by specially appointed by the commander members of the military. The latter may also issue civil status acts to civilians accompanying the armed forces. The acts shall be kept in a general register book filled in by hand. The military officer appointed to keep the civil status register again refers through the Ministry of Defence copies of the acts to the municipal authorities as described above.

On the basis of such copy the civil status official of the respective municipality issues a new act according to the established template, with the copy forming an integral part of that act.

h) Correction, Amendment and Cancellation

Changes of data in the civil status acts of individuals are made through the court or according to administrative procedures. Every change of civil status data concerning a recorded act is noted in the same act at the designated place. Where so requested in writing, the changes can be entered administratively in the records of children. Administrative changes or entries of data on the basis of official documents are made only if the data will not change the content of the existing record. Technical and spelling mistakes in the name are removed at the request of the persons concerned. At the request of the person concerned, the change of name resulting from a normative act may be entered administratively. When issuing certificate copies or excerpt copies of acts containing notes, these copies will contain only the final version of the entries. For every change of data in the civil status acts, a written notification must be sent to the district ESGRAON office.

At divorce or announcing the marriage as invalid, the court decision with which the marriage is terminated or announced as invalid shall be noted in the "Notes" section of the marriage certificate. If the court rules that the family name from the marriage is to be preserved, this shall also be noted. Otherwise, it shall be entered that, the family name of the person before this marriage is restored. Upon name change, a note is made in the original birth certificate on the basis of the court decision within a defined place in the birth certificate- section "notes". The date and the name of the official are entered and a signature and seal of the mayoralty shall be affixed. Cancellation of a civil status act can be done only after a court procedure. If civil status registers are destroyed, or if certificates are missing, and in order to ascertain incorrect data the interested parties shall establish their rights by court order.

i) Legalisation/Translation

The registry office does not accept documents, which are not duly certified or bear an Apostille.

Bulgaria has concluded treaties on the mutual abolishment of legalisation requirements with Austria, Cyprus, Hungary, Poland and Croatia.

Copies of the documents are permitted, but such copies must be legalized or made of the original documents. All foreign documents must be translated into Bulgarian by a licensed company in Bulgaria. No multilingual documents are issued.

In Bulgaria the Ministry of Justice and the Ministry of Foreign Affairs are competent for the issuance of Apostilles.

The Ministry of Justice:

- all documents issued by the Courts – judgements, sentences, writs of execution, rulings, injunctions, certificates, etc.
- all documents issued by the Notary's Offices – notarisations of signatures and dates, notarial attestations of copies of documents, notarial acts, notarisations of deals contracted, etc.
- certificates relating to Bulgarian citizenship – for acquiring Bulgarian citizenship, for release from Bulgarian citizenship, for the existence of Bulgarian citizenship, for the absence of Bulgarian citizenship, etc.

The Ministry of Foreign Affairs:

- documents of civil status – birth certificates, marriage certificates, certificates of marital status, certificates of address registration, etc.
- documents issued by schools – diplomas, certificates, academic transcripts, other certificates, etc.
- all other documents issued or certified by state authorities – ministries, administrations, agencies, offices, incl. those issued by Prosecutor's Offices, by the Prosecutor General and by the Supreme Prosecutor's Office.

The Apostille, by which the documents are certified is an attachment to the document, and the text should be in English (at the Ministry of Foreign Affairs), or is affixed on the document itself and the text is in Bulgarian (at the Ministry of Justice), according to the sample to the Convention. The Apostille is signed manually by authorized officials of the Ministry of Justice or of the Ministry of Foreign Affairs.

The amounts and the ways of payment of the fees at both authorities empowered to issue the Apostille are different. At the Ministry of Justice, pursuant to Tariff No 1 to the Stamp Duty Act, the fees charged by the Courts, the Prosecutor's Offices, the Investigation Offices and the Ministry of Justice are at the amount of BGN 2.50 per document. No fee is provided for urgent services, as the service is done for maximum 24 hours. The payment is to be done via bank transfer. At the Ministry of Foreign Affairs, pursuant to Tariff No 3, the fees charged for Consular services in the system of the Ministry of Foreign Affairs under the Stamp Duty Act are at the amount of BGN 5.00 (€ 2,56) for ordinary service of up to three working days, and BGN 7.50 (€ 3,83) for urgent service of up to 8 working hours. The payment is to be done by state tax stamps.

j) Documents

The Civil Registration and Administrative Service Department immediately issues various kinds of certificates. Certificates can be issued when they concern Bulgarian citizens and also foreigners on the territory of Bulgaria in the municipality where the event has taken place. Entering into the

registers of the population is implemented at the municipalities of the permanent address of the individuals. The mayors of the municipalities are responsible and competent for the civil registration on the territory of their municipality only. Certificates can be issued also if they concern events which took place in another country on the basis of official documents issued by that country.

Civil status acts are issued free of charge. Birth certificates and marriage certificates, as well as death act excerpt copies, are issued free of charge to the parties concerned. For the issuance of acts and copies for the second and every subsequent time a fee is due. The issuance of a copy for official use is free of charge. Applications for copies of records and certificates can be made in person; through mail; by proxy through any third party; through Bulgarian consular offices abroad; through consular offices of other countries in Bulgaria. Only cash and bank payment are accepted.

- Birth certificate – original
 - Required documents: birth registration; ID cards of both parents
 - Days for preparation: 10 days after the child's birth
 - Fee: Free
- Birth certificate – copy
 - Required documents: ID card
 - Fee: BGN 1.80 (€ 0,60)
 - Days for preparation: 1 day
- Acknowledging a child born out of wedlock
 - Required documents: acknowledgement declaration; parents' ID cards
 - Fee: Free
 - Days for preparation: 1 day

Marriage certificate (original)

- Required documents: ID cards of both spouses, medical certificates, birth certificates of both spouses, decision by a court for over-16 year olds
- Marriage certificate (duplicate)
 - Required documents: ID cards
 - Fee: BGN 1.00
 - Days for preparation: 1 day
- Issuing a marriage certificate to a Bulgarian citizen married to a foreigner abroad
 - Required documents: ID card; data about the future husband/wife
 - Fee: BGN 4.00 (€ 2,05)
- Issuing a marriage certificate to a foreigner married to a Bulgaria citizen in the Republic of Bulgaria
 - Required documents: Bulgarian ID documents
 - Fee: BGN 1.00
- Certificate of Heirs

- Required documents: death certificate statement; ID card, application, heir declaration
- Term of service's accomplishment: from 3 to 30 days, according to article 16, paragraph Law on administrative services for physical and legal persons
- Fee: BGN 2.30 (€ 1,15)
- Marital Status Certificate
 - Required documents: ID card
 - Fee: BGN 1.00
- Kinship certificate
 - Required documents: ID card, other documents establishing kinship
 - Fee: BGN 1.00
 - Days for preparation: 1 day
- Wife/Husband 1st degree kinship certificate:
 - Required documents: ID card
 - Fee: BGN 0.70
- Certificate for lack of cancellation of parental rights
 - Required documents: ID cards
 - Fee: BGN 1, 80
- Identity Certificate to a Person with different names
 - Required documents: ID card, application containing the documents with different names
 - Fee: BGN 1.80
 - Days for preparation: 1 day
- Permanent residence certificate, Change of permanent residence data certificate, Temporary residence certificate and Change of temporary residence data certificate
 - Required documents: ID card
 - Fee: BGN 1,80
 - Days for preparation: 1 day
- Certificate for date of birth or death certificate
 - Required documents: ID card
 - Fee: BGN 1,80
 - Days for preparation: 3 days
- Invitation – declaration for private visit of foreigners to the republic of Bulgaria
 - Required documents: ID card; notary attested invitation-declaration
 - Fee: BGN 10.00 (€ 5,11)

- Marital status certificate to a Bulgarian citizen married to a foreign citizen abroad and Marital status certificate to a Bulgarian citizen married to a foreign citizen in the Republic of Bulgaria
 - Required documents: ID card
 - Fee: BGN 1.80
 - Days for preparation: 1 day
- Change /restoration/ of a name of a Bulgarian citizen after court order
 - Required documents: ID card; enforced court order
 - Fee: Free
- Change /restoration/ of a name of a Bulgarian citizen in administrative order / article 19a from the Law on Civil Registration
 - Required documents: ID card; birth certificate; marriage certificate; notary attested specimen application
 - Fee: Free
- Redrawing civil status certificates issued abroad for Bulgarian citizens
 - Required documents: translated and attested civil status certificates; ID card
 - Fee: Free
- Certificate for registration in the catalogue index of population
 - Required documents: ID card
 - Fee: 1, 80
 - Days for preparation: 1 day
- Guardianship certificate
 - Required documents: application form; court ruling/decision
 - Fee: Free
- Issuing of a death certificate for Bulgarian national who died abroad
 - Required documents: application form, original death certificate issued abroad, translation of the certificate (legalized if no treaty for abolishment), ID card
- Fee: no fee
- Days for preparation: 1 day

k) Foreign relations

Information about civil status acts and changes of citizens of other EU Member States that occur in Bulgaria is transmitted through the Ministry of Foreign Affairs and it concerns countries with which Bulgaria has signed Agreements for legal aid. If there is no such Agreement signed with the country, information is transmitted upon request. Information about civil status acts and changes of citizens of Bulgaria is received from the authorities of other countries through the Ministry of Foreign Affairs and upon request. The most common problems that are encountered are resulting from disparities in the way family and inheritance issues are regulated in the different Member States.

l) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Bulgarian citizens can obtain from Bulgarian foreign missions. Bulgarian consular officials assume nearly identical duties to those of local registrars in respect of civil status matters. They are also authorized to perform marriages if the host country permits.

Bulgaria attempts to maintain a full record of changes to the civil status of citizens of Bulgaria taking place abroad. Registrations of civil status about events for which there are no data on the territory of which municipality they have occurred shall be compiled at the municipality or the mayoralty on which territory the event has been established. The registration of a child born abroad is obligatory. A Bulgarian citizen who has a change of civil status and who has obtained a civil status registration at a local civil status authority abroad is obliged to obtain a certified copy or excerpt thereof and to refer or send it to the Bulgarian diplomatic or consular official in the respective country together with a note of his/her permanent address in the Republic of Bulgaria within six months of issuance. If the Bulgarian citizen has been unable to refer or send the act issued by a foreign local civil status authority to the Bulgarian diplomatic or consular official, he or she must hand it directly to the civil status official at the municipality of his/her permanent address together with the legalised certified translation in the Bulgarian language. A diplomatic or consular representative of the Republic of Bulgaria abroad who learns of the birth, marriage or death of a Bulgarian citizen in the country of his/her accreditation, but no certified copy or excerpt of the relevant act has been received at his/her office within 6 months of occurrence of the event, must without delay attempt to get hold officially of the necessary documents. The copies or excerpts of the civil status acts together with the duly certified and legalised translation into the Bulgarian language must be referred to the Ministry of Foreign Affairs of the Republic of Bulgaria and then forwarded to the permanent address of the Bulgarian citizen. Within three months of receiving of an act issued by a local body or after issuance at the diplomatic or consular representation, the respective official of the Republic of Bulgaria refers a certified copy to the Ministry of Foreign Affairs of the Republic of Bulgaria. The official copies of acts received at the Ministry of Foreign Affairs, not later than 15 days after receiving, are forwarded to the municipalities in the following manner:

- for birth to the municipality of the mother's permanent address; if she is not a Bulgarian citizen to the municipality of the father's permanent address;
- for civil marriage to the municipality of the husband's permanent address; if he is not a Bulgarian citizen to the municipality of the wife's permanent address;
- for death to the municipality of the decedent's permanent address.

After compiling the act, the civil status official at the municipality will send, when requested or officially, the birth or marriage certificate or an excerpt copy of the death act to the Ministry of Foreign Affairs, which forwards it to the diplomatic or consular representation for handing over to the persons concerned. The data in the act (name, parents etc.) shall be entered without change on the basis of the received copy. If the copy does not contain all the necessary data required under Bulgarian law, data from other documents of the person or from the register of the population shall be used. If it is not possible all the data to be filled, only the available shall be entered. Upon essential differences in the names of the persons, additional documents for identity shall be presented. Change of the data in the presented documents shall be admitted by judicial order.

In the event of birth, civil marriage or death on a ship out at sea the captain makes an entry in the ship log and draws up the act. Birth or death acts must be issued within 24 hours of occurrence of the event. The captain of the ship refers copies of the civil status acts to the civil status office at the

municipality in the first Bulgarian port of entry of the ship or at the Bulgarian diplomatic or consular representation in the country whose port the ship has entered. If there is no Bulgarian representation in the country, the captain of the ship refers the copies to the Bulgarian diplomatic or consular official at the nearest country with Bulgarian diplomatic or consular representation. The civil status official or the Bulgarian diplomatic or consular official then refers the copies of the acts issued on board to the relevant municipality as above. The Bulgarian law of Registration of Birth does not provide any special rules for cases of occurring of a birth onboard of an aircraft.

m) Law

Act on the Civil Registration of 23.7.1999; Family Code of 28.05.1985; Family and Persons Act of 23.07.1949; Civil Procedure Code of 6.02.1952 31.03 2006;

n) eGovernment - Online Services for Citizens

Portal

The Bulgarian eGovernment portal is called the eGovernment Gateway and aims in a one-stop shop for all eServices offered by the administration. This has not been achieved as yet, but it is expected that a significant part will be completed before the end of the year.

Electronic Information System for Civil Registration and Administrative Services

The System for Civil Registration and Administrative Services (CRAS) by the Ministry of Regional Development and Public Works, Citizen Registration Directorate General, was founded in 1978 borrowing experience and features from similar existing systems mostly in Scandinavian countries. The system started with developing citizens' Personal ID schema and enquiring all Bulgarian citizens for the creation of Personal Registration File – sheets of paper containing personal data maintained by employees in Local Authorities. Administrative servicing of citizens based upon these Personal Registration Files started soon after that. The created supporting department developed formal documents for change of personal data, when a change events occurs (birth, marriage, change of address, etc). The department developed additional methodological rules and routes for the documents through the levels of the system. With the invasion of the electronic computing technologies in the next years, gradually more and more personal data were processed using computers. At that time, regional electronic data storages were established. In 1994, the regional data storages were unified in National Database. That database is the parent of the current Information System for CRAS. The system stores personal data for all Bulgarian citizens. More than 60 local authorities have already implemented access to the CRAS reaching more than 4800000 citizens or 60 per cent of the population. Government employees can access these data if required by their job. Personal data are the data gathered by the national enquiry in 1978 and almost unchanged up to now – citizens' Personal ID, names, addresses, education, marital status, death, parentage, passport, nationality and relatives – children, brothers and sisters. Previous states of address, marital status, nationality and names are also maintained.

Website

<http://www.grao.government.bg>

Civil Status Certificates

By Decree no. 154, 1992, of the Council of Ministers, the management and control of the functioning and development of the Citizen Registration System (ESGRAON) were assigned to the Directorate General "Citizen Registration" of the Ministry of Regional Development and Public Works and to the 28 Territorial Units "Citizen Registration" located in the former administrative

centres of the districts. There is online information about civil status certificates but no downloadable forms which can be submitted.

2. Republic of Bulgaria - Birth

Every birth must be declared verbally and in writing within 5 days of the day of birth. Within 7 days after the birth, the birth act must have been registered. Immediately after registration of birth the parents are issued an original birth certificate. The birth must be declared by:

- the head of the medical establishment or his assignee when the birth has occurred in a medical establishment;
- a competent medical person when the birth has not occurred in a medical establishment;
- the civil status official, when the settlement has no competent medical person;
- the father, personally or through another person with notarised authorisation. If the father is deceased, absent from the settlement or incapable to declare the birth due to a serious illness, incarceration or other reasons, if he or his whereabouts are unknown, the birth is declared by a person who has attended the birth.
- the person in whose home the birth has occurred, if the mother has given birth not at her own home;
- the mother, personally or through another person with a notarised authorisation.

The acts for civil status included the birth registration certificate shall be compiled by the official for civil status at the municipality or the mayoralty on which territory the events have occurred. The child of resident foreigners will not obtain a personal identification number.

The documents which shall be presented on the announcement about birth shall be compiled in writing according to a model approved with the regulation of art. 11, Para 2. LCR and identification cards of the parents.

When the birth has not been declared within the specified term, but a notification has been made or the official has found out about the birth within the same calendar year, the registrar registers the birth within the register of the current year. When the calendar year and the term for declaring the birth have elapsed, the birth can be registered only on the basis of a court judgement made at the request of the parents, the person or the prosecutor. For breaches of this law to officials shall be imposed a fine from 50 to 300 Levs (€ 25,56 to 153,39) . When the breach is made by a citizen the fine shall be from 20 to 200 Levs (€ 10,23 to 102,26). When a child was born live but died before the birth was registered, both a birth registration and a death registration are issued concurrently. Stillborn child are registered as birth, and in the place, where the "name of the new-born" should be entered, the word "stillborn" is entered and the reason for the death is stated from the medical document. The assessment whether the child has been born live or dead or there is an abortion shall be made by a competent medical person.

Found, abandoned or exposed live newborn children must be taken to the nearest medical establishment and there, in the presence of an official of the Ministry of the Interior, an official of the medical establishment and the person who has found and brought the child, a record is made of the finding: the time and place where the child was found, sex and supposed date of birth; body marks, description of the clothing with which the child was found; other circumstances. The record shall be signed by the person found the child and by the present representatives, stamped and sent to the municipality where the medical establishment in order a birth certificate to be compiled is. The official shall compile the birth certificate on the basis of the record which shall become an inseparable part of the certificate.

The record of birth indicates:

- the place where it was issued, district, municipality, settlement/region;
- act number and date of issuance;
- number of the original certificate;
- duration of pregnancy;
- medical assistance at delivery;
- birth weight and length at birth;
- date day, month, year, hour and minute of birth;
- place of birth district, municipality, settlement or country if the child was born outside the territory of the Republic of Bulgaria;
- name of the newborn;
- PIN of the child (only for Bulgarian citizens);
- sex and citizenship;
- details of the parents' names, date of birth, PIN, citizenship, permanent address;
- a document certifying the birth;
- declaring person's names, PIN, permanent address;
- official's names, PIN and signature;
- for a stillborn child, "dead at birth" will be written under "name of the newborn" and the cause of death from the medical record;
- legitimacy, multiple or singleton and birth order;
- marriage date and duration.

a) Recognition

The woman having delivered the child is the child's mother. This also applies in cases where the genetic material belongs to another woman. The origin from the mother as established by the birth certificate may be disputed by an action brought by the child, by the woman registered as the mother in the birth certificate, by her husband, by the woman who claims to be the mother of the child, and by the man who maintains that the child was born by his wife.

The husband of the mother is deemed to be the father of the child who has been born during the marriage or before the elapsing of three hundred days from its dissolution. Where the child has been born before the elapsing of three hundred days from the dissolution of the marriage, but after the mother has contracted another marriage, the husband of the new marriage is deemed as the father of the child.

Each competent parent may affiliate his child. It is also possible to affiliate conceived children, as well as deceased children who have left descendants. Affiliation is performed personally with a written declaration submitted to the officer for civil status or by a declaration with the signature attested by the Notary public, filed with the officer for civil status. The declaration may be forwarded through the manager of the establishment where the child has been born. The officer for civil status gives notice of the affiliation to the other parent in case he is known and to the child if it is of full age and to directorate "Social support" within 7 days from its effect.

If these persons do not dispute the affiliation by means of a written declaration filed with the officer of the civil status within three months time, the affiliation is entered into the birth certificate. Where the affiliation is disputed, the affiliating person may bring an action for the establishment of origin within three months from receiving the notification. Where at the time of affiliation the child has not yet reached full age, it may dispute it within three years after attaining majority or from the date of receiving information about it in case this information has been obtained at a later date. Upon success, the affiliation is deleted from the birth registration with a corresponding note.

The legitimating person can request undoing of the legitimating for reasons of mistake or fraud within one year from the legitimating, in case of threat - within one year from discontinuance of the threat, and in case of legal incapacity - within one year from acquiring the legal capacity. Besides the legitimating can be litigated by every person having legal interest, through a claim laid within one year from learning. The legitimating may also be contested by the Agency for social support, as well as by the prosecutor.

3. Republic of Bulgaria - Marriage

Only a civil marriage creates legal effects. A religious ceremony may be performed only after the contraction of a civil marriage. This ceremony has no legal effect. There is no legal recognition for same-sex partners.

a) Personal Requirements

Under the Family Code a set of prior conditions for marriage must be met: to be at least 18 years of age; not to be of the same sex; not to be already married (with the same person or another); not to be directly related; brothers and sisters, their children and other collateral relatives up to fourth degree inclusive; persons between whom adoption creates linear relation of brothers and sisters; not to be suffering from an illness that would constitute “a serious danger for the children or spouse”, unless this illness is only dangerous for the spouse and he or she is informed about it.

As an exception, if important reasons so require, marriage can also be contracted by a person who has accomplished 16 years of age by a permit of the chairman of the district court at the place of residence of the person. The underage person shall become legally capable by entering into matrimony but he/she can dispose with a real estate only by permit of the regional court at the place of his residence.

b) Preliminary Procedure

Those willing to enter into a marriage state their intention at the municipal council. Each one of them submits a declaration in person that there are not any prohibitions for the contraction of a marriage, and a medical certificate. A marriage may then be contracted not less than thirty days after the declaration. With the permission of the officer for civil status the marriage may be entered into earlier, where important reasons necessitate this.

The rejection can be appealed following general procedure for appealing of administrative acts as described in Administrative procedure code. The administrative court has the final decision.

c) Documents

Bulgarian citizens will require the following documents for the declaration of the intended marriage:

- Certificate of no-impediment, obtainable from the municipality of residence in Bulgaria;
- Birth certificate;

- Health certificate (valid one month) proving that the person is not afflicted by the specific diseases constituting serious danger for the life or health of the offspring or of the other spouse;
- Personal identification document;
- Passports of the two witnesses;
- Application for marriage.

When the persons to be married are without citizenship, or they have refugee or humanitarian status in the Republic of Bulgaria, they shall certify their family status with a notarised declaration. Certificates of no impediment to Bulgarian nationals or residents for marriages taking place abroad are issued by the District Court, only the ID card is needed.

d) Certificate of no impediment

Foreigners must produce a certificate of no impediment (Удостоверение за липса на спънки за встъпване в брак) of the country of origin if they intend to marry in Bulgaria. When a foreigner cannot obtain such certificate, waiver can be obtained through a court proceeding which also requires publication of a notice in a newspaper. The court fees for this proceeding are around 80 BGL (40,00 €), but in practice a lawyer is needed for the application, which causes additional costs.

Certificates of no impediment to Bulgarian nationals or residents for marriages taking place abroad are issued by the District Court, only the ID card is needed. The cost is 1,00 BGL (0,51 €).

e) Marriage Ceremony

Marriage is contracted by the mutual consent of a man and a woman given personally and simultaneously before the officer for civil status (registrar). In case of marriage taking place on a vessel sailing under Bulgarian colours the registrar is the captain of the vessel. Marriages are contracted publicly and solemnly at the municipal council on any day. Where one of the parties to the marriage is unable to appear at the municipal council for a valid reason, then on the discretion of the officer of the civil status the marriage may be contracted elsewhere. The officer for civil status checks the identity and the age of the parties, the declarations filed by them and the medical certificates. If there are no obstacles for the contraction of the marriage the officer for civil status asks the parties whether they are willing to get married, and after an affirmative reply from them, drafts an act for the contraction of the marriage which is signed by the marrying parties, by two witnesses and by him. As far as it is an official ceremony, the Constitution of the Republic of Bulgaria provides that Bulgarian language should be the official one. There may be an interpreter, if the couple wishes so, but it bears also the costs for the interpreter.

The marriage is deemed contracted with the signing of the act by the persons involved and the officer for civil status.

f) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- marriage date;
- place of marriage;
- surnames before marriage;
- surnames after marriage;

- home addresses;
- dates of birth;
- ages;
- places of birth,
- countries of birth;
- nationalities;
- marital status;
- number of previous marriages;
- number of children.

A marriage between Bulgarian citizens abroad or between a Bulgarian and a foreign citizen may be contracted abroad by the Bulgarian diplomatic or consular representatives provided the local law allows this. A marriage entered into by the local authorities observing the form prescribed by the local law is also recognized.

A marriage concluded abroad between foreign nationals is acknowledged in the Republic of Bulgaria provided the form for its contraction prescribed by the law of the place of its contraction has been observed.

A foreign national who contracts a marriage with a Bulgarian national or with another foreign national in the Republic of Bulgaria or before a Bulgarian diplomatic or consular representative abroad or before the captain of a Bulgarian ship on high seas has to prove that according to the law of his or her country there are no obstacles to the contraction of the marriage. For this purpose, the civil status officer in Bulgaria will usually require a certificate of no impediment issued by the civil status authority of the foreign citizen. If the foreigner has been married before, the marriage and the divorce certificate must also be presented for every prior marriage.

g) Cost

Marriage is free of charge when the ceremony is held in the registry office. When the ceremony is held out of a registry office it costs 240,00 BGN (€ 122,71). Registration of marriage is free of charge.

h) Divorce/Separation/Annulment

Judicial separation is not recognized by the Bulgarian legal system. Divorce and marriage annulment is pronounced by a court.

4. Republic of Bulgaria - Name

The declaration and registration of naming of the child is made before and by the registry offices as part of the completion of the birth entry. The name of a Bulgarian citizen, born on the territory of the Republic of Bulgaria, shall consist of a first name, father's name and family name. The three components of the name shall be entered in the birth record. Characters and diacritical signs in Latin letters not used in Bulgaria are not recorded but when such characters and signs appear in a name its Bulgarian transcription takes account of them following the rules for transliteration contained in Appendix 4 of the Regulation of the Council of Ministers for the issuing of the Bulgarian identification documents – Table for transliteration of the Bulgarian alphabet into the English alphabet with reflection of the ISO 9 standard.

Refugees and stateless people are issued a special registration card regulated by Art. 44 of the Asylum and Refugees Act which contain their name of the foreigner as stated in his travelling documents. If he does not hold such documents in order to certify his identity, the date and the place of birth, his family status, he shall fill a declaration before an official for the correctness of which criminal liability is borne. The competent authority is the State Agency for the refugees.

When a child is found, its name (first name and surname) is determined by the official for civil registration if its parents are unknown. When a person is known by the public with a penname he shall be able to add the penname to his name with a court decision. Nobility and academic titles are not registered.

First Name

The first name of each person is chosen by the parents. If the parents have not reached agreement about the name the official enters in the birth certificate one of the names proposed by the parents which he considers most appropriate in the case. Similarly, if the parents do not point out a name the official defines the name he considers most appropriate in the case. There is no restriction for first names to reflect the gender of the child or in relation to the number of first names chosen. Most commonly there is only one first name and not so often the first name consists of two parts which are linked with a hyphen. Bulgaria has also no requirement for the names to be of a certain language, origin or religion.

If the name chosen for the child by the parents is ridiculing, disgracing, publicly unacceptable or incompatible with the national pride of the Bulgarian people, the official has the right to refuse the entering in the birth certificate applying the aforementioned provisions.

Upon adoption, the child's first name shall be determined by the court in accordance with the adopters' request. If the child has attained 14 years of age, the child's consent shall also be required when changing his/her name.

a) Surname

The father's name of each person is formed from the first name of the father and is entered with the suffix -ov or -ev and an appropriate gender inflection except when the first name of the father does not permit these suffixes or they contradict with the family, the ethnic or the religious tradition of the person.

The family name of each person is the family name of the father with the suffix -ov or -ev and an appropriate gender inflection, again except when the family, the ethnic or the religious tradition of the person impose otherwise.

The father's name of a child whose mother is only known shall be derived from the mother's given name or its base, and the child's family name shall be that of the mother or the name of her father. In the aforementioned cases, with the mother's father's consent, his name may be taken as father's name of the child. In this case the child's family name shall be the family name of the mother.

The name of a child whose origin has been established by the court shall be determined by the court.

By drafting the act for the contraction of a marriage each one of the marrying parties declares whether he/she will retain his/her family name or will adopt the family name of his/her spouse or will add the family name of his/her spouse to his own (both family names are official and will be linked with a hyphen). The name of the other spouse by which he/she is known in society may be taken or added as a family name. The children of one and the same parents are entered with same family names.

The court may decree after the divorce, that one spouse may retain the name of the other spouse if the latter agrees to that. Where one of the spouses has become known with the name of the other spouse the court may decree that he or she may continue to bear the same name. With an intervening change of circumstances the former spouse is entitled to request the other spouse to discontinue the use of his name. When marriage is cancelled or declared non-existent the former spouses return to their original family names before the marriage. The widower/widow retains the marriage family name.

Upon full adoption, the father's and family name shall be determined on the basis of the adopter's name. In case of partial adoption, the father's and family name may be changed by the court at the adopters' request. If the child has attained 14 years of age, the child's consent is also required. When adoption is terminated by the court, the adopted person shall have his/her name restored as it was prior to adoption. With the consent of the adopter or under compelling circumstances the court may allow the adopted person to retain the name given at adoption.

b) Name Change

A name change is available to Bulgarian nationals only. A person who has acquired or restored his/her Bulgarian citizenship may, at his/her own request, adopt a father's or family name with the suffix *ov* or *ev* and the appropriate gender inflection or be allowed to change his/her father's or family name accordingly, as well as to render his/her given name to sound more Bulgarian under the summary proceeding rules of the Civil Procedure Code. These proceedings are exempt from state fees. These changes of the names shall be written in the decree of the President of the Republic of Bulgaria with which Bulgarian citizenship is acquired or restored.

Bulgarian citizens whose names have been forcibly changed can restore their previous names at their own request. The restoration of names is made with decision of the civil status official acting at the written application of the requestor following notary certification of the latter's signature. The official's decision may be appealed by the parties concerned and by the prosecutor under the rules of the Administrative Procedure Code.

Between 1990 and 1993, citizens whose names were changed by force under the communist regime were given a possibility to retain their previous names by a simplified administrative procedure. Parents were also able to change the names of their children. While being more complicated in the times thereafter, since 2001, again, an administrative procedure exists for this purpose. Currently, one of the questions that remains open is the restoration of forcibly changed names of deceased persons as it is not always easy for persons, whose names were forcibly changed, or for their heirs, to establish the correspondence between the original names, which were forcibly changed and the names now being restored.

In addition, Art. 19 (1) of the Law on the Civil Registration provides that the “change of the name, father's and family name can be done when the name is demeaning, insulting, socially unacceptable and in the cases when other important reasons deem the change necessary”. The procedure for the change of the name is set forth in Para. 2 and in the Code of Civil Procedure. The application must be filed with the District Court, which takes a decision validating the name change. There is no limit to the number of name changes. In practice however, it is very difficult for Bulgarian citizens to have their names changed other than in the context of the acquisition of citizenship or the restoration of prior names as these exceptions are construed narrowly. The cost for a name change is BGN 15,00 (€ 7,67).

c) Minorities

Bulgarian citizens belonging to minorities may use their surnames (patronyms) and first names according to the tradition of their minority culture and these names are officially recognized.

CY – Cyprus

1. Civil Status Registration System

The civil status registration system in Cyprus is event based.

Greek and Turkish are both official languages of Cyprus, but de facto Greek is used in the government controlled area of Cyprus, whereas Turkish is used in the occupied area. Prior to 1989 English was also used as a legislative language and in court.

The Republic of Cyprus has a population of 855.000 (2006) and is divided into six districts: Nicosia (the capital), Famagusta, Kyrenia, Larnaca, Limassol, and Paphos. The districts are divided up into municipalities.

a) Registry Office and Staff

A specific service in charge of the civil status exists, directed by a chief officer as the head of the civil status, named by the Council of Ministers. He is responsible for the areas of the island where the census could be carried out. Since 1974 a part of the territory is under Turkish occupation. Responsible for the civil status registration are subordinated civil servants of the general administration:

- the Inspector Registrars (Prefects, which in each province is also the administrative superior); and
- registrars (who are the presidents of the communal authority).

The chief officer as the head of the civil status is also the head of the Service of the Recording of the Inhabitants.

Death and birth registration of Cypriot citizens abroad are entrusted to the consular officers of the embassies of the Republic. They are also authorized to celebrate the marriages between two Cypriot nationals or a Cypriot national and a foreigner.

Control and monitoring of the civil status is in theory exclusively administrative. Nevertheless, each citizen has the possibility to appeal to court and file cancellation or to lodge a complaint with the mediator. The control and the monitoring of the services of birth and deaths registration and of the service of the recording of the inhabitants is exerted by the chief officer as the head of the civil status, who is responsible to the Council of Ministers and the Minister of Interior Department.

Civil marriages are recorded in an electronic central register held by the Ministry of Justice, which controls the procedure of recording and certification; it should be noted that the recording of the marriages, celebrated in Cyprus between Cypriotes and foreigners is carried out by the Officer of Immigration. The church weddings are recorded in a register of the church weddings held by the higher ecclesiastical authorities. All these registers contain the same indications.

The registers of the births, marriages and the deaths can be the subject of a correction by the registrars after checking that all the premises are fulfilled. It is in theory difficult to make modifications in the registers of births and deaths as they are presented in the form of medical certificates signed by the doctor. Nevertheless, in the event of adoption, a copy of the judgement is joined to the birth certificate and, in certain particular cases, the Inspector Registrar will be able, following a declaration of the judge or a affidavit of the applicant, to carry out their correction; for example, in the event of change of sex. Corrections are made on the corresponding page of the register, the reference documents (e.g. the judicial declaration) are recorded in a separated register. The reference is mentioned on the page of the register where correction was made.

Documents delivered from the registers are extracts and integral copies. Extracts are delivered at the request of any interested party. The delivery of integral copies is not possible except for the purpose of a legal procedure or police information (or in similar circumstances).

Consultation and access to the consultation of the registers is not free. Elements of the registers can be used for administrative purposes by the Social Security and Ministry of Labour, the Ministry for Education, the Service of Statistics or the Service of Recording of Inhabitants.

b) Legalisation/Translation

The registry office does not accept documents, which are not duly certified. In principle, the documents coming from foreign countries intended for use in Cyprus must be legalized by the respective foreign country or bear an Apostille, where applicable.

Cyprus has agreements with Belgium, Hungary and Croatia for mutual recognition of documents without any further legalization formalities. Between Cyprus, Malta, Ireland and the jurisdictions of the U.K., common law tradition does not require legalization of documents.

Cyprus is also party to the Convention abolishing the legalization of documents in the Member States of the European Communities, signed at Brussels on 25 May 1987 along with Belgium, Denmark, France, Italy, Latvia, and Ireland, which exempts public documents from the procedures for certifying the authenticity of signatures, seals, stamps, etc. And Cyprus is party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers which exempts from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

In Cyprus, the Apostilles are issued by the Ministry of Justice and Public Order, which verifies the authenticity of the signature, the capacity in which the person signing the document has acted, and the identity of the seal or stamp which the document bears by examining the specimen signatures of the officers of the Republic of Cyprus signing the public documents and specimen seals which are retained in its possession for the purpose of such examination.

The Apostille is placed on an 'allonge'. In the event where the public document consists of multiple pages, the Apostille is issued on the place where the signature is. The system used for the issuance of an Apostille is mechanical.

Apostille can be requested either by the person, who has signed the document or the bearer. It can also be requested in person through post with addressed letter to the competent authority enclosing the document for which the Apostille is requested.

The fee payable for the issuance of an Apostille is the fee determined by the Council of Ministers' Order, published at the Official Gazette pursuant to s.6 of the Ratification Law 50/72. Pursuant to s. 6 of the Ratification Law 50/72 the fee payable is the fee of 1,17 € (for stamps) unless it is otherwise determined by order of the Council of Ministers published at the Official Gazette. The total process generally takes 3-4 minutes.

c) Foreign relations

Cypriot civil status registrars do not transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Some Cypriot civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States but these are not recorded.

d) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Cypriot citizens can obtain from Cypriot foreign missions. There is no obligation to officially register one's permanent abode abroad.

Cypriot consular officials assume only limited duties of those which are reserved for registrars in their country. The Cypriot consular offices register the birth of their citizens abroad and issue a birth certificate. Cypriot consular officials offer assistance to obtain civil status certificates (birth, marriage and death) for Cypriot citizens and for citizens of other countries from civil status registries in Cyprus. They do not issue other civil status certificates or a certificate of no impediment. The diplomatic and consular officials are not authorised to celebrate marriages. Experience shows that the applicant must be prepared for long waiting times (three months or more is not uncommon). A fee is payable for procuring civil status documents.

e) Law

Marriage Law 104(I) of 2003; Constitution of 1959; Birth and Death Registration Act of 1973; Nationality Act of 28.06.1967; the Statute Laws of Cyprus: Marriage Law of Turkey of 29.01.1951 (Chapter 339); Adoption Law of 16.06.1954 (Chapter 274); Custody Law of 3.01.1936 (Chapter 277); Legitimation Law of 22.04.1955 (Chapter 278); Church of Cyprus Charter.

f) eGovernment

Online Services for Citizens

Portal

The Government portal <http://www.cyprus.gov.cy/> is an institutional website as well as an entry point to public information and services. The portal is accessible by anyone; however, certain eServices require user ID and password. The portal will also incorporate transactional capabilities, when the "government gateway" middle tier will be put in place. The Government Gateway is anticipated to be in operation by mid 2009.

eIdentification

The Cyprus Government intends to introduce electronic identification /authentication (eID, smart cards) for public services, in cooperation with the other EU Member States, in order to realise seamless access to public services across borders.

Website

<http://moi.gov.cy/>

Civil Status Certificates

The Civil Registration System, which will provide services through the web regarding birth/marriage certificates, passports issuing, etc., is expected to be available by 2009. The signed application form accompanied by related certificates must be submitted in hard copy. This service cannot yet be completed electronically because eSignatures have not been implemented.

2. Republic of Cyprus - Birth

a) Birth

The parents or the doctor or midwife are usually the persons who should declare the birth within 42 days (or up three month) at the registry office of the District Administration Office. Certificates of birth are issued at all District Administrations. Application forms for the registration of the new-born babies are filed after the proper completion and signing by the physician (who performed the delivery) of a copy of the application which is kept in the records of the hospital/clinic where the child was born. A second copy is sent by the hospital/clinic directly to the competent District Administration and a third copy is issued to the parents of the child so for purposes of submission to the competent District Administration for the final registration of the newborn in the Births Register. The registration of the child may be made at any Office of the District Administration irrespective of the child's place of birth. Birth certificates can only be issued if the citizen's particulars stand registered in the Civil Registration System.

Stillbirths are not registered within the civil registration system in Cyprus. Generally speaking, a stillbirth is the product of a birth that shows no signs of life during and after the whole process of being born.

b) Birth Record

The birth record indicates characteristics about:

- medical assistance and place of the delivery;
- the child's name, sex, date and place of birth;
- personal identification number of the child and the parents
- legitimacy, born alive or stillborn, multiple or singleton and birth order;
- name, nationality, address, occupation, date and place of birth of the parents;
- each parent's place of origin or place of exile, community (Greek/Turkish), religious group, religion and parish
- marital status of the mother, birth order of child in same marriage, and in total
- marriage date of the parents
- grandparent's data

c) Documents

The following documents are required for any registrations of births made after expiry of the period of three months from the date of birth as prescribed by the Law:

- statutory declaration on a prescribed form;
- completed form of registration of birth.

d) Cost

A duty of € 0,85 is to be paid for a certificate if the registration has been made within the prescribed time frame.

For the registration of a birth within a period of three to twelve months the amount of € 8,54 is paid. After the lapse of twelve months from the date of birth a fee of € 25,62 is levied.

For the re-issue of certificates of birth from consular authorities, it is necessary to issue a new consular certificate of birth by the Immigration Officer. The fee to be paid is € 3,41.

e) Recognition

Paternity can be established by a court judgement or by the voluntary process (by affidavit of both parents before the Registrar of the Family Court), as provided by L. 187/91, or by subsequent marriage.

3. Republic of Cyprus - Marriage

a) Marriage

The contracting of civil marriage in Cyprus is valid since 1923. A religious marriage has civil effects. There is no legal recognition for same-sex partners.

In relation to civil marriages between members of the Greek and the Turkish community, remedial legislation was enacted on the advice of the Attorney-General, first in 2002, (Law 46(I)/2002) and then in 2003 (The Application of the Marriage Law 2003 to Members of the Turkish Community (Temporary Provisions) Law, 2003 – Law 120(I)/2003) in the context of reaching friendly settlement in an individual recourse concerning the matter (Friendly Settlement Judgment of 16.7.02 in the case of Selim v. Cyprus). Under said legislation, pending the abnormal situation, members of the Turkish Community can now (since 2002) contract civil marriages in the Government controlled area of the island. These, like all civil marriages, are performed by Mayors acting as marriage officers under the Marriage Law, 2003 (Law 104(I)/2003) the Law governing civil marriage in Cyprus. Under that Law, members of the Turkish Community can also have a religious marriage ceremony, performed by a registered minister of the religion, sect, or body, to which the parties belong.

b) Personal Requirements

Persons desiring to have their marriage celebrated in Cyprus under the provisions of the Marriage Law 104(I) of 2003 may apply personally, to the Marriage Officer of the Municipality of their choice. The procedure is simple and Cyprus has a significant number of couples who come from abroad to celebrate their marriage in Cyprus and combine this event with holidays. Almost two thirds of the marriages in the Republic of Cyprus are by foreign residents.

Theoretically there is a residency requirement of 15 days for foreign nationals in Cyprus before a Marriage can take place. In practice it is easy to get a waiver from this requirement by seeking a special marriage licence which allows the marriage to take place within 2-3 days of application, and by paying an extra fee. Future spouses must show evidence that they will be in Cyprus for a minimum of 14 days, which can be after the wedding.

A person who has attained eighteen years of age is of age to marry. If either party to the intended marriage, not being a widower or a widow, belongs to the Greek community and under eighteen years of age (16 or 17 years), written consent of the parents, or if both are dead or incapable of consenting, of the lawful guardian of such party, must be produced to the Marriage Officer on their application. If the person belongs to the Turkish community and is under eighteen years of age (16 or 17 years), the written consent of the father, or if he is dead or incapable of consenting, of the mother or, if both are dead or incapable of consenting, of the lawful guardian of such party, must be produced to the Marriage Officer on their application. The age limit can be waived for Greeks by the church or for Turkish people by the tribunal.

A marriage is contracted between a man and a woman. Relatives cannot marry, i.e., a marriage may not be contracted between direct ascendants and descendants, adoptive parents and adopted

children, or between children adopted by the same person and between relatives to the 3rd for Turkish people and to the 5th degree for Greeks.

c) Preliminary Procedure

Persons desiring to be married in Cyprus, under the provision of the Marriage Law, Cap. 279 shall apply in person to the Marriage Officer at the Municipality of their choice in order to go through certain formalities which are necessary prior to their marriage such as:

- to give notice of marriage.
- to apply for a special licence.

In the case of notice, the marriage can take place after the lapse of 15 days or until the expiration of three months from the date of issue of the notice. If, for any reason, the marriage is not celebrated within 3 months, the notice given and all consequential proceedings are considered to be void.

d) Documents

The couple is required to produce:

- Legal identification in the form of passports and birth certificates is required. Passports must be 10 year passports with a minimum of 6 months left to run.
- Completion of a joint application called “Notice of Marriage” indicating that both parties to the marriage wish to marry each other and containing their particulars on the basis of their passport.
- A declaration on oath or affirmation before the Marriage Officer that they know of no impediment or other lawful hindrance to their marriage.
- An official certificate by each party that they are not married. If the Marriage Officer has any doubt about the accuracy or genuineness of the certificate, or if such certificate cannot be obtained from the country of origin, the couple may be called upon to make a sworn declaration before the Registrar of a District Court that they are single and have never been married before or are otherwise free to marry.
- Divorcees have to present the “Decree Absolute” of their dissolved marriage; widowed persons have to present the “Certificate of Death” of their late partner. Also they have to make a declaration on oath (affidavit) that they have not married again since then.
- In case of a minor, a written consent is necessary.

A request may be made for relevant documents which are not in Greek, English or Turkish to be translated into one of those languages and certified as true copies. In such cases, the parties concerned (the couple) must also furnish the originals of the documents in whatever language they were issued.

e) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in Cyprus. If a Cypriot citizen intends to get married abroad he/she may have to produce - in addition to other documents - an Cypriot certificate of no impediment. This certificate is not issued in Cyprus. Greek-orthodox citizens may be issued a single status certificate by the local clergy but this document is not treated as a certificate of no impediment by other countries.

f) Marriage Ceremony

A civil marriage may be celebrated either by the Marriage Officer, or by a Registered Minister of Religion at his church. In this case all the same procedure should also be followed at the municipality, but the religious ceremony can be held at a church.

For purposes of performing civil marriages the Mayor (or a member of a Municipal Council appointed by the Mayor) of each Municipality are considered as Marriage Officers. While most civil weddings take place in the local town hall, they can take place in any venue that has been licensed by the local Mayor. A civil marriage may be celebrated either by the Marriage Officer, or by a Registered Minister of Religion at his church. In this case all the same procedure should also be followed at the municipality, but the ceremony can be held at a church. All necessary arrangements with the Registered Minister and the church should be carried out by the interested persons. The ministers of any religion or any other denomination must be registered/recorded in a special register kept by the Ministry of Interior.

g) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- marriage date,
- place of marriage,
- surnames before marriage,
- home address,
- religion,
- age,
- place of birth,
- country of birth,
- nationality,
- marital status,
- number of previous marriages.

h) Cost

Prescribed fees: € 128,14 In case of urgency, however, or if they so wish, the interested persons may apply to the Marriage Officer to fix an earlier date, by paying advance fees. In this case, the marriage can be celebrated within 2-3 working days. Prescribed fees for this case: € 281,92

The couple is supplied with a certificate of marriage by the Marriage Officer, but if they want to secure one or more certified copies of the certificate they can apply to the Marriage Officer or to the Ministry of Interior. Prescribed fees: € 13,66 for each certified copy.

Any person who wilfully makes or inserts any false statement in any declaration, certificate or other document required by Law to be made or issued is liable to imprisonment.

If either of the parties to the intended marriage is a subject of a foreign country having an Embassy or a Consulate in Cyprus, the Marriage Officer shall forward to the Embassy or the Consulate of such country in Cyprus a certified copy of the certificate of marriage.

i) Divorce/Separation/Annulment

If the marriage was celebrated in church, the competent bishop must be notified before divorce action can be taken. This is not required if divorce is sought on grounds of a spouse declared missing, presumed dead, or on grounds of insanity. The term “legal separation” does not exist in Cypriot family law. The application for annulment must be made within three years of the marriage. From the date of the annulment decision the marriage has no effect. An application for dissolution or annulment of marriage must be submitted to the Family Court of the Province where the parties live.

4. Republic of Cyprus - Name

There is no legal provision regulating the first name.

A child, born in wedlock, is given the surname of the parents. If the parents have different surnames, the child is given the surname of the father or the mother upon their agreement. Not all children from the marriage must bear the same surname. A later name change of the parents or name-giving parent has an effect on the surname of the child only on request.

A child, born out of wedlock, is given the surname of the father if he has recognized the child. A later name change or marriage of the name-giving person has an effect on the surname of the child only on request.

Upon adoption the surname of the adoptive person is assigned to the adopted child. An adopted child may also retain the previous surname or may add to its surname the surname of the adoptive parent.

There is no legal provision, which name the spouses should assume at a marriage. It is very common for the wife to take on her husband's name. Originally the Greek language provided for the wife to take on a female form of the name of her husband, and some women still do, but others take on the name in its original (male) form or keep their own name.

If Turkish law is applicable, upon marriage the wife takes the surname of the husband and all children from that marriage bear the father's surname. Upon paternal recognition children bear the surname of the father. Divorce has no consequences with regard to change of name.

a) Name Change

A change of name is made by declaration in front of a registrar for Greeks. Turks need a court decision.

CZ – Czech Republic

1. Civil Status Registration System

The civil status system in the Czech Republic is event based.

The official language is Czech and all civil status acts are performed in Czech language.

The Czech alphabet is a variant of the Latin alphabet. There is a normal and an extended alphabet which includes diacritical signs. The standard "Czech alphabet" consists of 27 graphemes. The letters Q and W are used exclusively in foreign words, and are soon replaced with K and V once the word becomes "naturalized". The letters with háček and acutes are usually treated as variants, hence their exclusion from the standard alphabet. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-2, Microsoft Windows code page 1250, IBM PC code page 852 and Unicode.

The Czech Republic has a population of 10.306.709 (2007) and is used to be divided into seventy-three districts (okresy, sing. okres); three statutory cities with the status of districts (Statutární;sta, sing. Statutární) Brno, Ostrava and Plze; and the city-district-region of Prague (Hlavni;sto Praha). Since January 1st, 2003, the regions have been divided into around 203 Municipalities with Extended Competence (unofficially named "Little Districts" (Czech: 'malé okresy') which took over most of the administration of the former District Authorities. Some of these are further divided into Municipalities with Commissioned Local Authority.

a) Registry Office and Staff

A registry is the government's way to keep track of births, marriages, and the deaths of private individuals in the Czech Republic and of Czech citizens outside of the country. The 1224 Registry offices operate under the auspices of municipal offices, the offices of the Prague municipal districts, district offices of other cities and the offices servicing the military zones designated by the Ministry of the Interior. A municipality (6248 in the Czech Republic) is the first territorial unit of self-government and performs state administration in certain matters. The scope of responsibilities is different for different types of municipalities. Some municipalities exercise simple delegated competences, while others are also in charge of the register of births, marriages and deaths. A third group are municipalities within a given administrative district and with an authorised municipal office which are conferred additional powers for performing tasks on behalf of smaller municipalities which have neither the necessary staff nor equipment. Municipalities with extended powers, on which a significant part of district authorities' powers has been transferred, perform the widest range of state administrative duties. The 19 statutory cities and the capital Prague have a special status and their territory is divided into city districts.

The registrar must graduate from the so-called "specialised middle school" or may have a university degree. Afterwards the registrar to be is trained and has to prove his/her specific skills in a "Registrar examination". The salary is calculated on bases of a schedule for state employees. It is paid monthly.

All registry offices are equipped with computer technology and the system is fully computerized. Hard copies are kept of all acts and deposited in the archives. Accordingly registrars work with a computer system and folios.

The performance of civil status acts and the behaviour of registrars can be the subject of appeal. Proper authority is the senior registrar at the registry office, who may give direct orders regarding the specific matter. Against the decision of the senior registrar, the person may appeal to the Ministry of the Interior. Against the decision of the Ministry of the Interior, legal action can be filed at the court.

The special registry office in Brno records births, marriages and deaths which occur on a ship, an airplane or territory outside of the Czech Republic, including diplomatic agencies of the Czech Republic and places which are not subject to the powers of any particular state.

b) Civil Status Records

The registry consists of the following sub-registries – the Birth Registry (which maintains the database of births), the Marriage Registry (maintains the database of marriages), and the Registry of Deaths (which maintains the registry of deceased individuals). The registry databases are also used to store other information (changes and revisions to the existing entries). The entries contained in the registry databases are used to issue registry documents (birth certificates, marriage certificates, death certificates and registered partnership certificates).

Clerical errors in spelling, data etc. can be corrected by the registrar. Grave errors or acts regarding citizenship are corrected on decision of a superior authority or court.

c) Archives

The system of Czech archives has currently three levels of public archive: State Central Archive, State Regional Archives and State District Archives. The State Central Archive administers the documents of central statistical bureaus and institutions from their beginnings to the present day. State Regional Archives are distributed according to the regions as in the year 1960, with an adjustment to the year 2002. The following archives are included in this category: the State Regional Archive in Prague, the State Regional Archive in Třeboň, the State Regional Archive in Plzeň, the State Regional Archive in Litoměřice, the State Regional Archive in Zámrsko, the Moravian Regional Archive in Brno, and the Regional Archive in Opava. These bodies care for the documents of trans-regional and regional institutions and bodies, including the prominent family archives of the aristocracy, monasteries, and bishoprics. Most commonly sought in such places is the regional collection of the registry office. State District Archives have formally been a part of the State Regional Archives since 2002, but are the clearly detached units of these archives with a limited archive fund. However, these are classified in the directory according to their membership of a State Regional Archive. The State District Archives care for documents of a district and local nature, and in particular the documents of public authorities at this level, the municipal archives, the documents of the Roman Catholic Parish Offices, and school documents. In addition to these public archives there are independent archives in the 5 largest cities in the country (Prague, Brno, Ostrava, Plzeň, and Ústí nad Labem). This final category mainly includes significant historical church archives.

d) Foreign relations

Some Czech civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and some registrars also of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Czech civil status registrars do not receive information about civil status acts and changes of their own citizens.

e) Consular Service

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Czech citizens can obtain from Czech foreign missions. Czech citizens are *advised* to register births, deaths and marriages that have occurred outside the Czech Republic as soon as possible after the events occur but such registration is not compulsory. The conclusion of a registered partnership or the divorce of a marriage may also be registered.

Czech consular officials generally do not exert the functions of a civil status registrar. The Czech consular offices abroad transfer acts drawn up abroad of which they are informed to the Special Registry Office in Brno. The role of the missions abroad is normally to report changes in the status of nationals (birth, registered partnership, marriage, divorce, death) which have taken place abroad to the Special Registry Office. Czech consular officials offer assistance to obtain civil status certificates (e.g. birth, marriage and death) for Czech citizens from Czech Republic. These applications are then forwarded to the relevant offices in the Czech Republic for processing. A civil status certificate issued by the competent authority of the host country can be obtained only in exceptional cases when a Czech citizen applies for a civil status certificate through the Czech Foreign Ministry and the Ministry authorizes the consular offices to obtain it. Czech consular

officials do not issue civil status certificates or a certificate of no impediment. The diplomatic and consular officials are not authorised to celebrate marriages.

At the Consular and Legalisation Department of the missions of the Czech Republic, a person can *inter alia* request legalisation of documents and lodge an application for a Certificate of Czech citizenship. If a child is born abroad to a Czech citizen, he/she should send to the next mission a self-addressed and prepaid envelope (format A4) together with a letter stating that he/she would like to have the application forms needed for registration of the birth and an application for the Certificate of Czech citizenship for the child. The applicant must also state whether the child was born in or outside marriage. Czech citizens, who have solemnized a marriage abroad, should send to the next mission a self-addressed and prepaid envelope (format A4) together with a letter stating that he/she would like to have the application forms needed for the registration of the marriage. The applicant must also state whether he/she would like to change the surname upon this marriage.

f) Legalisation/ Translation

The registry office does not accept documents which are not duly certified. In principle, the documents coming from foreign countries intended for use in the Czech Republic must be either legalized by the respective foreign country or bear the Apostille. An Apostille costs CZK 100,00 (€ 3,98). In addition, the Czech Republic has treaties with Austria, Hungary, Croatia and Switzerland for mutual recognition of documents without any further legalisation formalities. The Czech Republic is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, Parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

All documents and written materials in other languages must be submitted in the original version, accompanied by a court certified translation into Czech. The lists of court certified translators and interpreters are available at each Regional Court (in Prague at the Municipal Court) or on the Internet at <http://www.justice.cz>. In accordance with the Code of Administrative Procedures, the individuals participating in the proceedings may also communicate and submit written documents in Slovak.

The Czech consular service also provides for authenticity of signatures of persons signing a document before the officer of the Czech mission, of the authenticity of copies and transcripts and of the correctness of translations bearing an official stamp or seal and official note of the foreign translator into or from the Czech language. Costs are € 8 per authentication of signature and € 10 for per every page of a copy or translation.

Czech Apostilles are issued either by the Ministry of Foreign Affairs or by the Ministry of Justice in Prague. For documents originally in Czech, Apostille is issued by the Czech Justice Ministry for judicial documents, and by the Czech Foreign Ministry for other documents. Very rarely, Czech authorities may require an Apostille to be attached to an original English document. According to Act 368/1992 Coll. on administrative fees an applicant is obliged to pay 100 CZK.

g) Documents

The registry office issues certificates only of the respective records of the own register, or allows access to partial register, or collection of lists and permits to make copies of an entry in the presence of a registrar

- to natural person, to which the record is related, or to member of his/her family, his/her siblings and authorised agents,
- for official demands of state organs,

- to authorised representatives of churches or to clergymen, who are authorised by them, in the case of partial registers that used to be kept by these churches until 1949.

In the case of an adoption, only the adoptive parents and the adult adoptee may access the record. Literal copy or photocopy of an entry in the registers will be issued only for official demands of state organs.

Upon presentation of formal proof or statement of the reason for obtaining a document, the application for a document can be made in person, by mail, by power of attorney to a licensed attorney at law, through Czech consular offices abroad and through foreign consular offices in the Czech Republic.

All documents are issued within 30 days after filing the application but usually they are issued within hours or days.

Documents issued by the registry office cost CZK 100,00 (€ 3,98) per copy. The inspection of the register costs CZK 20,00 (€ 0,80) All costs must be paid in cash or by credit card. Recognition is free of charge.

h) Law

Civil Code No. 40 of 26.2.1964; Act on the Family No. 93 of 4.12.1963; Act on Registers, Names and Surnames No. 301 of 02.08.2000; Decree of the Ministry of Interior on the Act on Registers, Names and Surnames of 08.06.2001; Czech Nationality Act No. 40 of 1993; International Private and Procedure Law No. 361 of 2004; Registered Partnership Law of 15.03.2006

Current versions of the texts of the legislation are available. <http://portal.gov.cz> (Czech)

i) eGovernment - Online Services for Citizens

Portal

The Public Administration Portal (www.portal.gov.cz), developed and administered by the Ministry of Informatics, was launched in October 2003. In October 2004 the testing period ended and regular operation began. It serves as a single gateway to the electronic official world of the Czech Republic for citizens, businesses and institutions, allowing them to communicate with public administration entities. The Portal concentrates all necessary information on central and local government authorities in one location, ensuring remote and free access to up-to-date and approved information and services of public administration bodies, including electronic transactions.

Public Administration Intranet (IVS)

A government-wide network called Public Administration Intranet (Intranet Veřejné Správy) is currently being built. The IVS is meant to enable the interconnection of all public administration bodies (ministries, central administrations, regional authorities, municipal offices, labour offices, revenue authorities, public libraries, etc.) and to ensure secure and cost-efficient data and voice communications as well as access to central information resources. The Czech Republic has created a law of Data Sharing between Administrative Bodies. The main intention of this law is to set common rules for data sharing between public authorities, to provide a more effective administrative system and to eliminate the administrative burden from citizen site. Therefore, the law also foresees a closer incorporation of the three main registers, in particular the Central Register of Residents, the Register of Companies and the Register of Land and Addresses.

e-Identification infrastructure

There is no central eIdentification infrastructure in the Czech Republic. Access to some transactional electronic public services is currently based on electronic signatures. Identities are managed based on personal identification numbers (or birth registration number). Every citizen has got a unique personal identification number which has been issued by the Ministry of Interior. It is given to all Czech citizens at birth and it is based on the citizen's date of birth plus a special number making the resulting personal identification number unique. The number is recorded on the birth certificate and is valid for life and cannot be changed unless under certain special circumstances. Foreigners receive this number upon registration for resident permit. The personal identification number together with other significant data of a citizen, such as name, surname, maiden name, date and place of birth, sex and nationality, are held in central and regional registers.

Civil Status Certificates

Currently information only about civil status certificates is available online. Requests and issuance of certificates are handled by the registry offices of the municipalities. Only a few of them provide downloadable certificate application forms.

2. Czech Republic - Birth

a) Birth

Within three working days, the birth of children born in a hospital or other healthcare institution must be declared by that institution. If the child is born outside a hospital or health-care institution, the parents or the medical personnel who assisted in the delivery must declare the child. In addition, any person who notices the birth of a child is obliged to declare it if the parents or the medical personnel fail to do so. If the birth is declared by the mother the legal deadline is three working days after she feels capable to do so. No consequences are envisaged by the law in case of a delayed declaration.

The following documents need to be presented:

- birth certificates of both parents if known
- declaration of paternity
- marriage certificate if married
- mutual declaration on the names of the child
- identity document or residence permit in case of a foreigner

In some special, not further specified cases, the documents can be substituted by a declaration on oath.

Stillborn are registered in register of births on the basis of a written declaration by either the medical institution or the mother. A child medically recorded alive at birth but dying before registration is also registered in the register of births.

Notification of the child's birth is made to the registry office competent in the district (or town) where the birth has occurred. The registrar will register the newly born with the Birth Registry, issue a Czech birth certificate (which will be later handed to the parents by the registrar) to the infant and inform the Citizen Registry Department. In order to have the child's birth certificate recognised by the state of origin (or by the state of permanent residence of the parents), foreign citizens and foreign residents must have the child's birth certificate, once issued by the registry office, translated by an official interpreter and have the birth certificate verified by the city council.

After that, the parents must address the diplomatic mission of their country (and if that country has not established an embassy or consular section in the Czech Republic, the Czech Ministry of Foreign Affairs must be addressed) in order to have the child entered in the parents' passports or to have the child's passport issued and/or the entry visa or residence permit for the country of permanent residence.

b) Birth Record

The birth record indicates characteristics about:

- personal identification number
- legitimacy
- if born alive or stillborn
- if singleton or multiple birth, and in case of the latter, the birth order
- birth weight and length at birth
- the declaring person's name
- child's sex, name, place and date of birth
- marriage date and duration of the marriage of the parents
- pregnancy duration
- name, age, place of birth, address, nationality of the parents

c) Recognition

The woman having delivered the child is the child's mother. A certificate of maternity is not issued.

The father of the child is the mother's husband, if the child is born in the period starting from the beginning of the marriage and ending upon the expiry of three hundred day after the end of the marriage or after the marriage was declared invalid. Otherwise, the child's father is the man whose fatherhood has been ascertained by a concerted declaration by the parents made before the registry office or a court (Section 52 (1) of Act No. 94/1963 Coll.).

The man whose fatherhood has been determined by a concerted declaration of the parents may deny his fatherhood before a court only if the possibility of him being the father is ruled out; the man may deny his fatherhood within six months of the day he was identified as the father. This period may not expire before the end of a six-month period following the child's birth. The mother may also use this period to deny the fatherhood of the man whose paternity has been determined by a concerted declaration of the parents.

If fatherhood has not been determined as described above, the man and the woman may apply for a court decision in this matter. In that case, the man who demonstrably had sexual intercourse with the child's mother in the relevant time period is considered the child's father. An application for establishing paternity (paternity suit) may be filed by a child represented by a collision custodian, or a mother, or a man purporting to be the child's father, or the application may be filed in joint action. In establishing the paternity, the court bases its assumptions on expert assessment; documentary evidence or witnesses hearing may be used in support. In Czech judicial practice, paternity is being established on blood test basis only exceptionally. Experts rather use molecular genetics methods, e.g. by DNA analysis of samples taken from oral cavity mucous membrane of the man identified as the child's father.

3. Czech Republic - Marriage

Since 1992, there is a choice regarding the form of concluding the marriage: both civil and religious solemnisations are available. To date, there have never been serious contemplations in Czech society to allow same sex marriages.

The very new Act on Registered Partnership (2006) allows same sex couples to formally register, but does not stipulate neither personal rights nor property rights between registered partners. The partnership registration takes place in the presence of an employee of the registry office and it is the registry office that decides which premises should be used for this act.

a) Religious Marriage

Religious ceremonies held after civil weddings have no legal consequences. If a religious marriage is contracted first, it may be impossible to contract civil marriage later (Section 10 (1) and (2) of the Family Act). There have been discussions towards the re-introduction of an obligatory civil ceremony in 1998, but until now the dualism remains. However, regarding the church wedding, there is a kind of supervision from the part of the state (since 1989): as there is an obligatory pre-matrimonial preparatory proceeding in front of the state body (civil registrar). The capacity to conclude marriage (for instance the age, legal capacity) and possible legal obstacles (for instance other marriage or registered partnership, consanguinity) are investigated and a certificate is issued for the purpose of the religious marriage ceremony. Within three working days the priest is bound to deliver the record of marriage solemnisation to the register office in the district of which the marriage was contracted. The register office will file the marriage contracted in the marriage register and issues marriage certificates to the married couple.

b) Personal Requirements/Impediments to Marriage

Marriage is defined by law as a permanent cohabitation of man and woman. For contracting marriage, it is decisive which gender sex is stated in the state register of birth. A person that has officially changed his or her sex, may contract a valid marriage with a person having an opposite sex in his or her birth certificate.

Under section 13 of the Family Act, marriage can be concluded on attaining majority, i.e., upon reaching the age of 18. Minors older than 16 may get married only with the consent of a court. Furthermore, marriage is prohibited with a progenitor or descendant or with a sibling or if the marriage has been concluded by an individual who has been legally seized of the capacity to undertake legal acts provided that, the court has not approved the conclusion of the marriage.

Other impediments to marriage are:

- if the marriage has been concluded without the court's approval by an individual with a limited capacity to undertake legal acts or by an individual afflicted with a mental disorder which would result in the limiting of his or her capacity to undertake legal acts;
- if the declaration of the conclusion of the marriage has been undertaken as a consequence of force using physical violence, of illegal threats, as the result of an error concerning the identity of one of the fiancées or concerning the nature of the legal act of the conclusion of the marriage (in this case, it is necessary to submit the proposal at the latest within one year of discovering the fact).
- if any further conditions have not been adhered to (some conditions concerning the conclusion of a marriage in a church wedding and the conditions for concluding a wedding with a representative).

c) Preliminary Procedure

Marriage is formed by mutual consent. Regarding the mutual consent, the persons to be married are bound to declare that they are not aware of any circumstances barring their marrying (age, bigamy, consanguinity, mental disease). This declaration substitutes the traditional public announcement of two persons intending to marry (banns). The law imposes the duty on the persons to be married to know in advance each others character and health condition so they can create a marriage which will fulfil its aims. The persons to be married are also bound to declare that they have considered future arrangement of their property relations, dwelling and providing the family after marrying (Section 6 (1) of the Family Act) although this declaration has no legal effects and there is no requirement to enter into any contract concerning matrimonial property or a contract concerning matrimonial cohabitation. Marriage contracts exist but need not be registered. The Commercial Code requires filing a counterpart of the notary's record on modifying the extent of the joint property in the Commercial Register Deeds Collection. The same applies for court rulings reducing the joint property. Application must be filed by both prospective spouses in person or by proxy at the registry office. If the application is rejected, future spouses may appeal to the superior authority or the court.

d) Documents

An engaged Czech citizen must attach the following documents to the marriage application:

- document certifying his/her identity.
- birth certificate.
- certificate of citizenship (may be demonstrated by an identity card or passport).
- records from the citizen registry information system regarding permanent residence and marital status (may be demonstrated by the identity card).
- death certificate of the deceased spouse, if applicable.
- legally effective ruling on divorce of the previous marriage, if applicable. If the previous marriage was divorced by a ruling of a foreign court that has no legal effect in the Czech Republic, the citizen must present a decision by the Czech Supreme Court recognising the ruling.
- in case of a minor older than 16 years, a legally effective court decision permitting the marriage,
- in case of a person with mental disability, a legally effective court decision permitting the marriage.

In case of a religious wedding, a certificate confirming that all of the statutory conditions under the Czech Family Act have been met must be obtained. A couple may not get married in a church without this certificate as the marriage would be invalid. The certificate is issued by the registry office competent in the area where the wedding is to be held.

Foreigners and Czech citizens permanently residing abroad must attach the following additional documents to the application

- a document certifying his/her identity (valid passport)
- certificate of legal capacity to contract the marriage; certificate of no impediment
- certificate of marital status and residence, if issued by the foreign state

- in case the marriage is contracted by a representative: a confirmation that the marriage contracted by a representative will be valid in his/her home state
- certificate of legal residence in the Czech Republic issued by the Czech Police, not older than seven working days. (The engaged foreigner must apply for the certificate in person at the relevant office of the Aliens Police.)

The documents issued by the authorities of a foreign country must be presented with an official translation by an authorized court interpreter into Czech and must feature the relevant verifications and legalisations unless otherwise provided for by treaty (by super-legalisation - verification by the competent Embassy and the Czech Ministry of Foreign Affairs or by Apostille. The registrar will inform the engaged couple if and which type of legalisation is required).

All documents shall not be older than three months.

If the documents may not be obtained without serious difficulties, the registry office (by the Municipal Office) may admit that some or all documents (specified in Section 48 of Directive No. 22/1977 Coll. Implementing the Act on Registers) can be substituted by an affidavit or may waive their presentation.

e) Certificate of no impediment

Foreigners and Czech citizens permanently residing abroad must produce a certificate of no impediment of the country of origin (not older than three months) if they intend to marry in the Czech Republic. If the certificate may not be obtained without serious difficulties, the registry office (by the Municipal Office) may admit that it (specified in Section 48 of Directive No. 22/1977 Coll. Implementing the Act on Registers) can be substituted by an affidavit or may waive the presentation.

If a Czech citizen, resident or a refugee with residence in the Czech Republic intends to get married abroad he/she may have to produce - in addition to other documents - an Czech certificate of no impediment. This certificate is issued by the local registry office. The cost is € 17.70.

f) Marriage Ceremony

The marriage is contracted by a free and fully consenting declaration of man and woman that they are marrying

- at a Registry Office competent in the area of the permanent residence of one of the engaged or at another Registry Office by designation of the Registry Office of permanent residence;
- before the Municipal Office or a City District Office competent in the area of the relevant Registry Office, provided that at least one of the partners has permanent residence in the area;
- before a body of one of the 21 churches or religious societies registered by the state (Section 3 (2) of the Family Act) the Ministry of Culture;
- at any Registry Office if neither of the engaged partners has a permanent residence in the Czech Republic;
- before a Czech diplomatic abroad; and
- in the case of immediate danger to life, the wedding may be performed before the captain of a Czech ship or plane or commander of a Czech military unit abroad.

The solemnisation of civil marriage must be carried out by the persons to be married before a registrar. A mayor, his representative (deputy) or an authorized member of the municipal board of

the register office in whose district permanent residence of one of the fiancées is reported may also be entitled to solemnize civil marriage. A registrar must always be present. If one or both partners do not speak or understand Czech or if one or both partners are deaf or mute, the wedding must be attended by an interpreter whose cost are borne by the marrying couple. In the above cases the marriage may not be declared valid in the absence of an interpreter. In case the wedding is attended by an interpreter who has not been appointed by the Minister of Justice or the President of Regional Court, the interpreter must take an oath before the registrar.

The marriage is declared valid in a public and ceremonial manner in the presence of two witnesses. Once the marriage has been contracted, the names, surnames and personal numbers of the witnesses (or date and place of birth of foreign witnesses without a personal number) are entered in the Wedding Book and the marriage certificate. The witnesses verify their identity by presenting their identity card or valid passport. The record in the state register is obligatory (both civil and church wedding). The register office will file the marriage contracted in the marriage register and issue a certificate of marriage to the married couple. In the course of the marriage ceremony the parties also declare that they know each other's health conditions. This declaration, however, has no legal consequences. The fact that the persons to be married did not know each others health conditions, that, e.g. one of them concealed a serious disease or disorder, has no effect upon the validity of marriage. Czech law does not require obligatory medical checks prior to marriage.

If the marriage is to be contracted before any authority other than the competent Registry Office, the Registry Office competent at the place of permanent residence of one of the partners must be notified. In addition to the required documents, a written application for a permit to contract the marriage before authority other than the competent Registry Office must be attached to the marriage application. The application is filed by one of the partners, having been granted a power of attorney by the second partner. The signature affixed on the power of attorney does not have to be verified. The application is approved or rejected by the local Registry Office in administrative proceedings. An application for marriage contracted by means of a representative is approved or rejected by the Municipal Office competent at the place of the permanent residence or the last permanent residence of one of the partners. If neither of the partners has permanently resided in the Czech Republic, the application will be approved or rejected by the City Council of the Capital City Prague.

g) Marriage contracted by a Representative

Marriage can be contracted by proxy. The representative must file an application for a permit to contract the marriage with the competent District Office. In addition to all required documents the engaged couple must attach a power of attorney to the application for permission to contract marriage with a representative. The power of attorney must contain

- an officially verified signature of the donor;
- the name(s), surname(s), maiden name, date and place of birth, personal number and permanent residence of the partners and the representative;
- declaration on the surname of the partners and their joint children in both male and female form; and
- a declaration by the donor that he/she is unaware of any circumstance hindering the marriage and that he/she is aware of the partner's health condition and that he/she has provided for future property relations, housing issues and family support after the marriage is contracted.

If the represented partner is a foreigner, a confirmation must be presented that the marriage contracted by a representative will be valid in his/her home state.

h) Formal Requirements

A record will be compiled of the wedding, which will be signed by

- the married couple, witnesses and the priest/registrar,
- the representative if he/she is contracting the marriage,
- the interpreter if his/her attendance is necessary,
- the registrar in case of a civil marriage.

Contents of the Declaration of Marriage (selected information)

The record on the marriage certificate indicates:

- marriage date
- place of marriage
- surnames before marriage
- surnames after marriage
- home address
- date of birth
- age
- place of birth
- country of birth
- nationality
- marital status
- date of divorce
- personal numbers

After the wedding, the spouses will obtain a marriage certificate on the basis of which the spouses may apply for a new identity card. Foreign newly-weds must report the change in their marital status to the competent consular department if their home country requires this. In addition, foreigners must report changes in their marital status (e.g., marriage or divorce) to the police within three working days.

i) Cost

If the marriage is established by the competent registry office, it is free of charge. If it is established by any other registry office the fee is CZK 1000,00 (€ 39,84). The amount of wedding fees may further depend on the residence status of the engaged couple. The wedding fees involving non-residents may range from CZK 600 (€ 21,23) to 2000 (€ 70,78). The fee for the issue of a certificate of legal capacity to contract the marriage abroad or with a foreigner amounts to CZK 500 (€ 17,70). The fees are paid in cash, by stamp duty or by a postal money order in advance.

j) Divorce/Separation/Annulment

Matrimony ceases to exist by death, which is to be proved by declaration issued by state registers or by declaration of the death pronounced by the court.

During the life of the spouses, the matrimony can be cancelled only by means of divorce through a court decision. The institute of legal separation does not exist in the Czech Republic. A marriage that is annulled is considered to have never been concluded from the very beginning. The marriage is considered as validly concluded in the period between the conclusion of the marriage and its being declared void. With regard to the rights and responsibilities of the spouses concerning their children and their property after the marriage has been annulled, the same provisions apply as for a divorce. The presumption of the fatherhood of the mother's spouse remains in place even after the marriage has been declared void.

A proposal for a divorce or for the declaration of the annulment of a marriage is submitted to the District Court for the district in which the couple had its last place of cohabitation in the Czech Republic, provided at least one of the spouses resides in that district. Otherwise, application is made to the District Court in the district where the second spouse lives. If the second spouse does not live within the territory of the Czech Republic, the proposal is submitted to the District Court in the district where the submitting spouse resides.

4. Czech Republic - Name

The declaration and registration of naming of the child is made before and by the registry offices or in the maternity hospital by filling-in a blank form as part of the completion of the birth entry.

Usage of first names and surnames is defined in the registration law. The law allows writing names according to linguistic usage of foreigners and of persons belonging to national minorities. The same applies to abstracts from registers. Persons belonging to national minorities have the right to use their first names and surnames in a minority language, in the form required by its usage. This right is safeguarded by Section 7 of the Minorities Act, subject to conditions set by the Registries Act. Foreign letters (e.g., Greek characters) must be written and registered according to Czech spelling and pronunciation.

The first name and the surname of a found or orphan child is chosen by the guardianship authority and determined by the court. A first name and a surname may be assigned to the stillborn child and is registered by the registry office.

Neither pen names, nicknames nor nobility titles are registered. Academic titles are registered on request.

a) First Name

The child's first name(s) will be registered with the registry office according to the concerted declaration by the child's parents. If the parents cannot agree on a first name within 30 days from the birth, the child is assigned a first name by a court. First names must be "existing" (used) first names. It is neither possible to give the children non-existent names nor change their names to non-existing ones. More than one first name may be given to the child. A first name must reflect the gender of the child and can be of foreign origin. A child must not have the same name as a sibling.

Only ridiculous or discriminatory first names are refused and those which are exclusively surnames and which could harm the rights of a third party. If the registrar assumes the existence of one of the aforementioned cases, he cannot draw up the birth certificate and must inform the state prosecutor. The birth certificate being later drawn up includes the declaratory judgement.

b) Surname

Children shall have the common surname of their parents or the surname of one of them that was agreed on at the moment of entrance into the marriage. As for a child whose surname was not determined in this way and whose parents have different surnames, the parents shall agree on the

child's surname. If the parents fail to agree on the name or surname of the child or if none of the parents is known, the name or surname shall be determined by the court. If the parents enter into marriage after birth of their child, the child shall have the surname determined for their other children as agreed upon marriage. If the wife has brought a child into the marriage whose father is not known, the spouses may declare before the register office that the surname determined for their other children shall be born also by this child.

The surname of a newly-born girl must comply with the rules of Czech grammar. If the parents want their baby to have a male-form surname, they must file an application with the Registry Office.

A child born to foreign nationals which is not a Czech citizen will be given a surname agreed upon by both parents with the joint surname of the parents or the surname of one of the parents (if they have different surnames). In case of foreign nationals or a Czech citizen born to a foreign national parent, the registry office must generally approve the application for a girl not to take the female form of the surname. The same applies to members of national minorities.

An adopted child shall have the adoptive parent's surname. A child jointly adopted by spouses shall have the surname determined for their other children; the same rule shall apply if the adoptive parent is the spouse of the adopted child's mother. In case of cancellation of the adoption the adopted child shall retain his or her original surname.

The engaged couple must make a concerted declaration that the surname of one of the partners will become the joint surname of the married couple or that they will both retain their original surnames or that they will retain their original surname and one of the partners will also use the original surname as a suffix to the joint surname (a hyphen is not compulsory); if the original surname consisted of two surnames, only one of these surnames may be used (Section 8 (1) of Act No. 94/1962 Coll.) Under Act No. 301/2000 Coll. on Registers, Names and Surnames, both surnames may be used in common and official relations. The person may therefore use more surnames if he/she has acquired them under former legal regulations and if he/she may use them under the valid legal regulations, or if he/she made a declaration that the surname of his/her spouse using more surnames will be their joint surname. In addition, a person having declared, while contracting marriage that he/she would use the joint surname and his/her previous surname after the joint surname may use more than one surname. If the original surname of the person consisted of two surnames, only one of these surnames may be used after the joint surname of the spouses. A child born to persons authorized to use more surnames may also use more surnames (under Section 70 (1) (d) of the Act on Registers). A person using more than one surname may make a declaration before the competent Registry Office that he/she will use more than one surname. If the marriage exists, the declaration must be in the form of a concerted declaration by the spouses.

The Act on Registered Partnerships does not contain a provision about the alternative of a common or double surname.

Within one month after the decision on divorce is final and conclusive, the spouse who assumed the other spouse's surname may let the registry office know that he/she assumes the previous surname or that he/she ceases to use the common surname beside the previous surname.

A decision on the annulment of a marriage will incorporate declaration on the surnames of the alleged spouses void. Both spouses subsequently return to their original surnames and they do not have the right to choose their surname. The surnames of any children do not change once the marriage has been annulled.

c) Language Requirements

Surnames of women are created in compliance with the rules of Czech grammar. If required by an international treaty, the Registry Office will register the woman applicant with the registry under both the surname compliant with Czech grammar and under a surname that does not comply with Czech grammar. The woman will then choose one of these surnames and the chosen surname will be written on the registry document (Section 69 of the Act on Registers).

Under the amendment to the Act on Registers, Names and Surnames (Act No. 165/2004 Coll.) as of 16 April 2004, a woman may use female surnames without the mandatory declination according to the Czech grammar (e.g. without the “-ova” suffix) based on the application filed by a foreign woman or a Czech citizen not having Czech nationality. If a woman has her surname registered with the Registry Book according to the previous regulations (e.g. with the “-ova” suffix) she may apply for a change in the registration to the male form of the surname and use the same thereafter. The registry office will attach a note to the registry document stating the date on which the woman may use her surname in the male form. After the change, all registry documents in respect of the applicant shall be issued to her surname in the male form. No fee is charged for the entry.

d) Name Change

The existing law provides Czech citizens or foreigners with a permanent residence permit with the option to, based on an application, change the first name and surname. The application for a name change may be filed with any registry office or any Czech diplomatic mission. Naturalisation of a name in accordance with Czech grammatical principles is possible at the registry office at the place of the residence. If the application concerns a minor child, both parents have to agree.

According to Article 72 of Act No. 301/2000 a different name can be requested if the current name is ridiculous, disgraceful or if other serious reasons are shown credibly. Transsexuals may use a neutral name during the process.

After the name change a new birth certificate is issued.

e) Cost

The first name may be changed free of charge at the registry office of the birth. The charge for all name changes is CZK 1,000.00 (€ 37,36) unless the name is ridiculous or disgraceful. In this case the cost is CZK 100,00 (€ 3,98).

DE – Germany

1. Civil Status Registration System

The civil status registration system is event-based.

The official language is German (with Danish, Frisian and Sorbian as recognized minority languages). All civil status acts are performed in German. The German alphabet contains all 26 letters of the Latin alphabet. German is a language with letter-diacritic combinations that are not considered independent letters and have the Umlaut (¨). This can be used over a, o, or u to indicate vowel modification. German also retains most original letters in French loan words. German use ß. The long s was in use until the mid-20th century. Sch is usually not treated like a true trigraph, neither are ch and qu digraphs. Q only appears in the sequence qu, y only (and x almost only) in loan words. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-1 and ISO 8859-16.

Germany has a population of 82.314.900 (2006) and is a Federal Republic made up of 16 Länder (singular Land). Since Land is also the German word for "country", the term Bundesländer is commonly used as it is more specific. The cities of Berlin and Hamburg are Länder in their own right, termed Stadtstaaten (city states) and are subdivided into boroughs, while Bremen consists of two urban districts. The remaining 13 states are termed Flächenländer (area states). The area states consist of rural districts, and urban districts and cities which are districts in their own right. There are 439 districts all together. In some states there is an administrative unit between districts and municipalities. Rural districts may be subdivided into municipalities, while every urban district is a municipality in its own right. There are (as of 1 March 2006) 12,320 municipalities, which are the smallest administrative units in Germany. Cities are municipalities as well.

In the federal system of the Federal Republic of Germany, administration is constructed on three levels. The Federation, the Federal States known as "Länder" and the municipalities share the administrative tasks. Civil status registration has been regulated, in general, on the Federal level. The implementation of federal laws is principally the responsibility of the Länder Administrations. Pursuant to § 51 PStG the municipalities fulfil the civil status registration which has been allocated to them by the Federation and these form part of the "circle of allocated responsibilities". For these purposes the Federal government provides pursuant to Article 84 (2) GG "Standing Instructions" for Registrars and their Supervisory Authorities with regard to the Act on Civil Status (DA).

Each Land has special districts for civil status registration purposes and has installed several supervisory boards (Standesamtsaufsicht) charged to give legal advice, supervise, control and inspect the work of the registrars. The superior supervisory boards are the Ministries of the Interior of the Länder. Supervisory boards may be sub-units located at rural district, urban district or city administration authorities. The performance of civil status acts and the behaviour of registrars can be the subject of appeal. Proper authority is the supervisory board. Against the decision of the supervisory board, legal action can be filed at the local district court.

a) Registry Office and Staff

A Standesamt (German, plural "Standesämter") is a German civil registration office, which is responsible for recording civil status events. Today, those registry offices (Standesämter) are still part of the administration of every German municipality (in small communities, they are often incorporated with other offices of the administration). In Germany, there are 5203 registry offices, which are almost all fit with computers but the hardware is equipped with various platforms. A German registry office is divided into 5 departments. The work in each department is divided into several categories. Examples of departments are births, deaths, and marriages. Examples of categories in the birth department are registration of a birth and adoption. Altogether there are about 35 categories. In each category, legal events are processed. An example of a legal event is the registration of the birth of one child. A legal event may come in many varieties, depending on the family background and number of people involved. The varieties of the events rank from simple standard to highly complex involving international law. While many legal events are processed completely within an hour, others take weeks to be finalized. When a legal event has been processed, the output is a set of documents. Forms, required by law, must be filled out. Examples of documents are personal registration certificates, register entries, decrees, and notifications to other offices.

The main tasks of the registry offices are:

- Acceptance of applications for marriage ceremonies and performing marriage ceremonies;
- Registration of civil status events and maintaining the registers of births, marriages and deaths;

- Initial setting up and maintenance of the family register (family books)
- Maintaining the last will and testament card index (The civil registry office keeps a file of testaments. Access to this file will be given only after the death of the person who issued the testament. The file is kept at the civil registration office of the location where the testator was born.);
- Acknowledgement of paternity;
- Decision regarding official names;
- Issue of civil status certificates and certified copies from the registers;
- Give data of civil status events and their changes to several organisations (e.g. tax authority, federal statistics, residence registration offices)

In some Länder further tasks are assigned to the registry offices:

In 11 out of 16 Länder, the registry office resignation of religious affiliation to a Christian church is filed with the registry office (Mecklenburg-Vorpommern, Baden-Württemberg, Bayern, Bremen, Hamburg, Niedersachsen, Rheinland-Pfalz, Saarland, Sachsen, Sachsen-Anhalt, Schleswig-Holstein).

In 9 out of 16 Länder, the registry office was installed as the authority for the registration of a registered (same-sex) partnership (Mecklenburg-Vorpommern, Berlin, Bremen, Hamburg, Niedersachsen, Sachsen, Sachsen-Anhalt, Schleswig-Holstein, Nordrhein-Westfalen).

Approximately 30.000 civil status registrars are employed as civil servants either as lifetime employees or as employees. In the first case, most civil status registrars are remunerated according to schedule A10, comparable to a police officer. Possibilities for promotions are limited; the head of a large civil status registry office may eventually earn a salary according to schedule A12 which is the same group as a fully qualified teacher at a primary or intermediate school. The registrars and personnel in registry offices may either be experts in the field or have basic knowledge. Furthermore they have different computer skills and are assisted by clerks. In order to be appointed as registrars, it is necessary to pass a civil service servant exam. In addition a placement and a basic training of two weeks, including an exam at the Civil Status Academy, should be completed but is not regulated under any statute. It is advised to participate in regular advanced training.

The supervisory boards of the municipalities have the responsibility for organizing the basic training, supplemented regularly by advanced training but the German Federal Civil Status Association (Bundesverband der Deutschen Standesbeamtinnen und Standesbeamten e.V.) and its 12 sub-units in the Länder are the main responsible body to conduct basic and advanced training. The Association is working to facilitate the development of a professional qualification, promotes the recognition of professional-status of those working within the Registration Service, disseminates information and advice, provides a consultative body, actively seeks development opportunities, promote opportunities for the exchange of views, responds to government consultations, organises seminars and conferences and has established a website (<http://www.standesbeamte.de>). Its' civil status legal advisory board gives advice as far as legislature, points of law, instructions and recommendations are concerned. The advice is published in the civil status journal, which is issued in addition to all other paper based civil status working materials and books by the privately owned Civil Status Publishing Company. Especially the commentaries are the standard literature for the whole German-speaking area. The Civil Status Academy is located in Bad Salzschlirf. The Association is a member of the European Association of Registrars (EVS).

b) Civil records

The registry office keeps the civil status registers (Personenstandsbücher). They consist of paper-based book of marriages, book of births, book of deaths and a loose-leaf-collection for the family register or family book. A family book (Familienbuch) is considered a register on the civil status in accordance with the PStG. Regulated by law the family book contains data about the couple, about the status of their marriage as well as about their parents and children. Since 1.1.1958 the family registers have recorded every marriage in Germany. It is automatically issued by the registrar who conducted the marriage ceremony. It must be kept and maintained by the responsible registrar at the place of residence of the couple – in the case of several residences, at the place of main residence, and in case of a separated couple, by the office of the main residence of the husband. In the case of a relocation of the place of residence, the family book will be sent to the registry office at the new place of residence. A family book can also be officially applied for. However, the issuance of a family book after submission of the respective application is only permissible if the conducted marriage ceremony falls outside the scope the PStG and one of the spouses or the applicant is of German nationality, or is stateless or a displaced foreigner, asylum seeker or foreign refugee. The family book should not be confused with the family lineage book Familienstammbuch (book given to couples on request only at their civil wedding ceremony to record marriages, births and deaths of their family). In nine Länder another paper-based register of lifetime partnerships is maintained. All registers are kept in double.

The service of the *Standesamt I* in Berlin assumes supra-regional tasks, in particular by recording the data concerning civil status of German nationals remaining abroad, by holding the registers of the legal declarations of presumption of death and by preserving a collection of acts and documents of the civil status coming from the former Eastern areas of Germany. In Baden-Baden, Hamburg and Munich, there is a principal service of the civil status (Hauptstandesamt) which can celebrate and record the marriages contracted by nationals residing abroad. The international tracing service of the civil status in Arolsen is charged to record the deaths of the prisoners of the old German concentration camps.

In German law, § 66 PStG provides that documents relative to civil status have the same probative value as registers of civil status; according to § 60(1) PStG, provided that they are properly maintained, those registers constitute in principle proof of marriages, births and the particulars entered in relation to those events. Evidence of their inaccuracy may, however, be adduced. According to the case-law of the Bundessozialgericht (Federal Social Court) and academic legal writing, § 66 PStG applies only to German and not to foreign documents, including those relating to subsequent rectifications. It follows that where certificates have been drawn up in another country, they do not benefit from the presumption of accuracy, so that the court seized of the matter proceeds to an evaluation of the documents before it in accordance with the rule of free assessment of evidence.

The following substitutes may be used for unavailable personal documents:

- The Familienstammbuch which some German families maintain. Births, marriages and deaths are entered in such books, and officially certified at the time of the event;
- Extracts from church books and parish registers. Access to or copies of these books can be requested from the archives.

If the desired documents cannot be obtained, the archives will furnish a negative response (Negativbescheinigung). In such cases, it is generally recommended that the document-seeker apply for a Familienbuch under the provisions of section 15a of the German Law on Civil Status (PStG), which is maintained by the civil registrar having jurisdiction over the family's place of residence.

c) Amendment, Correction and Cancellation of Civil Status Records

In order to amend certificates at a later date remarks in margin of the certificates (books) are accomplished. Marginal remarks are a way of establishing a relationship between two civil status acts, or between an act and a court decision. It corresponds to a brief reference to the new act or decision, in the margin of an act previously recorded or transcribed, changing the civil status of the person concerned. Marginal remarks are registered in a special column envisaged for this purpose. Notes at the end of the certificate have the value of simple information. False entries of which the registrar becomes aware of before the act is established, and clerical errors that the registrar becomes aware of at a later time, can be corrected by the registrar. Furthermore the registrar can as a result of investigations and notarial acts correct the notes and the data regarding to occupation and residence of the parents and the deceased person as well as the data regarding to names, age, occupation and residence of witnesses or the person notifying the act. In all other cases correction must be ordered by a court. Documents may be cancelled by a court. The decision is mentioned in margin. The delivery of an integral copy is possible. The reconstitution of a cancelled or lost record is made by using a copy of the double stored records. If the two originals are destroyed or lost, the record is reconstituted ex officio by the registrar after investigation.

d) Legalisation/Translation

The registry office does not usually accept documents, which are not duly certified or bear the Apostille. The decision is in the discretion of the civil status registrar who, under the statute, must be convinced of the truth of his registration. In practice, many registrars may accept original documents from other States that they believe to be genuine without additional formal requirements, while documents from some countries may require investigation of being genuine and true by the German consular service. In addition, in some Länder, all foreign documents to be used by are referred to the superior court (the "Oberlandesgericht") for judicial review notwithstanding any legalisation, Apostille or certification by the German consular service.

The Federal Republic of Germany has concluded bilateral treaties abolishing legalisation and certification either of all public documents, or of civil status documents with Austria, Belgium, Denmark, France, Greece, Italy, Luxembourg and Switzerland.

Germany is party to the CIEC Convention No. 16 of 5 September 1980 (on the issuance of multilingual certificates of matrimonial capacity) along with Austria, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland and Turkey.

Germany is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

All documents and certificates must be originals. Copies are not permitted. Documents and certificate in foreign language must be submitted in international format or in legalised translation by a sworn translator.

In the Germany the following agencies are responsible for issuing "Hague Apostilles":

Federal Documents

The Federal Office of Administration issues the Apostille for documents from all Federal authorities and courts, except for documents issued by the Federal Patents Court and the German Patent Office, which are issued by the President of the German Patent Office.

Documents issued by the German Länder

Responsibility for issuing "Hague Apostilles" is not uniformly regulated in the various Länder. In general, responsibility lies with:

- the Ministries (or Senate Departments) of Justice; Presidents of the Regional (or Local) Courts for documents from the judicial administration authorities, the general courts (civil and criminal) and notaries;
- the Ministries (or Senate Departments) for the Interior; Chief Administrative Officer of the district (President of the administrative district/district authority); Ministries (Senate Departments) of Justice; Presidents of the Regional (or Local) Courts for documents issued by courts other than those of general jurisdiction;
- the Ministries (or Senate Departments) for the Interior; Chief Administrative Officer of the district (President of the administrative district/district authority); in Berlin, Registry Office I, in Rhineland-Palatinate, the Supervisory and Service Directorate in Trier, and in Thuringia, the Land Office of Administration in Weimar for documents from all administrative authorities (excluding judicial administration authorities).

The Apostille is either put on the last side of the document or will be put on an additional sheet which is then attached to the original document (different methods used) If a second sheet is added or if there is more than one page in the first place, the authority either puts an additional seal across all the pages in the top corner (folded, of course ...) or the sheets will be bound together by a sealed cord. Issuance of the Apostille when the public document consists of multiple pages The Apostille is put on the last page (or an extra sheet, see above), the pages get attached to on another and the authority then puts an additional seal across all the pages in the top corner (folded) or the sheets will be bound together by a sealed cord. Normally the German language is used. In special cases, some authorities also issue the Apostille in English on request (e.g. *Landgericht* Bremen).

The Apostille can be requested in writing or personally, by sending / presenting the original document to the competent authority. In case of written requests, most authorities require a self-addressed, prepaid envelope. An electronic procedure is not possible today (exception: if the original document is already present at the certifying authority for other purposes; in such cases, the application could also be in electronic form). The reason usually given for this is that the nature of the procedure requires presentation of the original document as such, which is not compatible with an electronic procedure

Fees for the issuance of Apostilles are governed under numbers 100 and 101 of the fee schedule of the annex to section 2(1) of the Judicial Administration Regulation (*Justizverwaltungskostenordnung*). They are set on the basis of the value of the certificate. The fee varies; usually 10- 20 € per document / Apostille (Hamburg: 9 €). Many authorities differentiate between documents issued for private purposes and documents issued for business purposes (higher fee).

The duration of total process on written request varies between 1-2 days (+ time of postal transfers) and up to 2 weeks. On personal presentation of the document at the authority, most authorities will issue the Apostille on the spot (5-20 minutes), unless doubts with respect to the document cannot be dispelled at once. Others will do so within 1-2 days. (+time of postal transfer if the applicant does not want to return in person).

The applicant must always state the country in which the document is to be used. If either that country is not a member state of the Hague Convention, or if the document is exempt from legalisation due to a bilateral or multilateral agreement between Germany and the receiving state, the issuance of an Apostille might be denied.

e) Access and Documents

According to § 61 PStG the documentation from the register can only be requested by and issued to persons, to whom the entry in the book refers, by their spouses, ancestors and descendants and by authorities when they indicate the legal purpose. Other persons are only entitled to the documentation when they prove their legal interest. Legal access is given only if the information of the data of another is necessary for the pursuit of ones rights or for defending rightful entitlements. The right to have issued the documents and/or provision of information from the register is limited to those relatives who are of direct ascending or descending lineage. Siblings, children of siblings, siblings of parents or grandparents and other distant relatives of the specific person, do not belong to the group of people given access to these documents, unless they can prove to authorities to have a legal interest.

From the registry office various certificates are issued, such as:

- certificate of parentage (Abstammungsurkunde) is an extended form of the birth certificate, which contains additional data. The certificate of parentage is a certified proof of birth e.g. in case of an adoption, the biological parents are mentioned. It must be requested at the registry office of the birthplace.
- certified copy (Beglaubigte Abschrift) out of the register of births, marriages, deaths, presumed deaths or former civil status registers;
- simple birth certificate (Geburtsschein), which states first and surname, as well as day and place of the birth of the child - without indication of parents
- Birth certificate, which states first and surname, sex, place and day of the birth of the child, as well as data to parents and their domicile at the time of the birth
- Certificate of marriage is issued generally only for marriages up to 31.12.1957. It can be issued for marriages starting from 1958. However only the fact of the marriage ceremony proves, whether the marriage still exists. This information can be proved by a copy of the family register only.
- Certificate of death;
- Copy of the family register;
- certificate of registered partnership in nine Länder only;
- multilingual "international" birth, marriage and death documents, pursuant to the relevant CIEC Convention
- issue of Certificates of no Impediment for Germans living abroad or want to marry abroad;

Documents can be ordered from the local registry office, where the event occurred. A certified copy of the family register can be requested from the registry office of the parents domicile - provided that the parents' marriage is still existing. If the parents are divorced, the family register is administered either at last common domicile (divorced before 1.7.1998) or at father's residence (moment of divorce).

The order can be made:

- in person or by proxy through any third party, by power of attorney to a licensed attorney at law,
- by postal mail,
- by fax,

- by phone (in some registry offices this is not possible according to directives),
- online (this option is not widely spread).

For the former East Germany, this applies only to those civil status cases that occurred after October 2, 1990. For events occurring prior to this date, documents from this part of Germany are issued by the district office where the event occurred. If the applicant would like the certificate posted to him, he/she must order in writing enclosing a crossed cheque or cash.

Usually, the registry office needs to be convinced of the identity of the person or the legal interest. Therefore, if certificates are ordered in person, the applicant should present picture ID unless the registrar is otherwise convinced (as he or she may, for example, have personal knowledge of the person due to prior dealings), if by ordered by phone, the applicant will need to collect the certificate in person. If a certificate applied by mail, fax or online, copy of a picture ID might be required to be attached. Some registrars will send out certificates by registered mail or by COD to ensure the identity of the recipient. If application is made by a third party claiming legal interest, the same may have to be explained to the convincement of the registrar (such as making a statement about a pending lawsuit stating the court registry number, or attaching copies of documents). The exact procedure and requirements vary among the Länder and sometimes even among different registry offices of the same Land or even on a case by case basis in the discretion of the registrar.

Cost

All German registry offices have a standard schedule of charges (§68 PersStGAV):

Usually, the first certificate for each registration is provided free of charge or the charge is included in the procedure, such as one (or two) birth certificate, two marriage certificates and a death certificate. In addition, exemption from charges exists, as far as this is legally regulated for certain purposes, such as a birth certificate for the child benefit office, another for the health insurance, one the church, for legal old age pension and so forth, a death certificate for an application for a widower's pension. In all these cases, the certificate will bear a remark stating its exclusive purpose.

For all other purposes, fees are charged as follows:

- A copy of the family register: € 8,00
- Simple birth certificate: € 5,00
- Certificate of marriage, birth, death, name change, registered partnership and parentage: € 7,00 (If several copies are ordered of the same certificate, the second and further copies will be issued at half of the price so each one thereafter costs € 3,50)
- Family lineage book: € 15,00 up to 39,00 (depending on the layout)
- Information from a civil status register: € 5,00
- Inscription in an international family book: € 5,00
- Research if essential data cannot be given: € 17,00 - 55,00 (depends on time and effort)

Registered (same-sex) partnerships are not registered by the registry office in all Länder and the fees are thus not stated in § 68 PersStGAV but regulated on the level of the Länder. Most Länder use as a base the standard schedule of charges (marriage) but others make fees of their own (for example in Bremen the fee is € 75,00 and € 100,00 if one partner is a foreigner).

The declaration of leaving church is registered by the registry office in some Länder but not in others and again, the fees are thus not stated in § 68 PersStGAV but are regulated on the level of the Länder and vary between being free of charge and up to € 50,00.

All charges may be paid in cash, by wire transfer, check, postal cash on delivery or by direct debit authorisation. Credit cards are not widely accepted and payment online is only possible in Bremen.

f) Archives

Archives collect and preserve original documents from organisations such as churches or governments. There are four major types of repositories for German records: State archives, Archives Outside of Germany, Civil registration offices and town archives and Church parish offices.

The German federal archives have very few civil records. However, each modern state archive preserves useful records, including church records, civil registration records, court records, military records, emigration lists etc. German state archives are generally open to the public. The Polish State Archives hold civil registration records more than 100 years old from Ostpreußen, Westpreußen, Pommern, Posen, Schlesien and other areas now under Polish jurisdiction. The Archives départementales du Bas-Rhin in France hold records from Elsaß-Lothringen (Alsace-Lorraine) and Denmark hold records of Schleswig-Holstein, Oldenburg, Lübeck, or the part of Hamburg.

In most areas, local governments began recording births, marriages, and deaths between 1792 and 1876. Although most records are kept in local civil registration offices (Standesämter), a few have been turned over to the state archives. People who lived in small communities or villages usually registered in the nearest town, city, or municipality. Large cities and metropolitan areas are divided into civil registration districts. Civil registration records are not open for public inspection, but abstracts or photocopies are issued to direct descendants.

Church records (Kirchenbücher) were kept in the local parish of the church. The term parish refers to the jurisdiction of a church minister. Parishes are local congregations that may have included many neighbouring villages in their boundaries. A small village that did not have its own church was usually assigned to a parish in a nearby larger town. Some parishes had branch churches in neighbouring towns. Over time, some villages may have belonged to several parishes as jurisdictions changed. In Schleswig-Holstein, each local district parish office (Kreis Pfarramt) has custody of Protestant records. Unfortunately, some of Germany's church records were destroyed in wars or when parish houses burned. Because of concerns about such destruction, authorities in some areas began requiring copies of church books in the 1700s. Copies were either stored separately or sent to a central archive annually. These copies are called transcripts or duplicates (Kirchenbuchduplikate), and most are housed in central church archives or state archives.

g) Foreign relations

German civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and some registrars also of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member (e.g. Austria, Luxembourg and Italy). German civil status registrars do receive information about civil status acts and changes of their own citizens from some EU Member States (e.g. Austria, France, Italy, Luxembourg, Spain and Switzerland) as required under CIEC conventions, but in practice the obligations as prescribed by the conventions are not always followed.

h) Consular Services

The Legal Directorate-General within the Federal Foreign Office offers assistance for Germans abroad and coordinates the consular work of German missions abroad. The 224 German missions abroad are divided into 147 embassies, 55 consulates-general and consulates, 12 permanent missions and 10 other missions. Furthermore there are 355 unpaid honorary consuls. Consular

officers at embassies and consulates also perform various functions of German courts, notaries public and municipal authorities including matters of civil status. Permanent Missions and Honorary consuls do not usually provide consular services in the area of civil status. The missions generally do not exert the functions of a civil status registrar but assume some of the duties which in Germany are reserved for registry offices and public authorities in charge of nationality matters, for example:

- the acceptance of applications for the registration of birth of German citizens; foreign authorities do not automatically notify the German authorities of the birth of a child of German nationality (except for Switzerland, Austria, Luxembourg and Italy). For a birth to be recorded in the German civil status register, the parents should send the original birth certificate to the German embassy or consulate in the country where the child was born. All papers need to be submitted as originals or certified copies, authenticated by a German authority. The applicant's signature on the completed form needs to be authenticated by a German notary public, a member of the German Embassy or Consulate General or an Honorary Consul.
- the acceptance of a declaration of name; for the registration procedure the applicant will need the child's birth certificate (i.e. with names of both the child's parents), the parents' marriage certificate (if married) and the parents' valid passport/identity card, or, if this is not available, parents' birth certificate.
- acceptance of applications for setting up a family register; if a German national marries outside the Federal Republic of Germany he or she can make an application for a family book at a German registry office. The estimated processing time at the Standesamt I in Berlin is currently two years.
- acceptance of applications for the issuing of certificates of no impediment to marriage;
- the acceptance of applications for the recognition of a marriage divorced abroad for the German jurisdiction;
- attestation of signatures and verification of identities for applications for the issuing of a certificate of good conduct;
- assistance with obtaining marital and civil status documents.

The consular officer abroad assumes the duties of a notary public, for example:

- attesting signatures
- attesting or certifying copies
- certifying the correctness of short translations into German language of forms which are necessary for German authorities
- issuing certificates of life and certificates of citizenship in pension matters
- attesting declarations of intent (e.g. for the following: acknowledgement of paternity, powers of attorney or appointing a proxy, declaration of joint parental care and custody for children not born in wedlock)

Assistance with obtaining civil status documents

Foreign civil status documents are often requested by German authorities or courts to prove changes in personal status that have occurred abroad (births, marriages, deaths). Only when and if a German citizen cannot obtain such document by other reasonable means, an application may be made to the German mission responsible for that district to assist in obtaining the document. Experience shows

that the applicant must be prepared for long waiting times (six months or more is not uncommon). A fee is payable for procuring civil status documents. The fee (currently € 15 to € 100) and any costs incurred (e.g. fees charged by local authorities) are to be paid by the applicant.

Certification, Authentication and Translation of Documents

German consular officers are empowered by statute to certify documents or authenticate signatures or manual signs, transcripts or copies for the purposes of German law (section 2 of the *Konsulargesetz* (Consular Act)). Documents executed before a consular officer rank equally with those executed before a notary in Germany (section 10 (2) *Konsulargesetz*). The fees are levied in accordance with the *Auslandskostenverordnung* (Foreign Costs Ordinance) and are roughly equivalent to those charged by German notaries. Consular officers only certify documents or signatures where this is necessary, i.e. where German law requires that a document be certified.

Marriage abroad

There is no special procedure or authority empowered solely to recognize marriages entered into abroad. The question of whether a marriage is valid is therefore always only a preliminary issue in connection with other administrative acts (e.g. change of name, application to start a family book at a domestic registry, etc). This preliminary issue must be determined by the agency responsible at its own discretion. The basic rule is that a marriage entered into abroad will be regarded as valid in Germany if the legal provisions relating to marriage of that foreign state were abided by. In addition both the bride and groom must meet all legal capacity requirements for marriage under the law of their home states. German nationals are not obliged to apply to start a family book or to change their name upon marriage. It is, therefore, possible for someone to be validly married without this appearing in German civil status records. Consular officials at German missions (Embassies and Consulates-General) no longer solemnize marriages. If, exceptionally, it is not possible to get married in any particular country, the applicants may marry in Germany in any registry office, provided at least one of them has German nationality. The application for marriage must be filed with the registry office in the district in Germany where one of the couple resides. If neither of the couple is resident in Germany, the application must be filed with registry office I (Standesamt I) in Berlin or one of the principal registry offices in Baden-Baden, Hamburg or Munich.

i) Law

A multitude of statutes and ordinances (current and past) are concerned with respect to civil status registration:

Article 74 German Constitution; Unification Agreement between the Federal Republic of Germany and the German Democratic Republic of 31.08.1990 (*Einigungsvertrag*); Nationality Act of 22.07.1913 (*Staatsangehörigkeitsgesetz* in der im *Bundesgesetzblatt* Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 5 des Gesetzes vom 19. August 2007 (BGBl. I S. 1970), *StAG*); Registered Partnership Act of 16.02.2001 (*Lebenspartnerschaftsgesetz*, *LpartG*); Transsexuals Act (*Transsexuellengesetz*); § 94 Act on Displaced Persons of 19.05.1953 (*Bundesvertriebenengesetz*); Consular Act of 11.09.1974 (*Konsulargesetz*), zuletzt geändert durch Artikel 2 Abs. 7 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), *KonsG*; § 79 Penal System Act of 16.03.1976 (*Strafvollzugsgesetz* (BGBl. I S. 581, 2088), zuletzt geändert durch Artikel 2 Abs. 11 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122 mWv 1.1.2009), *StVollzG*); Optional Jurisdiction Act (*Gesetz über die Angelegenheiten der freiwilligen Gerichtsbarkeit*, *FGG*, zuletzt geändert durch Artikel 2 Abs. 13 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122 mWv 1.1.2009), *FGG*); § 127 Cost Law (*Kostenordnung*, zuletzt geändert durch Artikel 2 Abs. 14 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122 mWv 1.1.2009), *KostO*); Civil Code (*Bürgerliches Gesetzbuch*, *BGB*, zuletzt geändert durch Artikel 2

Abs. 16 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), BGB); Civil Code Introduction Act of 18.08.1896 (Einführungsgesetz zum Bürgerlichen Gesetzbuche in der Fassung der Bekanntmachung, EGBGB, zuletzt geändert durch Artikel 5 des Gesetzes vom 16. Mai 2007 (BGBl. I S. 748), EGBGB); Family Law Changing Act (Familienrechtsänderungsgesetz, zuletzt geändert durch Artikel 2 Abs. 17 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), FamRÄndG); Missing Person Act (Verschollenheitsgesetz, zuletzt geändert durch Artikel 2 Abs. 19 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), VerschG); § 4 Adoption Effects Act of 05.11.2001 (Adoptionswirkungsgesetz (BGBl. I S. 2950, 2953), geändert durch Artikel 2 Abs. 20 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), AdWirkG); § 169 Penal Code of 15.05.1871 (Strafgesetzbuch in der Fassung der Bekanntmachung vom 13. November 1998 (BGBl. I S. 3322), zuletzt geändert durch Artikel 1 des Gesetzes vom 7. August 2007 (BGBl. I S. 1786), StGB); § 298 Social Law Book VI of 18.12.1989 (Sechstes Buch Sozialgesetzbuch - Gesetzliche Rentenversicherung - (Artikel 1 des Gesetzes vom 18. Dezember 1989, BGBl. I S. 2261, 1990 I S. 1337) in der Fassung der Bekanntmachung vom 19. Februar 2002 (BGBl. I S. 754, 1404, 3384), zuletzt geändert durch Artikel 24 des Gesetzes vom 7. September 2007 (BGBl. I S. 2246), SGB VI); § 52a and § 59 Social Law Book VIII of 26.06.1990 (Achstes Buch Sozialgesetzbuch - Kinder und Jugendhilfe - (Artikel 1 des Gesetzes vom 26. Juni 1990, BGBl. I S. 1163) in der Fassung der Bekanntmachung vom 14. Dezember 2006 (BGBl. I S. 3134), geändert durch Artikel 2 Abs. 23 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), SGB VIII); § 2 Population Statistics Act of 04.07.1957 (Gesetz über die Statistik der Bevölkerungsbewegung und die Fortschreibung des Bevölkerungsstandes in der Fassung der Bekanntmachung vom 14. März 1980 (BGBl. I S. 308), zuletzt geändert durch Artikel 2 Abs. 8 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), BevStatG); Act on the Subsequent Marriage of 29.03.1951 (Gesetz über die Rechtswirkungen des Ausspruchs einer nachträglichen Eheschließung in der im Bundesgesetzblatt Teil III, Gliederungsnummer 404-7, veröffentlichten bereinigten Fassung, geändert durch Artikel 11 Nr. 1 des Gesetzes vom 14. Juni 1976 (BGBl. I S. 1421), EheschlRWirkG); § 23 Act on the Legal Status of Illegitimate Children of 19.08.1969 (Gesetz über die rechtliche Stellung der nichtehelichen Kinder (BGBl. I S. 1243), zuletzt geändert durch Artikel 141 des Gesetzes vom 19. April 2006 (BGBl. I S. 866), NEhelG); Act on Changes of Surnames and First Names of 5.01.1938 (Gesetz über die Änderung von Familiennamen und Vornamen in der im Bundesgesetzblatt Teil III, Gliederungsnummer 401-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 2 Abs. 2 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), NamÄndG); Act on Name Changes by Minorities of 22.06.1997 (Minderheiten-Namensänderungsgesetz (BGBl. 1997 II S. 1406), zuletzt geändert durch Artikel 2 Abs. 3 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122), MindNamÄndG); Act on Changing the Name of Married People of 27.03.1979 (Ehenamensänderungsgesetz, EheNÄndG); Act on the Family Name of 16.12.1993 (Famliennamensrechtsgesetz (BGBl. I S. 2054) FamNamRG); § 34a Notarisation Act of 28.08.1969 (Beurkundungsgesetz (BGBl. I S. 1513), zuletzt geändert durch Artikel 2 Abs. 10 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122 mWv 1.1.2009), BeurkG); § 2 Registration Disorganisation Act of 23.11.1994 (Gesetz zur Auflösung der Urkundenstellen in den Ländern Brandenburg, Mecklenburg-Vorpommern, Sachsen, Sachsen-Anhalt und Thüringen (BGBl. I S. 3474), UrkStAuflG); Civil Procedure Code of 12.09.1950 (Zivilprozessordnung in der Fassung der Bekanntmachung vom 5. Dezember 2005 (BGBl. I S. 3202; 2006 I S. 431; 2007 I S. 1781), zuletzt geändert durch Artikel 3 Abs. 6 des Gesetzes vom 26. März 2007 (BGBl. I S. 370), ZPO); Civil Status Law of 03.11.1937 (Personenstandsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 211-1, veröffentlichten bereinigten Fassung, G aufgeh. durch Art. 5 Abs. 2 G 211-9 v. 19.2.2007 I 122 mWv 1.1.2009, PersStdG); Act on Changing the Civil Status Law of 15.01.1951 (Gesetz zur Änderung und Ergänzung des Personenstandsgesetzes in der im Bundesgesetzblatt Teil III, Gliederungsnummer 211-2, veröffentlichten bereinigten Fassung, PersStdGÄndG); Second Act on Changing the Civil Status Law of 18.05.1957 (Zweites Gesetz zur

Änderung und Ergänzung des Personenstandsgesetzes in der im Bundesgesetzblatt Teil III, Gliederungsnummer 211-3, veröffentlichten bereinigten Fassung, PersStdGÄndG 2); Act on the Convention of 08.09.1976 on Issuing Multilingual Extracts from Civil Status Registers 16.04.1997 (Gesetz zu dem Übereinkommen vom 8. September 1976 über die Ausstellung mehrsprachiger Auszüge aus Personenstandsbüchern vom 16. April 1997 (BGBl. 1997 II S. 774, PersStdAusZÜbkG); Act on the Transcription of 06.09.1989 of the Convention of 04.09.1958 of 19.04.1994 (Gesetz betreffend das Zusatzprotokoll vom 6. September 1989 zu dem Übereinkommen vom 4. September 1958 über den internationalen Austausch von Auskünften in Personenstandsangelegenheiten vom 19. April 1994 (BGBl. 1994 II S. 486), PersStdNamZProtG); Act on the Convention of 05.09.1980 on Issuing Certificates of Capacity to Marry 05.06.1997 (Gesetz zu dem Übereinkommen vom 5. September 1980 über die Ausstellung von Ehefähigkeitszeugnissen (BGBl. 1997 II S. 1086), EhefZeugnÜbkG)

Civil Status Ordinance of 12.08.1957 (Verordnung zur Ausführung des Personenstandsgesetzes in der Fassung der Bekanntmachung vom 25. Februar 1977 (BGBl. I S. 377), zuletzt geändert durch Artikel 1 der Verordnung vom 17. Juli 2007 (BGBl. I S. 1598), PersStdGAV); Various Civil Status Ordinances of the Länder (PStVO Land) Civil Status Ordinance of the German Armed Forces of 04.11.1939 (Personenstandsverordnung der Wehrmacht in der im Bundesgesetzblatt Teil III, Gliederungsnummer 211-1-2, veröffentlichten bereinigten Fassung, PersStdWMV); § 4 and § 9 Heritage Ordinance of 08.09.1998 (Erbschaftsteuer-Durchführungsverordnung (BGBl. I S. 2658), zuletzt geändert durch Artikel 3 Abs. 2 des Gesetzes vom 19. Februar 2007 (BGBl. I S. 122 mWv 1.1.2009), ErbStDV); Ordinance on the Act on Changes of Surnames and First Names of 07.01.1938 (Erste Verordnung zur Durchführung des Gesetzes über die Änderung von Familiennamen und Vornamen in der im Bundesgesetzblatt Teil III, Gliederungsnummer 401-1-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 15 des Gesetzes vom 3. Dezember 2001 (BGBl. I S. 3306), FamNamÄndGDV 1); Overseas Cost Ordinance of 20.12.2001 (Auslandskostenverordnung, AkostV; Anlage 1 (zu § 1) Gebührenverzeichnis (GebV)); Ordinance on the First Name and Correction of Civil Status Registers of 16.02.1948 (Verordnung über Vornamen und die Berichtigung von Eintragungen in den Personenstandsbüchern in der im Bundesgesetzblatt Teil III, Gliederungsnummer 401-1e, veröffentlichten bereinigten Fassung, PersStdBerV)

§ 1 Instruction on the Tasks-Assignment on the Federal Administration Office of 21.02.1969 (Anordnung über die Übertragung von Aufgaben auf das Bundesverwaltungsamt (BAnz. 1969 Nr. 95), geändert durch Abschnitt I der Anordnung vom 11. Dezember 1969, BVwAAufgÜAnO); Standing Instructions for Registrars and Their Supervisory Authorities with regard to the Act on Civil Status (Dienstanweisung für die Standesbeamten und ihre Aufsichtsbehörden unter Berücksichtigung der Änderungen der 19. DA-ÄndVwV vom 15.8.2007 und der 22. Bek.BMI vom 18.6.2007, 19. DA-ÄndVwV, DA)

Current versions of most texts of the legislation are available at:

<http://www.gesetze-im-internet.de> (German).

The principal source of German private international law is the Civil Code Introduction Act (EGBGB), in particular Sections 3 to 46. However, according to section 3(2) of the EGBGB, rules laid down in legislative acts of the European Communities and international conventions that are directly applicable in national law take precedence over the terms of this Act in their fields of application. There is an enumeration of all multilateral agreements signed and ratified by Germany in Directory B of the Bundesgesetzblatt (on-line orders via www.bundesgesetzblatt.de). Germany's bilateral treaties with other states are likewise to be found in Directory B of the Bundesgesetzblatt.

Under German private international law, legal questions raised by the personal legal status of a natural person are governed by the law of the state to which the nationality of the person refers.

Where a person has more than one nationality, section 5(1), first subparagraph EGBGB stipulates that reference must be made to what is known as the effective nationality, i.e. the nationality of the state with which the multiple national is most closely connected. If, by contrast, a person with multiple nationality also has German nationality, section 5(1) second subparagraph provides that this nationality alone shall apply. The nationality criterion is applicable as regards the right to bear a name (for details see section 10 EGBGB).

Under section 19 EGBGB, the parentage of a child is subject primarily to the law of the state in which the child is habitually resident. No distinction is made between children born in and out of wedlock. In the relationship to each parent the parentage can be determined also under the parent's national law. If the mother is married, the family law by which she was governed at the time of the birth of the child may ultimately also acquire significance in the matter of determining parentage. Different rules apply to children born before 1.7.1998. Under section 20 EGBGB, challenges to parentage are governed generally by the law under which the circumstances of the parentage arose and, where a challenge is brought by the child, by the law applying in the place where the child is habitually resident. Under section 21 EGBGB, parental responsibility is determined according to the law applying in the place where the child is habitually resident, insofar as the 1961 Convention on the protection of minors does not come into play. According to that convention, it is the national law of the child that applies to certain aspects. Under section 22 EGBGB, the effectiveness of an adoption is determined fundamentally by the national law of the adopting party at the time of the adoption. Adoption by (one or both) spouses is subject to the law governing the general effects of marriage. Spouses of different nationalities may, therefore, also adopt a child under the law of the state in which they are both habitually resident. Under section 23 EGBGB it is basically the national law of the child that applies as regards the consent of the child and its natural parents to the adoption. Recognition of foreign adoptions and establishment of the effectiveness of foreign adoptions are governed by the Act on the effects of adoptions under foreign law.

Under section 13 EGBGB, the requirements for the conclusion of a marriage contract are those laid down in the law of the state of which the person engaged to be married is a national. But in special circumstances, German law may be applied instead. In Germany a contract of marriage may be concluded only in the presence of the registrar or exceptionally of a person specifically so empowered by a foreign state (section 13(3) EGBGB). Under section 14 EGBGB, the general effects of marriage are governed primarily by the law of the state of which both spouses are nationals, i.e. their shared national law. If the spouses are not covered by the same national law, the law applicable in their shared habitual place of residence is applied. A limited choice of law is available under section 14(3) EGBGB. Under section 17 EGBGB, divorce is generally governed by the law which, at the time of filing for divorce, was decisive for the general effects of marriage, in other words the legal status of the family while legal proceedings are pending. In Germany a marriage can be dissolved only by the courts. Registered partnerships are governed by section 17b EGBGB.

j) Envisaged Changes

The new German law which provides for a future computerised registration also plans to concentrate all information concerning a person on an individual electronic record. The project "Civil Status Registers" is one of the prioritised technical projects of the Deutschland-Online action plan. The law currently still requires civil status records to be exclusively kept as paper documents. The Law Reforming Civil Status Law (PStRG) published on 23.02.2007 permits the introduction of electronic registers as of 01.01.2009 and requires this form as of the year 2014. It is left to the discretion of the Länder to establish additional central registers at the level of each Land. The aim of the project is to launch, as a pilot, a regional civil status registry by the end of 2007, to serve as the basis for a decision on the future structures of the civil status registration system. These

structures include an automated notification system between the civil status registry and other authorities, and local access to data stored centrally by the Land in question. The second aim is to continue the development of a data exchange format for civil status matters. Thirdly, the project aims to enable citizens to obtain information for civil status certificates from the civil status registries online. Land Bavaria and the city of Dortmund have the lead here. Pilot projects are to be carried out in phases and citizens are to be enabled to obtain registry information and apply for certificates online.

Other important principles of the Law Reforming Civil Status Law (PStRG) are the following:

- The civil status registration remains event based and civil status events are recorded in the registers of births, marriages and deaths as before. In some Bundesländer new registers for registered partnerships are established.
- According to § 5 PStRG the registers will not be amended after the expiry of 80 years in case of marriages and registered partnerships, of 110 years in case of births and 30 years in case of deaths. After this period it is not possible to issue civil status documents from the registers. The records should be transferred into the archives.
- The marriage ceremony can take place in the registry office of the applicant's choice (§ 11 PStRG). A formal marriage authorisation from the registry office in the municipality the prospective spouses live in will no longer be required. The preparation process (application) must be concluded at the registry office in the municipality the prospective spouses live in. No further examination will take place.
- Marriage should be conducted in dignity (§ 14 (2) PStRG). What the common sense of decency will allow, remains to be seen.
- The marriage record will include only the place, date and the prospective spouses' first names, surnames (present and future), place and date of birth and on request their religion.
- The family book (Familienbuch) will be abolished.
- Civil status events occurring abroad will be recorded on request at the registry office in the municipality the applicant lives in. Only if the applicant is not resident in Germany, the Standesamt I in Berlin will register the event.
- Registrars can without prior judgement rectify false register entries if correct documentary evidence is given.
- Death must be declared within three days. Funeral parlours can file a written declaration.
- Birth and death can be declared in writing by private legal bodies.

k) eGovernment

Online Service for Citizens

Portal

Bund.de is the German eGovernment services portal, providing central access to the online services provided by the Federal Authorities and the Federal Administration, as well as an entry to German Länder and Municipalities.

eIdentification infrastructure

There is currently no central e-identification infrastructure in Germany.

Civil Status Certificates

Civil registration services and corresponding certificates are managed by local authorities under the supervision of the respective Länder. Most cities have websites at [www.\(nameofcity\).de](http://www.(nameofcity).de) where the applicant can find the contact information for the appropriate registry office and download application forms or request online civil status certificates. However, the request of a copy of various civil status certificates usually has to be done in writing and as much information as possible should be provided, including proof of identity.

In a growing number of municipalities, the request can be made online with or without using a digital signature and with varying levels of proof of identity required.

2. Birth

The right of the child to be registered immediately after his or her birth, which is derived from Article 7 the Convention on the Rights of the Child of 20.11.1989 (entered into force for the Federal Republic of Germany on 05.04.1992), was likewise provided for in Article 24 (2) of the International Covenant on Civil and Political Rights. This duty is incumbent upon the registry offices pursuant to the PStG. The birth of a child must be registered within one week with the civil status registrar for the district in which the child was born (§ 16 PStG, 253, 254 DA). This does not apply if both parents fall under the Status of Forces Agreement (SOFA). If the child is born in a public hospital, a public maternity home or a similar public institution, responsibility for registering the birth lies exclusively with the head of the facility or with the civil servant or employee specifically authorized to undertake such registration (§ 18 PStG). The persons obligated to register the birth in other cases, including all other hospitals, are stipulated in § 17 PStG, 255 DA:

- the father, if he has joint parental responsibility
- the midwife who was present at birth
- the doctor who was present
- any other person present at the birth or who has been informed of the birth
- the mother once she is physically able to do so.

In some cases officials visit hospital maternity units and can register the birth during the mother's hospital stay. There are often arrangements between clinics and the registry office through which the formalities are completed with ease. Otherwise, the midwife or family or emergency doctor issues the notification of birth to be submitted to the registry office. When a child is born, the parents will be given a green form (personal record sheet). This form must be completed, signed and returned to the hospital; together with a copy of the family register (if the parents are married), or together with a birth certificate of the child's mother if she is not married. If the parents come from abroad the registrar also needs their passports (including their residence permits). The hospital will forward the documents directly to the registry office which will then issue a birth certificate. Failure to comply with this duty to register can be punished by imposition of a fine (§ 68 PStG).

Birth or death of any person occurring on board a German sea-going vessel in the course of a voyage must be certified by the registrar in the registry office I of Berlin. Birth or death must be notified to the master at the latest on the following day. If the person obliged to give the notification terminates his passage before the expiry of that period, notification must none the less be given while he is still on board the vessel. The master must record the birth or death notification and must deliver his record to the first possible office for maritime registrations. Births on board inland vessels are to be certified by the registrar in whose district the vessel next anchors or docks.

Stillborn children are entered into the register of births with a remark to the fact that the child was a stillbirth. Stillborn are given a first name and a surname on the parent's request (§21 PStG). Is the child born alive but dead on declaration, the child is entered into the register of births and its death is entered into the register of deaths.

When a baby is found, there is a duty to report this fact to the police within a day. The results of the investigation are transmitted to the local supervisory board. The supervisory boards arranges a hearing with the local health authority, decides on the supposable date, place and names of the foundling and gives written order to the registry office to establish a birth record.

Many hospitals allow a mother to give birth and hand over her child for adoption without disclosing her identity. But it is a criminal offence not to register a mother's name and the doctors and midwives involved remain at risk of prosecution. To prevent mothers from giving birth to children in situations of distress without medical assistance and abandoning them in the hope that others will assume responsibility for them, an environment for baby hatches and anonymous births was created. The law treats babies found in baby hatches as foundlings. In fact, hatches allow women to give birth anonymously, which is technically illegal in Germany, but tolerated.

a) Documents

- Birth and lineage certificates (single persons)
- Certified copy of extract from marital status certification book, alternatively, of marriage certificate
- Current copy of extract from marital status certification book of previous marriage with entry for present marriage or marriage and divorce certificates (if the mother is divorced)
- Current copy of extract from marital status certification book with entry for death or current marriage certificate and death certificate of previous husband (if the mother is widowed)
- Personal I.D. / Passport

Birth Documents

There are various different types of "birth documents" which may be issued:

- Geburtsschein, birth statement, which is a statement stating the current child's name, date and place of birth, only,
- Geburtsbescheinigung, a birth confirmation, which is issued for specific purposes, such as child benefit office, another for the health insurance, one the church, for legal old age pension
- Geburtsurkunde or birth certificate, which in addition to the birth statement lists the parent's names (any changes are already reflected in the certificate and the original is not shown, e.g., changes to the name, recognition of fathership, or the adoptive parents' in case of an adoption); this can also be issued as an international, multilingual certificate;
- Abstammungsurkunde, which is a birth certificate, listing the parent's name and any changes to the certificate since the original registration;
- Beglaubigte Abschrift des Geburtenbucheintrages, which is a certified full extract or copy of the birth record as it is in the register.

According to 21 PStG and 265, 266 DA the birth record shall indicate characteristics about:

- child's sex, first name and surname, place, date and time of birth

- live or stillbirth
- first names, surname, profession and residence of the parents
- proven foreign nationality of the parents
- religion of the parents
- first names, surname, profession and residence of the informant.

However, in practice the time of birth and the profession of the parents is sometimes not indicated while the maiden name of the mother (if married) is mentioned. The religious affiliation is stated on request only. If the parents are not married, the father of the child can be registered in the birth entry if he submits his own birth certificate to the registry office.

The registry office will also automatically inform certain offices, such as the tax authorities and the residence registers of the child's birth so that income tax data can be changed, but not all government offices.

In order to amend a birth certificate at a later date, remarks in margin of the certificates are used. Marginal remarks relating to descent include maternal and paternal recognition and court decisions relating to adoption. Furthermore decisions relating to first name declared after registration, change of the first name or surname, absence and death are registered as marginal notes. A transsexual can after gender reassignment alter the birth certificate. The mention of the change sex is indicated in margin. Also any changes to the marital status are indicated in the margin.

b) Maternity

The mother of a child is the woman who bears it (§ 1591 of the Civil Code). So the birth certificate must bear the mother's name, which is sufficient to establish maternal affiliation in accordance with the maxim mater semper certa est (Art. 21 (1) (1) PStG). A maternity certificate is not envisaged in German legislation. Nevertheless such a document can be issued on request.

c) Paternity

Since the Act on the Reform of Parent and Child Law (Gesetz zur Reform des Kindschaftsrechts, Kindschaftsrechtsreformgesetz; KindRG) of 16 December 1997 (Federal Law Gazette I p. 2942) came into force on 1 July 1998, § 1592 of the Civil Code has provided that the father of a child is either the man who at the date of the birth was married to the child's mother (no. 1) or the man who acknowledged paternity (no. 2), and, finally, the man whose paternity is judicially established under § 1600.d of the Civil Code (no. 3).

§§ 1592, 1593 BGB provides that any children who are born during a valid marriage of the mother or within 300 days after her husband's death are considered to be her husband's children. An exception applies where the mother remarried within the 300 days following the finality of her prior marriage. Only in such a case shall the new husband and not the ex-husband be considered the biological father by assumption.

Voluntary Acknowledgement

Paternity may be voluntarily and free of charge acknowledged at:

- any German Children and Youth Office ("Jugendamt");
- any Civil Status Registration Office;
- a German consular office abroad;
- at the courthouse or

- at a Notary Public (for a fee).

If a man acknowledges his paternity voluntarily, no paternity test can be taken later on in order "to be sure". An acknowledgement of paternity may be made even before the child's birth (§ 1594 para 4 BGB). It has to be declared in person (§ 1596 para 4 BGB) and may not be made subject to any condition or revocation other than that the presumed father first challenges his paternity successfully (§ 1594 para 3 BGB). The acknowledgement of paternity now no longer requires the consent of the child or of its legal representative, but in principle only the consent of the mother (§ 1595.1 of the Civil Code). The recognition is not effective as long as the paternity of another man exists (§ 1594.2 of the Civil Code). Accordingly, the paternity of the husband of the mother, who is the father by law at birth, or any prior acknowledgements take priority. Both the father's acknowledgement and the mother's consent must be made by certified declaration before either a German Notary or the local court ("Amtsgericht") (§ 62 I Nr. 1 BeurkG), a registrar (§ 29 a I PStG) or an authorized Youth Office worker (§ 59 I Nr. 1 SGB VIII). Where consent is not obtained within a year after the father's acknowledgement, he may revoke his acknowledgement (§ 1597 BGB). Declaration of consent by the mother is also free of charge.

Paternity by Court Order

If paternity has already been established either by legal assumption, by valid acknowledgement or by court order, the same can be challenged in court, only, by the (legal) father, by the mother, by the child and, by a man claiming under oath to have had sexual intercourse with the mother during the period of conception, and by the public authority under certain limited conditions (§ 1600 BGB, in the version as it is force as of 01.06.2008). A lawsuit by the contesting (presumed) biological father is only permitted under the additional condition that he is the biological father, and that the legal father does not have a socio-familiar relationship with the child. Claims by the public authority are permitted only, if there are doubts that the father who has voluntarily acknowledged paternity, is the biological father, if he does not have a socio-familiar relationship with the child, and if the establishment of paternity was the condition for lawful entry or residence permit of either the child or one of its parents.

Claims by the persons concerned can be brought within two years after learning of the circumstances that raise doubts to the parenthood, with the period beginning no earlier than the birth of the child. If the legal representative has failed to bring action in court, the period for the child itself does not end before two years after attaining adulthood. Claims by the authorities may be brought within one year after learning of the circumstances giving rise to an action, but no later than five years after the birth of the child.

If no father has been established, a court proceeding may be instituted to positively determine the father. Such proceeding may be brought by the child, the mother or a man claiming to be the father.

Various presumptions are used in the process but in current practice, genetic examination is the only decisive factor in court in these cases.

Secretly done paternity tests or those without the expressed consent of all parties concerned (alleged father, mother, child) are not admissible in German court. A new law allows for court proceedings to establish paternity through tests, to which the other parties concerned may be forced to agree, without direct legal consequences.

3. Marriage

In Germany marriage is regulated in the Civil Code (Bürgerliches Gesetzbuch). Marriage is only available to different-sex couples. Church weddings do not have any legal status. They are prohibited if the couple has not first married at the registry of births, marriages and deaths (§ 67 PStG). On 01.08.2001 the Registered partnership law (Lebenspartnerschaftsgesetz) entered into

force. Registered partnership (or ‘life partnership’) is only available to same-sex couples. The registering authority varies from Land to Land and in some Länder from town to town. In 9 out of 16 Länder the registry office was installed as a authority of starting a registered partnership.

a) Personal Requirements/ Impediments to Marriage

There is no limitation concerning citizenship, residency or duration of residency. If neither party has a residence in the Federal Republic of Germany, one of the following central registrar's offices should be contacted: Hauptstandesamt München, Standesamt Baden-Baden, Hauptstandesamt Hamburg or Standesamt I Berlin. These offices can give permission to any registrar's office in their district to perform the function.

Pursuant to § 1314 BGB impediments to marriage are:

- if one spouse is not of full age (18 years) or has not been validly exempted from this requirement (The family court (Familiengericht) can, on request, give permission for the person aged 16 provided the other party is an adult, § 1303 (2) BGB);
- one spouse is legally incompetent;
- one spouse is already married;
- the spouses are directly related to one another or are full or half siblings, even if the family relationship has been extinguished by adoption (The family court can, on request, give permission if the family relationship founded on adoption is not in hot line, § 1308 (2) BGB);
- one spouse, at the time when he entered into the marriage, was unconscious or his mental faculties were temporarily disturbed;
- one spouse was unaware, at the time when he entered into the marriage, that he was entering into a marriage;
- one spouse has been persuaded to enter into the marriage as a result of fraud;
- one spouse has been unlawfully persuaded to enter into the marriage as a result of threats;
- both spouses agreed, at the time when they entered into the marriage, that they did not intend to have a matrimonial relationship.
- if the marriage has not been entered into before a civil registrar,
- the declarations are made in front of a civil registrar who has made it clear that he is not prepared to be involved in the concluding of the marriage,
- the engaged parties have not made any declarations during the wedding which are directed at entering into the marriage.

b) Preliminary Procedure

The applicants for marriage must personally appear before the Registrar with the properly completed and translated documents to file their official notice of marriage, which is a formal declaration of the intention to marry. Both fiancé(e)s are required to give this notice to the registrar. If it is not possible for one of them to be present, a written explanation that he/she agrees on the registration of marriage through the other fiancé(e) is necessary. If none of the fiancé(e)s, due to any reason, is able to keep the appointment with the registrar, the registration of marriage can also be made in writing or through an authorized third person. If both parties are not fluent in German, an interpreter should accompany them to the Registrar's Office. The marriage application is to be

made in the district of the registry office in which one of the fiancées/fiancés has a registered residence. In case of more than one residence they can choose where to go. The earliest time for application is 6 months before the day of the marriage ceremony. When filing the application at the registry office the registrar ascertains the legal proof of marriageability and any possible impediments to marriage based on the declarations of the engaged couple and the certificates and proof presented.

If they suspect a fictitious marriage, which would constitute sufficient grounds for annulling a marriage pursuant to § 1314 BGB, registrars are entitled to interview the prospective spouses or may refuse to celebrate the marriage (§ 5 (4) PStG).

Wedding dates can be arranged online in some registry offices.

c) Documents

The following documents should be submitted to the registrar:

- Identification document with photograph (e.g. passport, identity card);
- Residence permit for intended purpose of marriage (The residence permit confirms personal data, domicile, nationality and marital status. It can be requested at the registration office (Meldebehörde) of the residence. The cost is € 6,50.);
- Certificate of parentage;
- Certified copy of parents family register if parents married after the 31.12.1957 in Germany;
- In the case that one of future spouses brings a child into the marriage then the birth certificate and custody document are needed, and an accounting of the child's asset approved by the family court. If a child is from both partners then a statement of paternity and parentage certificate is required.
- Proof of dissolution of previous marriage (In case of previous marriage, a certified document of the dissolution of this marriage (e.g. death, divorce) has to be provided. If this marriage was after the 31.12.1957 a certified copy out of the family register (of previous marriage) should be requested. If family register of the previous marriage does not exist, dissolution must be proven by other certificates, such as certificate of death or divorce decree.
- Diploma or certificate of graduation in case of an academic title to be mentioned in the marriage certificate (entry of titles only on request and provided that, proof of entitlement is given.)

Additional documents must be presented by foreigners:

- Original birth certificate or certified copy showing parents' names. A translation might be required. A baptismal certificate is not acceptable. Certificate of naturalisation must also be exhibited if applicant has been naturalized.
- A certificate issued by the applicant's national authorities that there exists under the law of their native country no impediment to their marriage (Certificate of No Impediment) pursuant to § 1309 BGB. Nationals of States that do not issue Certificates of No Impediment have to obtain exemption from the requirement of a Certificate of No Impediment from the President of the Higher Regional Court (Oberlandesgericht). The application for such exemption is drawn up by the registrar who will submit it to the competent Higher Regional Court President for decision. For this purpose the foreign future spouse must produce a certificate or declaration of unmarried status. If the authenticity of the document is doubtful,

it must be legalised by the German consular authorities in the country in which it was drawn up. The exemption is valid for six months. The certificate is also valid for six months unless a shorter period is stated on the certificate.

- Medical certificate (blood test) or any other requirement if the state/country of nationality requires such a medical certificate.

d) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Germany pursuant to § 1309 BGB. Nationals of States that do not issue certificates of no impediment have to obtain exemption from the requirement of a Certificate of No Impediment from the President of the Higher Regional Court (Oberlandesgericht), a procedure which generally takes between three weeks and three months depending on the Higher Regional Court. The court fees vary € 25,00 to € 300,00 depending on the income of the applicant.

The application for such exemption is drawn up by the registrar who will submit it to the competent Higher Regional Court President for decision. For this purpose the foreign future spouse must produce a certificate or declaration of unmarried status. If the authenticity of the document is doubtful, it must be legalised by the German consular authorities in the country in which it was drawn up. The exemption is valid for six months. The certificate is also valid for six months unless a shorter period is stated on the certificate.

If a German citizen intends to get married abroad he/she may have to produce - in addition to other documents – a German certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to German law and is valid for 6 months from issue. This certificate is issued by the local registry office. The cost is € 33,00 or € 55,00 if foreign law must be considered.

e) Marriage Ceremony

In Germany, civil marriage may only be contracted before a registrar. The parties entering into the marriage have to make the declarations about entering into marriage personally and present at the same time before the registrar. A marriage by proxy is not allowed. At the civil ceremony, the applicants should have a certified interpreter, if necessary. No witnesses must be present. The marriage ceremony may take place at any registry office if the registry office where the application has been filed, give permission to do so. The ceremony can also be conducted outside the official offices and outside the official office hours on special appointment, if this option is provided for by the municipality.

Contents of the Declaration of Marriage

The marriage record indicates:

- marriage date
- place of marriage
- surnames before marriage
- surnames after marriage
- religion
- date of birth
- place of birth

- nationality
- marital status
- number of children

f) Cost

Total cost for civil marriage:

- If both fiancé(e)s have German nationality: € 33,00
- One or both fiancé(e)s have foreign nationality and foreign law has to be taken into account: € 55,00
- Marriage on a Saturday: € 55,00
- Legalized declarations / surnames (e.g. double-barrelled name): € 17,00
- Standard Certificates (1 marriage certificate, 1 family register): € 15,00
- Certificate of marriage (first document): € 7,00
- further duplicates; € 3,50
- certified copy out of the family register: € 8,00
- Family Lineage Book: € 15,00 up to 20,00 (depends on the office and the layout)

g) Divorce/Separation/Annulment

A marriage can only be dissolved by a court judgement following an application by one or both spouses (Section 1564(1) , first sentence, of the German Civil Code (Bürgerliches Gesetzbuch - BGB). Either spouse may live separately without any particular formalities. There is no provision for any judicial determination.

Divorce is granted upon irretrievable breakdown of the marriage. Such breakdown is assumed if the spouses have lived separately for at least one year, and both spouses apply for or agree to the divorce, otherwise, if they have lived separately for three years. If the parties have not lived separately for at least one year, divorce may only be granted if continuation of the marriage would constitute unreasonable hardship to the applicant due to grounds created by the other spouse.

A marriage can only be annulled by a court judgement following an application. There is no declaration of nullity. According to § 1313 BGB for civil marriage and § 17 LPartG for registered partnership the relationship is ended by court decision. The application for divorce/ marriage annulment must in principle be lodged at the district court/family court (Section 606 of the German Rules of Civil Procedure (Zivilprozessordnung), Section 23 (b) of the German Judicature Act (Gerichtsverfassungsgesetz).

4. Name

The right of the child provided for in Article 7 the Convention on the Rights of the Child of 20.11.1989 (entered into force for the Federal Republic of Germany on 05.04.1992) namely the right from birth to a name, is ensured in Germany as a general rule by the fact that the first names and surname of the child must be stated at the time his or her birth is registered (§ 21, No. 4 PStG). If necessary - in the case of foundlings and children whose civil status cannot be determined - the first names and surname of the child shall be stipulated by the supervisory boards ex officio (§§ 25 and 26 PStG).

The name of a German child is determined by German law (Art. 10 § 1 EGBGB) even if the child also has another citizenship (Art. 5 § 1 2nd sentence EGBGB). According to German law, the person or persons who have the right of legal guardianship of the child may choose the law that is used to determine the family name of the child. Married parents have joint custody, in other cases the mother has sole custody unless a declaration of joint custody is made by both parents or a court removes custody from the mother to avoid grave dangers to the welfare of the child. The following choices can be made:

- the law of the country of which either the mother or the father is a citizen; and if, according to German law, a third person can give his name to the child, the law of the country whose citizen this third person is, might also be chosen;
- German law, even if none of the parents is a German citizen, if one of the parents has his or her usual place of residence in Germany (Art. 10 § 3 EGBGB).

A child's first name and surname are officially registered in accordance with the Civil Status Act (PStG). The choice is documented in a formal declaration on the name, which must be filed with the civil registrar according to the usual residency of the parents. If neither one of the parents has his or her usual place of residence in Germany, the declaration is sent to the Civil Registry I (Standesamt I) in Berlin. Forms for this declaration are available at the German representation abroad. If the parents choose foreign law to determine the name of the child then that law determines the name of the child and the possibilities to choose between different names are those offered by that law. If the parents choose German law then the following applies:

a) First Name

The parents have the right to choose their child's first name. They are not, however, completely free in their choice. Although there are no statutory provisions relating to first names, it is clear from case law that the parents' right is limited by the interest of the child. The basic rule is that a name has to be known as a name for persons and must not have been newly invented. The right to choose a child's name is a custody right and under German family law the parents generally have custody rights only with respect to their child's well-being. The parents may, therefore, not choose a first name that is considered arbitrary, scandalous, offensive, incomprehensible or simply not a first name. In particular, family names cannot be chosen as first names (unless they exist as first names as well). Additions like "junior" or "III" (the Third) cannot be officially filed as part of the name. Sometimes a more unusual name will be allowed as a second name if one name, by which the child will be called, is a more conventional name. Some courts interpret this notion quite stringently. Furthermore, the highest German private court, the Federal Court of Justice (Bundesgerichtshof – BGH), has held that, in order to avoid confusion, the first name must correctly indicate the child's sex. An exception applies only to the name "Maria", which may be given to boys, but only when accompanied by a clearly male name; the reason for this exception is a tradition of naming boys "Maria" in catholic regions of the country. It is up to the registrar (the officer/clerk of the public authority for registering births, marriages, deaths etc.) to judge whether a first name is allowed. For unusual names he might ask for precedent cases. In theory the number of first names is not limited. However, through precedent cases, seven first names are permitted (OLG Köln) but 13 first names are not allowed (AG Hamburg). Two names can be linked with a hyphen and counted as one name. However, in that case the parts of the linked name cannot be used separately. Parents disagreeing with a registrar's rejection can appeal to a court. If the person registering the birth is unable to state the first names of the child, these must be registered within a period of one month (§ 22 PStG). If the parents fail to designate a first name, the guardianship court assigns the right to designate the first name to one of the parents. If the mother is not married and has custody she can assign a first name to the child.

b) Surname

According to § 1616 BGB, a person bears his parents' surname if both parents have a common married name. If the parents have different surnames, the child's surname has to be determined according to §§ 1617, 1617a BGB. If they have joint custody of the child, then they need to file a joint declaration on the child's name. In this declaration the parents can choose either the father's name or the mother's name (at the time of the declaration) to become the name of the child (§ 1617 BGB). If only one parent has the right of custody of the child, the child automatically acquires the name of the parent who has the right of custody. This parent can, however, declare, that the child should have the name of the other parent. Such a declaration requires the consent of the other parent and, if the child is 5 years or older, also by the child (§1617a BGB).

Once a choice has been made, it will apply to all the children of the parents. If the parents fail to designate a surname for the child within one month of his or her birth, the guardianship court assigns the right to designate the surname to one of the parents. The guardianship court may set a time-limit for the exercise of this right of designation. If the right of designation is not exercised by expiry of the time-limit, the child receives the name of that parent to whom the right of designation was assigned. If the child is not born in Germany, the guardianship court will assign the right to choose a surname to a parent only on his/her request, the request of the child or if the inscription in a German civil status register is required.

c) Name Change

If the state has made an error with the name and this can be proved, the original name can be restored. Otherwise, in Germany changing first names is in principle not possible, except under very few special circumstances. The entry of an academic grade into one's identity card is not considered a change of name. Name stability is seen as a requirement of an efficient administration. However, there are a few circumstances in which one is allowed to change one's name.

As one example, the first name can be changed on application by the district court in the event of gender reassignment. Locally responsible is the court in whose district the applicant has its residence or, if such is absent in the area of its usual stay.

Upon naturalisation of a foreigner in Germany (Art. 47 EGBGB) the person may choose to adopt German forms of his first and surname, or a new first name if the old first name cannot be translated into German. A formal declaration on the chosen surname must be filed with the civil registrar at the place of habitual residence.

d) Change of Surname

Change of surname is also limited and provided for in the following cases:

Changing a child's Surname

If paternity has been successfully challenged, and the child bears the name of a man who is not the father of the child, on request of the child, of the mother or, if the child has not attained the age of five, also on request of the man, the child's surname is changed to the surname of the mother. Appropriate authority is the registry office.

According to § 1617 c BGB the child's surname can be changed if its parents chose a common married name in a later stage or change this name. Appropriate authority is the registry office.

According to § 1618 BGB a parent having custody and the spouse, which is not a parent may give the child their common married name if they take the child in their common household. This surname may be prefixed or added to the other surname. In case of joint custody the consent of the

other parent is required. The family court can substitute the consent if the change of the surname is required for the well-being of the child. Appropriate authority is the registry office.

According to § 1757 BGB, the adoptees usually take their adoptive parents' surname. If the adoptive parents have different surnames then they need to file a joint declaration on the child's name. If only one person wishes an adoption the child automatically acquires his/her surname. In connection with the adoption, a guardianship court may order that the adoptee keep the old surname and have the adoptive parents' surname added as an additional surname. The guardianship court may also in connection with the adoption change the child's first name.

Upon marriage

§ 1355 BGB provides the several possibilities. All these options are also available to registered partners (§ 3 LPartG). A formal declaration on the chosen surname must be filed with the civil registrar. Registered partners may file the declaration with the civil registrar in those eleven Länder only, where partnership is started by the registry office:

- each spouse may retain his or her premarital surname (no declaration is necessary - only for any children born, as they have no name until declaration is made)
- either spouse takes the surname of the other spouse.
- either spouse adds surname of the other spouse (in any order) joined with a hyphen.

A divorced or widowed spouse retains the married name chosen by the spouses when concluding the marriage. By declaration made to the civil registrar, he/she may again adopt his/her name at birth or the name which he/she used until the married name was determined, or he/she may place his/her surname at birth in front of the married name or add it to the married name (Section 1355(5) BGB).

e) Name change as a subject to public law

Changes of first names and surnames are admissible if an important reason warrants the requested change (§§ 3,11 NamÄndG). The conditions, cost and procedure are laid down in the Act on Changes of Surnames and First Names (NamÄndG) and the Executional Ordinance on the Act on Changes of Surnames and First Names (FamNamÄndGDV). The change requires an administrative order and is hence governed by public law. If the decision is negative, the applicant can appeal to the court. On changing the surname the superior administrative body decides and can, if it is required to protect the rights of other persons under stipulation of a reasonable time to raise an objection, publish the decision in a daily newspaper. Publishing regulations may vary between the Länder. If the application is granted, the administrative body gives a notification of the change of name to registry office which amends the original civil status registrations in the margin of the birth register, family register etc.

An important reason is, for example:

- A collective surname, which might lead to confusion;
- The applicant is a foster child or the mother has returned after divorce to her maiden name;
- An unfortunate first name or surname, if it is considered to be offensive;
- A surname, which is not suitable to be used as a first name or surname due to its difficult spelling or pronunciation;
- The applicant is a of foreign origin and wants a first name or surname, which facilitates his/her residence in Germany e.g. omission of a gender suffix or diacritical mark;

- The applicant wants to continue a first name or surname which he/she thought in good faith he/she was entitled to do;
- The applicant can prove by medical certificate that the first name or surname causes a mental disorder.
- The applicant after changing the religious affiliation wants to abandon the first name relating to the previous religious community or wants to acquire a first name relating to the new religious community.

The new name can be chosen in theory without restrictions as long as the aforementioned general principles concerning first names are taken into account and the new surname is suitable as a surname. The new surname applies in principle to all the children of the person who has changed the surname, provided he/she has custody and the children bear his/her surname. In addition to the written application indicating the cause that justifies the change the following documents (copies) must be presented:

- registration card
- identity card
- naturalisation certificate
- Ethnic German immigrants (Spaetaussiedler) card
- alien department's entry in the passport in case of stateless or homeless foreigners, asylum beneficiaries or foreign refugees
- information about habitation or commercial branch of the last five years
- certified copy of the birth register of the applicant and of his/her minor children if the change of name should include them
- certified copy of the family register
- certified copy of the family register of the biological parents in case of a minor
- certified copy of the marriage register
- certificate of good conduct if the applicant is over fourteen years old
- certificate of good conduct (original) of the foster parents
- child custody decision if the applicant is a minor and the parents are divorced
- approval of the guardianship authority
- income statement
- The administrative body procures furthermore:
 - information from the debtor register
 - information from the appropriate police department
 - written statement from the youth welfare office (foster or stepchildren) and involved persons

Every name change requires the consent of the child, if the child is 5 years or older. Children age 14 or older must always, with the consent of the legal agent, personally agree.

f) Cost

The naming of children is free of charge.

- Registration of name change: € 17,00
- Certificate of name change: € 7,00
- Name change as a subject to public law: € 2,50 - 1022,00 on changing the surname and € 2,50 - 255,00 on changing the first name (depends on the administration effort and the personal financial circumstances); negative decision costs between one tenth and half of the fee, depending on the amount of work involved.

g) Minorities

Germany grants members of national minorities the right to bear their names in the minority language. Under the Act on Name Changes by Minorities (MindNamÄndG) every person belonging to a national minority has the right to adapt his/her former name, assigned to him/her under the national legal system, to the specific features of his/her minority language. Such adaptation may be effected by translation of the name into the minority language, if the name also denotes a specific term and thus is translatable from one into another language. If the name cannot be translated, it may be adapted to the phonetic particularities of the given minority language. Members of national minorities whose former name in the minority language had been given a German form or had been changed to another name, may again assume that original name. A pertinent declaration before the civil registrar suffices for adapting a name to the special features of a minority language. With the 13th General Regulatory Order Amending the General Regulatory Order to Implement the Act on Civil Status, the provisions of the Act (on Civil Status) were included in Section 381 a of the Standing Instructions for Registrars and having them applied in civil registry office practice.

The Standing Instructions for Registrars and Their Supervisory Authorities take account of the orthographic particularities of the names of members of national minorities by providing that the diacritics (graphic accents, hooks, etc.) in names or other words shall be retained unchanged. The change of a person's surname at birth will affect the married name of the person making such declaration only if the spouse also makes such a name change declaration before the civil registrar. Extension of such name changes to the children of the person making the declaration or to their spouses is governed by the provisions of the German Civil Code.

Section 3 of the Act on Name Changes by Minorities (MindNamÄndG) provides that no fees shall be charged for acceptance of a declaration to this effect and for its certification or judicial recording (authentication). The number of persons making use of the right to have their names changed is not covered by the statistics of the Civil Registry Offices. There are no provisions laying down any general obligation of Civil Registry Offices to report such information to any registry supervisory bodies.

DK - Denmark

1. Civil Status Registration System

The civil status registration system in Denmark is person-based.

The official language in Denmark is Danish, Faroese (in the Faroe Islands) and Kalaallisut (in Greenland). The Danish alphabet is based upon the Latin alphabet and consists of 29 letters. The letters c, q, w, x and z are only used in loanwords. Danish has extended the Latin alphabet with ligatures. In computing, several different coding standards have existed for this alphabet: DS 2089 (Danish, later established in international standard ISO 646, IBM PC code page 865, ISO 8859-1 and Unicode).

Denmark has a population of 5.451.826 (2007) and is divided into five regions (Danish, *regioner*, singular, and *region*) and a total of 98 municipalities. Denmark is further subdivided into 2152 parishes located in the municipalities.

The Danish Ministry of Interior Affairs and Health's Central Office of Civil Registration (the CPR-Office), located under the Ministry of Interior Affairs and Health's Department, is in charge of the Danish Civil Registration System (CRS) and functions as the main supplier of basic personal information to public authorities and the private sector.

The centralised civil register in Denmark serves as a national register and was set up on 2 April 1968 on the basis of the municipal registers manually compiled earlier. The CRS administrates the personal identification number system and general personal data forwarded by the municipal registration offices to the CRS. Moreover, the CRS should supply personal data in a technically and/or economically suitable manner in compliance with the legislation governing registers and civil registration.

The civil register list only persons who:

- are born in Denmark of a mother already registered in the civil register, or
- have their birth or baptism registered in a 'Dansk Elektronisk Kirkebog (DNK)' (Danish electronic church-book), or
- reside legally in Denmark for 3 months or more (non-Nordic citizens must also have a residence permit)

Official recognition is enjoyed by the Norwegian, Swedish and English communities in Copenhagen, the Roman Catholic, Russian Orthodox and Danish Reformed communities, the Baptist Community and the Methodist Church as well as the Jewish Community, and allows these communities to keep legal registers and to issue legally valid personal documents (certificates of marriage and baptism). This is to be seen in the light of the fact that primary civil registration (registration for the central personal register) of all citizens in Denmark is otherwise undertaken by the National Church clergy and church offices. Only thereafter they are obliged to report such data on births, names and deaths and other personal data to the municipal registers.

The municipal registers are based on 3 files: head cards, the exit-register for head cards and the name file. The head cards consisted of a card for each family group living together or for a single person and contained all the registered data on these persons, including the data required to compile voters' lists. The exit register contained the head cards on persons who had moved out of the municipality or died and the name file contained names and addresses and served as index to the head card file. Head cards and exit cards were sorted by address and the name cards by the name. The National Registration Offices of the municipalities register major events in peoples' lives, when they are born and christened/named, when they join/leave the Church of Denmark, change their address, emigrate from/immigrate to Denmark, get married or divorced, when they die, etc.

The main rule is that people who live in Denmark legally for a certain amount of time must register with the national registration offices. This registration with the national registration offices/the CRS is necessary to obtain a personal identification number.

a) Personal identification number

The Danish Personal Identification number (Danish CPR-number or person number) is a national identification number, which is part of the personal information stored in the Civil Registration System. The identity number is unique to the person and thus functions as identification of each individual. Almost the entire public administration uses the identification number, inter alia, to avoid duplicate registration and errors in respect of a person's identity. The use of the identity

number also facilitates the collaboration between the CRS and the public authorities receiving data from the CRS. The personal identification number consists of 10 digits, six ciphers for the person's date of birth and a serial number of four ciphers. The tenth and last cipher in the identification number is the check cipher. It indicates the person's sex; an odd cipher denotes a male and an even cipher a female and in addition discloses errors in the identity number. Danish citizens, including newborn babies, who are entitled to Danish citizenship, but are living abroad, do not receive a personal ID number, until they move to Denmark.

b) CRS Updating

Registration takes place via the national registration offices which via link to the CRS forward the information received from citizens and the relevant authorities registering basic data. Residents in Denmark are obliged to notify the national registration offices of any change of address when moving within the country's boundaries and when moving to or returning from another country. In connection with information about naming or change of name, marriages, adoptions, divorces, etc., the national registration offices receive information from the other public authorities which are responsible for registering basic data. The counties, for example, report information about adoptions, paternity acknowledgement, divorce, etc., whereas the courts report adoption annulments, paternity verdicts, declarations of incapacity, etc. The citizens notify births, naming and certain changes of name and deaths to the parish registers. The national registration offices receive this information, information about weddings and information concerning membership of or resignation from the Danish state church from the parish registers such that in this instance a duplicate registration takes place because only the entry of births, names and deaths in the parish registers is considered legal proof thereof. The authorities responsible for basic data are also obliged to report administrative changes, e.g. amalgamation of parishes, counties, etc., directly to the CRS, such that the register of authorities is up-to-date. With the modernization of the CRS it is possible to update system on-line in the local civil registration offices.

c) Access to the CRS

In general, there are three types of uses of the CRS: direct terminal access to the CRS, extracts from CRS and individual data from the CRS. Users of the CRS can retrieve information about individuals either by entering the personal identification number or by searching using date of birth - perhaps name, or using the address or name alone. It is possible to use current as well as former names and addresses in the search.

d) Terminal Access

All Danish public authorities can obtain permission to access via terminal, the information in the CRS which is relevant for the authorities in order to carry out their responsibilities. The terminal access comprises nationwide search in the general CRS civil index. Another type of 'terminal access' to CRS is on-line delivery of personal data from CRS to the authority's own EDP application, where the authority's application calls up the CRS using the personal identification number as key. Programme to programme communication is used in connection with the user's terminal solutions when the CRS personal data is not available in the authority's own register. When using a terminal, the operator automatically retrieves data from the CRS. The data can then be entered into the authority's own register and /or be displayed on screen. Since 1996 private companies may have terminal access to the CPR and have access to data which are not sensitive, such as name and address.

e) Extracts

Extracts are available as bulk status extracts, which means an extract covering a group of persons as it appears in the database at a given time, and as amendment extracts, which is current delivery of amendments to the group of persons by subscription. Daily amendment extracts are supplied to update public and private edp registers, inter alia, the civil tax register, the pension register (Labour Market Supplementary Pension Fund), the joint municipal registers, local government registers, public statistical registers, etc. There are currently about 200 subscribers. Specially defined extracts are, inter alia: voters' lists for general elections, local government elections, parish council elections, EU elections, etc., parish lists of the members of the Lutheran Church of Denmark for use by the clergy, and extracts for research and statistics. Most of the extracts are supplied via telecommunication lines (file transmission). In respect of statistics the extracts from the CRS are, e.g. used for current population statistics, which meant that manual censuses ceased in the early 1980s. The CRS also forms the basis for demographic planning (schools, hospitals, etc.). In connection with, for example, the calling of a general election, the CRS only needs two to three days to supply the data needed by the municipal EDP facilities to compile and issue voters' lists and election cards, which means that a general election can be called at 18 days' notice. Direct mail is a service offered by CRS to public authorities and in connection with public and private research and statistics projects. Research and statistics projects often target a special group of people, which has been chosen according to already defined criteria. In this connection, the CRS can offer the public authorities to extract the defined target group from CRS as well as mailing. In connection with private research and statistics projects, the CRS can likewise extract defined target groups from the CRS and at the same time guarantee the anonymity of the individual. The envelopes are mailed with the Ministry of the Interior as sender and the private researcher or statistician is not informed of any personal details of the recipients. People can avoid being contacted in connection with research and statistics projects based on extracts from the CRS if they notify the CRS office, which then registers their wish in the CRS.

f) Individual Data

Specific data about individuals, whom the enquirer identifies by using a combination of name and either address, personal identification number or date of birth, can be obtained upon request from any local registration office through terminal access to the CRS irrespective of the residence of the individual. Citizens may request for their address to remain confidential with respect to enquiries other than those of public authorities or from creditors.

g) Complaint

Complaints about decisions on civil status may be brought before the Ministry of the Interior within four weeks of the complainant having received notification of such decision. The complaint is filed with the registration office that has made the decision and forwarded together with the reasoning for the decision and the re-evaluation to the Ministry of the Interior. The decision of the Ministry of the Interior may involve dismissal, affirmation, remission for review or an amendment to the ruling complained about. In the event of an amendment to the ruling, the Ministry of the Interior may immediately undertake the necessary correction of the registration in CPR.

h) Legalization/Translation

The registry office does not accept documents which are not duly certified. In principle, documents coming from foreign countries intended for use in Denmark must be legalized by the respective foreign country or bear an Apostille. Denmark is a member of the Nordic Agreement between Denmark, Finland, Iceland, Norway and Sweden which provides for an electronic exchange of information on inter-Nordic migrants between the respective central population registers of these

countries under the new Agreement on National Registration of Stockholm of 01 November 2004. In addition, Denmark has bilateral agreements with Austria and Germany. Denmark is also party to the Convention abolishing the legalization of documents in the Member States of the European Communities, signed at Brussels on 25 May 1987. This Convention exempts public documents from the procedure for certifying the authenticity of signatures, seals, stamps, etc. This Convention replaces earlier treaties simplifying or abolishing legalisation, except when those treaties concern documents not covered by this Convention or drawn up in territories to which this Convention does not apply. Parties to the Convention of 25.05.1987 are Belgium, Denmark, France, Italy, Latvia, Cyprus and Ireland.

Copies of documents are allowed, but such copies must also be legalized or made of the original documents, which have the certification (apostille) on it. All foreign documents must be translated into Danish. Under the Nordic Language Convention, citizens of the Nordic countries (Sweden, Denmark, Norway, Finland and Iceland) speaking Swedish have the opportunity to use their native language when interacting with official bodies in other Nordic countries without being liable to any interpretation or translation costs.

Since 01.01.2007, most documents only need to undergo one single legalisation process at the Danish Ministry of Foreign Affairs. As a result the legalisation which used to be carried out by relevant authorities (e.g. the Ministry of the Interior or the Ministry of Ecclesiastical Affairs) has ceased from 2007. This means, for example, that a marriage certificate no longer has to be legalised by the Ministry of Ecclesiastical Affairs before it is sent to the Ministry of Foreign Affairs for legalisation or the Apostille.

If the applicants deliver six documents or fewer no later than 30 minutes before the office closes, he/she can expect to have them legalised while he/she waits. A larger number of documents must be left, and will as a rule be available for collection the following day. Legalised documents can also be sent to a desired address if a stamped, addressed envelope is provided. The Danish Ministry of Foreign Affairs legalises and returns the documents within 2-4 working days.

The Danish Ministry of Foreign Affairs charges a fee of DKK 165.- for each legalisation/verification. Personal callers to the office can make payment in cash, by cheque or with Dankort. Foreign currencies and credit cards are not accepted. If the documents are sent by mail, the amount must be enclosed in the form of a cheque (payable to "Udenrigsministeriet") or transferred via a bank or bank giro (enclose receipt of the transfer). If the documents are to be returned abroad, an additional DKK 40.- is charged to cover postage.

i) Services and Certificates

The Registration Offices deal with inquiries from citizens, private companies and public authorities, as well as providing assistance when there are elections or referendums in Denmark. They also help people choose new doctors and can also investigate people's accommodation situation etc.

Changes of address

All changes of address must be reported to the Registration Office in the new municipality of residence within 5 days. Failure to observe the deadline for reporting changes of address may result in a fine. Changes of address can be sometimes registered electronically via the internet.

Withdrawal from the Church of Denmark

To withdraw from the Church of Denmark citizens must apply to the church office in the parish in which they live. The church office will ensure that the information is registered by the Central Office of Civil Registration (CPR).

Medical Card

In case of loss of the NHS medical card a new one can be issued. A person can apply to the Registration Office in person or in writing; or use the electronic self-service facility, where he/she can both order and pay for a new NHS medical card. A new NHS medical card costs DKK 155.

Protection

There is a protection system based on the Act on Processing of Personal Data to prevent private individuals being informed of name and address. Name/address protection applies for one year at a time. Directory, research and marketing protection once registered remains active until revoked in person or in writing. The registration of all forms of protection is free of charge.

Research

The Registration Office is only allowed to pass on information about deceased persons that cannot be found in the Central Office of Civil Registration (CPR) and the information must be more than 30 years old. The following information about deceased persons can be supplied:

- All names, including former names
- Date and place of birth
- Marital status and place of marriage
- Date of death and place of death was registered
- All addresses, complete with dates of changes of address
- Family relationships with the deceased, stating the name, date of birth and place of registration of relatives (not living relatives)

Family research fee: Currently DKK 316,75 per hour.

Civil registration number certificates

When people are christened/ named or when they immigrate to Denmark, the Registration Office issues a civil registration certificate. In case of loss it is possible to obtain a new one by applying to the Registration Office in the municipality of residence in person or in writing. When applying in person the applicant must produce proof of identity. A new civil registration number certificate costs DKK 52.

Residence certificates

A residence certificate contains the data registered about a person by the Registration Office. The applicant can obtain a certificate by applying to the Registration Office in person or in writing. When applying in person the applicant must produce proof of identity. A residence certificate costs DKK 52.

Homeowner certificates

If a person owns, rents or administers housing, he/she is entitled to make an inquiry in person or in writing and obtain the names of the persons registered at the address concerned. The person must produce a title deed, lease contract or similar document to prove that he/she owns the title to the housing, title deed, lease contract etc. before the names of the people registered there are given to him/her. A homeowner certificate costs DKK 52.

Archives

Civil registration records are kept at the local civil registration office in each district, town or city (municipality). The Danish system of record depositories is roughly divided into the following subdivisions: National archives and libraries, Regional archives, Military archives and Church parish offices. The National Archive of Denmark in Copenhagen collects or includes census and emigration records. Photocopies of census records from 1850 on are available to search. The copies are indexed by the parish. The National Archive also has microfilm copies of all the church records for the whole country. Microfilm copies of the military records are also available at the National Archive. The National Archive is open to the public. In Denmark there are four regional archives: one each for the islands of Sjælland and Fyn and two for the peninsula of Jylland. Each county deposits its church records at the respective regional archive when the records are over 100 years old. Records of genealogical value at regional archives include church (birth, marriage, and death), census and land records. The regional archives of Denmark are open to the public. The Danish Military Archive is now a division of the National Archives. Copenhagen's city archive has records that deal primarily with the city's population. All parishes of the Lutheran church have their records that are less than 50 years old.

j) Foreign relations

Danish civil status registrars neither transmit information about civil status acts and changes of citizens born in another EU Member State or of citizens of other EU Member States occurring in Denmark directly to the authorities of that EU Member State nor receives information about civil status acts and changes of Danish citizens (or of citizens whose birth was registered in Denmark) directly from the authorities of that EU Member State.

k) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Danish citizens can obtain from Danish foreign missions. The Danish Foreign Service will assist Danish nationals and – in as far as possible – foreigners with a permanent address in Denmark. Consular services include legalisations and assistance in family and civil law matters. Danish parents living abroad are not required to register the birth of their newborn child with the Danish authorities. The child will not acquire a Danish civil registry number (CPR-number). However, the child will be given a civil registry number in the event of relocating to Denmark. Nevertheless, one way to obtain some kind of registration in Denmark is to baptize the child in Denmark, which often involves that the child gets a Danish CPR-number (personal registration number).

The consular network of Denmark assume neither duties of those which are reserved for registrars in their country nor do they offer assistance on certain issues but in practice some Danish consular officials offer assistance to obtain civil status certificates from Denmark. Therefore, certificates are not always available for Danish citizens from a Danish embassy or consulate.

l) Law

Act on the Civil Registration System of 2000; Act on Names of 2006; Registered Partnership Act of 1989; Marriage Act of 1999; Nationality Act of 2003; Adoption Act of 1999; Publication on marriage of 1995; Publication on paternity of 2002; Judicature Act of 2003; Children Act of 2001; Act on Processing of Personal Data of 2000

m) eGovernment

Online Services for Citizens

Portal

Danmark.dk The national portal Danmark.dk is at the same time an institutional site and an e-government portal providing easy access to public information and services. A specific version in English (Denmark.dk) has been developed for foreigners.

Network

There is currently no government-wide data network in Denmark.

e-Identification and e-Authentication infrastructure

Official digital signatures: The Danish Government has launched an ambitious programme to issue “free digital signatures” as a means for user authentication to all citizens, with a view to accelerate the take-up of eGovernment services. Through the scheme, Danish citizens are issued a free software-based digital signature (OCES - Public Certificate for Electronic Services) providing sufficient security for most public sector and private sector transactions. Launched in early 2003, the scheme aims at distributing 1.3 million digital signatures after four years and ultimately at providing all Danes with digital signatures. The Danish Government does not have plans to introduce card-based electronic identities. Moreover, since the 1st of February 2005, all public administrations are able to use digital signatures and secure email, allowing all citizens to communicate electronically and in a secure way with government bodies.

Website

<http://www.cpr.dk>

<http://www.personregistrering.dk>

Civil Status Certificates

Requests of certificates are handled by individual communes, most of which provide information and forms to download on their websites. Answers to these requests are based on the Danish Central Person Register (CPR), the register of all Danish residents.

2. Birth

Notification about the birth of a child must be given no more than 2 days after the birth. Parents should notify the parish priest or the church office in the parish where the mother lives about the child's birth. Notification must be given even if the parents only live in Denmark temporarily. The midwife (or the hospital) gives a form to use for notification. The parish office then issues a birth certificate. All newborn citizens, regardless of religious persuasion, are registered by the Danish National Church, acting on behalf of the Danish state.

The mother's original birth or name certificate must be submitted along with the birth notification. If the parents are married, the father's birth or name certificate and the parents' marriage certificate must be submitted as well. The mother is under an obligation to state who the child's father is. With regard to inheritance and alimony the father's identity should be stated on the birth notification.

In Southern Jutland birth notification should be given to the local authority (the personal register).

Stillborn children are not registered in the CRS, but children alive at birth, even if only for a short time, were.

A transsexual can after gender reassignment alter the birth certificate. The birth certificate is reissued in the reassigned sex of the transsexual person.

a) Recognition

Under the Children's Act, the spouse of the mother is, without contrary proof, considered to be the father of a child who may have been conceived during marriage.

One of the sustaining principles of the Act is the desire to give married and unmarried parents equal status in relation to their children. Registration of paternity shall take place in connection with the registration of the birth of the child without paternity proceedings being conducted before the County Governor's office. Forms for a joint Care and Responsibility Declaration are provided by the midwife or hospital and then sent to the parish register. The form must be signed by the father and the mother of the child and the father's signature is to be certified either by a lawyer or by two witnesses. If the parents wish to submit the Care and Responsibility Declaration before the child is born, the declaration is to be sent to the National Register Office instead of the parish register. If the father has not reached the age of 18, permission from his guardian is required and the father must appear in person before the Office. When paternity has been acknowledged, this has similar effect as a Court order, and therefore acknowledgement of paternity cannot be withdrawn. During the first 6 months following birth the father and the mother may, however, raise objections to the information registered.

In the case of children born out of wedlock, the mother has a duty to inform the authorities within a month of the child's birth who is, or who may be, the father of the child. The mother may request the authorities to exempt her from her duty to state the name of the father of the child for good reason or if the mother's social and financial conditions are deemed to be fairly reasonable. If the male person stated by the mother to be the father of the child does not wish to acknowledge paternity, or if the mother indicates several possible fathers, paternity will be established by the courts.

If the paternity has not been registered in connection with a child's birth, the case must always be dealt with by the county government, and when informed of the child's birth, the governor will ask the mother to report the name of the father of the child. Based on genetic examinations the county government may conclude the case by recognition of the paternity. If paternity is not recognized or the County Governor's office is concerned about accepting the recognition of it, the case must be passed on to the court. The Children Act also includes rules on paternity and maternity in artificial fertilization, the paternity law status of sperm donors and a prohibition of agreements on surrogate motherhood.

3. Marriage

In Denmark it is possible to have either a civil or a church wedding. Only two persons of different sexes can enter into civil marriage.

Exclusively for persons of the same sex, registered partnerships were introduced by the Act on Registered Partnership of 7 June 1989. Under this act, persons of the same sex can register their partnership if one of the partners lives in Denmark and is a Danish citizen or if both (foreign) partners have been living in Denmark in the last two years before the registration. Partners from countries with a similar law as the Danish are regarded as Danish citizens. The ceremony for registered partnerships takes place at the city hall. Most legal provisions for marriages also apply to registered partnerships.

a) Personal Requirements

A minor may not enter into the contract of marriage without the consent of the parents and the authorities. The authorities may permit a child under the age of 18 years to contract marriage. As a rule, permission will not be granted if the child is under the age of 15 years, or if both man and woman are under the age of 18 years. Permission is given from the County Governors Office. Some Danish municipalities demand a minimum stay of 3 days in the municipality before marriage. It is not allowed to marry relatives in a direct line of descent or ascent, i.e. parents or children. It is also not allowed to marry siblings, an adopter or adopted children or persons who have previously been married to the relatives in a direct line of descent or ascent.

b) Preliminary Procedure

Before the future spouses can be married, they must obtain a certificate of marriage approval from their own or their partner's municipality of residence. The certificate is valid for four months and must be presented to the authority (priest or registrar) in charge of the wedding. The certificate is issued on the basis of a marriage declaration (marriage application form) which must be filled in. The form can be obtained from civil registry of the municipality, the local office of the National Register either in person, by phone or by e-mail. If the future spouses are residents of Denmark they will not have to pay for their certificate of marriage approval. The law provides no rules on minimum time between application and marriage. Nevertheless, the authorities will need some time to consider, whether both parts are eligible for marriage according to the requirements. The processing time may vary from one municipality to another. It is recommended to apply 4 to 6 weeks in advance.

When the future spouses have filled in the form, they should send it to the National Register together with the documentation of the form. The National Register checks the information. When the National Register has processed and approved the marriage application form, a certificate of marriage approval is sent to the couple to be married, documenting their right to be married in Denmark.

c) Documents

Each of the parties has to show the following original documents:

- Birth certificate
- House registration – as documentation for the address in the home country
- Certificate of civilian state – as documentation for civilian status
- Valid passport as well as valid visa or residence permit
- If the entry into Denmark does not require visa or residence permit the entry will be on the same terms as a tourist (3 months residence). In this case he/she has to show the travel tickets or similar papers as documentation for the date of arrival in Denmark.
- Divorce decree (when married before) or Death certificate (when marriage has ceased by death)

For divorced and widowed, the Danish authorities demand a legally binding divorce decree or a legally binding death certificate. In addition, the civil registry office of Denmark must validate the authenticity of the divorced decree or the death certificate to a higher Danish authority. This can take up to 4 weeks. For EU-citizens or Citizens of the Nordic Agreement, the stamp of the court is sufficient.

Danish authorities accept documents written in Danish, German or English, or in any of the languages of the Nordic Agreement. Documents in other languages have to be certified translated before being submitted by a sworn translator/interpreter.

d) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment (prøvelsesattest) of the country of origin if they intend to marry in Denmark. In practice the presentation is considered as useful.

If a Danish citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Danish certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Danish law and is valid for 4 months from issue. This certificate is issued by the mayor of the main or last place of residence. The certificate is also issued to everybody stating a legal interest. The certificate is issued free of charge if at least one of the prospective spouses has a residence in Denmark. Otherwise the cost is 500 DEK (67,03 €).

e) Marriage Ceremony

If the future spouses get married in church, a priest officiates at the wedding. In case of a civil marriage, the wedding is managed by a registrar (the mayor of the municipality or a civil servant). A civil wedding normally takes place at the city hall in the municipality of residence of one of both of the parties. Two witnesses must be present. If the mayor gives his or her permission, the wedding may take place outside the city hall. A marriage by proxy is not allowed. The marriage ceremony can be held in Danish, German or English. Should one of the partners not speak one of these languages, an interpreter is required.

After the wedding, the spouses receive a marriage certificate.

Spouses and registered partners may apply for the other partner's name; they do not receive it automatically (Art. 4 of Act no. 193, Act on Names, of 29 April 1981).

f) Cost

Obtaining a certificate of marriage approval, the marriage, and the marriage certificate are free of charge. Only if both parts have a permanent address outside Denmark, a fee of DKK 500 (EURO 67.19) is charged in cash.

g) Divorce/Separation/Annulment

The Act on Marriage states that a spouse (or registered partner) who does not feel he or she is able to continue the relation has a right to separation, which after one year gives the right to final divorce. The Regional State Administrations (County Governors Office) deals with separation and divorce cases when the couple agrees on the terms of the divorce. Otherwise, the divorce is filed with court of law. A Regional State Administration may also put a divorce case before the court if the divorce and its terms are questionable.

h) Cost

It costs DKK 500 (EURO 67,19) to get a divorce case treated by the Regional State Administration.

4. Naming

The Danish National Church registers the names of all newborn babies. A child born in Denmark must have a name no more than 6 months after the birth. The child will then receive a birth certificate and a name certificate. The child may also be named at a baptism ceremony performed

by a clergyman of the Danish National Church or a minister of religion of another recognised religious community. In South Jutland, registration is carried out by municipal registrars.

a) First name

A child must have at least one first name, which must reflect the gender of the child but it may have several. In general, a child must be given a name that has been approved by the Ministry of Ecclesiastical Affairs. The list of approved names can be seen at the Ministry of Ecclesiastical Affairs website or at the parish priests or the church office. If the child should be given a name not on the list, the Ministry of Ecclesiastical Affairs must approve it. Parents who are or have been foreign nationals are allowed to give their child a name that is not approved in Denmark, as long as the name is approved as first name in the country of the parents' nationality.

b) Surname of a child

If the parents have the same family name, the child will automatically receive this name. If the parents have different family names they can choose to give the child the mother's or the father's family name. The child can receive the other family name as a middle name. Upon adoption, the adoptive child acquires the surname of the adoptive parent.

c) Surname after marriage

In Danish legislation, each party retains his or her family name after the marriage ceremony. In the marriage application, however, one party can express the wish to assume the family name of his or her partner as his or her married name. If one of the parties has acquired a married name as a result of a previous marriage, this married name cannot, however, become the joint married name in the new marriage. If one party takes his or her partner's family name as his or her married name, he or she may retain his or her previous family name as a middle name, however only as a called name.

d) Middle name

It is possible to register a middle name by applying to the Registration Office in the municipality of residence. Rules are:

- If he/she uses his/her own surname (i.e. the name given to him/her most recently but not as a result of marriage), he/she can register the following middle names:
 - The surname of the current spouse, or a married name used previously.
- If he/she uses his/her current spouse's surname as a married name, he/she can register the following middle names:
 - The own surname, or
 - The current spouse's middle name, if he/she uses the same surname, or a married name used previously.
- If he/she uses a previous spouse's surname as his/her married name, he/she can register the following middle names:
 - The own surname, or the current spouse's surname.

If a married name that he/she has used previously or the own surname does not appear in the Central Office of Civil Registration (CPR), he/she must provide documentation to show that he/she is entitled to use it. Middle names are registered as middle name by which the applicant wishes to be known in the Central Office of Civil Registration (CPR), but does not mean that the name has been actually changed.

e) Name Change

Anyone can change the name by applying to his/her parish of residence or to the county authorities. A fee of DKK 430,00 (EURO 57,64) is charged for certain name changes.

After a sex change surgery the Civil Rights Directorate acknowledges the sex change officially. The assigned gender is entered into the population register and the applicant will receive a new number in this register which reflects the new gender. Afterwards it is possible to change the first name.

Patronymic names and other last names

The following names may also be adopted as a last name:

- the first name of either parent, with the suffix -søn (son) or -datter (daughter),
- the first name of either parent, with another prefix/suffix to denote kinship if the name is rooted in a culture which permits this, or the first name of either parent, a grandparent or spouse if the name is rooted in a culture which does not distinguish between first and last names.

f) Double last name

Two names, both of which may be used individually as a last name, may together be adopted as a last name if the names are joined by a hyphen. An individual who bears a last name consisting of several names joined by hyphens must choose to drop one of the names concerned. An individual who bears a last name consisting of several names which are not joined by hyphens must choose to drop one of the names concerned.

g) Minorities

Members of the German minority in Denmark have the right to use their surname (patronym) and first name(s) in German. Danish authorities recognise the names, including the letters ü and ö, of the German minority in all relations. The Ministry of Ecclesiastical Affairs has distributed a list of recognised names. In practice, German names are recognised even if these are not included in the list.

EE – Estonia

1. Civil Status Registration Service

Estonia's civil status records are based on a central population register. As with all population registers, Estonia's system is person based as it records at a central place all relevant changes to the civil status of a person occurring in Estonia. All civil status acts are performed in Estonian language. Estonian employs the Latin alphabet, in addition to which the Estonian alphabet contains letters š, ž, ä, ö, ü, and õ. The letters c, q, w, x and y are limited to proper names of foreign origin, and f, z, š, and ž appear in loanwords and foreign names only. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-4, -13, -15.

Estonia has a population of 1.342.409 (2007) and is divided into 15 counties. A county (Estonian: maakond) is an administrative subdivision of Estonia. The government (Estonian: maavalitsus) of each county is led by a county governor (Estonian: maavanem), who represents the national government at the regional level. Each county is further divided into municipalities which are of two types: urban municipality or town (linn), and rural municipality or commune (vald). Some urban municipalities are divided into districts (est: linnaosad, sg. - linnaosa) with limited self-government, e.g. Tallinn consists of 8 districts (Haabersti, Kesklinn, Kristiine, Lasnamäe,

Mustamäe, Nõmme, Pirita, Põhja-Tallinn). Since October 2005 there are total of 227 municipalities in Estonia; 34 of them are urban and 193 are rural.

a) Population Register

The central population register of Estonia holds the data of all Estonian citizens regardless of their place of residence and, of all foreign citizens with residence status in Estonia. With Estonian citizens, changes to the civil status occurring abroad, such as marriages of an Estonian citizen or the birth of a child by an Estonian are recorded if and when this event comes to the attention of the registry. Estonian citizens abroad should forward such events to the registration through the consular office. They are required to do so as a prerequisite for obtaining a new or a revised passport. Estonian citizens residing in Estonia or returning to Estonia who have had a change in a civil status will have to register this at the local administration. The same applies to Estonian permanent residents. Events of change of status of non permanent residents (e.g., the marriage, birth or death by a tourist) and of illegal residents (e.g., the birth of a child by a person being in Estonia illegally) are also registered. There is no automatic transmission of changes of civil status data to the civil status administration of other Member States of the EU with respect to their citizens or permanent residents or to other foreign administrations. While for Estonians the records are kept up to date, this up keeping ends for permanent resident foreigners when they permanently leave the country.

Access to the Population Register

Persons who have an Estonian personal identification code may check the state-collected data concerning themselves online, from the population register and other state registers. A user is allowed to access these services only after they have been identified. The process of identification can be conducted by using a valid ID Card issued by the Republic of Estonia or the authentication procedure of an internet banking service. In case of justified need, a private person may be allowed to obtain from AS Andmevara information concerning other persons. All the state agencies and local government agencies and legal or natural persons have the right to access the data of the population register for the performance of their public duties. Agencies and persons of foreign states have the right to access the data of the population register if such right is provided for in an international agreement or ensured in the specific cases by the order of the processor of the data.

Vital Statistics Offices and Staff

Vital statistics offices prepare vital statistics registrations and issue vital statistics certificates. There are for types of vital statistics offices in Estonia:

- 227 rural municipality and city governments,
- 15 county governments,
- Representations of the Republic of Estonia established in 54 countries and
- The Ministry of Internal Affairs.

Rural municipality governments register births and deaths. City governments register births and deaths if there is no county government in their administrative territory. County governments register births, deaths, marriages and divorces, amend, correct and cancel such registrations, restore missing vital statistics registrations, keep registration registers, and issue certificates, copies of vital statistics registrations and documentation. A consular officer may also register births, deaths and marriages in accordance with the legislation of the receiving state if there is a justified need for the registration to be made. The Ministry of Internal Affairs organises the storage of second copies of

vital statistics registrations and enters notations in such registrations, issues birth certificates, death certificates and marriage certificates, copies of vital statistics registrations and documentation on the basis of parish registers, and instructs other vital statistics offices on issues related to preparation of vital statistics registrations and vital statistics certificates.

Registrars have support staff, must have attained 18 years of age, must have obtained at least a secondary education and must be proficient in Estonian. No special training is envisaged. The registrar receives a monthly salary usually about 10000 Crowns per month but the salary can be considerably higher depending on the length of service and the position in the vital statistics office. All offices are equipped with computer technology, because the registration system is fully computerized. Although a work with folios is also possible. The hierarchy in the office depends on the structure of the concrete office. The head of the corresponding administrative agency has the right to give direct orders regarding a specific case or matters to his or her subordinates.

Complaint Procedure

If a person is not content with an act or decision of a registration, he or she can turn to the administrative court to dispute the concerned act or decision. An agency, official or other person performing administrative functions in public law can not turn to the administrative court in order to file an action against the act or decision of the registrar - legal disputes between government agencies and other state agencies are settled by way of subordination. Legal disputes between structural units of a ministry and between state agencies administered by a ministry are settled by the minister. Legal disputes of state agencies within different areas of government are settled by the appropriate ministers. If no agreement is reached, the disputes are settled by the Government of the Republic.

Vital statistics registration

A vital statistics registration is a document prepared by a vital statistics office concerning a birth, death, contraction of marriage or divorce which is proof of the birth, death, contraction of marriage or divorce.

Basis of and information in vital statistics registration entry

A document proving the circumstance to be entered in a vital statistics registration and a document identifying the applicant must be presented for a vital statistics registration entry. A document prepared in a foreign state which is the basis for a vital statistics registration entry must be legalised by a certificate (apostille) specified in the first paragraph of Article 3 of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents unless otherwise provided by an international agreement. For a vital statistics registration entry, a vital statistics office requires a person to submit information which is provided by law or legislation of general application issued on the basis thereof. A transcript of a vital statistics registration is issued to a court, the Prosecutor's Office, the police, a vital statistics office, a guardianship authority, a notary, an authorised processor of the Population Register, a bailiff, an official of the Citizenship and Migration Board, the adult concerning whom the vital statistics registration is prepared, and other persons if there is a legitimate interest. Upon preparation of a vital statistics registration, an official of a vital statistics office verifies the compliance of the data contained in the submitted documents with the data entered in the Population Register. A transcript of a vital statistics registration or data entered in the registration, a decision or record on amendment of a vital statistics registration or data entered in the decision or record is transferred to an authorised processor of the Population Register. Information in a vital statistics registration is issued to an administrative authority if this is necessary for the administrative authority to perform functions directly imposed thereon by law or an international agreement.

Correction, Amendment and Cancellation of Vital Statistics Registration

Vital statistics offices correct errors in entries and amend entries upon the application of the interested person or by its own initiative if there is sufficient basis (e.g. the name of the person has been spelled incorrectly) and no dispute among interested persons. The “error” means that some words or alphabets have been left out of the registration or the family name has been spelled incorrectly. A vital statistics registration can be amended or corrected on the basis of a court judgement or a decision of a vital statistics office by which a vital statistics registration entry is amended. If a vital statistics office refuses to correct or amend an entry or in the case of a dispute among interested persons, a court decides, at the request of an interested person, on correction or amendment of the entry. Legal effects derive from the amended version of the civil status registration. The update and revision of a civil status act or registration constitute an amendment to the registration. Cancellation of an original vital statistics registration is decided by a court on the basis of the application of interested persons. A duplicate or restored vital statistics registration is cancelled by a vital statistics office if there is sufficient basis. After the cancellation of the vital statistics registration, an original registration will be restored. The cancelled registration has no legal effects.

b) Archives

Parish registers, birth, marriage and death registers, family registers and vital statistics registrations are transferred to the public archives 110 years after their preparation. Public archives are state or local government archives. State archives are the National Archives and county archives. Local government archives are city archives, rural municipality archives and archives established as joint agencies of local governments. The National Archives of Estonia (Rahvusarhiiv) is a government agency which was founded on the basis of the Archives Act in 1999 by reorganizing the public archives services. The National Archives is a system of state owned public archives and acts under the administration of a Director General, who resides in Tartu. The National Archives is a subordinate agency to the State Chancellery and includes 13 archives in different locations of Estonia. 12 of them are repositories containing personal data. The Estonian Historical Archives is a structural unit of the National Archives of Estonia and preserves the records of the Estonian Evangelical Lutheran Church (EELK) archives. The Estonian State Archives in Tallinn provides archival evidence based on the records preserved in the archive. Furthermore there exist 10 county archives, which are regional structural units of the National Archives. Local government archives acquire and preserve records of archival value created or received as a result of the activities of local government bodies and agencies. If a local government archives is not established in a city or rural municipality, and the city or rural municipality does not participate in the establishment of a local government archives as a joint agency by an administration contract, public records of archival value are transferred to the county archives operating in the area.

The public records in Estonia are as a rule accessible to the public from the very beginning of their lifecycle. However, for the first twenty years public records are kept in the agencies and they are accessible there. Access to records containing sensitive personal data is possible at the request of a court or with the written permission of an investigation authority or preliminary investigation authority or the person concerned, or, after his or her death, access is possible for his or her spouse, parents, children, grandchildren, brothers and sisters, and other persons or agencies. Access to records containing sensitive personal data relating to confidential information concerning the filiation of a child is restricted for thirty years from the death of the person, or for one hundred and ten years from the birth of the person, if it is not possible to ascertain the death of the person, or for seventy-five years from the creation of a document if it is not possible to ascertain the birth or death of the person. The National Archives is processor of the Archives Register (electronically kept database) which is intended to obtain and keep information about public records' location,

composition, and quantity and access conditions. The Archives Register is accessible online. Researchers can use various electronic databases and reference literature, mostly via archival information system in the Internet (<http://ais.ra.ee/ais/>). In spring 2005, the first digital database containing traditional archival sources of Estonian family history was opened. This database, called Saaga, is accessible via webpage of the Historical Archives (<http://www.eha.ee/saaga>).

The archives issue certificates, archival notices, copies and extracts about vital statistics registrations, which are registered in Tallinn Vital Statistics Department or in its rural municipality and city departments. The procedure for providing archival information is regulated by the "Procedures for Answering Inquiries" approved by the City Archivist Director of the City Archives, available on the City Archives website or at the Archives in Estonia. Applications may be sent by mail or e-mail to linnaarhiiv@tallinnlv.ee (an application form is available on the City Archives website) or may be filled out in the City Archives office. A certificate is issued to the person concerning whom it is prepared, or to a representative of the person. A marriage terminates upon the death of a spouse or upon divorce. In that case a new certificate of marriage will not be issued, but archival notice about marriage will be issued.

c) Residence

A resident shall attend to the authenticity of his/her address and the address of his/her minor children and wards in the population register. If the resident has changed the address, he/she must notify the nearest office administering the city's population register of the new residence address within 30 days. The notice of residence form is provided online. This form must also be used upon moving abroad or returning from a foreign country. Statistical data can be given on the back of the form. The notice of residence can be submitted digitally (confirmed by a digital signature).

d) Legalisation/Translation

The vital statistics office does not accept documents which are not duly certified. In principle, the documents coming from foreign countries intended for use in Estonia must be legalized by the respective foreign country. However, it should be taken into account that Estonia is a party to the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents. Therefore a certification of the documents with the apostille is in some cases also possible. In Estonia the designated competent authority(ies) for issuing apostille stamps are the Ministry of Foreign Affairs, Consular Department, Legal Division; the Ministry of Education and Research, Administrative Department; the Ministry of Justice, Courts' Department; the Ministry of Internal Affairs, Population Facts Department and the Ministry of Social Affairs, Information Management Department. In addition, if a special international agreement concerning mutual legal aid has been concluded, the further certification of a document is not necessary. Estonia has such an agreement with Latvia, Lithuania and Poland. Estonia is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, Parties undertake to exempt documents or certificates executed by diplomatic agents or consular offices of a Party from any legalisation.

The copies of the documents are allowed, but the copies must be legalized or made of the original documents, which have the certification (apostille) on it. All foreign documents must be translated into Estonian and the translation must be verified by notary.

In Estonia, Apostilles are issued by the Ministry of Education, Ministry of Justice, Ministry of Internal Affairs, Ministry of Social Affairs and Ministry of Foreign Affairs.

The Ministry of the Interior is the competent authority for the following original documents issued in Estonia: birth certificates, marriage certificates, divorce certificates, name change certificates, death certificates, transcripts of vital record, certificates of no impediment to marriage, marital

status certificates, notices and certificates from the citizen and migration board, notices from the punishment register, police certificates, local government notices, regulations and documents and extracts from the population register.

If the document is permanently in use (e.g. birth or marriage certificate), then the original document is first confirmed with a Apostille at the Ministry of Interior, and thereafter a notarised copy or notarised translation is made. If the document is a notice or evidence that is only to be used once (e.g. certificates of no impediment to marriage, extracts from the population register), then only the original document is confirmed with a Apostille. If necessary, (when required by the foreign country) a notarised translation without an Apostille is added to the original document with an Apostille.

An applicant first fills in an application form (available online) and sends or delivers it personally together with the original document to the public authority responsible for issuing the Apostille. The form of the Apostille is a separate A5 format paper, which has security elements and a serial number. The format corresponds to the format of the Apostille in the convention. The Apostille is the bound together with the original documents (in case of multiple pages, one Apostille is bound together with the remaining pages). The Apostille is issued electronically.

There is a statutory fee of 230 EEK (€ 14,70) for an Apostille. The Apostille is usually issued the same day. There are three days a week when Apostilles are issued: Monday, Wednesday and Friday. On each of these days from 10.00 – 12.00 applications and original documents are accepted and from 15.00 – 16.00 the documents with an Apostille are issued. In most authorities it is possible to get an Apostille in the same day and in nearly all cases within three days. According to the regulation (see I.A.2.3.) Apostille can be issued within 10 days, but it takes longer only if the document is rare.

Even if applied for, the Apostille not issued if the document is to be used in Latvia, Lithuania or Poland.

e) Vital statistics certificate

A vital statistics certificate is a document which contains vital statistics registration information and proves the existence of a vital statistics registration. The following are vital statistics certificates: birth certificates; death certificates; marriage certificates; divorce certificates. A vital statistics certificate is issued by a vital statistics office on the basis of a vital statistics registration. A certificate is issued to a person concerning whom it is prepared and to a representative of the person. A person must establish that he or she has a legitimate interest to receive a transcript of the vital statistics registration. There are no special requirements as to how this interest is established. However, the vital statistics office must be persuaded that there is such interest. If the legitimate interest is based on the relationship with the person about whom the entry is made to the registry, a person wishing to receive a transcript of the vital statistics registration must present his or her identification document and a document reflecting the close relationship between the concerned person and himself/herself. A death certificate is issued to the spouse, relative or relative by marriage of the deceased. A person living illegally in Estonia can receive the same certificates as can the legal residents of Estonia if the registration is kept about this person. A citizen of Estonia living abroad illegally is entitled to receive all the certificates as the other citizens.

The vital statistics offices do not issue multilingual documents or certificates. The person wishing to use the certificates in the foreign country has to bear the costs of the translation. Only the Ministry of Internal Affairs issues documentation on the basis of the parish registers

f) Procedure, Cost, Time and Payment

The applications for copies or records and certifications can be made:

- in person, by proxy through any third party or by power of attorney to a licensed attorney at law;
- by fax, e-mail or postal mail;

However, the original documents required by the vital statistics office (e.g. the identification documents) must be presented in person in order to receive the copies of the records and the certificates.

A state fee for receiving a marital status certificate, a certificate of the absence of circumstances hindering a marriage or a copy of the civil status registration is 25 Estonian Crowns (€ 1,60). A state fee for the certificate of the information entered in the civil status registration is 50 Estonian Crowns (€ 3,19). A state fee for receiving a new certificate in the case where the vital statistics registration has been amended is 50 Estonian Crowns. A state fee for receiving a second certificate for the existence of a vital statistics registration is 50 Estonian Crowns. The fee of the archival notice is 50 crowns (€ 3,19). The fee for the divorce is 400 crowns (€ 25,56). A state fee for the legalisation of a document with an apostille is 230 Estonian Crowns (€ 14,70).

The certificate is usually issued within a few days after the corresponding state fee has been paid. If no state fee is required, the certification is issued right after the application.

The State Fee can be paid in Tallinn Vital Statistics Department by cash payment, with debit cards issued by Estonian banks or wire transfer. Elsewhere a person can pay the state fees only with a debit card, which is issued by Estonian banks, to the beneficiary's accounts (Ministry of Finance of the Republic of Estonia) in Hansapank and SEB Eesti Ühispank.

g) Foreign relations

Information about civil status acts and changes of citizens of Lithuania that occur in Estonia are directly transmitted to their authorities. Information about civil status acts and changes of Estonian citizens who were born in another EU Member State is not transmitted with the exception of Lithuania. Estonian civil status registrars receive information about civil status acts and changes of their own citizens (or of citizens whose birth was registered in Estonia) directly from the authorities of Lithuania.

h) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Estonian citizens can obtain from Estonian foreign missions. The registration of civil status events occurring abroad is recommended but not compulsory.

Estonian consular officials assume the same duties of those which are reserved for registrars in their country. The Estonian consular offices register the civil status events of their citizens abroad and issue the respective certificates. They offer assistance to obtain civil status certificates (birth, marriage and death) for Estonian citizens and for citizens of other countries from civil status registries in Estonia. They do not issue a certificate of no impediment. The diplomatic and consular officials are also authorised to celebrate marriages. The consular offices abroad transmit the acts drawn up abroad into the Estonian Population Register. A fee is payable for procuring and issuing of civil status documents.

i) Law

Family Law Act (RT I 1994, 75,1326), Language Act (RT 1995, 23, 334); the Names Act (RT I, 04.01.2005, 1, 1); General Part of the Civil Code and the regulation of the Government of the Republic concerning the procedure for preparation, amendment, correction, restoration and cancellation of vital statistics registrations and the procedure for the issue of vital statistics certificates, including the forms of vital statistics registrations and certificates and the technical description of vital statistics certificates Current versions of the texts of the legislation are available at www.riigiteataja.ee (Estonian) and www.legaltext.ee/en/andmebaas/ava.asp?m=022 (English).

j) eGovernment - Online Services for Citizens

Portal

Estonia's eGovernment portal (eesti.ee), launched in March 2003, provides a single access point to online public information and services. It is composed of two sections:

1. The Information portal (Teabeportaal), which provides practical information about the rights and obligations of the people living in Estonia, and
2. The Citizen portal (Kodanikuportaal) allows citizens to check their data in the various national databases and fill out application forms, sign and send documents.

Through authentication by the national ID Card, the portal offers users the possibility to fill in and submit electronic forms, access their personal data, and perform transactions. Every holder of the national ID card has been assigned an official e-mail address Forename.Surname@eesti.ee, which is the main channel for passing electronic information from government institutions to the citizen.

Electronic ID card

Estonia started issuing national ID cards in January 2002. The card fulfils the requirements of Estonia's Digital Signatures Act and is mandatory for all Estonian citizens and permanent resident foreigners over 15 years of age. It is meant to be the primary document for identifying citizens and residents and its functions are to be used in any form of business, governmental or private communications. Issued by the Citizenship and Migration Board, the card is valid for 10 years as an identification document. The card has advanced electronic functions facilitating secure authentication and legally binding digital signature for public and private online services.

Civil Status Certificates

Information only. Requests for certificates are handled by local authorities.

2. Republic of Estonia – Birth

a) Birth

According to the Child Protection Act, every child has to be registered in a medical institution immediately after birth (Article 9). The birth of all children born in Estonia is registered, regardless of the place of residence or citizenship of the parents. In the maternity hospital a medical card is filled out for children born either dead or alive. The card is sent to the medical birth database at the Institute of Experimental and Clinical Medicine (Eesti Meditsiiniline Sünniregister) where, since 1992, all birth cards have been registered and the data has been processed. From there, the statistically processed data is sent to hospitals and county doctors and the birth card data is compared with the birth sheet data sent from the vital statistics offices to the statistical office. In compiling national statistical data on births the data from both sources is used. The law does not discriminate between resident nationals, non-resident nationals, resident foreigners or non-resident

foreigners in the registration of children. There are no procedural differences. The birth record is made based on the application of the parents to the vital statistics office, the birth document issued by the maternity hospital, and other documents. The child does not have to be present. The parents of a child are legally responsible for declaring the fact of the occurrence of birth. The corresponding notice must be submitted to the vital statistics office. If the parents of the child are dead or can not declare the fact of the occurrence of birth due to some other reason, the relative of a parent, the head of the medical establishment or some other person declares the fact of the occurrence of birth. As the person coming to register the birth need not always be the child's mother or father, errors may occur in the data registered according to statements. The vital statistics office registers the birth and issues a birth registration certificate to the representative of a child on the basis of the registration. In practice, the certificate is usually given to a parent of the child who has submitted a notice of the occurrence of birth. All the births, which have occurred in the territory of Estonia (including the vessels sailing under Estonian national colours and aircrafts), are registered in Estonian Medical Birth Register. A birth occurred in Estonia and not previously registered in any other country must be registered by the vital statistics office if the parents of the child wish to receive the birth certificate of the child. The fact that the child was born on a vessel sailing under Estonian national colours or on an aircraft does not deprive the parents of the child the obligation to declare the fact of the occurrence of the birth to the vital statistics office, neither does it deprive the right of the parents to receive a birth certification upon the registration of the birth. The occurrence of birth abroad has to be declared to the vital statistics office if the parents wish to receive the birth certificate of the child. The representations of the Republic of Estonia also act as the vital statistics offices. The correct office for registering a birth is determined on the basis of the residence of the parent who submits the registration documents. There are no special requirements for the documents presented, if the birth has occurred outside of Estonia.

According to the Family Act, a child's birth record is made within one month from the birth of the child, based on a parent's (the parents') application at the vital statistics office, in rural municipality or city government, county governments or at foreign representations of the Republic of Estonia. There is no penalty for delay in declaring the fact of the birth of a child to the vital statistics office. If the birth is not registered within one month, the vital statistics office can not however refuse to register the birth. The default of a deadline by the vital statistics office might entail an administrative liability.

The birth record of a foundling is made at the vital statistics office of the place where the child was found, within three days of the finding of the child. The following documents must be submitted to the vital statistics office in order for the foundling to be registered:

- a certificate by the Police in which the time, place and circumstances of the finding of the foundling are reflected;
- a certificate by the medical institution concerning the age of the foundling.

A notice concerning the fact that the child was found and that the parents of the child are unknown is entered into the registration materials kept by the vital statistics office. The first name and the family name of the foundling are determined by the guardianship authority, which is organized by the local government.

Stillbirths, which have occurred in the territory of Estonia, are registered in Estonian Medical Birth Register. In addition, the vital statistics office registers the stillbirth within three days after the date of the birth.

In order to obtain the personal identification code for the child, the birth certificate has to be submitted to be entered into the population register, irrespective of the residence of the parents. In the case of failure to file an application for the registration of birth of a child in time, the data on the

birth of the child received from the maternity hospital is sent to the register of births, thus the birth of a child is fixed. A vital statistics office issues a birth certificate confirming the birth of the child.

b) Documents

In order to receive a birth registration certificate, the vital statistics office must be presented with the following documents:

- a medical certificate of the birth and the time of birth or a court order establishing descent
- the identity documents of the parents or the persons who have declared the fact of the occurrence of birth
- a document (e.g. marriage certificate), which serves as a basis for entering the information about the father of a child to the birth registration documents

The documents submitted must contain all the relevant information for registering a birth of the child or the vital statistics office can not register the birth.

c) Birth Certificate

Estonia registers over 40 items on the declaration of birth. The birth record indicates characteristics about (selected information):

- the child's first name and surname, sex, nationality, personal code, date of birth, place of birth
- data on medical assistance at the delivery, type of delivery (spontaneous birth, caesarean section, forceps-delivery, etc.) and name of the hospital
- born alive or stillborn, multiple or singleton and birth order
- birth weight and length at birth
- pregnancy duration
- the APGAR score i.e. the outcome of a test on Activity (muscle tone), Pulse, Grimace (reflex, irritability), Appearance (skin colour) and Respiration performed one and five minutes after birth
- mother's language
- the parents' socio-economic status
- first name, surname, age, personal code, nationality of the mother and the father
- the name of the vital statistics office, which compiled the certificate;
- the name of the official who signed the certificate;
- the date of the issue of the certificate.

A transsexual can after gender reassignment alter the birth certificate. The birth certificate is reissued in the reassigned sex of the transsexual person.

d) Cost

The registration of birth and stillbirth is free of charge (State Fees Act, Article 47 (1)). Tallinn Vital Statistics Department offers a service for 1000 Estonian Crowns (€ 63,90) according to which a birth registration can be done in the hospital, home or other place chosen by the parent. In this case it is not necessary to go in person to the vital statistics office.

e) Recognition

Under Estonian family law a child is deemed to descend from the mother who gives birth to the child. No special legislation exists concerning the maternal recognition. As a legal representative of the child, a mother of the child is entitled to receive a certificate of the registration of birth of the child, which among other things reflects the reference to this person as the mother of the child. A child descends from the father by whom the child is conceived. The documents concerning the descent of a child from a father of the child (a medical certificate of the birth and the time of birth or a court order establishing descent; the identity documents of the father; a document (e.g. marriage certificate), which serves as a basis for entering the information about the father of a child to the birth registration documents, must be submitted to the vital statistics office.

Filiation from man who is married to mother of child

A child who is born or conceived during the marriage of the parents is deemed to be descended from the man who is married to the mother of the child. In the birth registration of a child, the person who gives birth to the child is entered as the mother and the person who is married to the mother of the child is entered as the father on the basis of an application of either person. A child who is born after the death of the man who was married to the mother of the child is deemed to be conceived during the marriage if not more than ten months pass from the date of death of the man to the birth of the child. A child who is born after a divorce or annulment of marriage is deemed to be conceived during the marriage if not more than ten months pass from the date of divorce or annulment of marriage to the birth of the child.

Ascertainment of filiation from father not married to mother of child

The filiation of a child from the father who is not married to the mother of the child is ascertained on the basis of the joint written application of the father and mother which is submitted in person to a vital statistics office. If the parents cannot submit a joint application to a vital statistics office in person, each can submit a notarised application. A parent staying in a foreign state can submit a written petition on which the signature of the petitioner is confirmed by a consular officer of the Republic of Estonia. In certain circumstances the filiation of a child from the father may be ascertained on the basis of an application of the father. On the basis of the joint application of the parents or an application of the father, a vital statistics office shall make an entry in the birth registration concerning the father of the child. If the parents of a child are not married to each other and filiation of the child cannot be ascertained, the filiation of the child from the father is established in a court at the request of the mother, the guardian of the child, a guardianship authority or a person who considers himself to be the father of the child.

Amendments to a birth registration in connection with ascertainment of filiation from the father or establishment of filiation are made by the vital statistics office where the birth registration is located. An application for making the amendment can be submitted to any vital statistics office. After amendment of the birth registration of a child, a new birth certificate is issued. The vital statistics office informs the relevant institutions and establishments (e.g. Estonian Population Register).

An entry concerning a father may be contested in court, among other persons by the person who is entered in the birth registration of the child as the father of the child. The limitation period of a claim to declare an entry incorrect is one year after the date a person became or should have become aware of the incorrectness of the entry. A person who at his own request or at the joint request of himself and the mother is entered in a birth registration as the father of a child may not contest the entry if at the time of the submission of the request he knew that he was not the father of the child. A parent who has consented in writing to artificial insemination can not contest the entry concerning the father in a birth registration.

Effects of Recognition (without name relations)

Under Estonian Citizenship Act, Estonian citizenship is acquired by birth if at least one of the parents of the child holds Estonian citizenship at the time of the birth of the child, or if the child is born after the death of his or her father and if the father held Estonian citizenship at the time of his death. Therefore the recognition of the father in the birth registration materials plays crucial role in acquiring an Estonian citizenship. A person who is entered in the birth registration materials as the father of the child has all the rights and obligations belonging to a parent (e.g. the right to raise the child and the duty to care for the child).

Cost

The information concerning the father of the child is entered in the birth registration of the child without any special fee. If a parent contests in court the entry of a father in the birth registration of a child, he or she must pay a corresponding state fee, which is 200 Estonian Crowns (€ 12,78). In this case the legal representation is not obligatory. Therefore no additional costs besides the state fee are involved.

3. Republic of Estonia - Marriage

a) Marriage

Civil marriage has legal effect only if the marriage is registered at a vital statistics office upon contraction of the marriage. Legal consequences arise also from the religious marriage, which is registered by the minister of religion of a church, congregation or association of congregations who is granted the right to contract marriages. There is no legal recognition for same sex partners.

b) Religious Marriage

The Minister of Regional Affairs can grant the right to perform the functions of a vital statistics office which are related to the contraction of marriages to a minister of religion of a church, congregation or association of congregations who has received the appropriate training. A minister of religion of a church, congregation or association of congregations who is granted the right to contract marriages by the Minister of Regional Affairs is equal to a vital statistics office upon performance of the functions related to the contraction of marriages and the minister of religion has the right to register marriages and issue marriage certificates. The Ministry of Internal Affairs exercises supervision over the performance of functions related to the contraction of marriages by a minister of religion of a church, congregation or association of congregations.

c) Personal Requirements/ Impediments to Marriage

A marriage is contracted between a man and a woman. There is no residence requirement. Close relatives can not marry i.e. a marriage is not contracted between direct ascendants and descendants, brothers and sisters, half-brothers and half-sisters, adoptive parents and adopted children, or between children adopted by the same person. No exceptions can be made. A person who has

attained eighteen years of age is of age to marry. A minor between fifteen and eighteen years of age can marry with the written consent of his or her parents or guardian. If a child has one parent or if the other parent is missing or a guardian has been appointed to the other parent due to his or her restricted active legal capacity or if one parent is deprived of parental rights, the consent of one parent is sufficient for the minor between fifteen and eighteen years of age to marry. If even one of the parents or a guardian does not consent to the marriage, a court can grant permission to marry on the application of one parent or the guardianship authority. A court shall grant permission to marry if the marriage is in the interests of the minor. Furthermore marriage is prohibited between persons of whom at least one is already married, if an ostensible marriage should be contracted or if consent for marriage is obtained against the will of a prospective spouse by fraud or duress.

d) Preliminary Procedure

Prospective spouses must submit a written application for marriage to a vital statistics office in person, irrespective of their residence. They certify with their signatures on the application for marriage that they desire to marry and that there are no circumstances which hinder contraction of marriage and that they are aware of one another's state of health. If a vital statistics office is notified of a circumstance hindering a contraction of marriage prior to the contraction of marriage, the contraction of marriage is postponed for up to one month for verification of the application. The vital statistics office rejects the application for marriage only if the minimum requirements for the marriage have not been met or if there is a deficiency in the application. If the vital statistics office rejects the application for marriage, a person may contest this in the administrative court. The marriage must be contracted not earlier than one month and not later than three months after submission of an application to a vital statistics office by the prospective spouses. At the request of the prospective spouses, a vital statistics office can, with good reason, shorten or extend the term. The term can be extended for up to six months after submission of the application. The law does not specify what is meant under "good reason". In practice, the illness of a person is considered as the most common "good reason".

e) Documents

- Identity document of both prospective spouses
- A person who was previously married must submit a document certifying termination of the marriage or annulment of the marriage.

Foreigners must present a valid residence permit and a certificate of the absence of circumstances hindering marriage from the country of his or her residence. It is not possible that the documents (identity documents, certificate of the absence of circumstances hindering marriage from the foreign country) are substituted by an affidavit or to waive their presentation.

The vital statistics office issues a certificate of the absence of circumstances hindering marriage to Estonian nationals or residents for marriages taking place abroad. To obtain such a certificate a person must go to the vital statistics office in person, the person's identity document is required. The state fee of certificate is 25 Estonian Crowns (€ 1,60).

f) Certificate of no impediment

Foreigners must present a certificate of the absence of circumstances hindering marriage from the country of his or her residence which is treated like a certificate of no impediment. In the absence of such a certificate it is not possible to marry in the Republic of Estonia.

The vital statistics office issues a certificate of the absence of circumstances hindering marriage to Estonian nationals or residents for marriages taking place abroad. To obtain such a certificate a

person must go to the vital statistics office in person, the person's identity document is required. The state fee of certificate is 25 Estonian Crowns (€ 1,60).

g) Civil Marriage Ceremony

Marriages are registered by the vital statistics office where the marriage is contracted. Prospective spouses contract marriage with both being present in person at the same time. No witnesses must be present. The vital statistics offices conduct the ceremonies in Estonian. If the prospective spouses do not understand Estonian, they have to find an interpreter and bear the costs of the interpretation. The costs of the interpreter depend on the agreement between the interpreter and the prospective spouses. The same applies if at least one of the prospective spouses is deaf or mute, since a marriage is not contracted if a prospective spouse does not confirm his or her desire to marry. In order for the vital statistics official to understand and to be sure of the existence of the desire of a prospective spouse to marry, an interpreter is usually required. The Minister of Regional Affairs may grant the right to perform those functions of a vital statistics office which are related to the contraction of marriages to a minister of religion of a church, congregation or association of congregations. Such person must received the appropriate training and is then entitled to solemnise marriages. The vital statistics officials do not solemnise marriages. The ceremony usually takes place in the vital statistics office. Tallinn Vital Statistic Department offers a service according to which it is possible to have the ceremony outside of the accommodations of the vital statistics office at the place chosen by the spouses. No special procedure applies if a marriage takes place on a vessel. However, it is usually not possible to marry on a vessel. A marriage is contracted when the marriage registration is signed by the prospective spouses. If the vital statistics office refuses to register the marriage, the prospective spouses may contest this refusal in the administrative court.

h) Marriage Contract

The declaration of the existence of a marital property contract is not required. At the request of a spouse, a marital property contract may be entered in to the marital property contract register. Proprietary rights of a spouse arising from a marital property contract are valid with respect to third persons only if an entry concerning the marital property contract is made in the marital property contract register before the claim of the third person arises. The mutual relations of the spouses arising from the marital property contract do not depend on the registration of the contract in the marital property contract register.

i) Marriage Certificate

The marriage certificate contains the following information:

- the names of the parents (before and after marriage);
- the personal identification numbers of the parents;
- the date of the marriage;
- the number of the relevant marriage registration;
- the name of the vital statistics office, which compiled the certificate;
- the name of the official who signed the certificate;
- the date of the issue of the certificate.

j) Cost

The registration fee for marriage is 300 Estonian Crowns (€ 19,17).

Plus: The fees for the ceremony depend on the time and place of the ceremony. Ceremony in the Tallinn Vital Statistics Office on Wednesday costs 200 crowns (€ 12,78), ceremony on Thursday 400 crowns (€ 25,56), ceremony on Friday 600 crowns (€ 38,34) and ceremony on Saturday 600 crowns (€ 38,34). Tallinn Vital Statistics Department also offers a service according to which it is possible to have the ceremony outside of the accommodations of the vital statistics office. Cost: Between 2000 crowns (€ 127,80) and 5000 crowns (€ 319,49) depending on the location of the ceremony.

A state fee is returnable if a person withdraws the application for marriage before the marriage is registered. The vital statistics office may withhold up to 25 % of the returnable sum as the procedural costs for processing the application. The ceremonial fees are returned based on the agreement between the vital statistics office and the prospective spouses.

k) Divorce/Separation/Annulment

A vital statistics office or a court grants a divorce if both spouses reside in Estonia upon agreement of the spouses on the basis of a joint written petition which the spouses submit in person to a vital statistics office. A divorce is granted not earlier than one month and not later than three months after submission of a petition. These deadlines are not to be shortened or extended. If a spouse cannot appear at a vital statistics office in person for submission of a joint petition, he or she can submit a separate notarised petition. A spouse staying in a foreign state can submit a written petition on which the signature of the petitioner is confirmed by a consular officer of the Republic of Estonia. The format of petitions completed in a foreign state must be approved by a regulation of the Minister of Internal Affairs. A vital statistics office can grant a divorce on the basis of a petition of one spouse if a court has established the fact that the other spouse is missing. A vital statistics office does not grant a divorce if, together with the divorce, a spouse desires to resolve a dispute concerning a child or concerning the division of joint property or desires support to be ordered. In such a case, the divorce will need to be applied for in court. A divorce is registered at a vital statistics office where the marriage is divorced. It is registered in the presence of both spouses if the spouses divorce by agreement. A divorce can be registered without the presence of one spouse if the spouse cannot with good reason appear at a vital statistics office and the notarized consent of the spouse to the divorce is submitted without the presence of the spouse. Only Estonian notary has the right to verify the petition. A spouse staying in a foreign state can submit a written consent on which the signature of the petitioner is confirmed by a consular officer of the Republic of Estonia. If a marriage is terminated by divorce on the basis of the application of one spouse, the divorce is registered by the vital statistics office in the presence of the spouse. In order to register a divorce, a spouse must submit a copy of a court judgement concerning the establishment of the fact that the other spouse is missing.

The Estonian legal system does not know the concept of legal separation. Marriage annulment means that the marriage is considered void from inception and can be decided only by the court.

A state fee of 300. - EEK is due upon filing an application for divorce. Upon the filing of a statement of claim for division of property in a divorce case, the state fee of 2600. - EEK is due.

4. Republic of Estonia - Name

a) Name

The giving, changing and orthography of names in Estonia is regulated by the Family Law Act (RT I 1994, 75,1326), the Language Act (RT 1995, 23, 334) and by the Names Act (RT I, 04.01.2005, 1, 1).

A name is written and registered using Estonian-Latin letters and symbols. The spelling of a non-Estonian name must be in accordance with the rules of orthography of the relevant language. It is possible to register foreign surname and the differences, which are caused due to the reflection of gender pursuant to the national tradition of the concerned person, are used. For the purposes of writing foreign-language personal names in the documents issued by Estonian state agencies and local governments, and registering in databases of state and local governments, the Government of the Republic has established transcription rules (regulation no. 61 of the Government of the Republic (RTI, 23.03.2005, 16, 98) available at: <https://www.riigiteataja.ee/ert/act.jsp?id=869722>).

Pursuant to these rules, foreign names in Latin letters shall be written on the basis of the original document without any changes and with all original additional signs. Russian personal names in Cyrillic alphabet are transcribed or transliterated according to an appended table, and if in the original document the name of the person is written in non-Latin letters, concerning which there is no transliteration table, the name shall be transcribed by an expert of names of an agency of confidence. In practice (according to vital statistics department of the Ministry of Internal Affairs) the vital statistics offices register a person's foreign-language name, upon request by the person, in the documents issued by those offices, also in non-Latin letters. This is being done in order to avoid misunderstandings caused by transcription and transliteration of names using different letter-tables.

b) Minorities

There are no special rules for the members of national minorities to use their minority-language names or to give children minority-language names. However, it should be taken into account that, without a good reason, an unconventional first name, which is not suitable to be used as a first name due to its complex spelling or pronunciation, or spelling or pronunciation, or which does not comply with the general language use, is not assigned as a first name. Exceptions may be made if, due to their citizenship, family relations, nationality or other circumstances, a child or the parents of the child have personal connection to the foreign-language name tradition and the name applied for complies therewith.

c) First Name

A first name for the child is assigned upon the agreement of the parents or, in the case where the child has only one parent, on the proposal of the single parent of the child. If the right of guardianship regarding a child belongs to only one of the parents, a first name is assigned to the child on the proposal of that parent. If there is no agreement between the parents of the child or no proposal is made, a guardianship authority (an institution assigned by the local government) decides, which first name is assigned to the child. A first name may consist of no more than three names written as several words or two names linked by a hyphen. The name should reflect the gender of the child. A first name, which does not correspond to the gender of the person, is not assigned without a good reason. Exceptions may be made if, due to their citizenship, family relations, nationality or other circumstances, a child or the parents of the child have personal connection to the foreign-language name tradition and the name applied for complies therewith. A first name is not assigned if it conflicts with the good morals of the society either separately or in connection with the surname. In addition, the name, which contains numbers or non-alphabetical signs, is never assigned as a first name.

Upon adoption, a new first name may be assigned to the child on the basis of the application of the adoptive parent(s) with the consent of a child at least 10 years old (Names Act Art 4(5)). If the adoption is declared invalid, the name of the child before adoption is restored.

d) Surname

A child is assigned the surname of the parents if the parents have the same surname. If the parents have different surnames, a child is given a surname of one of the parents upon the agreement of the parents. If the parents fail to reach an agreement, the guardianship authority decides which surname is given to the child. The children born in wedlock may bear different surnames, if the parents have different surnames. If the paternal filiation is not established, the surname of the mother is assigned to the child. If, after registration of the birth of the child and the name of the child, the mother of the child marries a man whose paternity is established or ascertained, a new surname is assigned to the child in the vital statistics office on the basis of the joint application of the parents and on the basis of the interests of the child. If the filiation is established, the fact that the mother has not accepted the recognition does not deprive the father the right to take part in naming the child. The law does not give guidelines for the case where the mother of the child is unknown. In practice, the surname of the father is most likely to be assigned. After the child has been given a surname, it is usually not possible by the parents to change the name already given to the child. One exception to this rule is the case when a parent, with whom a child resides, desires to give his or her surname to the child after divorce, annulment of marriage, ascertainment or establishment of filiation of the child from the father. In this case the guardianship authority decides, based on the interests of the child, whether the new surname is assigned to the child. A surname consisting of two names assigned to a parent upon the marriage is not assigned to a child as a family name. Two names assigned to a parent upon the marriage are always hyphenated. If the surname of both parents consists of two names assigned upon the marriage, the surname of one of the parents is assigned to the child upon the agreement between the parents. In the cases where the surname of the parent consists of more than one names or is a hyphenated surname and this surname has not been assigned upon the marriage, it is possible to assign this name to the child.

Upon adoption the surname of the adoptive parent(s) may be assigned to the child on the basis of the application of the adoptive parent(s). If the adoption is declared invalid, the name of the child before adoption is restored. Upon contraction of marriage:

- both spouses retain their pre-marital surnames;
- spouses can choose the surname of one spouse as the common surname;
- the surname of the other spouse is added to the spouse's pre-marital surname. When adding to the spouse's pre-marital surname, a hyphen is required. The new surname assigned this way may not consist of more than two names and a surname assigned in such form may be borne by only one of the spouses.

Upon a divorce, the previous surname of a person is restored on the basis of his or her application; otherwise the surname borne during the marriage will be preserved. The pre-marital surname is entered in the divorce registration. The law does not set forth analogous regulation for the case of legal separation without divorce. Therefore, in the case of legal separation without divorce, no legal consequences follow concerning the change in the surname.

Upon annulment of marriage, the surnames of the spouses last borne before the marriage are restored. The child's surname is not changed upon the termination or annulment of the marriage of the parents.

The death of a spouse does not give grounds for depriving the remaining spouse of his or her surname assigned upon the marriage. However, the remaining spouse may apply for a new surname on the basis of a wish to bear, after the death or declaration of death of the spouse, the surname last borne before the marriage or the birth/maiden name.

Upon marriage a widower, widow or divorced spouse chooses a new surname or keeps the current surname. Therefore he/she can retain his/her surname in the event of remarriage. He or she may transfer it to the new spouse, if the latter chooses that way. Nobility and academic titles are not registered.

e) Naming and Registration of people without documents of identity

There is a special procedure for the naming and registration of people without documents of identity. A name is applied to a citizen of a foreign state or an alien temporarily staying in Estonia who is not a citizen of any state in the course of documentation of his or her personal data in Estonia for the first time on the basis of the name assigned or applied by a foreign state. The application of a name does not change the official name of the person. An Estonian administrative authority or court may also in some cases assign a name to a citizen of a foreign state or to an alien temporarily staying in Estonia who is not a citizen of any state. In any case, the name is never assigned only upon the request of the concerned person, but the objective reasons must occur (annulment of marriage etc). To a foundling, a surname and a first name are assigned on the basis of an application of the guardianship authority.

f) Name Change

In Estonia, it is allowed to change both the first name and the surname.

The first name can be changed upon the request of a person, upon adoption, upon depriving adoptive parent of paternal rights and due to change of gender of a person. The first name is restored upon declaration of invalidity of adoption. The surname can be changed upon the contraction of marriage, upon divorce, upon the request of a person, upon adoption and due to change of gender of a person. The surname is restored upon the annulment of marriage.

In order to be assigned a new name, a person must submit a standard format application to the vital statistics office. The application must be submitted in person. Only a citizen or a permanent resident of the Republic of Estonia can apply for change of name. Foreign citizens present in Estonia without permanent residence may apply for change of name through their embassy. The appropriate form for the application can be obtained via online (in Estonian):

<https://www.riigiteataja.ee/ert/act.jsp?replstring=33&dyn=832979&id=857692>

An adequate reason for the name change must be shown in the application.

The reasons for application for a new first name at the request of a person are:

- a wish to abandon an unconventional given name which is not suitable to be used as a given name due to its complex spelling or pronunciation, or spelling or pronunciation which does not comply with the Estonian language use, or due to its meaning in the general language;
- a wish to protect the personal name of a person if the given name and surname and date of birth of the person coincide with the corresponding data relating to another person;
- a wish to avoid harmful consequences of social or economic nature arising from the name;
- a wish to change the number or order of names in the given name;
- other good reason which the Minister of Regional Affairs considers sufficient.

The reasons for application for a new surname at the request of a person are:

- a wish to abandon an unconventional surname, which is not suitable to be used as a surname due to its complex spelling or pronunciation, or spelling or pronunciation which does not comply with the Estonian language use, or due to its meaning in the general language;
- a wish to protect the personal name of a person if the given name and surname and date of birth of the person coincide with the corresponding data relating to another person;
- a wish to avoid harmful consequences of social or economic nature arising from the name;
- a wish to use the surname of parents or grandparents in order to keep the name;
- a wish to use, in the case of a surname consisting of several names, only one name as the surname;
- a wish to bear the same surname as the spouse;
- a wish of a widowed spouse to bear, after the death or declaration of death of the spouse, the surname last borne before marriage or the surname last borne before the first marriage;
- other good reason which the Minister of Regional Affairs considers sufficient.

The notice of the name change is not published. The Ministry of Internal Affairs and the Estonian Population Register are informed about the change in the name of the person. Assigning a name means the first recording of the name by an Estonian administrative authority or court. In practice it usually means that the vital statistics office registers the change in the name of the person in the registration materials of the person (civil status registrations). The fact that the name has been changed is mentioned in the civil status registrations kept by the vital statistics office. The vital statistics office amends the original vital statistics registrations. The following information will be entered in the registrations: previous first name, previous surname, new first name, new surname and the number of the directive of the Minister of Regional Affairs, which formed the basis for the name change. The name and the signature of the official making the changes must also be shown in the registration materials. Upon the name change, the vital statistics office does not amend, replace or delete the old birth certificate. The vital statistics office only issues a separate certificate that the name of the person has been changed. After the registration of the change of name in the vital statistics office, citizens and permanent residents must apply for a new identification document from the Citizenship and Migration office.

The possibility to change a name is not limited to resident nationals of Estonia. An Estonian administrative authority (i.e. the vital statistics office) or a court may in some cases assign a name to a citizen of a foreign state or to an alien temporarily staying in Estonia who is not a citizen of any state. However, the name is never assigned only upon the request of the concerned person, but the objective reasons must occur (annulment of marriage etc).

If the vital statistics office has not issued a certificate concerning the name change, a person can withdraw its application. After the certificate has been issued, the only way to restore the previous name of the person is to initiate new proceedings. In principle there is no limit for the number of name changes (e.g. if a person marries several times). However, upon the request of the person, his or her name can usually be changed only once.

Documents

The applicant must present passport or identification card and:

- when single; birth certificate
- when married; birth certificate and certificate of marriage
- when divorced - birth certificate and certificate of divorce
- when widow(er) - birth certificate, certificate of marriage and certificate of death of the spouse.

Under aged children's birth certificates: When the new surname is going to be family name, documents that prove the relation must be submitted.

Cost

The procedure for changing the name has a Fee of 600 crowns (€ 38,34). No payment has to be made when giving a name.

ES - Spain

1. Civil Status Registration System

Spain's civil registration system is event-based.

Spanish registrars keep the register of births, marriages, deaths of Spanish citizens and of foreigners occurring in Spain, and of Spanish citizens occurring abroad.

a) Civil Status Registration Services

The official language in Spain is Spanish but the following languages are, in the territories where they are spoken, co-official with Spanish according to the respective Autonomy Statutes: Aranese (aranés), Basque (euskera), Galician (galego), Catalan (català) and Valencian, a variation of Catalan spoken in the Autonomous Community of Valencia. Spanish is written using the Latin alphabet, with the addition of the character "ñ" (eñe), and the digraphs "ch" (che) and "ll" (elle) are considered single letters. Thus, the Spanish alphabet has 29 if one counted "w", which is only used in foreign names and loanwords. The acute accent is used and in rare cases, "u" is written with a diaeresis ("ü"). In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-1.

Spain has a population of 45.061.274 (2007) and is divided into 17 autonomous communities (comunidades autónomas) and 2 autonomous cities (ciudades autónomas) - Ceuta and Melilla. These autonomous communities are subdivided into 50 provinces (provincias). Historically, some provinces are also divided into comarcas. The lowest administrative division of Spain is the municipality (municipio). There are more than 9000 municipalities.

b) Registry Offices and Staff

The civil status registration service is part of the judicial system and settled at the court of first instance. For jurisdictional purposes the Spanish State is divided into municipalities, judicial districts, provinces and autonomous communities. This division corresponds with the administrative division of the State. Judicial power, however, may not be exercised by the Autonomous Communities. Municipalities in which there is no court of first instance, have Courts of Peace instead. Judicial districts have courts of first instance, provinces have provincial courts and each Autonomous Community has a High Court of Justice. Accordingly Spain has about 9000 registry offices. All offices are equipped with computer technology and the registers are fully computerized.

The functions of registrar are entrusted to a judge of first instance, who may delegate the functions to a Justice of Peace (who can be and usually is without legal education) in the small areas where there is no court of first instance. In cities with more than 500.000 inhabitants the civil status registry is maintained by one or more full-time registrars. Otherwise if a court of first instance is established the judges are part-time registrars officiating also their normal legal practice. All registrars have support staff and receive a regular monthly salary.

Other officers of civil status are the diplomatic and consular officials and in certain special cases (civil status events which have occurred on a ship or aircraft maritime; during war; in a prison, hospital or at places far away from the civil status registration services) the appropriate civil servant.

The registrars have statutory powers, deciding the scope of the rights to be registered. The registrars act under the dependence of the Directorate General of Registries and Notaries (Dirección General de los Registros y del Notariado), of the Ministry of Justice. The Ministry of Justice (G.O. of Registries and Notaries) and National Chamber of Registrars (Professional Association) are authorised to independently supervise or audit the operation of the civil status registration. The Justice of the Peace is controlled by the judge of first instance. The judge of first instance is controlled by the President of the High Court. The Directorate General decides on any complaints regarding the acts of a registrar.

c) Civil Records

The registers are judicial registers and there is a presumption of exactitude of the content of the register. Rules defining the way in which registers should be compiled, stored, updated and consulted as well as the content and form of certificates are stated in legislative or regulatory texts. Regular registers of births, marriages and deaths are kept in one specimen only. The diplomatic and consular officials keep the consular registers, a duplicate of which is maintained at the Central Registry Office in Madrid. Two judges of first instance are the head of the Central Registry Office. Civil status acts of members of the Royal Family are registered in a special Civil Registry of the Royal Family.

d) Access

There are different types of registers maintained in Spain, among which only the civil register (Registro Civil) is open to public access. It only provides information about civil status events (birth, marriage, death). Address information is maintained in the Municipal Register (Padron Municipal). It contains the first name, family name, gender, residential address, nationality, place and date of birth, and a national document number. This data, kept in the Municipal Register, is confidential and there is no legal basis that provides for public access.

e) Correction, Amendment and Cancellation of Civil Records

The Civil Register Act Law refers to "Rectification and other proceedings", related to registration entries. Errors performed at registration may be rectified when "it is undoubtedly established by the remaining circumstances of registration (Art. 93 of the Civil Registry Law). If false data appears in the entry, the person in charge of the registry will consider it to be an error that occurred at the first registration and that it will consequently be necessary to rectify it.

Other than that, civil status entries, having being of formal value, are not changed or amended. Margin inscriptions are used to establish a relationship between two civil status acts, or between an act and a court decision. It corresponds to a brief reference to the new act or decision, in the margin of an act previously recorded or transcribed, changing the civil status of the person concerned. Such marginal inscriptions do not change the original act and have the value of simple information.

Corrections and cancellations may be performed by a support staff or the registrar himself subsequent to a legal or administrative procedure.

f) Documents

The registry offices issue copies (certificaciones literales), extracts (certificaciones in extracto) and the family record book (libro de familia). Extracts and copies are named certificates (positive or negative). Negative certificates certify that the event has not been registered at the Civil Register.

A literal copy is copy of the whole registration, containing all of the data any notes added to the margins. An extract is a summary of the information registered in the Civil Register. There are different versions: ordinary versions in Spanish issued in those autonomous communities in which the only official language is Spanish, bilingual versions in Spanish and in the official language of the autonomous community in which it is issued, and international or multilingual versions issued under the CIEC Vienna Convention of 8 September 1976 in the languages of the signatory states of that convention.

All documents are free of charge. Documents are submitted in person, by post or via internet. They may be requested by any citizen who requires it or has interest in it, with the exception of certain information for which special authorisation by the judge is required and which is granted for good reason shown, only:

- Adoption, extramarital or unknown relationships or details that unveil such circumstances; the date of marriage indicated on the page of birth, if the former were later than the latter or it occurred within the 180 days prior to the birth; the change of a Foundling surname or other similar or inconvenient information.
- Sex change.
- Causes for annulment, separation or divorce, or the loss or suspension of parental authority.
- Filed documents related to the details in the items above or to dishonourable circumstances or those of a reserved nature included in the file.
- Abortion files.

The validity of all documents is in theory not limited except for certificates of matrimonial competence, which is issued on request for the purpose of a marriage abroad and which expires after six months.

g) Archives

The Civil Register started to operate in Spain around 1870, so the official birth records must exist for all ancestors born after that date. Those birth records can be obtained by directly asking to the Civil Registry of a particular town. This is a free service. For ancestors born before 1870, christening records, marriage records and death records are kept in the parish archives. Sometimes records have been transferred to the corresponding Bishopric Archive. The Spanish Ministry of Culture has been making a catalogue in the last years about all archives and their contents in Spain. Many documents from various Spanish Archives have been (and are still being) digitalized and placed on the web and are accessible through the web portal PARES. All other civil status records are deposited in the public provincial archives and are available for consultation 50 years after their creation or 125 years after the person concerned was born.

h) Legalisation/Translation

The registry office does not accept documents, which are not duly certified or bear the Apostille. In principle, the documents coming from foreign countries intended for use in Spain must be legalized by the respective foreign country.

There is a bilateral agreement with Italy signed 10 October 1983 for the exchange of civil status documentation and the waiver of legalisation requirements. Spain has also ratified CIEC Conventions No. 16 and No. 17 on the issue of (multilingual) extracts from civil status records and on the exemption from legalisation of certain records and documents. Spain is also a part of the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, Parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

Copies of documents are allowed, but such copies must be legalized or made of the original documents, which have the certification (Apostille) on it. All documents in foreign languages must be translated into Spanish by a sworn translation (*traducción jurada*) done by a Spanish "traductor jurado" unless the registrar is able to understand the data content without such translation.

Depending on the nature of the public document, there are three "Apostille Authorities" in Spain, whose responsibility for each particular case is established in accordance with the following rules:

- For documents issued by judicial authorities, the Apostille is issued by the Secretary of the Governing Bench of the Supreme Court of Justice. The secretary of the Supreme Court of Justice may affix the Apostille to documents such as judicial decrees, judgements and other rulings from any judicial authority, at any level (Courts, Provincial Courts, High Courts of Justice) and all branches of jurisdiction (civil, penal, social, contentious-administrative).
- For notarised documents and private documents whose signatures have been authenticated by a notary the Apostille is issued by the dean of the respective notary association or a member of the board of directors.
- For documents sealed by the Central Administration, the Apostille authority is the Head of the Central Section of the Under-secretariate of the Ministry of Justice.

The Apostille can be requested are generally by person, mail and registered mail. In practice, it is common to make the request in person, as the original documents cannot be sent by fax or e-mail. The form of the Apostille depends on whether there is enough space on the document. Indeed, if there is enough space on the public document the Apostille is placed on it, otherwise it is placed on a so-called allonge. The Apostille is placed at the end of the last page (if there is enough space on the document) or on a so-called allonge.

There is no fee payable for the Apostille issued by the Secretaries of the Regional High Courts (*Secretarios de la Sala de Gobierno de Tribunales Superiores de Justicia*) and the Head of the Central Section of the Subsecretary of the Ministry of Justice (*el Jefe de la Sección Central de la Subsecretaría del Ministerio de Justicia*). For an Apostille issued by the President of the Association of Public Notaries (*Decanos de los Colegios de Notarios*) a fee of € 3,94 is charged. The fee is established by the schedule of officially authorised public notary fees and charges (called *Arancel Notarial*). The fee only covers the cost of the issuance. From receiving the request until delivering the Apostille, the process generally takes between 2 or 3 days. If it is urgent, the Apostille may be delivered the same day.

i) Foreign relations

Spanish civil status registrars do not transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State)

that occur in the country directly to the authorities of the respective EU Member. Some Spanish civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States.

j) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Spanish citizens can obtain from Spanish foreign missions. Spanish citizens are asked to register civil status events with their consular office providing copies of the certificates of the original civil status registration of their place or residence. There is no time limit for registering a birth, marriage or death abroad with the consular registry office.

The consular registry office, which is a part of all Spanish embassies and consular offices abroad, performs the same functions as registry offices in Spain. It records the births abroad of children of Spanish nationals, the marriages of Spanish nationals which take place abroad and the deaths of Spanish nationals who die abroad. Spanish nationals living abroad should register in person with the consular office. This registration will enable them to renew documents, prove that they are a foreign resident, and take part in Spanish elections. In the month following the registration in the consular registry office, a copy of the registration will be sent to the Central Registry Office in Madrid, so that Spanish nationals having returned to Spain can request certificates from the Central Registry Office.

The main documents issued by the consular registry office to Spanish nationals living abroad or citizens from other countries born in Spain are the following: certificates of existence; extracts and literal birth, marriage and death certificates; extracts of certificates for identity documents; registration of Births abroad and a certificate of no impediment. The diplomatic and consular officials are also authorised to celebrate marriages. Spanish consular officials offer also assistance to obtain civil status certificates (birth, marriage and death) for Spanish citizens and for citizens of other countries from civil status registries in Spain. They also procure civil status certificates for Spanish citizens from civil status registries in the host country. No fee is payable for procuring and issuing of civil status documents.

k) Law

Spanish Constitution of 31.10.1978; Civil Code, approved by Royal Decree on 24.07.1889; Civil Register Act, dated 08.06.1957 (BOE - Official State Gazette - dated 10/06/1957); Civil Register Regulations (Reglamento del Registro Civil), approved by Decree on 14.11.1958 (BOE 11/12/ 58 and 21/01/59); Instruction dated 20.03.2002, from the Department of Registers and Notaries; Order dated 10.11.1999 on the questionnaire for the declaration of birth at the Civil Register; Instruction dated 26.03.1963, from the Department of Registers and Notaries, on proof of birth and relationship without registration; Order dated 31.10.1979, on the calculation of the period for registering the birth; Circular dated 29.10.1980, from the Department of Registers and Notaries, on the late birth registration file (in compliance with the Agreement dated 2 October 1980 from the Congressional Justice Commission); Circular dated 11.05.1988 (Justice) on the transfer of birth registrations; Circular dated 02.06.1981, from the Department of Registers and Notaries, on the registry consequences of the new legal relationship scheme; Agreement dated 14.09.1961 on the extension of the authority of qualified civil servants to authorise the recognition of children born outside marriage. Spanish Instrument of Accession, dated 22.06.1987; Circular dated 11.04.1978, from the Department of Registers and Notaries, on registering births that occur outside of Spain and Spanish citizenship for the affected parties; Instruction issued by the Directorate General of Registry and Notary Offices dated 28.02.2006, on the competency of the Municipal Civil Registry Offices in matters related to obtaining Spanish citizenship and international adoptions

Article 9 of the Civil Code states that the applicable law is determined by the nationality of the natural persons and it governs civil status. Dual nationality as provided for by Spanish law follows what is laid down in international treaties. If they make no provision, preference is given to the nationality corresponding to the last habitual residence and failing this, the last nationality acquired, unless one of them is Spanish, which takes precedence. For persons of indeterminate nationality (they cannot prove it, hence they are not stateless) the law of the place of habitual residence is applied as the personal status. Article 12 of the New York Convention of 28 September 1954 applies to stateless persons, and states that the applicable law is the law of the stateless person's country of domicile, failing which, the applicable law is the law of his country of residence. The Munich Convention of 5 September 1980 applies to surname and first names, under which the surname is determined by the national law.

As regards the establishment of parent-child relationship, by Institutional Act 1/1996, Spain has made it possible for the United Nations Convention on the Rights of the Child (New York, 20 November 1989) to be relied on directly in respect of relations between individuals. Under the Civil Code, the character and content of the parent-child relationship, including adoption, are governed by the child's personal status (usually the law of its nationality) and if it is not possible to determine this, the law of the child's habitual residence. The requirements for adoption instituted by a Spanish judge are governed by the provisions of Spanish law. However, the national law of the person being adopted must be complied with in respect of his capacity and the necessary consents: 1) if his/her habitual residence is outside Spain; 2) although resident in Spain he/she does not acquire Spanish nationality by virtue of the adoption. It is also possible, at the request of the adopting parent or the Public Prosecutor, to demand in the interest of the person being adopted, the consents, hearings or authorisations required by the national law or by the law of the country of habitual residence of the person being adopted or the adopting parent.

The rules for the form of celebrating a marriage differ according to whether the parties are Spanish or not. If they are Spanish, the Civil Code states that inside or outside Spain, marriage may be effect by a judge, mayor or official indicated by the Code or under the religious rites legally provided for (Catholic, Jewish, Evangelical and Moslem). It also states that Spaniards can get married outside Spain in accordance with the laws of the place where the marriage is celebrated. If both parties are foreigners they can get married in Spain either in accordance with the same provisions as for Spaniards or the provisions of the law to which either one of them is subject. The consequences of the marriage are governed by the joint personal status of the spouses at the time the marriage was celebrated. If they have no common, personal status, they are governed by the personal status or the law of the country in which either one of the spouses habitually resides, chosen by them both in an authentic act executed before the marriage is celebrated. If this choice has not been made, the law of the country in which both reside immediately after the marriage took place applies and failing this, the law of the place where the marriage took place.

Marriage annulment is subject to the law of the country where the marriage was celebrated. Separation and divorce are governed by the common national law of the spouses at the time the application is filed. In the absence of a common nationality, they are governed by the law of the country in which the couple habitually reside at that time, and failing this, by the law of the country in which the spouses were last habitually resident, in so far as one of them still resides there. In any case, Spanish law applies when one of the spouses is Spanish or habitually resides in Spain:

- if none of the above laws is applicable;
- if in the application put before a Spanish court both spouses, or one spouse with the other's consent, file for separation or divorce;

- if the laws that are applicable according to the above criteria do not recognise separation or divorce or do so in an discriminatory manner or contrary to public policy.

l) eGovernment

Online Services for Citizens

Portal

In June 2006, the portal “www.060.es” was launched. The portal provides information on all the procedures of the General Administration of the State, allowing for the achievement of many of the most important ones.

Website

<http://www.justicia.es/>

Civil Status Certificates

Online request and delivery of civil certificates is available.

2. Birth

Article 42 of the Civil Registration Act provides that any person may inform the registrar of a birth, but certain persons are obliged to ensure that the birth is registered by submission of a declaration within eight days of the delivery as a general rule, or within 30 days when there is deemed to be good cause for the delay (Article 42 of the Civil Registration Act and Article 166 of the Civil Registration Regulations). After the period of eight days, a late birth registration file must be processed before the registrar or Acting Registrar of the corresponding civil register and a fine may be imposed. On request a birth statement is issued. A birth may be registered at the place of birth or at the place of the residence of the parents.

The birth is legally effective from the moment it occurs but requires registration in the civil register for full recognition. Therefore, the birth registration is considered the act by which the required individuals report the event to the responsible authorities at the corresponding civil registers where the birth occurred. If the place of residence of one or both parents differs from place of birth the declaration may be filed at the registry office of the place of residence. The following persons are obliged according to Article 43 of the Civil Registration Act to ensure that the birth is registered:

- the father;
- the mother;
- the closest relative, or, failing that, any person having attained the age of majority present at the place of birth when it occurs;
- the head of the establishment or household in the premises in which the birth has taken place; and
- in the case of abandoned newborn children, the person who has given them shelter.

The doctor, midwife or auxiliary health worker who has assisted the birth (ibid. Article 44) have an obligation to promote registration.

Stillborn children are entered onto a special sheet for aborted children, which is kept in a file on aborted children along with the relevant medical documents. A name is not mentioned.

The birth of a found child is declared by the finder and registered by the registry office, in the territory of which the child was found. If no medical certificate can be obtained the child must be presented. The first name and surname of the child is determined by the registrar.

The procedure for registration of birth occurring on a vessel sailing under Spanish national colours and for registration of birth occurring on an aircraft is the following: The captain or the commander issues a birth statement on which the registration is made in the corresponding registry office without time limit.

A child born to Spanish nationals living abroad is registered in the corresponding consular register. Registration of a child born to Spanish nationals while staying abroad may be requested at the Central Civil Registry Office in Madrid which will forward the application to the corresponding consular register. Foreigners resident in Spain are not obliged to register the birth.

As for the elements of the child's identity, in accordance with article 41 of the Civil Registration Act, registration of newborn children certifies the fact, date, time and place of the birth, and the sex, given name and, where applicable, filiation of the child registered.

In the case of opting to register the birth in the town of the parents' common place of residence, when this is different from the town in which the birth occurred, the application must be made with the presence of both parents by common consent, within the maximum period allowed for registration following the birth or delivery. Both parents must be present and provide the following documents:

- Certificate of census registration for both parents.
- Certificate from the Clinic or Hospital indicating that no other registration has been processed for the new-born.
- Proof of the common home of residence of the parents in the town in which the registration is processed must be provided. This proof will be provided by way of their DNI (National Identification Card) or, in its place, by the census registration certificate.
- The applicants must declare, under their own responsibility, that they have not processed the registration in the Civil Register corresponding to the place of birth, providing, in addition, certification that the management of the hospital in which the birth took place has not done so either.
- Furthermore they must expressly indicate in the box reserved for comments that for all legal purposes, the location of birth of the registered individual is deemed as the municipality in which the register entry was made. Extract certificates will only make mention of this municipality.

a) Birth Declaration

The birth declaration contains:

- the child's first name, surname sex, date and place of birth
- in the case of multiple births, when the exact time is unknown for each newborn, indication shall be given of the order in which they were born, or that this could not be determined
- first name, surname, date and place of birth, marital status, nationality, residence and profession of the parents
- first name, surname, date and place of birth, nationality, residence of the grandparents
- marriage date and place

- the declaring person's name
- birth weight and medical status
- data on medical assistance at the delivery and place of delivery
- pregnancy duration

b) Birth Certificate

The birth certificate is the document issued by the Registrar or acting Registrar of the corresponding Civil Register or Consular Register, which certifies the birth. It indicates characteristics about:

- the child's first name, surname sex, date, time and place of birth
- first name, surname, date and place of birth, nationality, marital status, residence and profession of the parents
- first name, surname, date and place of birth, nationality, residence of the grandparents
- marriage date and place
- name and signature of the declaring person
- medical status
- if necessary particular observations (multiple births, birth order, presence of witnesses)
- the time of registration
- the number assigned to the birth or verification file
- the Register, indicating the municipality and province of its location; and, in the case of the Consular Registers, the town and country
- the page and book of the entry, or the corresponding page and file
- the date, name and signature of the certifying Registrar, Acting Registrar or Secretary, and the office seal

In 2006 the Spanish government announced a ministerial order that new births would have to be registered at the registry offices in the Family Book under the headings of Parent (progenitor) A, and Parent (progenitor) B. In other words, the terms "Father" and "Mother" are to be no longer used. In Spain, marriages, births and deaths are all recorded at registry offices, with most of the actions being noted in a Family Book (Libro de Familia).

Margin inscriptions relating to descent which can be written in the margin of birth certificates include the establishment of filiation, in particular the recognition, and court decisions relating to adoption. The references of the judicial decision relating to the adoption are recorded in the margin, together with the identity of the adopting parents and the child's new name. When a marriage is celebrated, the act of marriage is recorded in the marriage register. The registrar of the birth place of each of the spouses is informed of the marriage so that the marriage can be mentioned in the margin of their birth certificates. Decisions relating to the change of the first name, surname, nationality, legal capacity, emancipation, absence and death are registered as marginal inscriptions. A transsexual can alter the birth certificate after gender reassignment. The birth certificate is reissued in the reassigned sex in this case.

In no case shall the entry in the Civil Register reflect information from which the form of reproduction involved may be inferred. Although the Civil Register or Consular Register is in the public domain, so that any person may request certification of the entries it contains, certain data are

designated as restricted and require special authorisation in order to be accessed. Article 21.1 of the Civil Registration Regulations provide that the following data shall not be made public without special authorisation:

- Adoption (except for registrations made in accordance with the DGRN (Department of Registers and Notaries) Instruction dated 15 February 1999), extramarital or unknown relationships or details that unveil such circumstances; the date of marriage indicated on the page of the birth entry, if the former were later than the latter or it occurred within the 180 days prior to the birth; and the change of a foundling surname or other similar or inconvenient ones. Authorisation will, however, not be necessary where the person requesting the certification is "the person registered or his or her ascendant relatives, descendants or heirs" (Article 22 of the Civil Registration Regulations). Adopted children who have reached the age of majority have the right to obtain written certification of their birth, stating, where applicable, their previous natural filiation. Similarly, minors may obtain this information from the Register upon authorisation by the competent judge.
- Trans Gender Recognition: Authorisation in these cases is granted by the Judge responsible, and only to those who certify legitimate interest and a well-founded reason for requesting it. The certificate indicates the name of the individual making the request, the reasons for issuing it and the express authorisation of the Registrar or Acting Registrar, who will personally issue the certificate from the Register directly under his or her control.

The waiting time for receiving the certificate by post is approximately 15 days. This period will be interrupted when the Civil Register requires additional or clarified information on the application, until they have been provided by the requester, and likewise, when technical difficulties make it impossible to receive the requests properly.

c) Recognition

In Spain the birth certificate must bear the mother's name, which is sufficient to establish maternal affiliation. Biological matrimonial filiation is legally determined by registration of the child's birth together with registration of the parents' marriage (Art. 115.1 of the Civil Code). Non-matrimonial maternal filiation is legally determined merely by the reference to the mother in the registration of birth within the prescribed time limits (*ibid.* Art. 120.4).

If the mother is not specified in the civil registration act, the maternal filiation of the child born out of marriage can be established by a voluntary recognition at the registry office. Incompetent or minor women need an authorisation given after a court hearing. If maternal recognition is necessary to meet the requirements of the law of another state, the mother may make such a declaration before the competent authority.

The mother's husband is the presumed father of a child conceived in wedlock unless the child was conceived during the period of legal separation of the spouses or if it was born more than 300 days after the dissolution of the marriage (Art. 116 CC). Otherwise, assumption can be invalidated only by a court decision which establishes that the child is not from the mother's husband.

Non-matrimonial paternity is established by a court's judgement or by voluntarily acknowledgement in front of a registrar, in a will or another legally authenticated document. The recognition of the child is dependent on the mother's consent or on that of the child, where the latter has reached the age of majority.

That condition does not have to be met where the father has recognised the child in his will and is deceased, or where he has recognised the child in another legally authenticated document within the time-limit for declaring the birth. In this case, registration of paternity may be suspended if the

mother so requests within a year of the birth. However, by applying to the court, the father could still have his recognition of paternity registered with the court's leave.

With regard to the determination of non-matrimonial paternity, including non-matrimonial maternity in extreme cases, the law facilitates investigation of paternity or maternity so that, if one or the other is not acknowledged voluntarily by the parents, the child has a lifelong right to take judicial action to claim filiation (Art. 133 of the Civil Code).

In Spain, recognition of children born of incestuous relationships is prohibited, with the proviso that leave may be obtained from the court in the event that recognition would benefit the child. Once the child attains the age of majority, he or she can, however, have it annulled if he or she has not consented to it. In Catalonia, the Family Code of 17.07.1998 does not envisage any limitation for the recognition of the incestuous child.

3. Marriage

Civil and religious (Roman Catholic, Protestant, Jewish and Muslim) marriages can be celebrated in Spain. Religious weddings celebrated according to the canonical right or rites of the Evangelic, Islamic and Jewish communities produce civil effects (Article VI Convention between the Spanish State and the Holy See of 1979; three laws of 10 November 1992 approving the agreements between the Spanish State and the federation of the evangelic religious entities of Spain, the federation of the Jewish communities of Spain and the Islamic Commission of Spain). A religious marriage of a Spanish national celebrated abroad produces civil effects in Spain as long as it has civil effects in that foreign country. The canonical marriage with a Spanish national celebrated abroad always produces civil effects in Spain. The inscription on the register of births, marriages and deaths is necessary for the full recognition of the civil effects of any marriage, civil or religious. The defect of inscription does not however affect the validity of the marriage.

According to the instructions from the Ministry of Justice (Dirección General de Registros y Notariado), same-sex marriages became legal in Spain on Sunday, 3 July 2005. The partners must be either both residents or one of the partners must be a Spanish citizen. Twelve of the 17 Autonomous Communities in Spain recognize registered partnerships as an alternative option for same-sex couples who do not want to marry.

a) Personal Requirements/ Impediments to Marriage

The general minimum age is 18. Otherwise, marriage is possible at the age of 16 with the consent of the parents, duly registered. Minors aged 14 years or older may marry, provided that a competent court, with just grounds and on the application of the party concerned, waives the age impediment (arts. 46.1 and 48, second para., of the Civil Code). Marriage produces the de jure emancipation of a minor (art. 316). Persons lacking legal capacity may not marry and if the registrar has any doubts as to the mental capacity of a person a medical examination may be required.

A person can only be married to one person at a time. If one of the parties is a lineal ascendant or descendant or an adoptive child of the other they cannot marry each other. On request an exemption of the prevention of consanguinity to the third degree - uncle to niece - can be granted by a judge. Individuals who have been convicted as the author or accomplice in the unlawful death of the spouse of either party may not marry each other, except where a pardon has been granted by the Ministry of Justice.

b) Preliminary Procedure

Applications for civil marriages must be made to the registry office in the place where one or both future spouses are resident. After all documents have been provided, a notice will be published in the building for 15 days for objections where the interested parties were domiciled for two years in

cities of more than 25 000 inhabitants or, abroad, in a Spanish consular district which includes more than 25 000 recorded Spanish citizens. Otherwise, publication is replaced by the hearing of a relative or a friend of the couple, chosen by the marriage officer. The registrar may waive these requirements on request of the interested parties and in the event of a "secret marriage" authorized by the Minister for Justice.

After all documents have been submitted three months prior to the anticipated wedding date, a wedding date is set and the ceremony is performed.

In case of any doubt regarding the capacity to marry of one of the spouses or the validity of the documents, registrars may refuse to celebrate the marriage. Such a refusal is also possible if the officer detects an absence of genuine consent. In these cases the applicant may appeal to the Central Registration Office.

c) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in Spain.

If a Spanish citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Spanish certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Spanish law and is valid for 6 months from issue. This certificate is issued by the judge of first instance, who may delegate the function to a Justice of Peace (heads of the local registry offices) or by the Spanish embassy or consulate abroad.

d) Marriage Ceremony

The judge, mayor or civil servant who performs the civil marriage issues the registration or corresponding certificate with his or her signature, those of the married couple, two witnesses and the secretary.

The marriage is legally effective from the moment it takes place, but it requires registration in the Civil Register for full recognition. The validity of the marriage would not be affected either by the lack of competence of the person officiating the marriage or by the latter's holding no legitimate appointment, provided that at least one of the spouses had acted in good faith and that the official had exercised his functions publicly.

Registration certifies the marriage and the date, time and location at which it took place. It is the means of proving that the marriage took place, and it is the certification that gives legitimacy to the marriage. Once the registration has been processed or the certificate issued, the judge, mayor or civil servant provides each of the individuals who were married with a document certifying that the wedding took place, which is the Family Book. Marriages may be celebrated in the registry office officiated by a judge. In case of a marriage held at town hall or at other premises of the municipal administration (officiated by the mayor or delegated councillor) the marriage certification must be submitted to the registry office for the location in which the wedding took place. The registry office cannot approve that the ceremony will take place in a place other than the aforementioned. Marriage by proxy is allowed.

Marriages usually take place during the regular office hours of the town hall. Sometimes civil marriages are celebrated on Friday evenings or on Saturday mornings. No weddings will be celebrated on public holidays, on days between weekends and public holidays or between two public holidays. The marriage ceremony must be held in Spanish or another co-official language. If a foreigner enters into marriage, the registry offices accept the presence of a sworn interpreter.

Spanish nationals may also be married by the Spanish consul abroad, provided that both parties are Spanish, or in the case of marriage between a Spanish national and a foreign citizen, provided that

the latter is not a national of the country where the consul is accredited. It is not possible to perform a consular marriage in the Spanish diplomatic and consular representations in Austria, Denmark, United Kingdom, Switzerland, Uruguay, Venezuela and Guatemala. Spanish consulates abroad may conduct same-sex marriages only if local laws recognize them.

e) Religious Marriage

For Catholic marriages, the following documents must be presented to the priest performing the ceremony:

- birth certificate,
- copy of the baptismal, issued within the 6 months prior to the wedding and authenticated by the issuing Bishopric,
- proof that both parties are free to marry ('Fe de Solteria y Vida').

Neither party must be divorced. If either of the spouses is a foreigner, he/she must contact the Bishop in the area where they plan to marry. All foreign language documents must be accompanied by a sworn translation (traducción jurada) done by a Spanish 'traductor jurado.'

For non-Catholic marriages, couples will first need to obtain authorisation from the Civil Authorities by presenting the same documents as required for "Civil Marriages".

Once the religious ceremony has taken place, spouses have one week to present the church-issued certificate to the nearest local civil registry to legalize the marriage in Spain.

f) Documents

It may take the Spanish authorities between 30 to 45 days to approve a marriage application and the following documents are generally required:

- proof of nationality (ID, passport or residence permit)
- application form, which may be obtained either from the Civil Registry, from the District Court or at www.mju.es/registro_civil/c_matrimonio.htm.
- birth certificate
- for foreigners a proof of freedom to marry, issued by the foreign civil registry or, if such document cannot be produced, a sworn statement to the effect that the parties are single and free to marry
- posting of banns, if the locality has more than 25.000 inhabitants, or more than 25.000 Spanish citizens in the consular district abroad,
- previous marriage certificate, if applicable, and proof showing the marriage no longer exists (a divorce decree, an annulment certificate or a death certificate).

g) Marriage Certificate

The marriage certificate is an official document that certifies the celebration of a marriage. A mention concerning a marriage contract is made in the marriage certificate upon request. The record on the marriage certificate indicates (selected information):

- marriage date
- place of marriage
- surnames before marriage

- home address
- date of birth
- place of birth
- nationality
- marital status
- date of divorce
- number of previous marriages

h) Cost

For residents registered in the municipality, celebration of weddings in the court building or town hall is free. If none of the spouses is registered in the municipality, the fee is € 112.00.

i) Family Record Book

In many towns, a family record book (*Libro de Familia*) is customarily given by the registrar to the husband at the time when the marriage certificate is drawn up and to the father, the mother or the parents of a child adopted or born out of marriage. This book is an ongoing register of marriages, children's births, and family deaths. The family record book indicates the identity of its holders, their marriage; birth of the children including those born outside of marriage or adopted; the death of the holders of the booklet and the children; court orders relating to the loss of the parental rights. These indications have the value of the extracts.

Inscriptions by a foreign authority in these family books are not valid in Spain except if made by civil status registrars of a member state of the CIEC Convention No. 24 on the recognition and updating of civil status booklets.

j) Divorce/Separation/Annulment

Since 2005 divorce in Spain does neither require a previous judicial separation nor any specific cause as long as the marriage has lasted three months. The petition for divorce, legal separation or marriage annulment has to be filed before the Court of First Instance, and specifically the Court of First Instance:

- In the place where the marital home is located
- If the spouses are living in different administrative areas, the petitioner can choose between
 - the place where the marriage partners last lived together or the respondent's place of residence;
 - if the respondent has no fixed place of residence or abode, the petition may be filed in the place where the respondent is or last resided, as the petitioner chooses.
- Failing all the above criteria, the petition should be filed before the Examining Magistrate in the petitioner's place of residence.
- When the petition for divorce or legal separation is filed jointly by both spouses, they can do this before a Magistrate in the place where they last lived together or in the place of residence of either of the petitioners.
- Applications to have preliminary provisional measures adopted can be heard by the Examining Magistrate in the applicant's place of residence.

Spain has concluded agreements with the Holy See (so-called “Concordats”) whereby a Catholic marriage can be annulled by canonical courts whose decisions produce civil effects.

4. Name

Spanish names consist of one or two first names, and two surnames.

In the case of names written using alphabets other than the Latin alphabet (Chinese, Japanese, etc.) the name shall be assigned using a transcription or transliteration, in order to establish a graphic adaptation and a phonetic equivalent. Also, as regards names written in Latin characters, at the request of the interested party, spelling may be changed in order to make writing and pronunciation easier (for example, names that feature numerous consecutive consonants).

First names are chosen by the parents. If the parents do not point out a name or their choice is considered not appropriate by the registrar, he, after requesting to give another name within three days, determines a first name by himself. A person may not have more than two simple first names or one compound name (hyphenated). The name must not, objectively, be detrimental to the bearer. Diminutives, familiar or colloquial variants, which are not recognised on their own right, are not allowed. Names that cause confusion regarding identity or that lead to misunderstandings related to the sex of the person are not allowed. The name may not be in use by a living sibling.

a) Surname

The Spanish system for assigning surnames requires that an individual's first surname be the father's first surname and their second surname be the mother's first surname. It is not possible to use any surname the mother may have acquired by marriage. The father and the mother may agree, prior to registering the birth of their child, to reverse the order of the child's surnames, registering the child with the mother's first surname first and the father's first surname second. The order agreed upon for the eldest child shall apply in the registrations of the subsequent children of the same parents. When the child comes of age, he or she may also request that the order of the surnames be reversed.

If the father is unknown or does not want to recognize his child, the newborn will take both surnames of the mother in an order chosen by her. If paternity is established by a judicial decision, the father's surname is also assigned to the child but the mother may apply to the registry office that the child retains the original surname.

Upon adoption the first surname of the adoptive parent may be prefixed to one of the original surnames of the child. This rule is not used upon adoption of the child of the other spouse or if the adopter is a woman.

For Catalan names, it is possible to connect the two surnames by means of y ("and"). On request, the registrar may grant to precede the first surname with a "de".

In addition, the law allows those who acquire Spanish citizenship to maintain any surnames they have that are in a form other than those legally established, if they declare this circumstance at the time of acquiring Spanish citizenship or within a period of two months thereafter or on reaching legal age. When kinship does not establish a different surname, those being used by the interested party shall be maintained. When citizens with only one surname under the legislation in their country of origin are naturalized and registered as Spanish citizens, they have to register with two surnames.

Upon marriage both spouses keep their pre-marital surname. In everyday life women often drop the second surname and replaces it with the husband's first surname. Civil status records cannot be changed.

b) Name Change

Anyone with a legitimate cause, provided he/she does not provoke damages to third parties, may request the change of the first or the surname. The Civil Registry Code, in its decree of 14.11.1958, establishes that the changes may include segregation of words, enclosing, transposition or omission of letters or stresses, omissions of articles or particles, translation or graphic or phonetic adaptation to the Spanish languages, and substitution, interposition or enclosing of other first or surnames or part of surnames or other analogies, within legal limits.

With exceptions, the following are the general requirements for the application for the alteration of surnames:

- That the proposed surname is real and not one created by the interested party. To receive authorisation, it must be certified that the applicant uses and is known by the requested surname,
- That the new surnames belong to him legitimately and the surnames resulting from the change are not derived from a single lineage, but rather that one is paternal and the other maternal, or
- That the current surnames are indecent or they are extremely inconvenient, or when there is a risk that a Spanish surname will become extinct in the Spanish language.

The record regarding the change of surnames is filed by means of a written application addressed to the Minister of Justice or to the General Director of Registries and Notaries (Director General de los Registros y del Notariado). This application has to be submitted to the civil registry corresponding to the place of residence of the applicant, enclosed to the following documents:

- Literal certification of the birth registration for the individual affected by the change.
- Evidence (documentary, public or private and/or testimonial) to certify, in each case, the use and knowledge, the legitimacy and lineage of the surnames or any other circumstance upon which the request is based. To certify the legitimacy of the surname, the applicant must provide certifications of the birth registrations of the parents and, if necessary, previous ancestors. When these are unavailable, certificates of baptism may be submitted or witnesses must be presented.
- When adapting surnames to other Spanish languages, certificates from the Royal Academies of the corresponding official languages.

The record regarding the change of the order of surnames is filed by means of a written application addressed to the judge in charge of the corresponding civil register, providing certification of the parents' marriage or, in the absence of such certification, their birth certificates. The order of surnames can be changed only once in a lifetime. The following documents should be enclosed:

- Declaration of mutual agreement from the parents regarding the reversal of the order of their child's surnames.
- If the change in order is requested by a child who has come of age, the certificate of their birth registration must be submitted along with the application..

The record regarding the change of the first name is filed by means of a written application addressed, as appropriate, to the Civil Register or the Minister of Justice or the Director General for Registers and Notaries. When changing the first name registered to the one commonly used, it is advisable to address it to the registry office. The following documents should be enclosed:

- Literal certification of the birth registration for the individual affected by the change.

- Documentary evidence that certifies, as appropriate, the common use of the proposed first name or any other circumstance on which the request is based.
- Generally (there are a number of different cases), it is a good idea to provide baptism certificates, witnesses, as well as the corresponding certificates from the Royal Academies of the respective official Spanish languages in the case of substituting the first name with its onomastic equivalent in those languages.

The application can be filed in person or by post:

- Regarding change of surnames: at the registry office corresponding to the applicant's residence.
- Regarding change to the order of surnames: at the registry office corresponding to the residence of any of the interested parties.
- Regarding change of first name: at the registry office of birth or of residence.

Speakers of other languages in Spain (Catalan, Basque, Galician, Astur-Leonese, Aragonese, Aranese) whose names had been rendered as Spanish equivalents and who now wish to return to their vernacular name, enjoy a simplified name-change procedure in their respective autonomous community.

In the past, foundlings were often named after the saint of the day they were found or the patron saint of the town and for surnames, they received Expósito ("Foundling"), which marked them and their descendants as people without pedigree, or the more compassionate usage of choosing one among those most common among the population. Changing the surname Expósito is free of charge.

FI – Finland

1. Civil Status Registration System

Finland's civil status records are based on a central population register.

As with all population registers, Finland's system is person based as it records at a central place all relevant changes to the civil status of a person occurring in Finland. Finnish is one of two official languages of Finland (the other being Swedish). All civil status acts are performed in Finnish and in the Finland-Swedish language. In addition, under the Nordic Language Convention, citizens of other Nordic countries have the opportunity to use their native language when interacting with official bodies in Finland.

The Finnish alphabet is based on the Latin alphabet and its Swedish extension. It is comprised of 29 letters. The main features of the Finnish alphabet that make it different from the basic Latin alphabet are two extra vowel letters "Ä" and "Ö" plus the Swedish "Å". Some basic Latin letters are considered redundant in Finnish, and other letters generally represent sounds, which are not inherent in the Finnish language. Thus, they are not used in established Finnish words, but they may occur in newer loanwords as well as in foreign names, and they are included in the Finnish alphabet in order to maintain international compatibility. In addition to these alien letters shared with the basic Latin (and Swedish) alphabet, "Š" and "Ž" with special diacritics have been adopted, originally from the Czech alphabet. Diacritical or accent marks are retained in foreign-language names. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-1 (missing characters are in ISO 8859-15).

Finland has a population of 5,288,483 (2007) and is divided into 6 provinces (Finnish *lääni*, Swedish *län*). The provinces are divided into 20 regions (Finnish *maakunta*, Swedish *landskap*). The

regions are divided into 74 sub-regions (Finnish *seutukunta*, Swedish *ekonomisk region*) and the sub-regions are divided into municipalities (Finnish *kunta*, Swedish *kommun*). As of 2007, there are 416 municipalities in Finland. Of these, 114 are cities, 44 are bilingual and 3 are unilingual Finland-Swedish, and 16 are in the autonomous province of Åland. The official administrative sub-entities under the Provincial Office authorities are the Registry Offices (Finnish *maistraatti*, Swedish *magistrat*), and State Local Districts (Finnish *kihlakunta*, Swedish *härad*). These do not necessarily correspond to municipal level (municipality, sub-region and region) divisions of the country.

a) Population Information System

Comprehensive personal data on Finns and foreigners living in Finland on a more permanent basis are stored in the national population information system. Today's population registers are fully computerised. The computer-based register was introduced in 1971. The system is maintained by local register offices and the Population Register Centre. Under the Population Information Act (507/1993), the personal data in the Population Information System is maintained for the purpose of identification of a person as well as for clarification of their status regarding personal and family law and their legal capacity. Basic personal data recorded in the system includes name, personal identity code, address, municipality of residence, citizenship, family relations and date of birth and death. Other details registered include information on guardianship and restrictions of legal competence as well as information on native language, communication language, occupation and restrictions on the disclosure of data provided by the person. Also recorded is information on custody, information required for elections and referenda, membership in a religious community, the relevant local register authority, and an electronic client identifier needed for secure electronic transactions.

On the basis of a statutory duty to provide information, information is received from citizens (e.g., notifications of change of residence) and from various public authorities. These include local parishes, the Directorate of Immigration, Finnish embassies and missions abroad, courts of law, municipal social service authorities, hospitals and health care centres as well as marriage authorities. For example, information about a birth is obtained directly from the hospital, after which the local register office provides the child with a personal identity code. The child's parents inform either the baptising member of the clergy or the local register office of the names given to the child for registration in the Population Information System.

Finnish citizens living abroad are held to submit information on issues such as marriage, divorce, births of children and changes of address so that their personal and residence details will remain up-to-date. This information can be submitted either to the local register office of the most recent municipality of residence in Finland or to the nearest Finnish embassy or consulate in the current country of residence. Entries of foreign citizens who have permanently left Finland are not updated.

Usually, the information is open to the public. But everyone has a right to prohibit the disclosure of his or her personal information by the Population Information System for purposes such as direct marketing, opinion and market surveys, address service, genealogical research or membership rolls. Such an application can be made by phone, or by sending a formal or informal letter to a local register office or to the Population Register Centre.

b) Population Register Centre

The Population Register Centre was founded in 1969 and it operates under the Ministry of the Interior. The Centre develops and maintains the Population Information System, certificate services, the guardianship register and the Public Sector Directory Service, and provides assistance for organising elections. It produces personal and building data services, as well as identification solutions for on-line services to cater for different needs of society. The Population Register Centre

aims to be a Reliable Service Centre for The Information Society and develops its operations in line with the requirements of customers in the public administration and private sector as well as among citizens. For secure e-transactions, the Population Register Centre has created an electronic identity for Finnish residents providing them with a personal identity code and a chip ID card – featuring the Citizen Certificate issued by the Population Register Centre. The electronic client identifier can be used for electronic user identification in secure online transactions.

c) Personal Identity Code

The Finnish personal identity code is issued on the basis of a birth certificate to Finnish citizens born in or outside Finland. Foreign citizens whose residence in Finland is permanent or exceeds one year are also issued a personal identity code. Persons staying in Finland on a temporary basis and in some cases family members residing abroad can also be issued the code under certain circumstances.

The personal identity code is a means of identification that is more specific than a name. There may be many people with exactly the same name, but there are no two persons with exactly the same personal identity code. The code remains unchanged throughout the person's life. Personal identity codes were introduced in Finland in the 1960s. Parents of newborn children need not take any measures to obtain a code for the child as the hospital provides details of all births to the Population Information System.

A foreigner must submit the same information for registration as a Finnish citizen if he resides in Finland for at least one year. The registration takes place in a local Register Office (Maistraatti). Required documents are a passport or if the applicant is an EU citizen, an official ID will suffice. Other documents needed for the registration include a possible certificate of marriage and birth certificates of any children the person may have. A form must be filled in and signed at the Register Office.

d) Local Register Office

The local register offices are responsible for maintaining their regional Population Information System and their local information services. Local register offices are local state administrative authorities. There are 57 local register offices in Finland. The local register offices are responsible for maintaining their regional Population Information System and their local information services, as well as for acting as both the local authority handling Trade Register and the Register of Associations matters and the guardianship authority. Other services offered by the local register offices include the maintenance of the boat register, notary public services, the investigation of impediments to marriage and performances of civil marriages, name changes and the confirmation of the list of parties to estate inventories.

e) Change of address

In cases of address change, it is compulsory to submit an official notice of moving to the Register Office or the Post Office between one week before the move and one week after the move. Forms are available at the Register Office and post offices and include, if desired, a contract with the post office to forward the mail to the new address. In case of moving away from Finland, a written notice of moving must be submitted to the Register Office or a post office. When moving between Denmark, Finland, Iceland, Norway and Sweden as of January 2007, only the registration office at the place of arrival needs to be informed.

f) Archives

Civil status records of Finland have traditionally been kept by the church. In 1923, a freedom of religion law was passed. As a result, people who did not have a religious preference were recorded in a civil registry (Siviilirekisteri/Civil registret). Later, people who belonged to churches other than the state churches were also included in the civil registry. In 1970, the government's census records (henkikirjat/mantalslängder) became the basis of a general population register (Väestörekisteri/Befolkningsregistret) for all people in Finland. This population register also incorporated the information from the earlier civil registry (Siviilirekisteri/Civil registret). The Väestörekisteri/Befolkningsregistret has local offices on a commune (parish) level. The central office has a computerized register that includes information on individuals nationwide.

The Finnish National Archives have documents pertaining to the whole country. Records of the cities of Helsinki, Espoo, Kauniainen, and Vantaa are also found in the national archives; however, records from Uusimaa County are in the provincial archives in Hämeenlinna. Records at the national archives include the following: Church records, census records, court records and emigration records. The National Archives of Finland are open to the public. Finland has eight regional archives that house records about their particular area. Most Finnish records are kept at provincial archives, including church records, census records, court records and emigration records. The provincial archives are open to the public and will answer correspondence. Local parishes usually have church records created after 1900 and may also have earlier records.

g) Legalisation/Translation

The registry does not accept documents, which are not duly certified. In principle, the documents coming from foreign countries intended for use in Finland must be legalized by the respective foreign country or bear the Apostille.

Finland is a member of the Nordic Agreement between Denmark, Finland, Iceland, Norway and Sweden which provides for an electronic exchange of information on inter-Nordic migrants between the respective central population registers of these countries under the new Agreement on National Registration of Stockholm of 01 November 2004. In addition, Finland has bilateral agreements with Austria, Hungary and Poland removing the requirement of any legalisation for civil status documents.

Copies of documents are allowed, but such copies must be legalized or made of the original documents, which have the certification (apostille) on it. All foreign documents must be translated into Finnish or Swedish by an authorized translator. Under the Nordic Language Convention, citizens of other Nordic countries have the opportunity to use their native language when interacting with official bodies in Finland without being liable to any interpretation or translation costs.

In accordance with the Ministry of Justice Decree 893/1996 there are 36 local register offices in Finland designated as Competent Authorities for the issuance of an Apostille. The operational area of each local register office is comprised of one or more jurisdictional districts. In addition, the local register offices have a number of service units in order to ensure that register services are as available to the public as possible. Twenty-four of the local register offices operate as departments of jurisdictional districts and 13 as their own separate office. In the Åland Islands, the county government is responsible for carrying out the same tasks.

An Apostille can be requested in person, by mail and by registered mail. Prevailing practice varies, some local register offices accept Apostille requests by mail only from abroad. The Apostille is placed on an allonge. If the public document consists of multiple pages, Apostille placed on an allonge will be attached to the document as a last page and all pages will be sealed. Prevailing practice varies also in one insignificant detail; some local offices use state official watermark paper

in Apostilles but some offices do not so. The system used for the issuance of an Apostille is mechanical.

The total process generally takes about ten to twenty minutes. Normally, the Apostille will be issued while waiting. The fee for issuing an Apostille is € 9,00. It is being enacted in Section 3 of the Ministry of the Interior Decree (1065/2005) on Fees for services produced by Notary Public, by virtue of Section 8 of the Act on the Charge Criteria of the State (150/1992) enacted on 21 February 1992, as amended by Act No 348/1994, and by virtue of Section 34 of the Act on the Openness of Government Activities (621/1999), as amended by Act No 495/2005.

h) Foreign relations

Finnish civil status registrars do not transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Some Finnish civil status registrars receive information about civil status acts and changes of their own citizens from Sweden.

i) Consular Services

The consular network of Finnish missions abroad covers 97 offices, of which 89 are located in different countries and eight are permanent missions to international organisations. The missions providing consular services include embassies, diplomatic missions and offices of career consuls-general, consuls and vice-consuls. The general planning, management and supervision of consular services fall within the competence of the Ministry for Foreign Affairs. The registration of civil status events is recommended but not compulsory.

Finnish consular officials generally do not exert the functions of those, which are reserved for registrars in their country. The missions provide consular services that include population registration and notary services. The Finnish consular offices abroad transmit the acts drawn up abroad into the Finnish Population Register. Upon submission of a written application to the mission or to the Ministry for Foreign Affairs, the mission may request extracts from the population register or other documents concerning a person or an address in its consular district. Finnish consular officials do not issue civil status certificates or a certificate of no impediment. The diplomatic and consular officials are not authorised to celebrate marriages.

In order for the birth of a child to be entered in the Population Information System in Finland, the original birth certificate duly authenticated in the country of residence or a certified copy thereof must be submitted to the nearest Finnish Embassy or Consulate or sent to the local register office of the municipality where the person was most recently resident in Finland. Since birth certificates are usually drafted in the language of the issuing country, they must be translated into Finnish or Swedish by an authorized translator. If the birth certificate is submitted to an Embassy or Consulate, the form "Notification of Finnish national born abroad" must be filled in and appended to the original certificate. At present, the form is only available at Embassies and Consulates, which forward the documents to Finland through official channels.

j) Law

Marriage Act (Avioliittolaki) 234/1929 of 13.06.1929; For an unofficial English translation by the Ministry of Justice of the Marriage Act, see www.finlex.fi/pdf/saadkaan/E9290234.pdf; Marriage Decree of 06.11.1987; Act on Paternity of 05.09.1975; Act on Names of 09.08.1985; Name Decree of 08.02.1991; Nationality Act of 16.05.2003; International Family Act of 05.12.1929; Adoption Act of 08.02.1985; Act on Registered Partnerships (Laki rekisteröidystä parisuhteesta) 950/2001 of 09.11.2001; Death Declaration Act of 04.03.2005

If a person is habitually resident in Finland at the time when grounds for the determination of a surname appear or at the time when an announcement on the surname is made, the surname shall be determined according to Finnish law (Section 26 of the Names Act). If a person is not habitually resident in Finland, the surname shall be determined in accordance with the law on surnames that a competent authority is to apply in the state where the person habitually resides at the said time.

Whether the child of a married woman or a woman who has been married is to be regarded as being born in wedlock shall be decided according to the law in the state whose citizen her husband was at the time of the birth of the child (Section 18 of the Act Relating to Certain Family Relations of International Character). The legal relationship between the parents and their child born in wedlock is determined according to the law of the state whose citizens they are (Section 19). If the parents or one of them and the child are citizens of different states, the law of the state of which the child is a citizen shall be applied. The legal relationship between a child born out of wedlock and its mother are determined by the law of the state whose citizens they are (Section 20). If the mother and the child are citizens of different states, the law of the state of which the child is a citizen shall apply.

The procedure and conditions of adoption in a matter concerning the granting of adoption shall be governed by Finnish law. The consent of the parents to the granting of adoption may be given also in accordance with the formalities and procedure stipulated by the law of the state of these parents.

According to section 108 of the Marriage Act the right of a woman and a man to marry before a Finnish authority shall be determined in accordance with the laws of Finland. If neither party is a Finnish citizen and if neither is habitually resident in Finland, they have the right to marry before a Finnish authority only if the marriage is permissible under the law of Finland and if each of them has the right to marry in accordance with the law of the state whose citizen he or she is or where he or she is habitually resident, or in accordance with the law applicable in one of these states on the examination of impediments to marriage.

An engaged person shall present a credible account of his or her right to marry under the laws of a foreign state if those laws have to be applied. If no information can be obtained on the legislation of that state, such as owing to a state of war or other comparable unstable conditions prevailing in that state, the right of the engaged person to marry may, however, be examined under the laws of Finland, provided that the engaged person so requests and that marriage in Finland can be deemed justifiable in view of the links that the engaged persons have to Finland.

The Nordic-Convention and the agreement between Finland and Poland on legal protection and legal assistance in matters of civil, family and criminal law provide for additional exceptions.

According to section 10 of the Act on Registered Partnerships a partnership may be registered in Finland only if at least one of the partners is a Finnish citizen and habitually resident in Finland or both parties have been habitually resident in Finland for two years immediately before the registration. Citizenship of a foreign state whose legislation allows for the registration of partnership with mainly the same legal effects as provided in this Act shall correspond to Finnish citizenship.

k) eGovernment - Online Services for Citizens

Portal

Launched in April 2002, the citizen portal Suomi.fi provides a single access point to public information, administrative forms and services.

eServices

Other eServices are available from the Population Information System, the Population Register Centre and the Local Register Offices.

Civil Status Certificates

This service is not relevant in Finland, where birth and marriage certificates are not commonly used and, therefore, is not needed by citizens. Public authorities have direct access to the Population Register if they need information on a person's family status.

2. Birth

The birth of a child must be declared to the registry within two days. The maternity unit of the hospital sends the child's birth details directly to the officials of the local registry. Based on this information, the child is given a personal identification number and pre-filled form "Notification of a child's details" is issued. The pre-filled information on the form is based on the information held in the population register centre at the time of the birth of the child. The child's parents will be entered automatically to the form if they are married. If paternity is not established, the information about the father of the child will be entered at such later date when the district court has informed about the confirmation of the paternity. At the same time, with returning the "Notification of a child's details"-form, the child's parents must provide a written account of the child's nationality to the officials of the local registry, if the child does not have Finnish nationality. The procedure is the same when the parents wish to enter into the population registry an additional nationality for a child who already has a Finnish nationality. The district that the mother has as her place of residence at the time of the child's birth will also be entered for the child. Only the country and town is entered as a place of birth when the child is born abroad. If the mother does not have a registered place of residence in Finland when the child is born, the words "foreign country" will be entered as the child's place of residence.

The parents must inform the officials of the registry of births at the local registry of the child's first names, surname and mother tongue on the "Notification of a child's details"-form within two months after the birth. That language is retained in the Population Information System unless it is changed upon separate application.

The Population Register Centre does not collect data on stillbirths. These data are obtained from stillbirth certificates written out by physicians. The health care unit or the physician in question forwards the certificate to the Provincial State Office which sends it to Statistics Finland (Decreets 948/73 and 99/98). Only live born children of women living permanently in Finland are taken into account in the population register system.

a) Birth Record

The birth record indicates characteristics about:

- pregnancy duration
- medical assistance at delivery
- name of the hospital where the child was born
- legitimacy, multiple or singleton and birth order
- the child's name, sex, nationality, date and place of birth
- personal identification number
- birth weight and length at birth

- the APGAR score — i.e. the outcome of a test on Activity (muscle tone), Pulse, Grimace (reflex, irritability), Appearance (skin colour) and Respiration performed one and five minutes after birth)
- language of the child
- language of both parents
- religion
- name, age, marital status, address and occupation of the parents

A transsexual can, after gender reassignment, alter the birth certificate. The birth certificate is reissued in the reassigned sex of the transsexual person.

b) Birth occurring abroad

In order for the birth of a child to be entered in the Population Information System in Finland, the original birth certificate duly authenticated in the country of residence or a certified copy thereof must be submitted to the nearest Finnish Embassy or Consulate or sent to the local register office of the municipality where the person was most recently resident in Finland. Since birth certificates are usually drafted in the language of the issuing country, they must be translated into Finnish or Swedish by an authorized translator.

If the birth certificate is submitted to an Embassy or Consulate, the form "Notification of Finnish national born abroad" must be filled in and appended to the original certificate. At present, the form is only available at Embassies and Consulates, which forward the documents to Finland through official channels.

c) Recognition

The woman who has borne the child is the mother of the child.

The husband of the mother is the father of a child born during marriage. If the marriage is dissolved before the birth of a child due to the death of the husband, he is the father of the child if the date of birth of the child after the dissolution is such that the child could have been conceived during the marriage. However, if the mother has entered into a new marriage before the birth of the child, the latter husband is the father of the child.

Paternity cannot be acknowledged before the birth or after the death of the child. A man who wants to acknowledge his paternity shall notify a child welfare supervisor, a population registrar or a notary public in person that he is the father of the child. The acknowledgement is subject to consent by the mother and her husband, if she is married and the husband has not challenged his paternity, or by the child, if the child is legally competent.

A man who, upon the conclusion of marriage, wants to acknowledge that he is the father of the child of his fiancée may give his statement of acknowledgement also to the person officiating at the wedding.

Paternity may also be established through a judicial process. The judicial process is preceded by an administrative process where the locally competent municipal child welfare supervisor has to arrange an investigation of paternity, when he has been notified of the birth of a child born out of wedlock. The mother of the child and the man who wants to acknowledge his paternity may come to a meeting arranged by the supervisor. At this meeting, the man may notify the supervisor that he is the father of the child. When the supervisor has finished the investigation of paternity, he shall send the relevant documents to the court, which may establish that the man, who has acknowledged the paternity, is the father of the child.

Both parents are usually entered on a birth certificate. If the parents are married, the child is automatically considered born in wedlock.

If the parents of the child are not married, the paternity of the child must be confirmed before paternity can be registered in Finland. An acknowledgement of paternity issued or made for a Finnish child abroad is not valid as such in Finland unless it is made at a Finnish Embassy or Consulate which will forward the document of acknowledgement to the social security authorities of the mother's most recent municipality of residence in Finland. The social security authorities then process the matter so that the paternity of the child can be confirmed in Finland in the manner prescribed under law. Administrative decisions from other member states of the Nordic Agreement and court decisions from other EU-Member States are recognized without additional procedures.

Even if paternity has not been confirmed according to Finnish legislation, the surname of the child's father may be entered in the Population Information System.

3. Marriage

Marriage is concluded either in a religious or a civil ceremony. Civil marriage is only open for different-sex partners. Registered partnership is only open for same-sex partners. The only way for a registered partner to get the name of his or her partner, is through the administrative procedure for changing a surname.

A civil marriage ceremony is performed by the Chief Judge of a District Court and a District Judge or a District Registrar, while the registered partnership shall be registered by an authority entitled to perform civil marriage ceremonies. When the sex of a transsexual is officially changed, a marriage is automatically converted to registered partnership and vice versa.

If neither the woman nor the man is a Finnish citizen and if neither is habitually resident in Finland, they have the right to marry before a Finnish authority only if the marriage is permissible under the law of Finland and if each of them has the right to marry in accordance with the law of the state whose citizen he or she is or where he or she is habitually resident.

A registered partnership may be registered in Finland only if: (1) at least one of the partners is a Finnish citizen and habitually resident in Finland; or (2) both parties have been habitually resident in Finland for two years immediately before the registration. A citizenship of a foreign state whose legislation allows for the registration of partnership with mainly the same legal effects as provided in this Act, shall correspond to Finnish citizenship. A governmental decree currently designates corresponding citizenships to be Dutch, Icelandic, Swedish, Norwegian, German and Danish citizenships.

a) Preliminary Procedure

Before the marriage, those intending to marry must jointly request an examination of impediments to marriage at the Local Register Office, signature attested by two witnesses is required. The impediments to marriage can also be examined by a parish of the Evangelical-Lutheran Church or the Greek Orthodox Church if one of the engaged persons belongs to the parish. When requesting an examination of impediments to marriage, those intending to marry have to sign an assurance stating that there is no impediment to the intended marriage. When the examiner of the impediments to marriage has established that no impediments exists for the marriage, he shall issue a certificate thereof. The certificate may not be issued earlier than on the seventh day after the request for an examination of impediments to marriage. The certificate may, however, be issued earlier if there are weighty reasons for the same. The certificate on the examination of impediments to marriage is valid for four months after its issue.

In addition to the application form, a citizen of foreign country must provide a certificate issued by the authorities of his/her home country about his/her marital status, which, according to the Finnish law, must state that the person is either single, divorced or widowed. If a foreigner is permanently living in Finland and all the necessary information needed for investigating the impediments of marriage is available from the Finnish population registry, the certificates given by the authorities in his/her own country are not needed.

If a foreigner planning to get married is able to show that it is not possible to obtain a declaration from his/her country, the investigator could, with permission from the foreigner, investigate the impediments of marriage from other written documentation that is considered reliable. If needed, the authority investigating the impediments of marriage may ask for a statement on the factors affecting the reliability and sufficiency of the declaration from the Foreign Ministry or from the Foreign Office. It is also possible to investigate in that foreign country whether it is possible to receive any useful information that could be used in the investigations for impediments of marriage.

For a marriage taking place outside Finland, the office can, upon request, issue a certificate indicating that according the laws of Finland, the person in question has the right to be married by a foreign authority.

b) Personal Requirements

Marriage can be concluded by anyone who is not married or whose registered partnership is not in force. Both women and men may marry at 18. For those below this minimum age, the Ministry of Justice may grant permission to conclude marriage, if there are special reasons for marriage. Permission does not require the consent of the guardian or the custodian.

Marriage is not allowed between close relatives. Therefore marriage is prohibited:

- between a child and his/her parent as well as between siblings and half siblings
- when one of those intending to marry is a descendant of the other's brother or sister (e.g. uncle and niece)
- between an adopted child and the adoptive parent.

In the two latter cases marriage is, however, permissible under permission of the Ministry of Justice.

c) Religious Marriage

A religious marriage ceremony can be concluded:

- in an Evangelical-Lutheran Church
- in a Greek Orthodox Church
- in another religious community to which the Ministry of Education has granted a licence to perform marriage ceremonies.

Under the Marriage Act, a religious marriage ceremony may be performed by:

- a minister of the Evangelical-Lutheran Church
- a minister of the Greek Orthodox Church
- in another religious community by a person who, under the rules and regulations of the community, has the right to perform marriage ceremonies.

A religious marriage ceremony cannot be performed before the impediments to marriage have been examined and a certificate thereof has been issued to those intending to marry. In addition, the right

to a religious marriage ceremony depends on the own rules of each religious community. Each religious community itself decides on these other terms of a religious marriage ceremony.

d) Documents

- Passport and copies of the first 2 pages.
- Birth certificate or international extract from the register of birth.
- In case of divorced or widowed: divorce or death certificate.
- Request for examination of the impediment to marriage signed and attested by two witnesses.
- Certificate of no impediment to marriage abroad from home country in original.

The possibility of asylum seekers to enter into marriage is difficult. The Registrars usually require examination of impediments to marriage, which is extremely difficult to undertake in the home countries of asylum seekers, and a valid passport, with a visa or residence permit, before marriage may be contracted. In practice, marriage may not be contracted before the lawfulness of the asylum-seeker's residence is confirmed and he or she is issued an identity document (usually an alien's passport).

e) Certificate of no impediment

Non-resident foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Finland. In the absence of such a certificate it is not possible to marry in Finland. In practice, most of these intended marriages are conducted in Denmark.

If a Finnish citizen or resident foreigner intends to get married abroad he/she may have to produce - in addition to other documents – a Finnish certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Finnish law and is valid for 4 months from issue. The certificate is issued by the acknowledged religious communities. If the applicant is not a member of any religious community the local registry offices are the competent authorities.

f) Marriage Ceremony

A civil marriage ceremony can be performed once the impediments to marriage have been examined and a certificate thereof has been issued to those intending to marry. A marriage ceremony is performed in the presence of relatives or other witnesses either as a religious or a civil ceremony. The engaged persons shall be simultaneously present at the civil or religious marriage ceremony. Marriage by proxy is not allowed. More and more couples are choosing to pay for the official to travel to the wedding venue, where the ceremony can take place outdoors or in a room or hall other than the local registry. An extra fee of € 200,00 is charged for a civil celebrant having to travel outside the registry office and/or outside business hours to officiate a civil marriage ceremony.

g) Choice of last name before the ceremony

Those intending to marry may, at their choice, either keep their own last names in marriage or take a common last name. If they choose a common last name, the person intending to marry whose name will change may also decide to use his/her former last name before the common last name. A person's name also changes if he or she decides to use a former name in a hyphenated name. A couple may notify the local register office of any possible change in surname prior to the marriage by filling out the following Notification of the Choice of Surname Form. Following the marriage,

the name change is registered in the Population Information System. Both the state and municipal authorities will automatically be informed of the name change and a new ID Card will be issued. After a divorce, the spouses keep the surnames which they had during marriage. If a spouse changed his/her surname upon entering into marriage, he/she can apply for it to be changed after the divorce.

h) Contents of the Declaration of Marriage

The record on the marriage indicates:

- marriage date
- place of marriage
- surnames before marriage
- surnames after marriage
- home address
- religion
- date of birth
- place of birth
- country of birth
- nationality
- marital status
- language of the spouses

i) Divorce/Separation/Annulment

Judicial separation is not recognized by the Finnish legal system and there are no provisions on marriage annulment in Finnish legislation either.

There are no grounds for divorce necessary. Divorce is applied for at the District Court corresponding to the domicile of one of the spouses. If the spouses have lived apart for a period of two years before the application, application may be made for an immediate divorce. Otherwise, divorce is granted if the application is renewed by one or both spouses after the expiry of a period of reflection and reconsideration of at least six months.

4. Name

Every Finn shall have a surname and a forename.

The parents or guardians of a child must register the child's full name and native language in the Population Information System within two months of the child's birth. The parents mark the information in a pre-filled form, which is then returned to the local register office that has jurisdiction over the mother's municipality of residence or population bookkeeping municipality. If the child is to become a member of the congregation of the Evangelical-Lutheran Church or the Orthodox Church, the form should be returned to the priest who will perform the christening, who will then forward it to the appropriate church.

a) First Name

The child is allowed to have a maximum of three first names that the local registry officials must approve of. The forename must not be inappropriate or a name that is harmful for the child, such as a woman's name for a boy or a man's name for a girl, a surname must not be used as the forename, and the child must not be given a name that is in conflict with the customary way or form of writing names in Finnish. Siblings and step siblings must not have the same first name. Exceptions to the above may be accepted, however, based on religious habits or such criteria as nationality.

b) Surname

The child's surname will be determined in a following way:

If the parents have a common surname at the time of the child's birth, the child always receives the parent's common surname. The surname that is personally used by one of the spouses in front of the common surname cannot be passed on to the child.

If the parents who are married to each other do not have a common surname at the time of the child's birth, there is a right to choose which one of the parents' surnames the child will receive. The same applies when the parents are not married to each other but paternity is confirmed. The decision is made by the child's guardian. If the parents have a joint custody of the child, they must decide together on the child's surname, otherwise the parent having sole guardianship, usually the mother, or any other person or persons having guardianship will decide.

However, any children born by the same parents after the first child must receive the same surname as the older sibling.

If the parents do not make a decision, the child receives the mother's surname. The child also receives the mother's surname if paternity is not confirmed at the time when the child's details are entered in the population registry. In this case, the child's surname may be changed to the father's surname if paternity is established later.

c) Name Change

In Finland, name change issues are dealt with by the Registry Offices. Applications concerning change of a surname are submitted to the Registry Office of the applicant's municipality of residence. Section 10 of the Act of Names provided that a surname may be changed on the condition that the person concerned could show that:

- the use of his current surname causes inconvenience because of its foreign origin, its meaning in common usage or its common occurrence or for any other reason;
- the proposed surname has previously been used by himself or in an established way by his ancestors and the name change may be considered appropriate; or
- a change of surname may be considered justified by changed circumstances or by any other special reasons.

In addition, the proposed new surname must fulfil certain requirements.

If the County Administrative Board, after the Advisory Committee on Names has given its opinion and found no grounds under for refusing to authorise an application for a change of surname, the application is published in the Official Gazette and any person may file an objection to the proposed change of name within thirty days.

d) Minorities

Persons belonging to minorities are free to use their first names and surnames based on their own minority language. Sami first names and surnames are allowed too. However, there are practical problems relating to the Sami alphabet because an established solution has not yet been devised to the question of how to transliterate Sami in official technical applications.

FR – France

1. Civil Status Registration System

The French civil status registration system is event-based.

All civil status acts are performed in the French language. The French alphabet is based on the Latin alphabet. It uses the standard 26 letters. Usual diacritic marks are acute (´), grave (`), circumflex (^), dieresis (called tréma in French) (¨), and the cedilla (¸). The most frequent combinations are: à â ç é è ê ë ì î ô û ù ü ÿ. Diacritics have no impact on the primary alphabetical order. The tilde diacritical mark (~), used only above n, is occasionally used with the French alphabet, for well-known words or terms of Spanish origin that have been incorporated in the language even though they also have an alternate orthography (with "gn" or "ny" instead of "-ñ-"). Like other diacritics, the tilde has no impact on the primary alphabetical order. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-2, ISO 8859-15 and ISO 8859-16.

France has a population of 64,102,140 (2007). In France, there are three levels of administration (if the term “level” is reserved for authorities enjoying the autonomy guaranteed by the Constitution under the concept of administrative freedom). The municipality (la commune) is the base-level local authority. The city of Paris is both a municipality and a département, its institutions (the Council of Paris and the mayor) being those of a municipality. The 100 départements are intermediate local authorities and are subdivided into 342 arrondissements. All 26 regions have the same legal system, although institutions and powers can differ significantly for both Corsica (which, moreover, in 1992 ceased to be called a “region”) and overseas regions (Guadeloupe, Guiana, Martinique and Réunion), each of which consists of a single département with the same geographical entity possessing both departmental and regional institutions. As of 01.03.2007, there were 36 780 municipalities in France, of which 36,568 were located in Europe, and 212 in overseas départements, overseas territories and special “territorial communities”. There have been 96 French départements in Europe and four overseas départements since 1946. In all, there are 26 regions, of which 22 are in Europe.

a) Registry Offices and Staff

Normally there is a registry office in each municipality but the size of French municipalities varies in population from zero (a number of municipalities, in mountainous areas in particular, have lost all their year-round inhabitants) to more than two million (Paris). In large communes, several offices can be established. Paris, Lyon and Marseilles are divided into districts, each one having a registry office and other cities may have a central town hall and additional, qualified town halls as far as civil registration is concerned. This offers some sort of centralisation. France has 36,000 civil registries, which are regularly kept up to date on paper medium.

The mayor is, by law, the registrar. He may delegate duties to a deputy, a town councillor or a communal representative (civil servant). There are no precise regulations for professional training.

Registrars are vested by the law with receiving notification of births and legal recognition of natural children, transcribing and entering all acts and judgements in the birth, death and marriage registers,

making records and conserving them (Articles 55 and followings from Civil Code). The registrar is also responsible for organising the registers. Rules defining the way in which registers should be compiled, stored, updated and consulted as well as the content and form of certificates are stated in legislative or regulatory texts. These are brought to the attention of registrars in the Instruction générale relative à l'état civil (General instructions on civil registration) compiled by the Department of civil affairs and bearing the seal of the Ministry of Justice.

Outside France and in case of war, expedition, operation for the keeping of order and pacification or quartering of French troops in foreign territories, for occupation or under intergovernmental agreements, records of civil status concerning soldiers and mariners of the State may be received likewise by military officers of civil status, named by an order of the Minister of the Armed Forces. Those officers of civil status are also competent with regard to non-military persons. In metropolitan France, the military officers of civil status may receive records concerning soldiers and non-military persons in the parts of the territory where, by reason of mobilisation or siege, the municipal civil registry is no longer regularly ensured.

Since the registry of births, deaths and marriages is a public legal service attached to the justice department, registrars carry out their functions under the responsibility and control of the public prosecutor's office of the Ministry of Justice. Since the public prosecutor is the highest authority, he can be consulted by registrars when they encounter difficulties in accomplishing their mission. The directives given by public prosecutors to registrars are purely administrative. The general directive on the registration of births, deaths and marriages specifies that these directives cannot supersede the judgement made by a court when it has been asked to settle a dispute.

b) Bulletin

The registration of any event relating to civil status is drawn up in accordance with the respective regulations and entered into a special register by an individual responsible for performing the duties of registrar.

Furthermore each time the registrar enters a document onto his registers, and sometimes even when marginal notes are made, the registrar has to fill in a questionnaire known as the "Bulletin statistique de l'état civil" (Statistical civil status bulletin which is sent to INSEE (the French National Institute of Economic and Statistical Information), either in electronic format (tele-transmission) or hard copy. INSEE allocates a number to every person. The first digit of the number indicates sex (1 for male sex, 2 for female sex). The number appears in the national identification register of natural persons and the social security bodies use it with additional digits for each person insured.

The registrar registers a birth certificate if the child drew breath. If not, he registers an "acte d'enfant sans vie" (stillbirth certificate). It is a "bulletin de naissance" which is compiled upon the occasion of the registration of any birth certificate. The Cour de Cassation, in 3 decisions, has considered since 2008 that it is possible to extend to stillborns before the viability threshold (less than 22 weeks or weight under 500 g) the faculty for the parents to ask the administration for a stillbirth certificate, which does not imply full legal personality to the child but which involves various rights such as burying the body, giving a name, and registering the child on the family register (Civ.I, 06/02/08, pouvoir n° 06-16.498, 06-16.499, 06-16.500).

A marriage bulletin is compiled upon the occasion of registration of any marriage certificate.

A "bulletin de reconnaissance" is compiled for each child acknowledged. The bulletin is compiled upon the occasion of the registration of the certificate of acknowledgement in the commune where the acknowledgement was given. The same child can be acknowledged several times. In this case, each certificate of acknowledgement is the subject of a bulletin. In addition, it is possible to

acknowledge several children in the same certificate of acknowledgement. In this case, the registrar compiles as many bulletins as there are children being acknowledged and all the bulletins have the same document number.

The registrar compiles a bundle of self-copy papers composed of a "bulletin de décès (death bulletin)", which is anonymous so as to respect medical confidentiality, for the Institut national de la santé et de la recherche médicale (Inserm) via the direction départementale de l'action sanitaire et sociale (DDASS) (departmental community healthcare headquarters) and a named "bulletin de décès" for INSEE.

c) Civil Records

Larger communes have several types of registers depending on the nature of the documents to be entered and sometimes even several registers of the same type, whereas the smaller communes (less than 5.000 inhabitants) have one single register in which they enter all documents, one after another, whatever the event in question. Types of registers are the register of births and recognitions, marriages and deaths or stillbirths. Registers are held in double.

The archiving of French consulate registers, the insertion of information in the margin when necessary and the issuing of copies or extracts of records concerning French citizens born overseas are carried out by the Ministry of Foreign Affairs in the main registry of births, deaths and marriages in Nantes, set up by the decree of 1st June 1965.

The records drawn up by military officers of civil status shall be kept on a special register, the keeping and preservation of which is regulated by a joint order of the Minister of National Defence and Armed Forces and the Minister of Ex-Servicemen and Victims of War.

d) Access and Documents

Direct consultation of the registers of births, marriages and deaths going back to less than one hundred years is not possible. Registers which are more than one hundred years old can be consulted.

The registry offices issue certificates, extracts, integral copies and the family record book. A birth certificate is required to obtain a national identity card or a passport, and often is requested by the social services or educational establishments. Integral copies of a birth certificate can be issued only to the person concerned, his ascendants or descendants, his spouse, his legal representative, the prosecutor de la République or any person authorised by him (section 9, first and third paragraphs). However, any person can obtain an extract of another person's birth certificate (section 10). The information which appears on an extract of birth certificate is subject to certain restrictions. Thus in the case of legal adoption, such an extract must not include any reference to the adoption order or the family of origin (section 12). In addition, the Decree of 26 September 1953 on the simplification of administrative formalities provides that in the case of procedures and investigations carried out by public bodies, services and offices or by undertakings, organisations and health insurance institutions under State supervision, extracts of civil status documents shall be replaced by production of a civil status certificate.

The Applications for copies or extracts and certifications can be made:

- in person
- by fax, e-mail and postal mail;

The delivery is free. A stamped self-addressed envelop must be enclosed. It is always necessary to state identity or nationality in current administrative steps by means of identity card, birth

certificate, wedding certificate etc. Unless otherwise provided for, (for example, birth certificate presented for the marriage) the validity of copies and extracts is not limited.

e) Complaint Procedure

The exclusively administrative nature of the mission carried out by the public prosecutor with regard to registrars means that the Mediator of the French Republic can intervene when a complaint is made to him, without prejudice to article 11 of the law of 3rd January 1973 which excludes interference in legal procedures. The Mediator contacts the public prosecutor concerned, after having informed the Minister of Justice.

f) Correction, Amendment and Cancellation of Civil Status Records

Correction of records of civil status is ordered by the president of a court. The application for correction can be lodged by any party concerned or by the public prosecutor; the latter shall act of his own motion where the mistake or omission bears on an essential indication of the record or of the judgement which takes its place. The public prosecutor who has territorial jurisdiction may undertake administrative correction of merely clerical mistakes and omissions in the record of civil status: for this purpose, he can give all necessary instructions directly to the registrar.

Civil status certificates are not amended at a later date but notes in margin of the certificates are made in order to establish relationships between two civil status acts, or between an act and a court decision. It corresponds to a brief reference to the new act or decision, in the margin of an act previously recorded or transcribed, changing the civil status of the person concerned.

A civil status act can be cancelled if its essential content is false or without object although the act itself is regular in the form (act stating a birth or an imaginary death) or if the act is irregularly drawn up although its content is exact (in this case cancellation is seldom ordered). Cancellation is pronounced by the court. In the event of a full adoption, the original birth certificate is regarded as void and the judgement of adoption is regarded as the new birth certificate of the child. When cancellation relates to a legal document, the effects rising from cancellation are fixed by decision of the legal authority. A cancelled act cannot be updated any more and, in theory, a copy or extract cannot be delivered, except with authorisation of the public prosecutor. In the case of putative marriage, the interested party can obtain, with authorisation of the public prosecutor, a copy of the cancelled marriage certificate.

Where no registers have existed or where they have been lost, proof of them may be received by other documents as well as by witnesses.

g) Archives

In France, each department has its own archive (Archives départementales) that is separate from those of the national government. The departmental archives serve as repositories for local records. Their collections include: Civil registration birth, marriage, and death records, church records (before 1792) and census records. The departmental archives of France are open to the public. Copies of civil registers that are more than 100 years old are deposited at the departmental archives, except in large towns, which have their own municipal archives. Original local records of births, marriages and deaths created by a town registrar from 1792 to the present are usually found at the civil registration office in the town hall. The most recent hundred years are confidential and birth and marriage certificates will be issued only to direct-line descendants who submit a written request.

In each town's civil registration office births, marriages, and deaths were written in the registers as they occurred and thus are arranged chronologically. Almost every registrar created indexes of his registers.

h) Legalisation/Translation

The registry office does not accept documents, which are not duly certified or bear an apostille.

France has bilateral treaties on the abolishment of legalisation of civil status documents with Austria, Germany, Luxembourg and Hungary. France is party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers and to the Convention abolishing the legalisation of documents in the Member States of the European Communities, signed at Brussels on 25 May 1987.

Under the first mentioned Convention, parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party. The latter generally exempts public documents from the procedures for certifying the authenticity of signatures, seals, stamps, etc. Parties to the Convention of 25.05.1987 are Belgium, Denmark, France, Italy, Latvia, Cyprus and Ireland.

Finally, France has ratified CIEC Conventions No. 16 of 8 September 1976 on the issue of (multilingual) extracts from civil status records, birth certificates, marriage certificates, death certificates) together with Austria, Belgium, Bosnia and Herzegovina, Croatia, France, Germany, Italy, Luxembourg, Macedonia, the Netherlands, Portugal, Poland, Serbia and Montenegro, Slovenia, Spain, Switzerland and Turkey and CIEC Convention No. 17 of 15.09.1977 on the exemption from legalisation of certain records and documents.

Other than said multilingual extracts, all documents which are in a foreign language must be translated into French and the translation must be made either by an official service or by an official translator.

For Paris Residents, Apostilles are issued by the Palais de Justice. The other competent authority to issue the Apostille is the Public Prosecutor Services attached a Court of Appeal (“Parquet Général près la Cour d’appel”). It appears that, in the absence of centralised and unified procedure to obtain the Apostille to a public document, situations can vary from a Court of Appeal to another.

The request is made in person, or, sometimes, by regular mail. In case of doubt about the authenticity of the document produced by the person seeking the Apostille, the Public Prosecutor will generally write to the institution which issued the document in question and ask them to directly confirm the existence of such a document. Such procedure appears however to be quite exceptional. Apparently, the use of e-mail, although foreseeable for such exchanges which does not imply the transmission of official documents, is still very rare. The Apostille is placed on the document itself. If the document is several pages long, then the general practice is to place it on the last page of the document. Sometimes, particularly for long documents which does not include page numbers, a stamp and a signature are added on every page. The Apostille is delivered in French, and is physically added to the document. No electronic Apostille has been delivered. Delay vary greatly from a Court to another. It seems that the typical delay would be between one and six month. There is no charge for the issuance of Apostilles.

i) Refugees and Stateless Persons

The French agency for the protection of refugees and stateless persons (OFPRA) has exclusive competency to establish documents which take the place of civil status certificates for civil status events which took place in the country of origin of refugees and stateless persons. It is the OFPRA which, therefore, determines the civil status of the persons concerned. The resulting changes in civil status can be a source of difficulty which is then submitted to the Mediator of the French Republic.

j) Foreign relations

Some French civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member (e.g. Belgium, Bulgaria, Germany, Italy, Poland and Portugal). French civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States (e.g. Bulgaria, Germany, Italy and Portugal).

k) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that French citizens can obtain from French foreign missions (184 Embassies, 90 Consulates and 487 Honorary consulates). The registration of civil status events occurring abroad is compulsory.

French consular officials assume the same duties of those which are reserved for registrars in their country. The French consular offices register the civil status events of their citizens abroad and issue the respective certificates. They offer assistance to obtain civil status certificates (birth, marriage and death) for French citizens and for citizens of other countries from civil status registries in France and from the host country. They issue also a certificate of no impediment. The diplomatic and consular officials are also authorised to celebrate marriages. No fee is payable for procuring and issuing of civil status documents.

l) Law

Civil Code of 1804 (CC); General instructions on civil registration (Instruction générale relative à l'état civil)

Current versions of legislation

Current versions of the texts of the legislation are available at:

<http://www.legifrance.gouv.fr> (French) and

<http://195.83.177.9/code/liste.phtml?lang=uk&c=22&r=244> (English)

m) eGovernment

Online Service for Citizens

Portal

www.Service-Public.fr

The Service-Public.fr portal, launched in October 2000 is the access point to practical administrative information for all questions relating to the users' daily life events. This portal thus provides orientation, documentation (public reports accessible online) and information on users' rights and administrative steps. In addition, "Administrative 24h/24" was launched in 2007. This is a one-stop shop where both citizens and businesses can take their administrative steps online 24 hours, easily and swiftly. This portal offers: eAccess to administrative forms, eFilling in and online return of forms 24 hours a day and 7 days a week. The French government has set an objective of complete dematerialisation of administrative forms by 2008.

It is possible to order civil status certificates on-line. To order a certificate on-line, most of the information on the certificate must be known to the applicant. As an example, to order a birth

certificate, the applicant must know the name, date and place of birth, names of the parents and the number of the certificate. The applicant must further state his relationship to the person.

Once the complete dematerialisation objective is reached, 'Service-Public.fr' will become 'mon.service-public.fr', the most advanced eGovernment portal offering unified, personalised and secured access to the whole set of eGovernment services available online. In order to facilitate the performing of administrative steps online, users will own a personal data space on which they may store all their administrative eDocuments, such as: eCertificate, birth certificate extract, etc. This portal has been tested on samples of users over the period 2006-2007 and should presumably be operational in the course of 2008.

eIdentification infrastructure

The electronic services provided to citizens and enterprises via the 'Administration24h/24' portal are supported by one common electronic signature solution.

Civil Status Website

<http://www.acte-etat-civil.fr>

<http://www.service-public.fr/demarches24h24/>

Civil Status Certificates

The national online request system for birth certificates is accessible via the website. Due to legal obstacles, only two steps have been able to be digitized: the request formulated by the users and the requests formulated by a municipality to another municipality on the account of a user. Requests are handled by individual communes and depending on the commune, the request can be sent online or by regular mail. Some clicks are enough for the citizen to fill out and validate their request, by indicating their birth municipality, their identity, their date of birth, their address, the number of copies desired. The users who carry out their request on the web receive their birth certificate a few days later by mail. There is also a link to the Ministry of Foreign Affairs' department in charge of civil status matters of French citizens which have occurred abroad.

2. Birth

The birth of a child born live and able to sustain life has to be notified to the Births Registry Office: Article 55 of the "Code Civil" states "birth notifications shall be made within three days of delivery to the official in charge of the local Births Registry". Where a birth has not been declared within the statutory period, the officer of civil status may only record it in his registers under a judgement rendered by the court. In foreign countries, declarations of birth by French citizens must be made within fifteen days of the delivery to diplomatic or consular staff. That period may, however, be extended by decree in some consular districts. Declarations of birth in the armed forces must be made within ten days following the delivery. The default of a deadline can be sanctioned.

Normally, for legitimate children or children legally recognized prior to the birth, the head of the maternity ward declares the birth. Birth registrations can also be made by the father, doctors, midwives or other persons present during the delivery, and if the delivery took place in a private home, the person who lives in that home (Article 56 CC).

Legal existence is acquired at birth by a child born live and able to sustain life, and is extinguished with death. When a child dies before birth, has been notified to the Births Registry, the Official delivers both a birth certificate and a death certificate providing a medical certificate is supplied stating that the child was born alive and able to sustain life, giving dates and times of birth and death.

A person who has discovered a foundling is required to make declaration to the officer of civil status of the place of discovery. A detailed memorandum is drawn up which, besides other characteristics, shall state the date, time, place and circumstances of the discovery, the apparent age and the sex of the child, any peculiarities which may contribute to his identification as well as the authority or person to whom he is entrusted. Following and separately from this memorandum, the officer of civil status draws up a record that shall take the place of a record of birth. Where the record of birth of the child is found or the birth is judicially declared, the memorandum of discovery and the interim record of birth is nullified at the request of the public prosecutor or of the parties concerned.

In case of birth during a sea voyage, a record must be drawn up within three days of the delivery, upon declaration of the father if he is on board. An officer of the Navy commissariat or the captain will make the record.

The declaration of birth and a copy of the birth certificate are free of charge.

a) Documents

The following documents should be presented at the declaration of birth:

- birth certification from the maternity hospital
- identity papers
- family record book
- certificate recognizing the child prior to its birth, for unwed parents that recognized the child before its birth.
- birth declaration

The birth declaration contains:

- legitimacy and birth order
- child's sex, first name and surname, place and date of birth
- marriage date and place of the marriage
- first names, surname, age, place of birth, nationality, profession and residence of the father and mother, and of the informant, if different

b) Birth Certificate / Acte de Naissance

The birth certificate is the document issued by acting registrar of the corresponding Civil Register, which certifies the birth. It indicates characteristics about:

- the child's sex, first name and surname, place, date and time of birth
- first names, surname, age, profession and residence of the father and mother, and the informant, if it is necessary
- birth order and the precise time
- date of the registration
- name and signature of the registrar
- signature of the informant

Birth certificates are not amended at any later date but marginal notes may be made concerning the affiliation of an illegitimate child, legitimation of a natural child by the marriage of its parents, and court decisions relating to the simple adoption. The judgement declaring full adoption is entered on the registers of births, marriages and deaths of the child's place of birth. It contains no indication of blood relationship, yet the actual place and date of birth are stated. The original certificate is endorsed with the word "adoption" and is regarded as void. If the child was born abroad, the adoption judgement is to be entered in the records of the Central Department of Civil Status of the Ministry of Foreign Affairs at Nantes. The original birth certificate is kept by a French registrar.

When a marriage is celebrated, the act of marriage is recorded in the marriage register of the town hall in which the marriage took place. The registrar of the birth place of each of the spouses is informed of the marriage so that the marriage can be mentioned in the margin of their birth certificates. When a divorce or annulment is pronounced, the spouses' legal counsel sends a copy of the judgement to the registrar of the place in which the marriage was celebrated and the birth place of the spouses so that the divorce or annulment can be mentioned in the margin of the relevant certificates. Furthermore, decisions relating to the change of the first name or surname, the nationality, absence and death are registered as marginal notes. A trans-sexual can, after gender reassignment, alter the birth certificate. Again, the change of sex is indicated in the margin of the birth registration. In France, the right to change sex or trans-sexualism is not anticipated in any law decree or regulation. It is the Judge (first the European Court of human rights and then in 1992 the French Cour de Cassation) who has allowed this progress, under Article 8 from CEDH and Article 9 from the Civil Code).

There are three different forms of French birth certificates:

- Birth Certificate without the parents' names of the child (Extrait d'acte de naissance sans filiation)
- Birth Certificate mentioning the parents of the child (Extrait d'acte de naissance avec filiation)
- Full and legalized copy of the birth register (Copie intégrale de l'acte de naissance)

According to French laws, everybody is entitled to order a birth certificate without the names of the parents. A birth certificate that mentions of the parents or a copy of the birth register may be ordered only by the concerned person himself or herself, the ancestors (parents, grand parents etc.), the descendants (children, grand children etc.) and the spouse (wife or husband).

c) Recognition

Entering the mother's name on the birth certificate is now enough to establish filiation, with recognition by the mother no longer being necessary with regard to children born outside marriage. However, pre-natal recognition – now codified – shall remain possible. In general, the mother is the woman who gave birth to the child and an action to establish maternity may be brought in court by the child proving that he or she is the child to whom the alleged mother gave birth. However, a system of anonymous births is in place. On giving birth, the mother may request that her admission to hospital and identity shall remain secret. In addition, if a child is less than a year old, its parents may entrust it to the Child-Welfare Service and request that their identity be kept secret. The filiation stated in the civil-status documents is annulled and a fictitious birth certificate, known as a provisional civil-status certificate, issued in lieu.

A child conceived or born in wedlock has the husband as his father. Legislation presumes that a child was conceived during the period that extends from the three-hundredth to the one-hundred and eightieth day, inclusive, before the date of birth. Parentage is lawfully established by operation of law, by voluntary acknowledgement or by possession of status recorded in an affidavit.

Acknowledgement of an illegitimate child is made in the record of birth, by an instrument received by the officer of civil status or by any other authentic instrument. The paternal recognition requires neither the agreement of the mother nor that of the child.

The certificate of acknowledgement recognizing the child determines the parentage and parental authority between the child and its unwed parents. The same child can be acknowledged several times. In addition, it is possible to acknowledge several children in the same certificate. This certificate can be established in any town hall at any time, before or after the birth.

In the case of absolute incest, affiliation may be established by law in respect of only one parent, who may equally well be the mother or the father, since it is optional to give the mother's name on the birth certificate.

3. Marriage

To be legal, all marriages in France must be performed by a French civil authority at the town hall in the place of residence of one of the future spouses, i.e., an officier de l'état civil, before any religious ceremony takes place. In practice, this means the mayor or his legally authorized representative, such as a deputy mayor or a town councillor must perform the marriage. A religious ceremony may be performed after (never before) the civil ceremony. The minister, priest or rabbi performing the religious ceremony will require the certificate of civil marriage as proof that the civil ceremony has taken place. In France, a religious ceremony does not constitute a legal marriage.

Civil marriage is not open to same-sex couples. The Act no 99-944 of 15 November 1999 on registered partnerships introduced into the Civil Code a new Article 515-1 which defines a registered partnership as a “contract entered into by two natural persons of age, of different sexes or of the same sex, to organize their common life”. Since a registered partnership does not alter the marital status of the partners, they cannot choose to bear the partner’s name.

Two French nationals can marry or enter into a registered partnership. A couple can marry in France on condition that one of the future spouses has been domiciled in France (Art. 74, Civil Code). As regards registered partnerships, Article 515-3 of the Civil Code requires the partners to choose a shared residence. A French national can marry or enter into a registered partnership with a resident foreigner. A French resident can marry a non-resident foreigner. A French resident, however, cannot enter into a registered partnership with a foreigner with whom he does not have a shared residence in France. This provision, however, does not imply that the foreigner must be a resident before the registered partnership is celebrated: it simply suffices for him to establish his residence with the partner at the moment of entering into the registered partnership. A resident foreigner may marry a non-resident French national. He may also enter into a registered partnership on condition that he shares residence with the resident foreigner.

A marriage contracted in a foreign country will be recognized in France. A French national residing abroad may enter into a registered partnership with a foreigner at the French embassy. A resident foreigner holding a residence permit (including residence permit for studying) may enter into a registered partnership with a non-resident foreigner in France on condition that the latter shares residence with the former. Two non-resident foreigners can neither marry nor enter into a registered partnership. Registered partnerships must be registered at the office of the Magistrates’ Court. A registered partnership ends outside court by a joint decision of the parties or by a unilateral notification by one of the parties (Art. 515-7, Civil Code).

a) Personal Requirements

The minimum age for persons entering a legal marriage in France is 18 years (Article 144 CC)

Nevertheless, the Government procurator of the place where a marriage is to be celebrated may grant dispensations as to age for serious reasons. In direct lineage, marriage is prohibited between all ascendants and descendants and the relatives by marriage in the same lineage. Marriage is further prohibited between uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate. Nevertheless, the President of the Republic may for serious reasons remove the prohibitions of marriages between relatives by marriage in direct lineage where the person who created the relationship is dead and of marriages between uncle and niece, aunt and nephew (Article 61 and followings CC)

Further impediments to marriage are total failure to secure consent, bigamy, lack of competence of the registrar of births, marriages and deaths and secrecy.

b) Residence requirement and place of marriage:

The municipality of residence is where the civil ceremony has to take place. If the parties have resided in different districts, the civil ceremony may take place in either district of residence.

There is a residency requirement of forty (40) days having two separate components:

- Residency by one partner to the marriage in the town where the marriage will take place (or in the arrondissement in the case of Paris) for 30 days prior to the marriage.
- After the 30 day period, banns are posted at the town hall (or Mairie) for 10 days, during which the residence must also be maintained.

c) Preliminary Procedure

French law also requires the posting of marriage by way of a bill stuck up on the door of the appropriate town hall no less than ten (10) days preceding the date of marriage. That notice is published and states the first names, names, occupations, domiciles and residences of the future spouses, as well as the place where the marriage is to be celebrated. The first publication of the banns can be made only at the end of thirty (30) days of residence in France by one party to the marriage. In order to be allowed to post banns the future spouses will be required to provide proof of domicile (*justificatifs de domicile*) by at least 2 documents proving residence in the local area for the required period of 30 days. In the case of French residents or citizens, usually utility bills, rent receipts or home insurance documents are allowed as evidence. In some cases a sworn affidavit will be required. The public prosecutor of the arrondissement in which the marriage is to be celebrated may, for serious reasons, dispense with public notice and with any period or only with the banns.

Registrars have the power to postpone the celebration of a marriage in cases where there exist several objective elements that suggest the absence of an intention to marry ("marriages of convenience"). The public prosecutor then has fifteen days, from the time the matter was brought to his attention by the registrar, to take action. If the evidence is manifest, the public prosecutor objects to the marriage. If an inquiry turns out to be necessary, the public prosecutor may postpone the celebration of the marriage for a period not exceeding one month. If there is no reply from the public prosecutor within the time fixed, the marriage must be celebrated. The decision to postpone the celebration of the marriage may be contested by either of the future spouses before the president of the court of Appeal, who must give a ruling within ten days; the same period of ten days applies in the event of an appeal.

d) Objection

After the banns, a person married to one of the two contracting parties, the father, the mother and, in the absence of the father and the mother, the grandfathers and grandmothers may interpose an objection to the marriage of their children and descendants, but only in 2 cases in compliance to

article 174 from the Civil Code : when the Conseil de Famille consent has not been reached, when the opposition is based on the future spouse's mental state, knowing that this opposition will be accepted provided the opponent provoking the trusteeship of the major person by a Court decision within a legal deadline. Instruments of formal objection to the marriage must be signed on the original and a copy by the opposing parties or their agents with special and authentic powers; they must be served, with a copy of the power, on the persons or at the domiciles of the parties and on the officer of civil status.

Where there is serious circumstantial evidence giving rise to the presumption that the contemplated marriage may be annulled, the officer of civil status may refer the matter to the public prosecutor. He informs of it to the persons concerned. The public prosecutor shall, within fifteen days after the matter has been brought before him, either let the marriage proceed, or interpose an objection to it, or decide that the celebration must be stayed, pending an inquiry. He shall make his reasoned decision known to the officer of civil status and to the persons concerned. Either of the future spouses, even minor, may challenge the decision to stay or its renewal before the president of the tribunal de grande instance who shall give judgement within ten days. The judgement of the president of the tribunal de grande instance may be referred to the court of appeal which shall decide within the same period.

e) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in France if french law should apply. In case the foreign marriage law is deemed more liberal than the french law and should apply to the marriage, foreigners must produce a certificate of no impediment. In practice some registry officces (mairies) may request an Affidavit of Law and Customs.

If a French citizen intends to get married abroad he/she may have to produce - in addition to other documents – a French certificate of no impediment. This certificate is not issued in civil status registration offices in France but it can be obtained from the French embassy or consulate free of charge. This consular document is not treated as a certificate of no impediment in all surveyed countries, for instance not in Germany.

f) Civil Marriage Ceremony

The marriage must be conducted with both parties present in person and in the presence of at least two and at most four adult witnesses. It is not possible to have a civil wedding outdoors, in a hotel or château or at any location other than the mayor's office or other official office of the registrar. Only in case of serious impediment, the public prosecutor of the place of marriage may grant leave and the registrar may conduct the marriage at another place, such as the home of one of the parties. In case of imminent danger of death of one of the future spouses, the officer of civil status may do so without waiting for such authorisation.

g) Posthumous Marriage

The President of the Republic may, for grave reasons, authorize the celebration of the marriage where one of the future spouses is dead after the completion of the official formalities indicating unequivocally his or her consent. In this case, the effects of the marriage date back to the day preceding that of the death of the spouse. However, this marriage may not involve any right of intestate succession to the benefit of the survivor and no matrimonial regime is considered to have existed between the spouses

h) Documents

The future spouses must obtain from the town hall the forms to be filled in and on which are indicated the papers to be provided:

- birth certificate (issued by the town hall in the place of birth), not older than 3 months. Some city halls may accept a notarised affidavit executed before a consular officer in France.
- identity papers (national identity card, passport, residency permit, resident's card, driver's license)
- two documents justifying the place of residence (i.e. phone bill).
- death certificate of former spouse, if one of the future spouses is widowed
- marriage certificate mentioning the divorce if one of the future spouses is divorced
- If one of the future spouses is a foreigner:
 - statement of single status not older than 3-months; French city halls usually require a certificate of celibacy. It can be done in the form of a notarised affidavit executed before a consular officer in France.
 - an affidavit of law (certificat de coutume): Some Mairies may request an Affidavit of Law and Customs in addition to the Affidavit of Single Status issued by their consulate
- tutor's or trustee guardian's consent if one of the future spouses is under the appointment of a guardian
- the birth certificates of any children to be recognized (if the future spouses had children together before their marriage)
- certificat du notaire; in addition to the above, if the parties to marriage opt for a prenuptial contract governing their respective properties, the French notary preparing the contract will give the couple a certificate which must be presented to the Mairie as well.

The law n° 2007-1787 on 20/12/2007 concerning the “right simplification” has modified the article 63 from the Civil Code and repealed the obligation for the spouses to provide a prenuptial medical certificate to the registrar.

French translations by a "Sworn Translator" or an approved translator of any foreign language documentation are required.

i) Marriage Certificate (Acte de Mariage)

Marriage certificates may be obtained from the Office of the Mayor (La Mairie) of the town where the marriage took place. The request must include the date and place of the marriage and full names of the two persons involved. The request may be made in person, by mail, or through an on-line form. There is no charge for a copy of a marriage certificate.

There are three different forms of French marriage certificates

- Marriage Certificate without the parents' names of the two spouses (Extrait d'acte de mariage sans filiation)
- Marriage Certificate mentioning the parents of the two spouses (Extrait d'acte de naissance avec filiation)
- Full and legalized copy of the marriage register (Copie intégrale de l'acte de mariage)

According to French laws, everybody is entitled to order a marriage certificate without the names of the parents. A marriage certificate with mention of the parents or a copy of the birth register may be ordered only by each one of the concerned spouses themselves, their ancestors (parents, grand parents etc.), their descendants (children, grand children etc.) and their heirs.

j) Contents of the Marriage Certificate

The record on the marriage certificate indicates:

- marriage date
- place of marriage
- number of children
- the first names, names, occupations, ages, dates and places of birth, domiciles and residences of the spouses;
- the first names, names, occupations and domiciles of the fathers and mothers;
- the consent of the fathers and mothers, grandfathers and grandmothers and that of the family council where, they are required;
- the first names and name of the previous spouse of each spouse;
- the first names, names, occupations, domiciles of the witnesses and their capacity as adults;

k) Family Record Book

The family record book contains the extracts of civil status acts. It is delivered automatically by the registrar who celebrates the marriage, by the staff members of embassies or consulates or exceptionally the Central Civil Status Service of the Ministry of Foreign Affairs. A booklet can also be given to the refugees and the stateless people by the OFPRA.

The spouses' family record book contains the marriage extract, the extracts of birth certificates of their children and, if applicable, the death certificate of the spouses or minor children. In case of divorce, theft, destruction or loss of the spouses' family record book, a duplicate can be obtained from the town hall where the marriage took place, by applying for it in the local town hall.

For unwed parents, the following different types of family record books may be issued upon birth of a child:

- natural father's record book
- natural mother's record book
- natural parents' record book

The record books for unwed parents must be requested from the town hall where the first child is born. The family record book is free of charge.

l) Divorce/Separation/Annulment

Divorce must be settled by a decision of the court of first instance. The territorially competent court is:

- the place where the family resides;
- if the spouses have separate residences, the court of the place of residence of one of the spouses with whom any minor children are living;

- in other cases, the court of the place of residence of the spouse who did not take the initiative to submit the request;
- in the case of a joint request, depending on the choice of the spouses the competent court can be the court of the place of residence of either spouse.

The legal institute of legal separation exists which ends certain marital obligations without dissolving the matrimonial ties. The spouses cannot, therefore, remarry. The procedure is the same as for divorce. The annulment of the marriage, which presupposes a judgement, retroactively annuls all the effects of the marriage as if it had never existed. The annulment of the marriage is requested before the court of first instance of the place of residence of the defendant.

4. Name

a) First Name

When the birth certificate is drawn up, the child is given one or more first names. The father and the mother are free to choose a child's first names, subject, if necessary, to subsequent intervention by the judicial authorities if their choice appears to be incompatible with the child's interests. If the birth registrar believes that the chosen names (alone or in association with the last name) may be detrimental to the child's interests, or to the right of other families to protect their own family name, the registrar may refer the matter to the local prosecutor, who may choose to refer the matter to the local court. Any person able to prove a legitimate interest may apply to change a first name. If a child is over 13 years of age, his or her consent is required.

b) Surname

Since 2005, the father and mother may choose the surname of their first-born child, selecting between the father's surname, the mother's surname or both surnames together in whichever order they decide. A Joint Declaration of Choice of Surname is given to the parents at the time they register the birth. The declaration applies to the first child born to the couple on or after January 1, 2005. The surname chosen for the first child shall be taken by all other children born to the couple. Where the parents or one of them bear a double family name, they may transmit only one name to their children.

The choice of name is generally irrevocable, except that a special provision exists for parents whose oldest child was born between September 1, 1990 and December 31, 2004. In addition, parents may request registration of a foreign birth certificate under the same conditions within 3 years after the birth of their first child. If the registration is made after that period of time, the child is required to take the father's surname.

If the parents are married and the parents do not make a joint declaration, the (oldest) child will have the father's surname, by default. An illegitimate child acquires the name of the parent with regard to whom his parentage has been established first. Therefore, if the parents want an unrecognised natural child to bear the father's surname, the father must register the birth and legally recognize the child.

Where the surname of an illegitimate child was not made by joint declaration at the time of birth, the parents may, by means of a joint declaration made to the officer of civil status at any other time during the minority of the child, substitute the family name of the parent with regard to whom parentage was established in the second place, or couple their two names, in the order they choose, within the limit of one family name for each of them.

If none of the parent's names appear on the birth certificate, the registry office gives the child a number of first names, the last of which serves as a surname.

Upon marriage, the spouses' surname is not changed. For social purposes, spouses may add the other surname to their own (hyphenated). Although the hyphenated name appears in administrative documents, it is never mentioned in the registers of births, marriages and deaths.

Following the divorce, each of the spouses forfeits the right to use the name of the other spouse except by the agreement of the latter or with the authorisation of the judge, for good reasons shown why this is particularly important for the applicant or for the children. Permission is not required if the divorce was granted on the grounds of irretrievable breakdown of marriage at the other spouse's request.

c) Name Change

In France, it is possible to legally change one's first name and surname for a legitimate reason. "Legitimate reasons" recognized are, for instance, the wish to change a ridiculous or embarrassing name, to make a name sound more French or to perpetuate an illustrious name. The application for a change of surname may also be made for the purpose of preventing the extinction of the name borne by an ancestor or collateral of the applicant up to the fourth degree. Emotional, sentimental or commercial reasons are not considered legitimate.

The application is brought before the family judge. When a child is over thirteen years of age, his personal consent is required if the change does not result from the establishment or a change of filiation. Any person affected may challenge before the Conseil d'Etat the decree establishing a change of name within two months after its publication in the Journal Officiel.

Adoption confers on the child the name of the adopter. On request of the adopter or adopters, the court may modify the first names of the child. Where the adopter is a married woman or a married man, the court may, in the adoption order, decide, on request of the adopter, that the name of the spouse will be conferred on the adoptee, subject to the consent of the spouse. The court may also, on request of the adopter and subject to the consent of the spouse, confer on the child the coupled names of the spouses in the order they choose and within the limit of one family name for each of them.

GR – Greece

1. Civil Status Registration System

a) Civil Registration System

The Greek civil status system is event based.

The official language is Greek and Italian in Rhodes. The modern Greek alphabet consists of 24 letters and is not based on the Latin alphabet. In addition to the letters, the Greek alphabet also features a number of diacritical signs: three different accent marks (acute, grave and circumflex), the so-called breathing marks (spiritus asper and spiritus lenis) and the diaeresis. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-7.

Greece has a population of 11.170.957 (2007). The 51 prefectural authorities including 3 extended prefectural authorities: Athens - Pireaus, Kavala - Xanti - Drama, Rodopi – Evros (nomoi), the 130 urban municipalities (dimi) and the 901 rural communities (kinotites) are decentralised authorities. Greece also has one autonomous community (Kinotita), the Community of the Mount Athos Monasteries. European Union legislation applies here only in part. The urban municipalities are, as a general rule, the chief towns in the prefectures and the most important urban centres. The rural communities are generally villages with less than 2,000 inhabitants. All local affairs fall under the purview of the urban municipalities and the rural communities. Those functions which are devolved

from the State are performed by the general secretary (genikos grammateas), the prefect and the mayor. The rural communities are responsible for the register of births, marriages and deaths.

b) Registry Office and Staff

Executive and de facto registrar is the mayor or the president of the community. Certain functions may be delegated to their deputies or authorized local civil servants but the function as a marriage officer cannot be delegated. There are no precise regulations for the professional training. Other officers of civil status are diplomatic and consular officials and the captains for births at sea who also issue the birth certificate in these cases. For the births which have occurred during a train journey or flight, the registrar of the place of disembarkation is responsible for the registration. The authority which exercises monitoring functions is the district prosecutor.

"In order to ascertain the civil status of natural persons, records of births, marriages, deaths and reports are kept in every Registry Office (...)The acts certifying birth, marriage or death of natural persons, as well as any change or correction made in these acts, are recorded in the registry books" (Article 8 of Law 344/76 on civil status certificates). Generally, the responsibilities of the registry offices as a subdivision of the Department of Municipal Conditions are the following:

- continuous updating of files in which are recorded the registration events taking place in the district (births, marriages, deaths) as well as each later event that is connected with these events (e.g. christenings, divorces, assignment, change of religion, acknowledgement of children, etc)
- publication of copies of extracts of registration acts or other certificates
- periodical briefing of government owned Services (e.g. Greek National Statistical Organisation) on the births, marriages, deaths that have occurred, briefing of the municipality and corresponding departments of other local authorities about registration events that influence the records that are kept in these departments
- collaboration with registry offices of other local authorities in the event of modifications or requests for access to registrations
- proceedings for civil weddings
- proceedings for the registration of residents in the registry book of the municipality and any changes because of births deaths or marriages, change of name, addition of maiden name and other, issuance of cards with the number of the family section
- proceeding for the correction of any incorrect documentation
- keeping family unit files
- publication of certificates of personal and family conditions and identities of residents
- assisting with the inventory of the population
- corresponding with other communities in the event of relocation of a resident
- keeping the election catalogues of the municipality and issuing certificates for the documents of the newly elected
- receiving and completing supporting documents for election booklets
- preparation of elections.

The exclusively administrative nature of the mission carried out by the public prosecutor with regard to registrars means that he can intervene when a complaint is made to him. Objections

against decisions of the Prefect are submitted to the Minister of Internal, Public Administration and Decentralisation. An objection against the Minister's decision is submitted to the Council of State.

c) Civil Records

There are birth, marriage, and death records. In addition, civil registrations include records of adoptions and a register of reports. These registers of reports include records of absence, records of the abandoned and found children and the modification of the persons' civil status when the original record is not registered in a Greek register. The records are almost always kept in Greek. Records are kept in one specimen only in the registry office but the information about adoptions is also transmitted to the national register of the adoptions by the courts of first authority. Civil status acts drawn up abroad are preserved by the civil status service in Athens.

There is a special registry of male citizens which keeps transcribed death and birth certificates of the male population for recruitment purposes.

d) Access and Documents

All records are in theory public records with the exception of adoption records. In practice, direct consultation is reserved for the civil servants and the Ministry of the National Economy. The public nature of civil status documents is ensured by the issue of copies or extracts free of charge. A petition must be submitted. Whoever has a legitimate interest has a right to petition. The applicant should know the date the event occurred and the copy or extract is issued at the same day. Otherwise inventories need to be consulted which may take longer.

e) Correction, Amendment and Cancellation of Civil Status Records

For spelling or phonetic errors, correction can be made by the registrar. Correction can be made also by order of the district prosecutor (or justice of peace if there is no prosecutor), when there are mistakes in error, that do not refer to the place, day, month, or year of the event. In case of correction by the district prosecutor (or justice of peace), supporting papers are a copy of the incorrect certificate and papers or evidence to prove the correct information. Otherwise, a court order is necessary to correct a certificate.

Certificates are not amended at a later date but annotations in the margin of the certificates are used to establish a relationship between two civil status acts, or between an act and a court decision. The marginal annotation corresponds to a brief reference to the new act or decision, in the margin of an act previously recorded or transcribed, changing the civil status of the person concerned.

No provision in law envisages the cancellation of civil status acts but cancellation of a legal document can be pronounced by a court. If a minor is adopted the registrar draws up a new birth certificate indicating the adoption which leads to the cancellation of the initial act. Neither a copy nor an extract can afterwards be delivered. If several acts relate to the same event, they are declared null and void by the prosecutor or the justice of peace. Only the first act remains valid. The reconstitution of a cancelled or lost record is made by the registrar using an authenticated copy. Failing this, the court, the prosecutor or the justice of peace may authorize another kind of reconstitution.

f) Archives

The Greek system of record depositories is roughly divided into the following subdivisions: Archives of the Municipalities, Registry Offices of the Municipalities, City Courts and the Diplomatic and Historical Archives. The Service of Diplomatic and Historical Archives (Y.D.I.A.) of the Hellenic Ministry of Foreign Affairs (M.F.A.) is responsible, according to article 17 of the New Regulation of the Ministry (Law 2.594/1998), for safe-keeping, preserving, classifying and

utilizing the written, audio-visual and electronic archives of the Ministry and for the diplomatic records of the Greek authorities abroad (Embassies, Consulates, Permanent Delegations, Liaison Offices).

g) Registration to the Municipal Rolls

Every Greek citizen should be registered in the municipal rolls. Usually, the registration is done directly by the male registry office. Sometimes however, the registration of a birth is omitted. In that case, an application needs to be made. Supporting documents are:

- application by the interested party
- with respect to men, a certificate of his registration at the Records of Males, with regard to women, a certificate of registration of her father (if celibate) or her husband's (if married) at the Records of Males to prove her citizenship
- birth certificate, issued within ninety (90) days since the birth date, provided it exists, a certificate from the books of the church or any other formal evidence is required that will prove the age, or an evidence of age issued by the proper Greek consul, or the proper mayor of the province
- marriage certificate (if married) or, if celibate, a marriage certificate of the parents for proof of authenticity
- certificate from the municipality or province of birth of the interested party, that they are not on that province's registers where the interested party wishes to be registered in the municipality or province of permanent residence
- sworn statement of the interested party, of not being listed in the catalogues of another municipality or province

If the child is a boy, an application should be submitted to the responsible municipality for the child's registration to the municipal rolls. The application is submitted by the child's guardian. The municipality transmits the supporting documents to the prefecture which publishes a decision for the child's registration to the municipal rolls and the boys' municipal records. The decision is notified to other official services (Recruitment Office, Public Prosecutor's Office etc). If for any reason, someone is not in the annual lists of municipalities or provinces, then he is registered after a decision by the prefect (Nomarch).

The male registry office:

- is responsible for the register of recruitment
- keeps the register of males, and archives for the decisions regarding any changes (change of surname, addition of surname, maiden name etc).

If the child is a girl, the registration application is made directly to the prefecture (not to the municipality) and the procedure followed is exactly the same as in the case of a boy. The only difference is that the registration is made to the municipal rolls only, not to the male register.

h) Registration of Baptism

According to the provisions of Law 344/76, religion is included in birth certificates, as far as the parents of the newborn are concerned (article 22 par. 1 case e), in marriage certificates (article 31 par. 1 case a, d) and in death certificates (article 34 par. 1 case c). Also the baptism is registered and indicated in the birth certificate. The registration of baptism is done directly by the registry office of the place of baptism. If the baptism takes place in a different place than the place of birth, the

registration must be made to the registrar of the place of baptism, who, after having issued the relevant report of baptism, conveys within ten days a copy of the report to the registrar of the place of birth. Supportive paper is the certificate by the priest who baptized the child. Baptism must be registered within 90 days. Obligated to declare the baptism is:

- the father, mother or whoever has custody of the child,
- the godfather,
- blood relatives up to the third degree (the closest prevails),
- whoever is baptized at the age of 14 or over.

The registration is free but a clerical tax stamp of 0,88 Euro must be paid.

i) Legalization/Translation

Registry offices do not accept documents which are not duly certified or bear an Apostille.

Greece is party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices.

Greece has ratified CIEC Conventions on specific issues only one of which, namely the CIEC Convention Nr. 15 on the introduction of a multilingual, multi-jurisdictional Family Record Book (with Italy, Luxembourg and Turkey), abolishes the requirement of legalization from said documents. Greece is the only CIEC Member State which has signed but not ratified CIEC Convention Nr. 16 of Vienna on 8 September 1976.

Greece has a bilateral treaty of legal cooperation removing legalisation for public documents with Bulgaria, Cyprus, Germany, Hungary, and Poland.

The copies of documents are allowed, but such copies must be legalized or made of the original documents, which have the certification (apostille) on it. All documents issued in a foreign language must be accompanied by official Greek translations. Such translation can be done by a lawyer, a local Greek Consulate or the Translation Department of the Ministry of Foreign Affairs in Athens. For a fee, two-day expedited service is available from the Ministry instead of the normal one-week processing period.

In Greece, three authorities have the right to issue Apostilles. The Secretary-General of each Region (*Γενικός Γραμματέας της Περιφέρειας*, Genikos Grammateas tis Perifereias) for documents issued by the public civilian agencies of the Department (*Νομός*, Nomos) or Departmental District (*Νομαρχία*, Nomarchia), which do not fall under the competence of the Regional Self-governed Corporation, as well as those of legal persons of public law of first-level local government organisations and registrar offices.

The issuance of an Apostille for administrative documents may be requested in person, by registered mail, or through a citizen service centre ("KEP"). No application form is needed when the Apostille is requested in person. Verification of signature authenticity, the capacity in which the person signing the document has acted, and the identity of the seal or stamp that the document bears is made again on the basis of records kept at the office issuing the Apostille. It is very difficult to keep updated book entries on all such authorities and organs, and thus verification is often cumbersome. In all cases, the *Apostille* is a 9.0 x 14.5 cm seal affixed in blue ink on the certified document (see Form 4 attached hereto), wherever there is space enough to accommodate it and preferably at the end thereof. Only in exceptional cases (i.e. if there is absolutely no space on the certified document) will the seal be affixed on a separate blank document, in the manner of an

allonge. As is the case with certifications made by the courts of first instance, there exist no mechanisms to avoid fraud, forgery or other offences related to documents. Since applicants do not file a written application, it is nearly impossible to locate them once they have obtained the Apostille.

The process is short and will not last longer than 5 to 10 minutes when the interested person shows up in person. It will take longer in cases handled through a KEP or by mail. There is no fee payable for the issuance of an Apostille.

j) Foreign relations

Greek civil status registrars do not transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Some Greek civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States.

k) Consular Services

The Consular Affairs Directorate of the Ministry of Foreign Affairs is responsible for the monitoring and regulation of all issues pertinent to the personal status of Greeks abroad and of aliens in Greece. The Directorate's responsibilities are inter alia matters that concern the personal status of Greeks abroad (births, christenings, weddings, deaths, the handling of municipality rolls, maintenance of Consular registers, adoption and recognition of children outside of wedlock).

For Greek Nationals living abroad, events such as Birth, need to be registered with the local Greek Consular Authorities. An individual, wishing to have the appropriate certificate issued, must have on hand the relevant documents issued by foreign authorities and then report to the local Greek Consular Authority. It is preferable that this be done within the three months following the event for which a certificate is to be issued. After the declaration the event is transcribed by the civil status service in Athens. To register births, deaths and marriages of Greek citizens in a foreign country and to issue the corresponding registration document, the following procedure is required:

- In case of marriage, the party who is a Greek citizen must call personally in order to declare the marriage and submit passports and/or the identity cards of the couple and the foreign marriage certificate.
- In case of birth a birth certificate (both parents must be entered) and the Greek parent's passport or identification card must be produced in person at the Consulate for declaration. In order to declare unregistered children in Greece the following documents are also required:
 - Marriage certificate of the parents and any other certificate giving evidence that the municipality family entry of their marriage has the appropriate entry in the municipality Roll.
 - Two passport-sized photos.

If the child is under 18, the application for registration has to be made by the Greek parent. If the person concerned is an adult, the application has to be made in person. If he/she is married, the certificate of marriage is also required.

In case of death the Greek passport and/or the identity card of the deceased and the foreign death certificate must be submitted and furthermore the Greek passport and/or the identity card of the informant, who will declare the death, by calling in person in the mission.

Accordingly, Greek consular officials assume only limited duties of those which are reserved for registrars in their country. The Greek consular offices abroad transfer the acts drawn up abroad to the Special Registry Office in Athens. The role of the missions abroad is normally to report changes in the status of nationals (birth, marriage, death) which have taken place abroad. Greek consular officials offer assistance to obtain civil status certificates (birth, marriage and death) for Greek citizens from civil status registries in Greece. These applications are then forwarded to the relevant offices in Greece for processing. They do not issue civil status certificates or a certificate of no impediment. The diplomatic and consular officials are authorised to celebrate marriages. A fee is payable for procuring civil status documents.

l) Law

Civil Code of 1940; Law 344/1976 concerning the acts of the marital status of 1997; Law 1438/1984 modifying the Code of nationality and the law relating to the acts of the marital status; Law 1329/1983 on the equality of the sexes and the modernization of the right of the family; Law 2130/1993 modifying and supplementing the provisions on the regional administration, the Code of nationality, the municipal and communal code; Law 2307/1995 carrying out the adaptation of the legislation which falls within the competence of the Ministry for the Interior to the provisions on prefectural "auto-administration"; Civil Procedure Code of 1967

The basic provisions for Greek private international law are found in the Civil Code (Articles 4-33).

When deciding if a child qualifies as having been born in or out of wedlock (Article 17 of the Civil Code), the applicable law is:

- the law of the state which regulated the personal relationship between the child's mother and her spouse when the child was born;
- where the marriage was dissolved before the child was born, the law of the state which regulated the personal relationship between the child's mother and her spouse when the marriage was dissolved.

The applicable law as regards the legal possibility of a child born out of wedlock to be legitimised (Article 1 of the Convention of the International Commission on Civil Status of 10 September 1970, ratified by Greece under law 1657/1986) is the law of the state of which the father or mother is a national which provides for legitimation of the child either if its parents subsequently marry or by court decision after the marriage.

Applicable law for relations between parents and children born in wedlock (Article 18 of the Civil Code):

- where they are nationals of the same state: the law of that state;
- where they have acquired a new common nationality after the birth: the law of the state of their most recent common nationality;
- where they are nationals of different states before the birth and their nationality does not change after the birth or where they are nationals of the same state before the birth but the parents' or the child's nationality changes after the birth: the law of the state in which they had their most recent joint habitual residence at the time of the birth;
- where they have no joint habitual residence: the law of the state of which the child is a national.

Applicable law for relations between the mother and father and a child born out of wedlock (Articles 19 and 20 of the Civil Code):

- where they are nationals of the same state: the law of that state;
- where they have acquired a new common nationality after the birth: the law of the state of their most recent common nationality;
- where they are nationals of different states before the birth and their nationality does not change after the birth or where they are nationals of the same state before the birth but the parents' or the child's nationality changes after the birth: the law of the state in which they had their most recent joint habitual residence at the time of the birth;
- where they have no joint habitual residence: the law of the state of which the father or the mother is a national.

Applicable law for relations between a mother and a father who have a child which was born out of wedlock (Article 21 of the Civil Code):

- where they are nationals of the same state: the law of that state;
- where they acquired a new common nationality before the birth: the law of the state of their most recent common nationality;
- where they are nationals of different states before the birth and their nationality does not change after the birth or where they are nationals of the same state before the birth but the nationality of one of them changes after the birth: the law of the state of their most recent joint habitual residence up to the birth;
- where they have no joint habitual residence: the law of the state of their most recent joint simple residence.

The applicable law for the conditions of adoption and terminating of adoption with an international element is the law of the state of which each person involved in the adoption is a national (Article 23 of the Civil Code). Where the persons involved in the adoption are nationals of different states, the conditions under all the laws of the corresponding states must be met and there must be no impediments under those laws in order for the adoption to be valid. Applicable law for relationships between the adoptive parents and the child being adopted:

- where they are nationals of the same state after the adoption: the law of that state;
- where they acquire a new common nationality at the time of the adoption: the law of the state of their most recent common nationality;
- where they are nationals of different states before the adoption and their nationality does not change after the adoption or where they are nationals of the same state before the adoption but the nationality of one of the persons involved in the adoption changes on completion of the adoption: the law of the state of their most recent joint habitual residence at the time of the adoption;
- where they have no joint habitual residence: the law of the state of which the adoptive parent is a national or, if spouses are adopting, the law which regulates their personal relationship.

The applicable law for the marriage conditions which must be met and the impediments in the way of persons wishing to marry is the law of the state of which they are nationals if they are nationals of the same state or, if they are nationals of different states, the law of either state (Article 13(1)(a) of the Civil Code). In order for the marriage to be formally valid, the applicable law is the law of the state of which the persons to be married are nationals, where they are nationals of the same state or, if they are nationals of different states, the law of either of the states of which they are nationals or the law of the state in which the marriage is celebrated (Article 13(1)(b) of the Civil Code). The

Greek legal system requires certain formalities to be adhered to in order to celebrate a marriage; the unions of couples who cohabit but who have not been formally married are recognised as valid in Greece provided that they are recognised as valid under foreign law and the persons cohabiting are not Greek. The applicable law for matters in connection with divorce or any other form of legal separation is the law of the state which regulates the spouses' personal relationship when divorce or separation proceedings are opened (Article 16 of the Civil Code).

m) eGovernment

Online Services for Citizens

Portal

The Citizen Service Centre is the official site of administrative one-stop shops (Citizen Service Centres or "KEP" in Greek transliteration), where citizens can have access to public service information and to a number of standardised administrative procedures.

eIdentification

There is currently no central e-identification infrastructure for eGovernment in Greece. In particular, no plans for e-ID cards have been issued. In the Public Administration context though, there is currently a large-scale project under implementation, namely the National Authentication System.

Civil Status Certificates

Online request and delivery of birth and marriage certificates.

2. Birth

The birth must be declared with the Registry Office of the place where the birth took place, within 10 days of delivery. If the childbirth took place in a hospital, clinic, prison, or other establishment, the responsibility to declare the birth lies with the establishment's manager. If the child is born outside a hospital or health-care institution, the parents (father, mother or her representative) or the medical personnel (doctor, midwife or obstetrician) who assisted in the delivery must declare the child. When a newborn baby is born alive a birth certificate will be drawn up by the registrar and filed.

In the case of exceeding the deadline by up to 90 days there is an administrative charge of 4,40 EURO payable in duty stamps. Beyond 90 days the fine is 13,50 EURO. If the declaration is made within three months after birth, the registrar receives nevertheless the declaration and draws up the birth certificate; if the delay exceeds three months, the child can only be registered on order of the prosecutor after controlling the facts. If the statement of registration is done three months (90 days) after the birth of the child, its age should be declared. This is a separate procedure of which the parents are informed by the prefect.

In case of a foundling, the person who finds the child must inform the police, which must within three days provide all necessary information to the registrar responsible for the place of the discovery. The registrar registers the birth in the "register of the reports". The act indicates on order of the prefect the surname and the first names of the child. The act does not reveal the unknown origin of the child, the surnames and the fictitious first names for the parents. In case of a stillborn child the registrar draws up a birth certificate with mentions the death, first and surnames may be registered upon request.

a) Birth Declaration

The birth declaration contains:

- child's name, sex, birth place and date
- pregnancy duration
- legitimacy, born alive or stillborn, multiple or singleton and birth order
- nationality
- birth weight
- religion, baptism (date of the baptism, name of the child, names and first names of the informant, the godfather and the priest)
- marriage date
- first name of the father; first name, maiden name and surname of the mother; occupation, religion, nationality, place of residence and age of the parents
- particulars of registration on the municipal roll of the parents

Supporting documents to be supplied are:

- an application / statutory declaration (available from relevant agency and Citizens' Service Centres);
- a police identity card / passport /
- for foreigners: residence permit and passport
- a certificate from a doctor / midwife / obstetrician;
- an authenticated copy of a final court judgement (when the supporting document from a doctor etc. cannot be supplied)
- act of designation of family name to the child, and in particular for the birth rank

b) Birth Document

There are two kinds of birth documents issued

- official birth certificate
- a copy of the applicant's birth certificate (free of charge and the supporting document is the identity card; the application may be processed through Citizen Service Centres)

Official Birth Certificate

The birth certificate is the document issued by the acting Registrar of the corresponding Civil Register, which certifies the birth.

It indicates characteristics about:

- the child's first name, surname, place, date and time of birth
- the child's membership to the municipality
- religion and date of baptism (with the parent's consent)
- birth order

- first name and residence of the father
- first name, surname, residence of the mother
- particulars of registration on the municipal roll of the parents
- number assigned to the act
- date from the declaration
- name and signature of the registrar

The birth certificate is not amended at a later date but annotations in margin of the birth certificate are used such as annotations concerning the filiation, in particular the recognition. Furthermore decisions relating to the change of the first name or surname, the nationality, the religion and baptism, marriage, divorce and death are registered as annotations.

In case of an adoption a new certificate is drawn up; the registrar indicates thereon only the adoptive parents, while amending the place of birth, since the child is deemed to have been born where the parents reside. The original certificate is annulled and the registrar inserts its number as a marginal note to the new certificate. A transsexual can after gender reassignment alter the birth certificate. The birth certificate is reissued in the reassigned sex of the transsexual person.

c) Recognition

In Greece the birth certificate must bear the mother's name, which is sufficient to establish maternal affiliation. Maternal recognition and the issuance of a maternity certificates are not envisaged in the legislation. However, pursuant to the CIEC Convention of 12 September 1962 (on the establishment of maternal descent of natural children), the mother may make such a declaration if maternal recognition is necessary to meet the requirements of the law of another state.

d) Children born in wedlock

The relationship of a child to its mother is established by birth, while its relation with the father and relatives is to be concluded from the marriage of the mother to the father or by voluntary or judicial affiliation (art. 1463 Greek Civil Code). Children born during the marriage of the mother or within 300 days of the dissolution or cancellation of her marriage have as father the mother's husband. Children born outside the marriage of their parents are considered, where they and their relatives are concerned, to be children born in wedlock, if the parents marry and the child is recognized voluntarily or judicially, after the marriage, to be a child of the husband. The status of the child as having been born in wedlock may be challenged within a specified period of time by: (a) the mother's husband, (b) the father or mother of the husband if he has died, (c) the child and (d) the child's mother. In the event of assisted reproduction the right to deny paternity is precluded.

e) Children born out of wedlock

In case of voluntary or judicial affiliation, the child is equated to children born in lawful wedlock where its parents and their relatives are concerned (Article 1484 of the Civil Code). Otherwise, mother and the child are entitled to take action seeking the recognition of the paternity of the child born out of wedlock by its father. The mother's action is brought against the father or against his heirs. The child, and in case of its death, the child's children, are entitled to decline the voluntary recognition of paternity if the person declaring himself to be the father is not the real father (Article 1478 of the Civil Code).

The Greek Notary is involved in the voluntary acknowledgement of paternity. A father may acknowledge an illegitimate child as his own with the consent of the mother (Article 1475 of the

Civil Code). His parents are also entitled to this right, in the event that is dead or has been declared incapable of entering into a legal transaction. This acknowledgement is made by a Notarial Declaration or by a Will (Declaration for the event of death) (Article 1476 of the Civil Code).

3. Marriage

As of July 18, 1982, according to Greek law, both civil and religious ceremonies may be performed in Greece (Greek Law No. 1250). This law also legalized all civil marriages previously performed abroad between a Greek and a foreigner, prior to this date. Before that date, only religious ceremonies were recognized in Greece. Foreign nationals in Greece may get married either in a civil ceremony performed by a mayor, in a religious ceremony performed by a priest, or both. There is no legal recognition for same-sex partners.

a) Personal Requirements/Impediments to Marriage

There is no residency requirement for foreign national wishing to marry in Greece. Minors who have not reached the age of 18 may marry with the permission of the court (if such a marriage is imperative for some grave cause). There is an absolute impediment if the spouses are blood relations in the direct ascending or descending line, without limitation of degree, or collaterally, within the fourth degree; if they are relations by marriage in the direct ascending or descending line, without limitation of degree, or collaterally, within the third degree; or in case of bigamy or adoption. Marriage is further prohibited

- if either of the spouses is judicially deprived of legal capacity;
- if either of them has a court-appointed guardian who does not consent to the marriage, and no authorisation has been obtained from the court;
- if either of them at the time of the celebration of the marriage is not aware of what he or she is doing or is deprived of the use of reason owing to mental illness, the ban is remedied if a person who acted in consequence of mistake or duress acknowledges the marriage after the mistake or duress has ended
- if the couple's declarations are not made in person, or are conditional or subject to a time-limit.

b) Documents

The following documents are required for all marriage ceremonies performed in Greece, which involve foreigners:

- a passport or other travel document.
- a certified copy of birth certificate, along with an official translation.
- if applicable, documentary evidence of the termination of a previous marriage, along with an official translation, i.e. final divorce decree, death certificate
- a declaration form of law 1599/86 which reads as follows:
 - the person to be married has no impediment to marriage of those mentioned in articles 1350, 1351, 1352, 1354, 1356, 1357, 1360 of the Civil Code,
 - is a resident of the Municipality and whether this is the first, or second marriage, etc.
 - In case of a foreigner the confirmation of no impediment is issued in the form of an Affidavit of Marriage signed under oath before a Consular Officer in Athens or Thessaloniki, and must be completed in English and Greek.

- for minors under 18, a court decision approving the marriage is required.
- a residence permit (without a permit of residence in Greece, a marriage license cannot be issued for a civil wedding, according to Article 31, L. 1975/91).
- a copy of the newspaper in which the wedding notice was published (two issues, one for each). Please note that it is obligatory to publish it in one of the local newspapers in the Greek language before an application for a marriage license is submitted. (In small towns where newspapers are not published, notices are posted by the mayor or president of the community at the City Hall or Community Office.) For Greeks living abroad, banns must be published in a daily newspaper in Athens and the names in the Newspaper must be in Greek letters. For serious reasons, the public prosecutor can grant an exemption of publication.
- a € 15 green payment voucher (€ 14.67 nominal value) from the Public Exchequer

The marriage of soldiers requires an administrative authorisation. Cypriots must produce a certificate of celibacy, an official birth certificate, an application form and the newspaper publication. All documents in a foreign language, (except the passport), must be officially translated into Greek by an official translator or a Greek attorney.

c) Preliminary Procedure

The above mentioned documents should be taken in person to the city hall (DIMARCHIO) or the President of the Community (PROEDROS KINOTITOS) where the applicant resides, in order to obtain a marriage license. If both parties are foreign nationals, each must submit a set of the documents. The marriage license is issued 7 days after the submission of the application and is good for 6 months.

Upon issuance of the marriage license, the parties must jointly submit another application to the Mayor or President of the Community where they will marry. This official will then set the date for the wedding ceremony.

Any person can file an objection to a marriage. The objection must be made within one week after publication. The Mayor or the President of the Community invites the future spouses to explain the case. Either of the future spouses may challenge a negative decision before the court of the first instance which shall give judgement within ten days (Article 1368 CC).

d) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Greece but also the presentation of a confirmation of no impediment is sufficient. This confirmation is issued in the form of an affidavit of marriage signed under oath before a consular officer.

If a Greek citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Greek certificate of no impediment. This certificate is not issued in civil status registration offices in Greece but a confirmation of no impediment is issued by ... This document is treated like a certificate of no impediment.

e) Marriage Ceremony

The civil ceremony may be performed before the mayor anywhere in Greece. Prospective spouses contract marriage with both being present in person at the same time (or one of them with both identification cards). Anyone else can declare the marriage with a special notary letter of proxy. Two witnesses who are provided by the couple must attend the ceremony. The witnesses should

have an identity card or passport with them. According to the new Law on equality, the persons to be married must declare before marriage the surname of the children to be born.

Following the ceremony, marriages have to be registered at the Registrar's Office (LIXIARCHIO) of the city where the marriage was performed. This applies to both civil and religious marriages, and it must be done within 40 days from the date of marriage. The following supporting documents must be presented for the purpose of registration:

- application form / solemn statement.
- presentation of the two identity cards or passports
- in case of church ceremony, certificate from the church, attested by the Bishopric.
- in case of registry office ceremony, the Mayor's or Community President's statement on the performance of registry office ceremony.
- residence permit (for foreigners).
- an application for a copy of the official marriage certificate can be processed through Citizen Service Centres.
- declaration of Marriage

After 40 days and up to 90 days the marriage can only be registered with the payment of an administrative charge of 4,40 EURO in duty stamps. After 90 days, the marriage can only be registered with the District Attorney's authorization and the payment of a fine of 13,50 EURO in duty stamps. Marriages that are not registered have no legal validity. Marriages can be registered by either spouse, or by a third party who is in possession of a power-of-attorney signed before a Greek Notary Public giving him/her authority to take all steps necessary to register the marriage. It is possible to obtain a copy of the marriage certificate free of charge from this office (LIXIARCHIKI PRAXI GAMOU). The bureaucratic procedure may take several weeks to complete before a marriage certificate may be obtained.

f) Official Marriage Certificate

The competent service is the relevant Municipality or Community.

The record on the marriage certificate indicates:

- marriage date
- place of marriage
- surnames before marriage
- level of education
- religion
- date of birth
- nationality
- marital status
- number of previous marriages

g) Family Record Book

Greece has ratified (CIEC) Convention No. 15 introducing an international family record book, yet since 1990 no such booklet exists in Greece.

h) Divorce/Separation/Annulment

In cases of divorce by consent the appropriate court is the single-member court of first instance. Application is filed to the court of the place where the spouses are habitually resident; or the place where they were last habitually resident, in so far as one of them still resides there; or the place where the respondent is habitually resident; or in the event of a joint application, the place where either of the spouses is habitually resident; or the place where the applicant is habitually resident, if he or she has resided there for at least a year immediately before the application was made, or for at least six months if he or she is a Greek national (or both spouses being of Greek nationality).

Separation is a ground for divorce by reason of breakdown. Annulment of a marriage means that by reason of some irregularity a marriage which had full legal effect is annulled by court judgement and thereby ceases to have any effect, save only that any children born in the annulled marriage continue to be considered children born in wedlock.

4. Name

The mother may ask the registrar on authorization of the prefect of the municipality to enter a fictitious first name and surname for the unknown father, but the child may not have them deleted when he or she reaches the age of majority. To a foundling, a surname and a first name is assigned on the basis of an authorisation of the prefect by the registrar.

a) First Name

A first name for the child is assigned upon the agreement of the parents or, in the case where only one parent has been registered, on the proposal of the single parent of the child. The parents, who have parental care both appear at the registrar (or one of them, but with the other person's authorization with certified signature) and orally declare the name of the child. Another person can declare the name with a special notary letter of proxy signed by both parents, which must note the child's name. A first name is not assigned if it conflicts with the good morals of the society. If the registrar thinks that the chosen name may be detrimental to the child's interests the registrar may refer the matter to the prefect of the municipality. If there is no agreement between the parents of the child or no proposal is made, the prefect decides which first name will be assigned to the child.

Before giving a name to a child, a religious baptism ceremony may take place, during which the child's parents obtain a baptismal certificate by the priest who performs the baptism in order to submit it for the name giving act. If no religious ceremony takes place, the parents give a name to the child by written declaration.

b) Surname

Female surnames in Greek language must be used with the corresponding ending according to the Greek grammar. The gender suffix is the genitive of the male surname.

The parents are obliged to determine the surname of their children by joint and irrevocable declaration prior to the marriage. They make their declaration together before a notary, the mayor, or the religious officer empowered to marry them, depending whether the marriage is civil or religious. The name once chosen will be identical for all their children. It may either be the surname of the father or of the mother, or the two names combined, but it may on no account be made up of more than two names. If the parents fail to declare the surname of their children in this manner, then

the children will take the surname of their father (Article 1505 of the Civil Code). Children born outside the marriage of their parents invariably take the mother's name since maternity is invariably established by childbirth and by the fact that the mother is mentioned on the birth certificate (Article 1506 CC).

The mother's husband may give his surname to the child by notarial deed or add it to the surname already borne by the child, if the mother and the child agree. If paternity is established by recognition or a judgement, the adult child or the parents (if the child is a minor) or either of them or its guardian are entitled, within one year of the affiliation, to add, by a declaration before the registrar of births, the paternal surname to the child's surname (Article 1506 (3) CC). In addition, the parents may make a declaration before the registrar in order to substitute the father's name for the mother's or to choose a double-barrelled name for the child, composed of their respective surnames (Articles 1506 (3) and 1505 (2) CC); the child must agree to this. In the event that they marry after the birth of the child, the child takes the name chosen by them before the celebration (Articles 1506 (2) and 1505 CC).

Upon adoption the surname of the adoptive parent is assigned to the minor child. If the child comes of age he/she may add the previous surname (Article 1563 CC). Upon adoption by husband and wife or adoption of the child of the other spouse, the surname of the adoptee is determined by the statement made prior to the marriage. Failing this, the surname can be chosen while registering the adoption in the registry office (Article 1564 CC). The court can also, on request of the adoptive parent(s), give authorization to add another name to the surname of the adoptee; if the child is twelve years old his/her consent is required (Article 1565 CC). The major adoptee is assigned the surname of the adoptive parent(s) but he/she may add the previous surname (Article 1586 CC). In all cases the new surname may consist of no more than two surnames. If the surname of the adopter is added to the surname of the adoptee and one or both have a double surname, the new surname is composed of the first surname of the adopter and the first surname of the adoptee and vice versa (Article 1563 and 1586 CC).

Upon marriage the spouses' surname is not changed. For social purposes spouses may choose upon agreement the other surname or add the other surname to their own (Article 1388 CC) but such surname is not mentioned in official registers.

c) Name Change

In Greece it is allowed to change both the first name and the surname.

The name can be changed upon the request of a person, upon adoption, upon transliteration in the event of naturalisation and due to change of gender of a person. The first name may be changed upon request by application to the court for first instance to avoid harmful consequences of social or economic nature arising from the name. No legislation covers gender recognition but according to jurisprudence transsexual people can change the first name. The judgement orders the modification of the birth certificate. On request of the adoptive parent(s), in connection with the decision of adoption, the court may give authorization to change the first name of the adoptee. After the adoption has taken place the prefect decides upon the approval of the application. If the child is twelve years old his/her consent is required. If a person acquires Greek nationality through naturalisation he/she can, on decision of the prefect, change the first names (and surname) which is not suitable to be used as a first name due to its complex spelling or pronunciation, or spelling or pronunciation which does not comply with the Greek language use, or due to its meaning in the general language (Hellinisation). The change can also be granted by the Minister of the Interior in connection with the decision of naturalisation.

In other cases, applications for a change of the surname are made to the prefect of the municipality, where the applicant is registered (records of boys or municipal rolls).

The examination of the application should begin ten (10) days after the day of the publication of the surname changed application in the newspaper.

The supporting documents specified in the decree 78810/18.12.1984 issued by the Under-secretary of the Home Office according to Law 2573/1953, "on changing and assuming family name, father's name or mother's name" are:

- Application of the interested or the one who has the parental custody, which presents the reason of the application, and declares the surname, the parents surname, the address (city, street, number, code number), date of birth and birthplace, profession, police identity number and the place of identity publication. The application should define in detail, the purpose and the reasons of the modification.
- Relevant excerpt of the birth certificate of the said person.
- Certificate issued by the mayor or reeve of the local authority of registration of the applicant to the boys records (in case of a male applicant) and to the municipal roll (in case of a female applicant). If the applicant is married, a registration certificate to the municipal rolls is required, where their family status is declared.
- Certificate of the applicant's criminal record. It is published by the Court to whom the applicant's place of birth belongs.
- Certification of the Public Prosecutor Magistrates which proves that the applicant is not prosecuted for any criminal act. It is published by the Court of the Regional Authority, to which the applicant's place of residence belongs.
- Certificate of recruiting status of type b (in case of a male applicant).
- Deposit of 2,93 Euro. It is granted by any Public Economic Service (D.O.Y.).

Change of records due to acknowledgement of an out of wedlock child:

- Application of the acknowledged person or, if the said person is a minor, of the guardian.
- Authenticated copy of the deed or will in the case of wilful acknowledgement, or the decree of acknowledgement in the case of a judicial decision.
- Relevant excerpt of the amended birth certificate.
- Certificate issued by the mayor or reeve of the local authority, regarding the enrolment of both the acknowledged and the acknowledging person.
- Certificate of the applicant's criminal record. It is published by the Court to whom the applicant's place of birth belongs.
- Certification of the Public Prosecutor Magistrates which proves that the applicant is not prosecuted for any criminal act. It is published by the Court of the Regional Authority, to which the applicant's place of residence belongs.
- Certificate of recruiting status of type b (in case of a male applicant).

Change of records due to adoption:

- Application by the adopted or, in the case of a minor, the adopting parent or one of the spouses (in the case of joint adoption by both spouses or adoption of the other's child by one of the spouses).
- Authenticated copy of the decree of adoption.

- Relevant excerpt of the amended birth certificate.
- Certificate issued by the mayor or reeve of the local authority, regarding the existence of both the adopting parent and the adopted person in the male registers and/or the municipal roll.
- Certificate of the applicant's criminal record. It is published by the Court to whom the applicant's place of birth belongs.
- Certification of the Public Prosecutor Magistrates which proves that the applicant is not prosecuted for any criminal act. It is published by the Court of the Regional Authority, to which the applicant's place of residence belongs.
- Certificate of recruiting status of type b (in case of a male applicant).

All the certificates from mayors or reeves required by the said document must be signed by the said mayors or reeves and under-signed by the officer of the male register and/or the municipal roll in the case of municipalities or by the secretary in the case of communities.

d) Publication

The surname change application is published in a daily newspaper of the Prefecture, in which the applicant is registered and the expenses are covered by the applicant. The newspaper, to which the application was published, must be brought to the Prefecture. A special form exists for the publication, and is provided by the responsible Service.

The prefecture then publishes a decision which defines the new surname, after having examined the completeness of the supporting documents. A notification of the surname change is given to all involved Services (Recruiting service, Public Prosecutor's office, Municipality) as well as to the applicant who must change his police identity at the responsible police department. The registry office registers the change in the name of the person in the registration materials of the person. The fact that the name has been changed is mentioned in the civil status registrations kept by the registry office. The registry office adds corresponding marginal annotations to the person's birth and marriage registrations.

HU – Hungary

1. Civil Status Registration System

a) Civil Status Registration System

The civil status registration system is event based.

Hungarian is the official language of Hungary. All civil status acts are performed in Hungarian. Members of the 13 recognized national minorities may obtain extracts translated into these languages. Hungarian is written using a variant of the Latin alphabet. In addition to the standard letters of the Latin alphabet, Hungarian uses several additional letters. These include letters with acute accents (á,é,í,ó,ú) which represent long vowels, with umlauts (ö and ü) and their long counterparts ő and ű. Hungarian can be properly encoded with ISO-8859-2 or Unicode.

Hungary has a population of 10,064,000 (2007). Administratively, Hungary is divided into nineteen counties, twenty-three towns with county rights (singular megyei jogú város), sometimes known as "urban counties", and the capital city (főváros), Budapest, which is independent of any county government. A municipality (települési önkormányzat) is part of a county (megye).

b) Registry Offices and Staff

In Hungary, there are 3157 registry offices, one in each of the 3134 municipalities and the 23 districts of Budapest. These offices operate under the administrative management of the mayors. Monitoring falls within the competence of the Ministry of the Interior. Civil status registrars are civil servants who are appointed for this purpose and need to pass a specialized examination. They are responsible for drawing up the certificates of births, marriages and deaths which have occurred in his district, delivering documents from the registers and celebrating the marriages. The data relating to civil status is subject of a handwritten recording and is not centralized.

c) Civil Records

Civil status registration records are divided into birth, marriage, and death records. These records were almost always kept in Hungarian. Records are kept in one specimen only in the registry office. Records drawn up before 01.10.1895 are preserved in the church registers and doubles of these registers are deposited in the public archives. A special register in the town hall of Budapest records births, marriages and deaths of Hungarian citizens abroad, of stateless persons residing in Hungary and births of the foreign citizens adopted by a Hungarian.

d) Correction and Cancellation of Civil Records

Errors can be corrected locally by registrars in accordance with the documents which are presented to him. If the documents presented are foreign documents, correction can be made only on decision of the departmental administrative office.

Certificates are not amended at a later date but annotations in the margin of the certificates ("utólagos bejegyzések") are used to establish a relationship between two civil status acts, or between an act and a court decision. The marginal annotation is a brief reference to the new act or decision on the margin of an act previously recorded or transcribed, changing the civil status of the person concerned.

A civil status act can be cancelled if it's essential content is false, the act is irregularly drawn up although its content is exact or when the identity of the parents appearing in the original act is modified (for example: adoption). Cancellation is done by the registrar without special authorisation. The delivery of a copy or summary of a cancelled act is possible, but may be requested by official agencies only. The reconstitution of an omitted, destroyed or lost records is made by the registry office and the departmental administrative office using judicial and notarial documents provided by the public archives, the national office of statistics, medical agencies and the extracts of private individuals.

e) Archives

The National Archives of Hungary in Budapest is the central repository of records. The Department of Family Records and Collections of the National Archive stores and registers the records of families and private persons. Anybody can freely research in the National Archives of Hungary. Performing researches is free of charge. Other types of repositories are the Municipal Registry Offices (State registers) and the Church Registers. Data which is younger than 100 years is protected by secrecy and is available only to relatives or parties with a legitimate interest.

f) Access

Direct consultation of the registers is reserved for registrars. The public nature of the civil status documents is ensured by the issue of extracts only. Extracts are delivered on application and by permission of the registrar to any person justifying a legitimate interest and contains the most significant information from the register. Entitled to receive information without permission are:

- Ministry of the Interior
- Notary and the Central Office Employees
- Hungarian Central Statistical Office in case of controlling the number of the population
- Office Of Justice (IRM)
- Hungarian Parliamentary Commissioner for Data Protection and Freedom of Information
- Hungarian Parliamentary Commissioner for Civil Rights

g) Documents

The registry office issues certificates, extracts (kivonat), copies (másolat) and summaries (ertesities). A certificate and an extract issued after the event is free of charge. If a new certificate/extract is necessary, with certain exceptions, duty fees are to be paid. The fee is HUF 2000 (€ 8,12) for the first certificate or extract and HUF 600 (€ 2,44) for any additional copy having the same content and ordered at the same time. All fees must be paid in cash.

The copy contains the complete inscription of the register. It can be delivered only with an official authority. The summary is transmitted on request of an official agency.

h) Legalisation/Translation

The registry office does not accept documents, which are not duly certified or bear the Apostille.

Hungary has concluded bilateral treaties abolishing the requirement of legalisation for civil status documents with Austria, Bulgaria, Czech Republic, Cyprus, Finland, France, Greece, Italy, Poland, Romania, Slovenia, Slovakia, Croatia, and Turkey. A treaty between the Austrian-Hungarian Empire and Switzerland of 1916 has not been confirmed by Hungary after the war.

Copies of documents are allowed, but such copies must be legalized or made of the original documents, which bear the certification (Apostille) on it. Documents in a foreign language need to be translated into Hungarian and authenticated by a qualified translator (Hungarian Translation and Translation Authentication Agency, consul, linguistic notary, Országos Fordító és Forráshitelesítő Iroda). If the foreign language document is ancillary and does not contain the data (for example, the place of origin) to be recorded in the Hungarian register, they may be supplemented through a personal statement made by the applicant.

In Hungary, two authorities have the right to issue Apostilles: the Ministry of Justice (hereinafter: MOJ) certifies public documents emanating from judicial authorities (mostly court and notarial documents) and the Ministry of Foreign Affairs (hereinafter: MFA) certifies public documents emanating from all other authorities. Thus, the MFA is most frequently called upon to issue Apostilles on birth certificates, certificates from the register of citizens' personal data and addresses, certificates issued by the clerk of the local municipalities, university and college degrees. Both Ministries may issue Apostilles to certify the authenticity of the signature and stamp of the Hungarian Office for Translation and Attestation Company (which has the right to prepare *authentic* translations) in case the translation was made of a public document which itself could be certified by Apostille.

Both Ministries place the Apostille on an allonge. The MOJ fixes the Apostille with a ribbon of the colours of the national flag; the ribbon is fixed with a sticker on the back of the document. The sticker is sealed with the seal of the MOJ in a way that the seal extends onto the paper. The MFA uses a red sticker on the left corner of the document so that it covers the front and the back sheet and the sticker is sealed in a way so that it extends onto the paper.

The Apostille can be requested personally. The Apostille is ready for the next day after the request, but in case of persons arriving out of Budapest, the Apostille is made ready on that day if the request is submitted before 10 a.m.

The price of an Apostille issued by the MOJ is 2,000 Hungarian Forints in stamp duty (€ 8,66). The MFA requires the payment of the general consular fees for the certification of an official's signature and seal which is 5,500 HUF in cash (€ 23,74)

i) Foreign relations

Some Hungarian civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Some Hungarian civil status registrars also receive information about civil status acts and changes of their own citizens from some EU Member States.

j) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Hungarian citizens can obtain from Hungarian foreign missions. The registration of birth is compulsory.

Hungarian consular officials assume only limited duties of those which are reserved for registrars in their country. The Hungarian consular offices abroad transfer the acts drawn up abroad to Hungary. The role of the missions abroad is normally to report changes in the status of nationals (birth, marriage, death) which have taken place abroad. Hungarian consular officials offer assistance to obtain civil status certificates (e.g. birth, marriage and death) for Hungarian citizens and for citizens of other countries from civil registries in Hungary and the host country. The registrar or the consulate representative prepares a protocol on the application for the Hungarian certification of certification events of a Hungarian citizen having taken place abroad. The protocol prepared, including its annexes, is sent to the Budapest chief notary (Municipality of Budapest Lord Mayor's Office Administration and Authority Department 1840 Budapest V. Városház utca 4.) for the purpose of registration. Hungarian diplomatic agents or consular offices are not entitled to draw up civil status acts but they may receive declarations relating to events occurring to Hungarian citizens abroad, and receive and authenticate the paternal recognitions. They are also authorized to establish the certificate of matrimonial competence for Hungarian nationals residing abroad. Two Hungarian citizens may marry before a Hungarian representation abroad in accordance with Hungarian statutory provisions if the diplomatic agreement with the host country allows. Marriages concluded by Hungarian citizens abroad are valid and are registered by the registrar of Budapest. A fee of € 43,00 is payable for procuring of civil status documents. Experience shows that the applicant must be prepared for long waiting times (two months or more is not uncommon).

k) Law

Act IV of 1952 on Marriage, Family and Guardianship (CSJT); Act LV of 1993 on Hungarian Citizenship; Act IV of 1977 on the Civil Code; Act LXVI of 1992 on the Recording of the Personal Data and the Residence of the Citizens; Act XLVI of 2001 on Consular Protection; Act No. XXXI of 1997 on Protection of Children and on Public Guardianship (GYET); Act No. XCIII. of 1990 on Administrative Fees (ILLT)

Ministry of Justice Decree No. 7 of 21.06.1974 on the execution of CSJT; Ministry of Justice Decree No. 4 of 14.06.1987 (CSJTR); Ministry of the Interior Decree No. 6 of 07.03.2003 on Personal Registers, Marriage Procedure and Name Holding (AHNR); Primary Decree No. 13 of 1979 on International Private Law (NMJ); Gov. Decree No. 149 of 10.09.1997 on Guardianship

Authorities, Child Care and Guardianship Procedures (GYER); Ministry of Justice Decree No. 17/1982 on Personal Registers, Marriage Procedure and Name Holding (AHNR).

Current versions of the texts of the legislation are available: <http://www.mkogy.hu/> and <http://irm.gov.hu/> (Hungarian)

l) eGovernment

m) Online Services for Citizens

Portal

Hungary's eGovernment portal, Magyarország.hu (Hungary.hu) was launched in September 2003 in replacement of the former eKormányzat.hu (eGovernment.hu). It is at the same time an institutional portal and a services platform. It generates and summaries contents from 46 government web-sites. On 1 April 2005, the portal went fully transactional with the launch of a transactional gateway, called 'Client Gate' (Ügyfélkapu). This gateway allows users to securely identify themselves online and gain access to transactional e-Government services through the portal. Any user who completes a temporary registration procedure online can access a number of services made available through the Client Gate, but an authenticated registration is needed to access fully transactional services.

eIdentification infrastructure

There is currently no central eIdentification infrastructure in Hungary,

Civil Status Certificates

Requests for certificates, as well as a set of appointment date for the agency (document office) may be initiated online, after having registered into the system – with personal visit. Case handling is offline.

2. Birth

The birth of a child has to be reported to the registrar of the municipality or district where the birth has taken place on the first working day following the day of birth. If the birth took place outside an institution and without medical assistance, there is an extension of up to eight days. There is no legal provision concerning the consequences of a delayed declaration.

Birth at an institution (hospital, maternity home, social welfare home or another health institute) is reported by the head of the institution, birth outside an institution is to be reported by the parents as well as by the doctor assisting the birth. Birth is proven by the certificate issued by the doctor. In case of birth occurring in Hungary to resident foreigners or non-resident foreigners the registration procedure may be started by either the parents or the foreign consular office. After the report, the registrar is obliged to record the birth without delay.

Birth on a vessel, aircraft or in a vehicle is registered by the registrar competent in the area where the mother disembarked or left the vehicle. Upon multiple births, the birth of all children is registered by the registrar competent in the area where the last child was born. The birth of a child originating from unknown parents (found, orphan) is registered by the registrar competent in the area which was indicated as the place of birth in the decision of the court of guardians; the name is given by the registrar.

The birth of a Hungarian citizen abroad is registered by the registrar of Budapest (Hungarian registration). Stateless persons having a place of residence in Hungary may also apply for certification by the registrar of Budapest.

Stillbirths are not registered.

a) Place of birth and place of origin

Hungary differentiates between the place of birth, which is a village, town or Budapest district where the child was born, and the place of origin, which is the place of residence of the mother as indicated in her declaration, unless the mother is unknown, or the father disputes the declaration of the mother, or where a mother disagrees with the guardian over his declaration on her behalf, in which case decision shall be made by the notary competent at the place of birth.

b) Birth Declaration

The birth declaration contains:

- date of registration
- the place and date of the child's birth,
- the place of origin of the child,
- the first name and the family name of the child,
- the gender of the child,
- nationality, citizenship, statelessness or unknown citizenship of the parents and the child,
- the personal identification code of the child,
- the first name and the family name of the parents at birth, their place of birth, their personal identification code, or the lack of it, their date of birth, their residence,
- marriage date of the parents and duration of marriage
- multiple birth or singleton, birth order, if multiple
- pregnancy duration
- medical assistance at the delivery
- length at birth
- APGAR score - i.e. the outcome of a test on Activity (muscle tone), Pulse, Grimace (reflex, irritability), Appearance (skin colour) and Respiration performed one and five minutes after birth)
- the language of both parents
- live or stillbirth

The following documents and information should be presented for registration of birth:

- medical birth certificate;
- certificate on the Hungarian citizenship of the parents, or foreign passport;
- marriage certificate of the parents or its copy, if married;
- full force declaration of the father on the acknowledgement of paternity if the child was born out of wedlock, if available;
- personal identification code of the parents;
- maiden family name of the mother;

- place of origin of the child;
- foreign birth certificate with authenticated Hungarian translation if a birth that has occurred abroad is to be registered;

c) Birth Certificate

The birth certificate is the document issued by the registrar which certifies the birth and is an extract from the register. It indicates characteristics about:

- the child's first name, surname, sex, PIN, date and place of birth
- singleton or multiple birth
- first name, surname, place of birth and residence of the parents (designation of foreign nationality, where applicable)
- PIN of the parents (if unavailable, the date of birth)
- the number of the act
- the name of the commune and the department
- the seal, name and the signature of the registrar

The birth record may be amended by "utólagos bejegyzések" marginal annotation.. Frequent marginal notes relate to descent and the establishment of filiation. Decisions relating to the change of the first name or surname, the PIN, the nationality and death are registered as marginal notes. Also decisions relating to the change of the first name or surname, the PIN and the nationality of the parents are mentioned. After adoption, a new birth certificate is drawn up. The original certificate is cancelled and the reasons are mentioned there. There is no legislation in relation to change of gender.

d) Cost

The birth certificate issued after birth is issued free of charge. If a new certificate/extract is necessary and absent certain exceptions, duty fees are to be paid. The fee is HUF 2000 (€ 8,12) for the first certificate or extract and HUF 600 (€ 2,44) for any additional copy having the same content and ordered at the same time.

e) Maternity

The mother is the woman who has given birth to the child which is usually the woman who has been registered at birth.

However, since there are about a dozen baby hatches in Hungary, there is a possibility that the mother's status is not filled. Also, theoretically, the name of another woman could be registered.

Therefore, a procedure towards the settlement of the family status of a child may be commenced either at the request of one of the parties or ex officio. The mother, the child, or in the case of its death its descendant, may request the court to determine that its mother is the person designated by it and the registrar or the court may commence proceedings based on facts that have come to the attention of the authorities absent an application by the parties.

Surrogate maternity is currently not allowed in Hungary; therefore it is not possible to apply for maternity by court in the case of a woman who has donated gamete or embryo in the framework of a reproductive procedure.

f) Paternity

The husband of the mother is presumed to be the father of the child.

If the mother was not married during the time between the start of the conception period until the date of birth, or during a part of such period, then it is considered that the father of the child is

- the man who made a binding statement of acknowledgement with full effect about accepting the child as his own, or
- the man who has been determined by a final court order as the child's father, or
- the man who has married the mother after the birth of the child, provided that the conditions laid down in the law on marriage, family and guardianship are met,
- the man who has been "involved" in the "special procedure towards human reproduction" under the law on healthcare.

A man may accept the child as his own by giving a father's statement of acknowledgement with full effect as from the start of the conception period (with retroactive effect) if

- no other man may be considered as the father of the child pursuant to the family law, and
- the child is at least by 16 years younger than the person giving the statement.

The father's statement has not full effect unless the mother, and also the child if it is over 14 years of age, gives their consent.

If a person makes a father's statement of acknowledgement with full effect, then such statement is enough in itself to establish paternity. As the law does not require proof or certification for genuine natural (blood) relationship as a precondition of the acknowledgement of paternity, such statement may become effective even if there is no blood relationship between the father and the child.

The father's statement of acknowledgement, and also the mother's and the child's consent must be put in the form of minutes or a notarial deed

- at the registrar,
- at the court,
- at the office of guardianship or
- before the Hungarian diplomatic mission .

The father's statement of acknowledgement with full effect may be made before the birth of the child.

Paternity is to be determined by court if paternity cannot be determined otherwise. A procedure towards the settlement of the family status of a child is commenced either at the request of one of the parties or ex officio. The latter case occurs typically when the registrar notifies the office of guardianship of the birth of a child registered without parental data, or finds out that a certain child's family status is unsettled. Such procedure may be initiated at the request of the mother or another legal representative, or a man wishing to accept the child as his own, or the child concerned if it is over 14 years of age .

The court may determine that a man is the father of a child if such man

- had sexual contact with the mother during the conception period, and
- it may be concluded on the basis of the careful consideration of all circumstances that the child is the fruit of such sexual contact.

Therefore, paternity cannot be determined by court against a man who has donated gamete or embryo for the procedure.

Adoption does not prevent a paternity suit because it is deemed to be in the child's interest that the person of the natural father is identified even if the child is adopted.

3. Marriage

A religious marriage has no legal effects by itself. The unregistered cohabitation, amendment to Civil Code (1996) applies to couples living together in an economic and sexual relationship (common-law marriage) including same-sex couples. No official registration is required. A law on registered partnerships (applying to couples of the same sex and of different sex) will come into force 01 January 2009. Most of the provisions of this law, except those that deal with separation or the end of the registered partnership, refer to the provisions on marriage.

a) Personal Requirements/Impediments to Marriage

The parties to the marriage shall declare, both present, in front of the registrar that, to the best of their knowledge, they are legally free to marry. Residence for one or both spouses is not required.

Impediments to a valid marriage are:

- either of the parties has not completed 18 years of age;
- the former marriage of either of the parties still existed at the time of their being married (divorced persons may re-marry without any waiting time defined);
- the parties to marriage are each other's linear relatives, each other's siblings; either party to marriage is the blood descendant of the sibling of the other party to marriage; either party to marriage is the blood relative of the spouse of the other party to marriage; or either party to marriage has adopted the other party to marriage.
- the registrar was not present at the marriage in his/her official capacity;
- at the time of marriage, one of the parties is under guardianship for disability to act (the marriage becomes valid if the disabled party, once the guardianship is lifted, does not challenge the marriage);
- at the time of marriage, one of the parties is generally disabled, but not under guardianship (the marriage becomes valid if the disabled party, once becoming able, affirms the marriage during its existence) ;
- at the time of marriage, the registrar does not act in official capacity, or the parties to the marriage are not jointly present when declaring their intention to get married;

If a person to be married is between 16-18 years of age, waiver for marriage may be obtained from the child welfare agency or from the court of guardians (Art. 10 CSJT, Art. 125 GYET, Art. 34-36 GYER). A waiver from the impediment of marriage between close relatives (child of one's sibling (brother or sister or half brother or half sister or next of kin of one's previous spouse) may also be granted (Art. 8 CSJT).

The registrar must not solemnize a marriage if he/she becomes aware of any impediments. If any reasons of impediment are discovered after the marriage has been concluded, a court order is required to declare the marriage void.

b) Preliminary Procedure

Any party to the marriage or the parties jointly shall declare to the registrar the intention of marriage and also declare the place of marriage. A special notice of intended marriage is not required. If the parties wish to contract marriage outside official premises, a permit must be issued by the local registry office. On the basis of the documents and declarations submitted by the parties, the registrar issues a marriage schedule. The entries of this schedule are practically the questions that the parties to the marriage will need to be able to answer.

Once the conditions are met, the registrar sets the marriage date which shall be no earlier than 30 days and no later than six months after the date of declaration, unless an earlier is authorized by the town clerk.

The notary may grant an exception to the minimum time limit. If it is expected that one of the parties to the marriage will die within a short period of time, the declaration of the parties will substitute all other formal requirements of marriage, and the marriage can take place right after the declaration. Also, no supporting documents except proof of identity must be presented in this case.

If the application is rejected, it is possible to appeal against the decision at the principal authority of the registrar (http://www.bmbah.hu/a_bah_ismertetese.php).

c) Documents and Data

The following documents need to be presented for the declaration of marriage (it is not possible to substitute them or to waive their presentation):

- ID card, passport or identity card
- birth certificate or its copy of both persons intending to conclude marriage
- certificate on the Hungarian citizenship of the husband/wife;
- certificate about the free marital status (certificate by the population registration office, divorce decree or death certificate if previously married), if a foreign divorce decree exists for one of the spouses, such decree must be sent by the registrar to the Ministry of Justice for an opinion
- document from the Office of Immigration and Nationality, the metropolitan or county public administration office competent at his/her place of residence or birth, certifying that there is no obstacle to his/her marrying according to Hungarian statutory provisions, if one of the prospective spouses is an Hungarian citizen residing abroad, the Hungarian representation shall be asked to issue the said certificate (valid 6 months)
- personal identification code of the husband/wife
- maiden family names of the mothers of both spouses
- declaration made by the wife in person on her name following the marriage if this data is not included in the foreign marriage certificate
- declaration signed by both parties on the family name of the would-be children if the wife keeps on bearing her maiden name following the marriage.

In the case of a foreign citizen intending to conclude a marriage, the registrar cannot be aware of all marital impediments provided for in the legal regulations of the foreign country at issue. Therefore, the foreign national should prove that the intended marriage does not violate any statutory regulations according to his/her domestic law by producing a certificate issued by the competent authority of his/her country. When such a certificate cannot be produced, an application may be

made for exemption to the County Administrative Office. An exemption is valid for six months from the date of issue.

Stateless persons and refugees living in Hungary are treated as Hungarian and there is no need for any examination, as to whether their marriage is, or possibly is not, in compliance with the relevant provisions of the law of the country of origin.

d) Translation

Documents in a foreign language have to be presented in an authentic Hungarian translation by the Országos Fordító és Fordítás-hitelesítő Intézet (OFFI - Hungarian Office for Translation and Attestation) having offices in Szeged and Budapest, where the documents need to be sent by mail, in person or through the Society for Scientific Education (Tudományos Ismeretterjesztő Társulat, (TIT) which has an office in every larger city.

The Decree stipulates that marriage partners can use their native languages at the wedding ceremony. If either of the wedding partners or the witness, or both, does not speak Hungarian and if the registrar does not understand the foreign language spoken by the marriage partner or the witness, or both, an interpreter must be employed by the prospective spouses.

e) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Hungary. When such a certificate cannot be produced, an application may be made for exemption to the County Administrative Office. An exemption is valid for six months from the date of issue. The cost for the certificate of exemption from the obligation to present a proof of freedom to marry under foreign law is HU 5000,00 (€ 19,93).

If a Hungarian citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Hungarian certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Hungarian law and is valid for 4 months from issue. The certificate is issued by the County Administrative Office and the embassies. The cost is 2000 HUF (€ 8,46). The consular fee is € 35,00.

f) Marriage Ceremony

In Hungarian law a marriage is only valid if solemnized by a registrar in the presence of two witnesses and both parties present before a registrar personally.

g) Marriage Certificate

The marriage registration contains information about:

- the place and date of concluding marriage (year, month, day),
- the family and given name of the husband and wife at birth, their name before concluding the marriage, in previous marriage, their place of birth, personal identity number, and in the lack of this, the date of birth, the place of residence, the family and given names of the parents of the persons intending to conclude marriage,
- the names of the spouses after concluding the marriage,
- the name of the registrar conducting the marriage ceremony,
- the name of the witnesses and the interpreter,
- the agreement regarding the name of the yet-to-be-born child at birth,

- the husband's and the wife's foreign citizenship or statelessness, as well as their unknown citizenship upon Hungarian registration,
- the description of the language applied upon the marriage ceremony if the marriage was concluded in the language of a national and ethnic minority living in Hungary,
- level of education of each spouse,
- nationality,
- marital status of each spouse before the conclusion of marriage and date of divorce, if divorced,
- number of previous marriages,
- number of children.

h) Cost

The services of the registrar are free of charge, including the issuing of the marriage certificate. The marriage taking place in the office of the registrar is also free of charge. The cost for a permit to conduct the marriage ceremony outside the offices of the registrar is HU 2200,00 (€ 8,77) and the costs of the ceremony itself must be paid. The fee is returnable when the marriage does not take place. A marriage ceremony at the premises of the local municipality building is charged according to local tariffs.

The cost for the certificate of exemption from the obligation to present a proof of freedom to marry under foreign law is HU 5000,00 (€ 19,93).

i) Conclusion of Marriage by Foreign Nationals in Hungary

If both persons wishing to marry are foreign citizens and want to marry in Hungary, they have the opportunity to do so. When a person of non-Hungarian nationality intends to marry in Hungary, he/she should produce a certificate to prove that there is nothing in his/her personal law to prevent him/her from getting married.

The certificate is an official instrument proving that if the two persons therein stated contract marriage, it is regarded as a valid marriage concluded as per the foreign law. (Art. 41. AHNR, Art. 38 NMJ, Art. 29(4)ILLT).

The parties to be married may, jointly appearing in the Registry Office, apply for exemption to the registrar having competence to wed them. Once submitted, the application for exemption is adjudged by the the personal law of the country of origin.

j) Procedure in the case of foreigners and Hungarians living abroad

Two Hungarian citizens may marry before a Hungarian representation abroad in accordance with Hungarian statutory provisions if the diplomatic agreement with the host country allows.

Marriages concluded by Hungarian citizens abroad are valid and are registered by the registrar of Budapest if the marriage was properly conducted according to the laws of that country, and if there were no impediments against the marriage by the Hungarian citizen according to Hungarian law. Accordingly, an Islamic marriage by a Hungarian will not be registered when the husband has another wife.

k) Divorce/Separation/Annulment

Jurisdiction for divorce or annulment of a marriage is with the civil court at the spouses' last shared residence, and in addition at residence of the respondent, and if there is no such residence in Hungary, at the residence of the petitioner.

Divorce is granted in case of "the complete and irreparable breakdown of marriage", or on the parties' mutual consent. There is no definition of the "breakdown" and there are no specific examples in the statute. For a divorce based on mutual consent, the parties must have agreed on the ancillary consequences of the divorce, or must have lived separately for at least three years and show that they have practically solved any issues relating to common child in the interest of that child.

An annulment terminates the marriage with a retroactive effect to the date of the marriage (*ex tunc*); i.e. the marriage is to be regarded as if it had never existed. However, certain "residual implications" of the marriage will continue to exist even if the court has declared the marriage annulled.

The Hungarian family law does not know any judicial procedures aimed at the legal separation of the spouses while maintaining marriage.

4. Name

In official procedures, certifications, identification and registration each Hungarian citizen bears his/her birth name, or married name as it is bestowed upon him/her by the birth or marriage certificate, spelled according to the rules of Hungarian orthography. No characters or diacritical signs which are not used in Hungarian are allowed to be registered. Pen names and nicknames are not registered. The court of guardians is responsible for choosing a fictional name for the found or orphan child within 30 days.

a) Birth Name

The birth name of Hungarian citizens consists of two parts, the surname, and the first name(s) which must be declared to the municipal or district registrar, where the child was born.

b) First Name

The first name may be formed of a maximum of two parts registered in the order determined by the parents. The court of guardians shall establish the first name of the child if the parents cannot reach an agreement. The first names must correspond to the gender of the child.

In addition, the parents must select the first name of their child from a list of first names compiled by the Hungarian Academy of Sciences which may be inspected at the office of any registrar. If the name selected by the parents is not on that list, the Language Institute of the Hungarian Academy of Sciences declares whether or not the name can be registered. This declaration (expert opinion) may be requested by a letter addressed to the Language Institute of the Academy in Budapest, no standard form is required.

If one of the parents is not a Hungarian citizen, the registrar may register the first name of the child even in accordance with the rules applying to the non-Hungarian citizen concerned and in such a case no declaration is needed from the Academy. If the child of Hungarian citizens was born abroad during the stay of the parents in a foreign country, the name as set forth in the foreign public instrument shall be registered by the registrar in Hungary.

Persons belonging to national or ethnic minorities may also give to their child a first name corresponding to their nationality. The national first names that can be chosen figure in the list of

national first names compiled by the national minority municipalities and edited by the Hungarian Academy of Sciences. If the selected name cannot be found in said list, an opinion may be applied for at the national minority municipality.

c) Surname

The surname may be formed of one or two parts (if it is formed of two parts, the parts are connected with a hyphen).

If the parents are married, or if the husband recognized the child before the registrar prior to the marrying his wife, or if a father has recognized paternity according to proper procedure or if paternity is established by the court, the child may bear the father's or the mother's surname according to the decision of the parents and under the following conditions:

- parents bearing a joint marital name may give only their joint family name to their child
- parents bearing their own family names may agree that their child will bear jointly the family names of his/her father and mother
- the family name of the child may consist of two parts at the most
- all the children born in the same wedlock may have only the same family name.

As a main rule, if there is no person who can be considered as the father of the child, the child shall bear the name of his/her mother until the father is registered. If, at the age of three years, a father has not yet been determined, the court of guardians shall make arrangements to the end that a virtual father be registered as the father of the child.

In such a case, if the mother is known, the family name of the closest known ascendant of the mother shall be established as the family name of the father. The mother may also ask to indicate the mother's family name as the family name of the child upon which application the child will keep on bearing the family name registered upon his/her birth. In addition, the mother may ask to register an entirely different name as the family name and such application will be granted if the lawful interests of other persons are not infringed.

If the court passes judgement for the plaintiff in an action challenging paternity, upon request and in justified cases it may authorize the child to keep on using the family name which was based on that person's parentage.

The court of guardians shall establish the name of a child if

- only one of the parents exercises the right of parental control, who - despite the call by the registrar or the court of guardians - fails to establish the first name of the child within thirty days after being called to do so by the court
- parents jointly exercising the right of parental control do not report their agreement connected with the establishment of the family and first name of the child within thirty days after being called to do so by the court
- parents living separately cannot reach an agreement connected with the name of the child and - despite the call by the court of guardians - fail to certify the initiation of a court procedure within thirty days after being called to do so by the court.

Upon adoption, the surname of the adoptive parent(s) is assigned to the child. If the adoption is declared invalid, the name of the child before adoption is restored.

d) Married Name

The married name is the name bestowed upon its holder by the marriage certificate. A person getting married may choose between the forms of married names determined by law (as regulated by Act IV of 1952 on Marriage, Family and Guardianship (furthermore referred to as the MFG Act)).

After the marriage each spouse may, according to his or her choice, bear:

- his or her own full name as before the marriage, only,
- the other spouse's surname adding his or her own forename,
- the joined surname of both spouses adding his or her own forename.

In addition, the wife may, according to his or her choice, bear:

- her husband's full name with an affix referring to marriage,
- her husband's full name with an affix referring to marriage plus her own full name,
- her husband's surname with an affix referring to marriage plus her own full name.

When choosing from these options, the parties have to respect the following limitations:

- only one of the parties may take the surname of the other party as married name, and
- the surname part of the married name may consist of a maximum of two parts, which may be an issue if one of the surnames already consists of two parts.

e) Registration of Ranks and Titles

The title "doctor" (DR) may be entered into the register as part of a birth or married name, and issued in a birth or marriage certificate. All Hungarian aristocratic titles as well as aristocratic pre-names, arms, orders or expressions referring to aristocratic ancestry are banned and may not be registered.

f) Differentiating Letters

Persons belonging to the same family or persons with the same surname may request the registrar to add a distinctive letter to their names. This is allowed if the distinctive letter is also registered in the birth certificate of an ancestor whose surname the person concerned bears. When requesting a differentiating letter to be added to the surname, the registrar shall obtain a copy of the birth certificate of the ancestor before granting the change. A differentiating letter does not count as a separate part of the surname. The letter is put either before or after the surname (as it is registered in the birth certificate of the ancestor), in capital letters, separated from the surname by a full-stop. Differentiating letters banned by law or violating civil liberties cannot be registered.

g) Name Change

Under Hungarian legal regulations everyone has the right to change the birth name and to change them back. Different rules of procedure apply to the changing of a birth name and to changing a married name. The married name can be changed by the registrar; the birth name can be changed by the Minister of the Interior.

h) Change of the Married Name

If either spouse assumed the name of the other spouse at the time of the marriage, he/she may continue to use this name, following the divorce or the annulment of the marriage, unless

- the court, on the request of the other spouse husband, bans the former spouse from continuing to bear that name (for example, if the former spouse is conclusively sentenced to jail for a deliberately committed crime),
- the former spouse re-marries.

The married name can be changed on the request of the concerned person during the existence or after the dissolution of the marriage. The competent authority to change a married name is the registrar of the location where the marriage took place, but the petition may also be filed with the registrar at the place of residence. A person carrying the name of his/her spouse may not change this name through the procedure of changing a birth name.

If a Hungarian citizen gets married abroad, his/her name may be changed according to foreign law. In such cases and when registering such a marriage in Hungary, the registrar treats the name change as if it is granted by the Minister of the Interior, except that in this case the registrar sends a notification to the Minister of the Interior and to the birth registry office about the name change.

i) Change of the Birth Name

A Hungarian citizen may change his/her birth surname and first name by filing a petition with the Minister of the Interior. In case of birth name change of a minor and of a disqualified person under guardianship, the petition has to be filed by his/her legal representative and legal guardian, respectively.

The change of the surname of a parent, unless the parent explicitly requests otherwise, results in the change of the surname of the minor child carrying that name. The change of the surname of the spouse will result in the change of the surname of the other spouse carrying that name in one form or another.

Change of name into a name with a different sound or sound system than Hungarian, a historical name, or a family name with historic orthography is normally not granted by the Minister of the Interior, unless there are special considerations.

If the registration leading to name change occurs abroad, the condition to obtain permission to change the name is to register the event in Hungary, that is, before filing the petition, the event (marriage, divorce, birth, etc.) has to be registered by a Hungarian registrar.

j) Petition to Change the Birth Name

The petition to change the birth name has to be filed personally with the registrar where the person concerned resides, on the form available at the registrar's office. Hungarian citizens living abroad may file the petition at the consular office.

Information required in the petition includes:

- personal data of the petitioner (surname and forename by birth, married name, place of birth, mother's maiden name), personal identification number, or, if not available, date of birth, marital status, place and date of marriage, residence, address for correspondence, number and expiry date of identity card or other document proving Hungarian citizenship
- if the petitioner is married, the personal data of the spouse (surname and forename by birth, married name, place of birth, mother's maiden name), personal identification number, or, if not available, date of birth
- personal data of the petitioner's minor child(ren) (surname and forename by birth, place of birth, mother's maiden name) personal identification number, or, if not available, date of birth

- reasons for seeking the change
- declaration on the petitioner's any previous name change (birth name or married name) granted by the Minister of the Interior
- in case of change of name by birth, the proposed new surname and/or first name.

The petitioner should also attach his/her own registry certificate and that of all other persons concerned by the name change.

The Minister of the Interior issues a decree on the name change, and orders the name change to be recorded by the registrar under “post-entry” in the birth register. After the name change is granted by the Minister of the Interior, the petitioner is authorised and required to use the new name as of the date of receiving the name change decree.

k) Adoption of a Hungarian name

In many cases, names appear in the certification documents in a distorted form. In such cases persons having Hungarian nationality are to submit to the registrar competent at their place of residence an application on the modification of their names pursuant to the Act on Hungarian citizenship, parallel to the application for nationalisation or re-nationalisation. By way of this procedure, it is possible to omit the so-called "father's name" as well. An application for this is to be submitted parallel to the preparation of the protocol required for Hungarian certification, and the application is forwarded by the registrar to the Budapest chief registrar.

l) Foreigners

A foreign national applying for naturalisation or repatriation may concurrently request to be registered under the former family name of his own or of his Hungarian ancestors; to waive one or more components of his family name if applicable, or any designation of gender or to be registered under the Hungarian translation of his name. The petition for change of name shall be substantiated by official document or expert opinion. Change of name shall be permitted by the Minister of the Interior by certificate.

m) Cost

The stamp duty payable at the time of filing the petition for name change of married name is HUF 5000 (€ 20,31), and the stamp duty payable at the time of filing the petition for name change of birth name is HUF 10,000 (€ 40,62). Persons of legal age belonging to the same family may file a joint petition, but each petitioner shall pay the stamp duty separately. To avoid inconsiderate repeats of name change, any subsequent change to a name already changed as granted by the Minister of the Interior carries a stamp duty of HUF 20,000 (€ 81,24). The stamp duty charged for each copy of the name change decree is HUF 1000 (€ 4,06).

n) Minorities

Under Article 12 of the Minorities Act a person belonging to a minority has the right to freely choose his/her own and his/her child's first name in line with the rules of their native language also may give such first names to their children which were traditionally used within the minority community concerned and have them recorded in official documents. If registration does not occur in the Latin alphabet, the phonetic Latin-style alphabet must be used at the same time. It is also possible to request issuance of registration and other personal documents in two languages. Such registration and certificates in dual language are issued free of charge if the individual is belonging to a minority.

IE – Ireland

1. Civil Status Registration System

a) Civil Status Registration System

The civil status registration system in Ireland is person based.

The official languages are Irish and English. Article 25.4 of the Constitution of Ireland requires that an "official translation" be provided of any law in both official languages. All civil status acts are performed in English and Irish. The Irish alphabet is a variant of the Latin alphabet and contains 23 letters. Modern Irish has only one diacritic sign, the acute (á é í ó ú). In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-1

Ireland has a population of 4.239.848 (2006) and is divided into a total of 26 counties for administrative purposes. Also, the larger cities are administratively equivalent to counties. In the Republic of Ireland, six of the original 26 counties have more than one local authority area, producing a total of 34 "county-level" authorities.

The process of registering births, marriages and deaths has been recently modernised by the Department of Health and Children in conjunction with the Department of Social Community and Family Affairs. New registrations are being recorded electronically and older records will be gradually computerised. With the introduction of electronic registers and the creation of life event databases the paper-based registration of individual events has been transformed and it is possible to link all life events pertaining to a person, thus creating a single life record. This life event data is also shared with certain Government Departments and Agencies, e.g. Passport Office, or Department of Social Community and Family Affairs.

b) Civil Registration Service (CRS)

The Civil Registration Service maintains all records of births, deaths and marriages in the Irish state. The CRS is part of the Health Service Executive (HSE) and is also responsible for the solemnisation and registration of civil marriages and for maintaining the registers of all religious marriages within the state. HSE is responsible for providing Health and Personal Social Services for everyone living in the Republic of Ireland since January 2005. Prior to this, services were delivered through a complex structure of ten regional Health Boards, the Eastern Regional Health Authority and a number of other different agencies and organisations. The HSE replaces all of these organisations. The General Register Office (GRO) operates under the aegis of the Department of Health and Children and is responsible for the service which is delivered on a day to day basis by the various Health Boards. The GRO in Roscommon is a national office and the central civil repository for records relating to births, deaths and marriages in the Republic of Ireland. The Registrar General has overall responsibility for the GRO system.

With the exception of certain historical records, all births, deaths and marriage certificates can be obtained in any registration office that is linked to the CRS, also births and deaths can be registered at any registrar's office irrespective of where the event occurred. CRS has the Personal Public Service Number (PPSN) as the main method of identification. This number is used for all registrations. With the introduction of electronic registration, CIS is automatically notified of all life events registered. In relation to births, CIS allocates a PPSN to a newborn child and notifies the civil registration computer system. A notification of the child's PPSN is sent to the mother and the automatic processing of a child benefit claim. Registration is recorded online on the civil registration system and signed electronically by the applicant using an electronic signature pad.

c) Registrar General (Ard-Chláraitheoir)

The GRO has approximately 60 employees, which are all civil servants. The Registrar General has statutory responsibility for the Civil Registration System, is appointed by the Minister for Health and Children and shall hold office for a period not exceeding 14 years. The principal functions of the Registrar General are to maintain, manage and control the system of registration (the Civil Registration Service), to publish guidelines to and to initiate and prosecute proceedings in relation to summary offences. The Registrar General maintains registers of births, stillbirths, adoptions and foreign, deaths, marriages, decrees of divorce and decrees of nullity of marriage. Special records are kept by the Registrar General of the birth/stillbirth of a child or the death

- on board an Irish aircraft or an Irish ship,
- of an Irish citizen on board a foreign ship or a foreign aircraft travelling to or from a port, or an airport in Ireland
- of a member of the Garda Síochána or the Permanent Defence Force outside Ireland while the member is serving outside Ireland as such member.

d) Superintendent Registrars Offices

The Superintendent Registrars Offices are local offices. There are eight offices, each responsible for a geographical area. Under the overall management, control and supervision of the Registrar General, an authority shall manage, control and administer, through its Superintendent Registrar, the Civil Registration Service in its functional area. A registrar or an authorised officer is subject to the supervision of the Superintendent Registrar. Each health board shall be a local registration authority but additional facilities are established. Ireland has altogether 85 registration facilities, 32 of them are registration offices mainly part of the health boards. Not all of these facilities are marriage registries.

The health board appoints a chief officer who is the Superintendent Registrar, registrars and other officers as it is considered necessary for the purpose of the performance of its functions. The majority of the approximately 188 registrars are HSE employees and have support staff (approximately 300 in total) but there are also a number of private registrars. The number of registrars working in an office vary from part-time registrars in low population rural areas to dozens in populous urban areas. All employees receive a regular salary, which is Local Authority/Civil Service standard. There is no specific training implemented for registrars. Recruitment and training are Local Authority/Civil Service standard. Advanced and further training is provided as needed.

As the registration is fully computerized, all registry offices are equipped with computer technology. The amount of time spent on various activities depends on the responsibilities of the registrar and the nature of the duties they are assigned to. Generally work is computer-based, but there may be a requirement to consult manual registers (folios) from time to time. Most legal research is carried on at the General Register Office.

Where a registrar fails or refuses to register in the appropriate register, he or the authorised officer shall notify the person concerned in writing of the reasons for the failure or refusal. An appeal may be lodged within 28 days in writing which is determined by the Superintendent Registrar and further appeal may then be lodged in writing not more than another 28 days with the Registrar General. A person who is dissatisfied with the decision of the Registrar General may file a claim to the High Court. In certain marriage matters, appeal against the decision of the Registrar General is filed with the Circuit Family Court.

e) Offences and Penalties

A Registrar who deletes or alters, or permits or procures the deletion or alteration of civil status, or who fails or refuses to register a birth, stillbirth, marriage or death without reasonable cause is guilty of an offence. A person who gives to a registrar particulars or information which he or she knows to be false or misleading, or fails or refuses to answer a question put to him or her by a registrar in relation to particulars at registration of a birth without reasonable cause is guilty of an offence. Such offences may be penalized by a fine of up to 10,000 Euro or imprisonment for a term not exceeding 5 years or both.

f) Correction, Amendment and Cancellation of Civil Records

The provisions of sections 63, 64 and 65 of the CRA apply. Section 63 provides the correction of factual and clerical errors in entries in the registers at local level on foot of an application from an interested party. Section 64 allows for correction of clerical and factual errors which were made by local registrars, without an application from an interested party. The section also provides for the cancellation of duplicate entries and of invalid marriage entries. Section 65 allows the Registrar General to investigate any entry to determine whether it is correct and complete and, if incorrect or incomplete, authorise the correction or completion of the entry.

In general, registrations are historical records and are not updated to reflect changing circumstances, such as name changes in later life. The main exceptions to this principle under the CRA are: Re-registrations under section 23 (where the father's particulars were not registered initially in a birth entry) and section 24 (where the parents marry each other following the birth). These provisions allow for amendment of the child's surname; change, alteration, registration or addition of a forename of a child under the provisions of section 25; adopted children are registered in a separate Register of Adoptions. The original birth entry is retained but the particulars in the Adoption register form the basis of any birth certificate issued for the child; Cases where the parents/children were using false names, cases where the marital status was indeterminate at time of registration and cases where DNA or other tests prove that the man registered as the father is not the biological father are dealt with under section 65.

The effects of amendments made under these sections are that the original entry is retained in the register but only the amended entry can issue as a certificate

g) Access and Documents

Section 61 of CRA allows for a search of any index to a register by any person, on application in writing and subject to payment of a specified fee. Exceptions are the register of stillbirths and an index, maintained by the Registrar General, linking adoption entries to original birth entries; these may not be accessed. Section 66 allows for provision of specified information to other Government Departments. Full data sets are not and will not be provided to private institutions. On-line data transmission does not exist.

Any person, on application in writing and on payment of a prescribed fee, may obtain a certified extract (copy). Formal identification is not required, except in the case of still-births, where proof of parenthood is required.

Birth, Death and Marriage Certificates are available from the GRO and from any Superintendent Registrar's Office on application in person or by post. Adopted Children's Birth Certificates and non catholic Marriage Certificates are only available from the General Register Office. The local offices usually have a much faster response time than the General Register Office as they generally receive a smaller amount of applications. This office will supply a Certified Copy or a photocopy of an entry in the Registers of Births, Deaths and Marriages provided sufficient information is furnished

by an applicant to enable the records to be identified. It is possible to apply by modern technology (www.groireland.ie), by postal mail, by fax or in person to the office or by proxy through any third party, by power of attorney to a licensed attorney at law, through consular offices of Ireland abroad and through consular offices of other countries in Ireland. The response time for applications is normally three/four weeks.

h) Costs

Certificates

- Birth, Marriage, Death and Short Birth Certificate: EURO 10,00 (including particular search fees) and EURO 8,00 for extra copies
- Authentication of an existing certificate: EURO 10,00 (including particular search fees) and EURO 10,00 for extra copies
- Search and photocopy of entry in the Register: EURO 6,00 (including particular search fees) and EURO 4,00 for extra copies

Search Fees

- Particular Search: EURO 2,00 A Search (in the public Research Room, Joyce House by the applicant) over a period not exceeding five years for any given entry. The Fee for each particular search is EURO 2,00.
- General Search: EURO 20,00 Search (in the Research Room Joyce House by the applicant) through the indexes to Births, Deaths or Marriages during any number of successive hours not exceeding seven. (Fee does not include the cost of certificates or photocopies).

Payment

Cash in Euro, Personal cheques/bank drafts on Irish banks, International Money Orders and Irish Postal Orders denominated in € Euro are accepted, most offices also accept credit cards and the Dublin S.R.O. will also accept payment in £ Sterling Postal Orders.

i) Archives

Because England ruled Ireland for much of its history, many records pertaining to the Irish are found in English repositories. Many Church of Ireland records were destroyed in 1922 when the Public Record Office in Dublin burned. Ireland has six major types of repositories: The National Archive in Dublin and the Public Record Office of Northern Ireland in Belfast, the National Library of Ireland in Dublin, Genealogical Office in Dublin, Religious Archives and Registrars' Offices. Both the National Archives and the Public Record Office of Northern Ireland collect records for all of Ireland.

j) Legalization/Translation

The registry office does not accept documents, which are not duly certified or bear an Apostille.

Between Cyprus, Malta, Ireland and the jurisdictions of the U.K., common law tradition does not require legalization of documents. Ireland is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers and to the Convention abolishing the legalization of documents in the Member States of the European Communities, signed at Brussels on 25 May 1987, together with Belgium, Cyprus, Denmark, France, Italy and Latvia.

Copies of documents are permitted, but such copies must be legalized or made of the original documents, which bear the certification or Apostille. Usually all documents in a foreign language must be translated into Irish or English, but translation is required only if the registrar does not understand the document. The translator must have a certification in the language in which the document is written and must acknowledge him/herself as the person who performed the translation. Multilingual documents and certificates are confined to bi-lingual use of Irish and English. Certain public information publications are available in a variety of languages.

The Department of Foreign Affairs will facilitate the acceptance in foreign countries of public documents executed in Ireland by authenticating the seals or signatures of officials of a number of authorities in Ireland (e.g. Supreme Court Office, other Government Departments, General Register Office) and affixing Apostilles under the 1961 Hague Convention. The Consular Section of the Department of Foreign Affairs is the competent authority in Ireland.

An Apostille can be requested by postal delivery, delivery by courier or by hand delivery where the individual seeking the Apostille attends in person at the Consular Office. Original documents must be provided. The Consular Section will affix an Apostille onto a document which has not been notarised or certified by a solicitor if it has been stamped and signed by a relevant state authority. In practice, this involves probate documents (certified by the signatures of the two registrars at the Probate Office, Four Courts, Dublin), or birth or marriage certificates (certified by an attached letter from the General Register Office, signed by a member of staff). The Consular Section stamps the Apostille onto the document, fills out the details by hand (the notary's name, the registration number, date etc.), then signs and affixes the stamp of the Department. The Apostille will usually be stamped directly onto the public document itself. If there is too much text on the page and not enough room for the stamp, the stamp will be on a page of headed notepaper and attached to the relevant document. The Apostille is in English. The system used is mechanical.

If an individual attends in person with a request, he will generally receive the Apostille within a matter of minutes. If the office is very busy or if the document consisted of a very large number of pages all of which require stamping, then the process could take up to a day. Where the request is received by post, and the documents returned by post, the time will depend on the speed of the postal system. The usual fee is € 20,00. Where a bundle of documents requires a number of stamps (e.g., adoption of a child), the maximum fee is € 50,00. The fees are set by the Minister for Foreign Affairs.

k) Foreign relations

Ireland neither transmits information about civil status acts and changes of Irish citizens born in another EU Member State or of citizens of other EU Member States occurring in Ireland directly to the authorities of that EU Member State nor receives information about civil status acts and changes of Irish citizens (or of citizens whose birth was registered in Ireland) directly from the authorities of that EU Member State.

l) Consular Services

The network of the Department of Foreign Affairs's 74 resident diplomatic and consular missions overseas includes 56 Embassies, 6 multilateral missions (to the European Union, the United Nations in New York and Geneva, the Organisation for Security and Cooperation in Europe, the Organisation for Economic Cooperation and Development and the Council of Europe) and 12 Consulates-General and other offices. In addition, there are 23 Honorary Consuls General and 63 Honorary Consuls who provide assistance to Irish citizens in 58 countries. Almost 50% of the Department's staff of approximately 1,400 are serving abroad. This figure includes some 300 locally recruited staff. Embassies and Consulates abroad maintain a confidential register of Irish

citizens which is used for consular purposes. Registration is voluntary, but is strongly recommended.

Irish consular officials assume only limited duties of those which are reserved for registrars in their country. The Irish consular offices abroad transfer the acts drawn up abroad to Ireland. The role of the missions abroad is normally to report changes in the status of nationals (birth, marriage, death) which have taken place abroad. Irish consular officials offer assistance to obtain civil status certificates (e.g. birth, marriage and death) for Irish citizens and for citizens of other countries from civil registries in Ireland. They offer also assistance to obtain civil status documents for Irish citizens from civil registries in the host country. Irish consular officials are not authorized to conduct marriages.

A person born outside Ireland who at the time of his/her birth had a parent who was an Irish citizen otherwise than by birth in Ireland may become an Irish citizen by application for "foreign births registration" at an Irish Embassy or Consulate in the country where he/she normally resides or at the Department of Foreign Affairs if living in Ireland. Application is made by presenting a standard form, two passport-sized photographs and a statutory fee of €125 (if over 18) or €40 (if under 18). Certified copies of entries in a Foreign Births Entry Book at an Embassy or Consulate or in the Foreign Births Register at the Department may be obtained on payment of a statutory fee of €2.50. Where registration is being sought on the basis of a grandparent born in Ireland, documentary evidence of descent (birth, marriage and death certificates) is required.

There is no facility for registering foreign marriages in Ireland. Irish citizens resident in Ireland intending to get married in certain foreign countries, including most continental European countries, and who have to produce certificates of no impediment or "certificates de coutume" in that connection, may obtain these certificates from the Consular Section of the Department of Foreign Affairs in Dublin or for the Munster area in Cork. Irish citizens resident in other countries may obtain such certificates from an Irish Embassy or Consulate. The applicant must make a statutory declaration and complete a questionnaire, both on standard forms, and pay a statutory fee of €20. The applicants must both attend in person and provide the birth certificates and, if relevant, divorce or annulment certificates. In addition, the Irish applicant is required to make a solemn declaration that he or she is free to marry. In most cases the certificate will be given to the applicant. For applicants who wish to marry in Italy, the certificate is sent by Irish embassy in Rome to the district where the marriage will take place.

The Department will facilitate the acceptance in foreign countries of public documents executed in Ireland by authenticating the seals or signatures of officials of a number of authorities in Ireland (e.g. Supreme Court Office, other Government Departments, General Register Office) and affixing Apostilles under the 1961 Hague Convention. There is a statutory fee of €20 for an Apostille, €15 for other authentication or €10 (if the document relates to merchandise exports) for this service. Irish Embassies and Consulates abroad will certify the genuineness of (i.e. legalise) signatures on foreign documents for production in Ireland. There is a statutory charge of €15 for this service.

m) Law

Civil Registration Act of 2004 (CRA); Status of Children Act of 1987; Family Law Act of 1995; Adoption Act of 1952; Legitimacy Act of 1931; Custody Act of 1964; Common Law (Judicial Decisions till 1922; Nationality Act of 1956; Domicile and Recognition of Foreign Divorces Act 1986

Current versions of the texts of the legislation are available: <http://www.irishstatutebook.ie>

n) eGovernment

Online Services for Citizens

Portal

Reach services is Ireland's eGovernment portal, providing a single point of access to informational, interactive and transactional public services. The Reach services portal at <http://www.reachservices.ie> is the user-facing interface of the Public Services Broker (PSB), Ireland's central eGovernment infrastructure. The portal includes a single identification and authentication process and a single electronic payment facility. Thus, the enhanced version of the portal allows registered users to conduct transactions with government from one central access point at any time. In addition, information for citizens is available from a website: <http://www.citizensinformation.ie>

National Identification Number

The Personal Public Service (PPS) Number, given at birth, was introduced in 1998 as the unique customer reference number for transactions between individuals and Government Departments and other public service agencies. The PPS Number was formerly known as the Revenue and Social Insurance (RSI) Number.

Civil Status Website

<http://www.groireland.ie/>

Civil Status Documents

The civil status website has information and application forms available for download. It is hoped that an ongoing government project called REACH will enable the General Register Office to introduce a certificate online service.

2. Birth

Since the introduction of electronic registration, the allocation of a Personal Public Service Number (PPSN) to a child at Registration will be processed automatically, thus establishing a child's Public Service Identity and the creation of family links on the national central database for all citizens.

A Birth Notification Form is given to mothers in hospital and should be completed and returned to hospital staff before the mother is discharged. The form will be forwarded to the Registrar's Office letting the registrar know that a birth/ stillbirth has occurred. Otherwise a person authorised by the Chief Officer of the maternity or other hospital where the birth occurred, or, if not a hospital birth, the registered medical practitioner or midwife who attended the birth is responsible for declaring the fact of the occurrence of birth. Copies of the Birth Information Notice are furnished to the Civil Registration Service (for registration purposes), the HSE (for public health purposes), the Department of Social, Community and Family Affairs (payment of child benefit) and the Central Statistics Office (statistical purposes)

The Civil Registration Act 2004 requires the parent(s) of a new-born child, not later than 3 months from the date of the birth, to attend in person before any registrar of births, to provide such information as is required to register the birth and to sign the register of births in the presence of the registrar. A marriage certificate (translated if necessary) is required if the parents claim to be married to each other (however, if the marriage took place within the State, information sufficient to allow the registrar to locate the entry within the marriage register is sufficient. Original or notarised copies of any civil divorce, nullity or legal separation documents are required if applicable. Proof of

identity, such as a passport, driver's licence or other photographic ID is an administrative requirement.

There is no legal deadline after which a birth cannot be dealt with as a late registration. A birth certificate is a requirement for a large range of services, both state and commercial, and the unavailability of the certificate due to failure to register has consequential implications for access to these services. Section 19(1) provides for compulsory registration by the parent(s) within 3 months of the birth and failure to do so, without reasonable cause, is an offence under section 69 (11). Section 70 (2) provides that a person guilty of such an offence shall be liable on summary conviction to a fine not exceeding €2,000 or imprisonment for a term not exceeding 6 months or both.

If the birth has not been registered at the end of this three month period and all efforts to contact the parent(s) have failed, the birth will be registered by one or other qualified informants, such as:

- designated member of the staff of the hospital (or other institution, organisation or enterprise) where the birth took place
- any person present at the birth
- any person present in the dwelling where the birth occurred
- any person who has charge of the child
- a person appointed guardian of the child
- a person found to be the parent of the child by order of the courts.

A registrar has the authority to require a Qualified Informant to comply with the registration procedures. The written consent of a Superintendent Registrar is required if a birth is not registered within 12 months ("late registration") and contemporary documentary evidence may be required to support the application to have such a birth registered.

If the birth concerns the birth of a child on board an Irish aircraft or an Irish ship, the birth of a child of an Irish citizen on board a foreign ship or a foreign aircraft travelling to or from a port, or an airport, as the case may be, in the State, or the birth of a child of a member of the Garda Síochána or the Permanent Defence Force outside the State while the member is serving outside the State as such member, it may be registered under section 27 CRA. If the birth occurred outside the State (other than a birth to which section 27 CRA applies) of a child of an Irish citizen domiciled in the State, and there was not at the time of the birth a system of registration of births in the place where the birth occurred or such a system that applied to such a child, or it is not possible to obtain copies of or extracts from civil records of the birth, it may be registered under section 26 CRA. With the exception of the provisions of sections 26 and 27 of the Civil Registration Act, the State has no jurisdiction over births occurring abroad and there is no requirement or provision for declaring births abroad to national authorities.

Stillbirths are registered into a special Stillbirth Register, if the baby weighs at least 500 grams or has a gestational age of at least 24 weeks.

a) Birth Certificate

There are two forms of a Birth Certificate, a short form and a long form. The long form Certificate will be required for most legal and administrative purposes. Certificates of Birth can be obtained on request only from any registrar's office, regardless of when or where the birth took place or from the General Register Office.

The information recorded in the Register of Births or Stillbirths are:

- pregnancy duration
- declaring person's name and address
- birth order
- the name of the hospital where the child was born
- marriage state
- time, date and place of the birth of the child.
- gender of the child.
- birth weight
- multiple or singleton
- the personal public service number (PPSN) of child which is allocated at registration
- the forename(s) and surname of the child
- the weight and gestational age of child in case of a stillbirth
- forename(s) and surname of both parents, as they are known at the time of birth
- each parent's birth surname, if different than the current name
- all other previously used surnames of the parents (if any)
- each parent's normal occupation, described as accurately as possible (e.g. "Clerical Officer, Department of Health and Children" not Public Servant), and if currently unemployed, the most recently held previous occupation, or "Homemaker" as an acceptable term for a parent working in the family home
- each parent's normal address at the time of the birth
- each parent's date of birth
- each parent's marital status at the time of the birth
- each parent's personal public service number
- the surname each parent's mother

Certificates relating to births which were registered prior to 01.10.1997 do not include certain details relating to the parents of a child nor do they include a surname for the child. The recognition of the change of gender is currently not possible under Irish Law. The gender is determined at birth through biological characteristics which cannot be changed. A transsexual cannot have the birth certificate altered.

Re-registrations under sections 23 CRA (parental recognition where parents are not married to each other) and 24 CRA (parental recognition where parents subsequently marry each other) may amend the original entry to add the father's particulars and change the child's registered surname. Adoption results in the substitution of the adopted parents' particulars for those of the birth parent(s) and in other amendments when a birth certificate for the adopted child is issued. Change of name (except as specified in this reply) is not grounds for an amendment.

b) Cost

There is no fee charged for the registration of a birth, or for re-registration to include a parent's details. There is a fee of 5 euro for insertion or alteration of a forename. Fees are charged for Birth

Certificates. A birth certificate is issued for social welfare purposes at a reduced cost, otherwise the fees are:

- 10 Euro for a full standard certificate (8 Euro per extra copy)
- 1 Euro for a full, short copy (e.g. for social welfare purposes)
- 6 Euro for an uncertified copy of an entry in the Register (4 Euro per extra copy)
- 20 Euro for a full, authenticated copy of a birth certificate

A Stillbirth Certificate is issued at time of registration for 8 Euro. Thereafter, only available from General Register Office for 10 Euro. The medical certificate of weight and gestational age is free of charge.

c) Recognition

The mother is the woman who has born the child. There is no provision for the recognition of maternity in Ireland.

Where a woman is in a subsisting marriage at the time of the birth, section 46 of the Status of Children Act, 1987, provides that the spouse is presumed to be the father, unless this presumption is rebutted. Paternity may be rebutted by making a statutory declaration.

For children of parents who are not married to each other, a presumption of paternity arises from a father's name being entered in the Register of Births. No man who is not married to the mother is required to give information concerning a birth, nor may his particulars as father is registered, without his consent or unless he is named on the face of a court order in proceedings involving maintenance, guardianship, custody or access, which is subsequently presented to the registrar by either or both parents. There are different options for registration, including the father's details, where the mother and father are not married:

Both the mother and father can jointly request the registration, by attending the Registrar's Office together and jointly signing the register. In the alternative, if the mother completes a declaration form naming the father and the father completes a declaration form acknowledging that he is the father of the child, either parent may bring both documents to the registrar. In this case, the mother signs the birth registration. Further, either parent may present in person a court order to the registrar naming the person to be registered as the father and sign the Register of Births.

If the mother marries after the birth of her child, and if the father's name has not already been entered in the Register of Births, she may re-register the birth. It is also possible to enter the father's details if the mother is married to someone else.

The re-registration of a birth may be effected only in either of the following two circumstances:

- where the parents of a child who are not married to each other wish to have the father's details included where these details were not registered initially
- where the parents of a child marry each other after the birth of their child.

The Registrar is to refer the relevant papers to the Superintendent Registrar for the appropriate authority to be issued providing for the re-registration. Where a birth is re-registered the initial entry will be retained but all Certificates will be written from the new entry.

Where a father's name is not entered in the Register of Births, paternity can also be established through the courts on application of the mother, of the child, both to either deny or to establish parentage, and of a father who claims not to be the father.

3. Marriage

Marriage by civil ceremony is a civil contract. Marriage by certain religious ceremonies is also recognised. The procedure is the same: the Registrar issues Marriage Registration Form (MRF), following notification, which gives authorisation to get married and is presented to the person solemnising the marriage. Following the marriage ceremony, the completed MRF should be given to a Registrar, within one month of the marriage ceremony, for the marriage to be registered.

The Republic of Ireland does not recognise registered partnerships or same-sex marriages whether homosexual or heterosexual.

There is no residency requirement, but a couple intending to get married in Ireland are required to give notification in person of their intention to marry to a Registrar at least 3 months before the intended date of the marriage. In very restricted circumstances the notification forms may be sent by mail, in which case the applicant must meet the Registrar in person at least 5 days before the marriage to make a declaration of no impediment.

a) Personal Requirements

In order to marry,

- both parties must be 18 years old, or obtain a court exemption order, a parental consent being neither required nor possible
- the parties must be of opposite sexes - a person's gender being the one he/she had at birth
- the parties must have the mental capacity to understand the nature of marriage
- the parties must be single
- the parties must not be related by blood or marriage in a prohibited degree which applies to a wide range of family relationships and include marital and non-marital offspring, namely kin in the direct line, and in the lateral line between siblings, between aunt and nephew or uncle and niece, and their former spouses, between step-parents and their children and step-grandchildren as well as step-grandparents and their grandchildren, between a person and the former spouse of a grandparent, parent, child or grandchild, the former in-law's parents and grandparents and their siblings, an adopted child being within the prohibited degrees in relation to its natural family and adoptive parents; there being no legal restriction on the marriage of first cousins and on the marriage with a former spouse's sibling, and it would appear an adopted child can marry the child of his/her adoptive parents.

b) Preliminary Procedure

Notifications can be taken only by prior appointment with the Registrar. While three months' notice is required by law, couples are advised to contact the Registrar well over three months before their intended date of marriage to ensure a timely appointment. An exception in respect of minimum time may be granted by order of the Circuit Family Court or the High Court as set out in S 47(2) of the Civil Registration Act, 2004. The notification details will be entered on a computerised notification system by the Registrar on the basis of the information given by the couple. When attending the Registrar's office in relation to the notification, the couple must also pay the notification fee of €150 and provide the Registrar with evidence of their name, address, age, marital status and nationality.

A person may at any time before the solemnisation of a marriage lodge an objection in writing with any registrar and the objection shall state the reasons for the objection. Objections are investigated by the Registrar General and his decision may be appealed to a court. If the proposed marriage is prohibited on the grounds that the General Register Office does not consider that a foreign divorce

is not entitled to recognition, a declaration that the divorce is entitled to recognition may be obtained from a court.

When the Registrar is satisfied that all required details have been provided and that the couple are free to marry, and no valid objection has been filed, the Registrar will issue a Marriage Registration Form (MRF) based on the information the couple has provided. The form is given to whoever will be solemnising the marriage. A Register of authorized Solemnisers of Marriage is maintained by the General Register Office. There are currently about 90 Solemnisers for civil marriages, almost 4.000 registered Solemnisers of the Roman Catholic Church, of whom 450 have their parish in Northern Ireland, around 900 representatives of other Christian churches and denominations including three German Lutheran pastors and two Greek Orthodox priests, two Solemnisers of the Jewish Community, four Baha'i, eight Buddhists, and four Imams of the Islamic Community.

c) Documents

No specific documentary requirements are laid down by law, but most registrars will require the following

- Passport or driving licence as ID (including proof of age)
- PPS Numbers (where either or both of the parties have one)
- in the case of a divorced person a copy of the divorce decree, and in the case of widowed person, the marriage certificate and the death certificate of the deceased spouse.

All documents must be submitted in English. In addition to their personal particulars, the couple will be requested to provide details in relation to their proposed marriage such as the intended date of marriage, whether they require a civil or religious ceremony, the names and dates of birth of their witnesses, and details of the proposed solemniser and venue.

In the case of a divorce granted by a Court of another State, consideration is given to the question of whether the divorce is recognisable under Irish law. In this regard certain information as to place of birth, countries of residence and other relevant facts must be supplied on a questionnaire provided by the Registrar. The information is then forwarded to the General Register Office, whose consent must be obtained before the ceremony can take place.

It should be noted that an annulment granted by the authorities of the Roman Catholic Church does not have any effect in civil law and persons who have obtained a church annulment only are not free to remarry in civil law.

d) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in Ireland.

Certificates of no impediment are issued by Irish embassies or consulates, and in Ireland by the Consular Section of the Department of Foreign Affairs in Dublin or for the Munster area in Cork. The applicants must both attend in person and provide the birth certificates and, if relevant, divorce or annulment certificates. In addition, the Irish applicant is required to make a solemn declaration that he or she is free to marry. In most cases the certificate will be given to the applicant. For applicants who wish to marry in Italy, the certificate is sent by the Irish embassy in Rome to the district where the marriage will take place. The general fee is € 20,00.

e) Marriage by Civil Ceremony

Marriages by civil ceremony may take place in the Office of a Registrar of Marriages or other venue (except in case of certified illness), provided the venue has been inspected and approved by

the Health Service Executive in advance of the marriage ceremony and subject to a Registrar being available to solemnise a marriage at that venue on the date in question. The service of an interpreter must be obtained where any of the parties to the marriage, the witnesses or the solemniser do not have sufficient knowledge of the language of the ceremony to understand it. It is the responsibility of the couple to arrange this service and the cost is a personal matter between the couple and the interpreter. The personal appearance of the couple is compulsory. Marriage by proxy is not allowed. Two witnesses are required and they must be over 18 years of age.

f) Marriage by Religious Ceremony

Marriages according to the rites and ceremonies of the Roman Catholic Church, the Church of Ireland, the Presbyterian Church, the Society of Friends, the Jewish religion and of certain other Religious Bodies may be celebrated provided that, the Solemniser has been registered and the church or building has been licensed, certified or registered for the purpose of marriage. At the end of the ceremony, the solemniser, the couple, and the witnesses must all sign the MRF. The completed MRF should be given to a registrar (not necessarily the registrar who issued it) within one month of the ceremony, so that the marriage can be civilly registered.

g) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- marriage date
- place of marriage
- surnames before marriage
- home address
- date of birth
- age
- marital status

h) Cost

The cost of a civil marriage is €100 (payable to the Registrar of Civil Marriages). The entry in the Marriage Notice Book costs 40 Euro. A certificate of the entry in the Marriage Notice Book or a Marriage Licence costs 10 Euro. The charge for having the marriage solemnised in the presence of a Registrar is 50 Euro. When notice is served in two different districts, the appropriate fee is payable in both districts. The cost of the marriage is then €150.

i) Divorce/Separation/Annulment

The Circuit Court, concurrently with the High Court, has jurisdiction to determine application for divorce/judicial separation/annulment. Application for divorce/judicial separation in the Circuit Court is commenced by way of Civil Bill in the relevant Circuit Court office and the procedure is governed by Order 59 Rule 4 of the Circuit Court Rules 2001. Application for divorce/judicial separation in the High Court is commenced by the way of Special Summons which is issued out of the Central Office. The procedure is governed by Order 70A of the Rules of the Superior Courts (S.1 No. 343 of 1997). Application for nullity in the High Court is commenced by filing a Petition in the Central Office. The procedure is governed by Order 70 of the Rules of the Superior Courts.

Divorce may be granted if the parties have been living apart from one another for a period amounting to four out of the previous five years before the application is made, if there is no

reasonable prospect of reconciliation, and if proper arrangements must have been made or will be made for the spouse and any dependent members of the family such as children of either party and other relatives. Judicial separation is granted either on fault of the other spouse, (adultery, unreasonable behaviour or desertion) or on separation of one year (with consent) or of three years (without consent). The court may also grant separation if it considers that a normal marital relationship has not existed between the spouses for at least one year before the date of the application for the decree. The decree of separation may also be utilized to obtain a decision on arrangements for the spouse and dependent members and to prove separation for a later divorce.

4. Name

In Ireland, children are given first names and a surname. Neither nobility titles nor academic titles are registered. Section 28 of the Civil Registration Act, 2004 provides for the registration of stillbirths. A stillbirth is registered in the stillbirth register, the First Schedule Part 2 provides for the particulars to be entered in the register and these particulars include both forename and surname of the child. Assigning the first name and the surname to a found or orphan child is a matter for the person who acts as qualified informant.

First Name

The name of the child is given by mutual agreement of both parents. They may register any first name they wish for their child of up to twenty letters in length. There is no restriction on how many first names can be chosen. It may be the case that a pen name or nickname be registered as a first name. The registrar shall if it appears to him to be satisfactory change or alter the registered first name in the entry in the register or add a first name or first names to the entry, or if the first name of the child has not been registered, register the first name of the child. Where a first name is changed, altered or registered or one or more first names are added, the then existing entry concerned shall be retained in the register, the change, alteration, registration or addition shall be deemed for all purposes to be and always to have been part of the original entry and the first name or first names in the register may not be further changed, altered or added to.

Surname of a Child

A surname is entered in the Register of Births in respect of each child when his/her birth is being registered. The surname of the child recorded in the Register of Births must be either the surname of the father or mother or of both (hyphenated, in any order) as shown in the Register or any other surname that is requested by the parents and the Registrar-General or a Superintendent Registrar is satisfied on written application of the parents that the circumstances warrant the entry of this surname. The surname of a child may be recorded subject to any necessary linguistic modifications (e.g. Irish or English version of a surname). The surname of the father may only be entered as the surname (or part of the surname) of the child in cases where the father's details are included in the entry in the Register of Births.

The surname to be recorded for a child in the Register of Births should be carefully considered. In cases where the details of both parents of a child are registered, it is not possible to change the surname of a child in the register once the birth has been registered unless the parents marry following the birth.

The father's name can be entered in the Register of Births by:

- Both parents attending the registrar in the hospital or office together or
- Either parent presenting to the registrar a statutory declaration acknowledging paternity and signed by the other parent or

- Either parent bringing to the registrar a copy of a court order which names the father of the child (e.g. maintenance, access, guardianship order).
- If the woman is married to a man who is not the father of her baby and she wants to put the father's name on the birth certificate:
- In order to proceed she must have a sworn statement from the father swearing he is the father and have either:
 - A sworn statement from her husband saying he is not the father, or
 - A deed of separation and a sworn statement from her saying she is living apart from her husband for more than 10 months before the birth of the child, or
 - An Irish divorce obtained at least 10 months before the child was born. (A foreign divorce must be referred to the General Register's Office), or
 - Any court order which names the father as father.

a) Surname on Marriage

There is no legal or other obligation on anyone in Ireland to change their name on marriage.

Name Change

Any person living in Ireland can change his name (first name and surname) to any name simply by using their new name. This is known as changing the name by usage. However, the change of name by usage, will encounter difficulties when trying to get certain official documents. One may change one's name by formal Deed Poll or affidavit indicating that the person has ceased to use the former name. Neither of these methods can change the entry in the Register of Births.

Changing the surname of a child

The surname of a child can be changed in the Register of Births in certain circumstances:

- If the child has been registered in the mother's name alone, it is possible to re-register the birth at any future date in order to have the father's name included
 - If the birth was first registered before October 1997 then a surname must be chosen on re-registration as no surname was assigned at the original registration
 - If the birth was registered after October 1997 the surname already chosen can be changed where both parents consent
- If the child has already been registered in both parents' names, it is possible to re-register the birth to change the surname of the child:
 - Where the parents marry following the birth of their child and where both parents agree.
 - If the birth was re-registered to add the father's details between October 1997 and November 2002, and there was no option of changing the surname of the child at that time, a second re-registration can be done to change the child's surname where both parents agree.

Enrolment of a Deed Poll

In Ireland, a 'Deed Poll' is a signed declaration by a person that binds him/her to a particular course of action from the date of signing. A Deed Poll for a change of name contains declarations (in other

words a sworn statement or affidavit) that the person is abandoning the use of the old name and that he will use his new name at all times and that he requires everyone to use his new name. The advantage of changing the name by Deed Poll is that a record of the change is kept for future identification. This can be attached to the birth certificate, is acceptable for most administrative procedures and provides an easy and inexpensive solution to most of the difficulties that can arise when a person changes his name.

If the person applies to officially change his name in Ireland, the Deed Poll registers the name change with the High Court. A Stamp Duty of 30 Euro is charged for this registration.

b) Minorities

There is no law which prohibits a person belonging to a national minority from using his or her surname and first name in the minority language. Surnames in law may be acquired by repute and usage and are not determined by details in the Register of Births.

IT – Italy

1. Civil Status Registration System

Italy has an event-based civil registration system.

The official language of Italy is Standard Italian. 22 other languages enjoy some form of official recognition. All civil status acts are performed in Italian; in the area of Bolzano, civil status acts are performed in Italian and German. The Italian alphabet is a variant of the Latin alphabet and contains 20 letters. The "missing" letters may be used for foreign or non-naturalized words and their derivatives. The Italian language has extended the Latin alphabet with ligatures, modified letters and digraphs. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-1 and ISO 8850-16.

Italy has a population of 59.131.287 (2006) and is subdivided into 20 regions (regioni, singular regione). Five of these regions enjoy a special autonomous status. Regions are further divided into provinces (provincia). As of 2006, there are 110 provinces in Italy, three of which are newly organized, and will be effective only as of 2009. A commune (comuni) is part of a province. The term "municipality" is reserved for subdivisions of larger comuni (in particular, the commune of Rome). Currently Italy has 8101 communes.

Jurisdiction regarding civil status lies with the Ministry of the Interior. In particular the competences of the Ministry of the Interior are:

- to give instructions to registrars;
- to regulate and to organize qualification courses for registrar duty;
- to issue/grant decrees for surname changing or addition of another surname.
- The Prefectures competences, to which already Art. 235 of legislative decree of 18.2.1998 has been transferred jurisdiction on matter of verification and certification of register of births, marriages and deaths, are:
 - to exercise and control civil status offices;
 - to receive, to prepare and to give advice on change or addition of surname applications;
 - to issue decrees of change of name or addition of another name or change of surname;
 - to verify, at least once a year, the regular keeping of civil status deeds.

a) National Index of Registry Offices

Between 2005 and 2009 all 40 million paper based identity cards will be replaced by Electronic Identity Cards (Carta d'identità elettronica - CIE). INA is a national registry referring to the personal data of all registered citizens. Public authorities can query, validate and update such data. For each entry the INA holds a pointer to the local authority of the citizen in case more detailed information is needed. The INA can be used by all interested authorities for querying and validating a citizen's personal data. The INA is also used in the issuing process of the CIE for validating the citizen's personal data. All municipalities are responsible for updating the INA by communicating a change of residence, immigrations, emigrations, births and deaths. For Italians living abroad there is a special registry office (AIRE), which is the pendant to the INA and holds the data of Italians living abroad.

b) Civil status Office and Staff

Each commune has a civil status office having the task of keeping the registers of citizenship, births, marriages and deaths, on the basis of statements and certificates released to the Civil status officials. These acts are proof, unless cancelled by a court decision, of what the officials certify as having occurred in their presence or having been carried out by them. The central office of the commune (Ufficio Anagrafe di Stato Civile) centralizes the information if several offices are involved.

The tasks of the municipal civil status offices are:

- delivery of civil status documents
- updating of registry acts;
- registrations of marriage, death, nationality, divorce, property choice, adoption, change of name or surname, birth acts (acknowledgements - adoptions), banns, marriage acts, nationality acts, death acts; transcription of births, marriages, deceases (also coming from abroad), transcription of acknowledgement sentences, of Court of Appeal sentences, of act formation, of correction, of marriage nullity issued by ecclesiastic authorities.

Executive and de facto civil status officer is the mayor, who can delegate functions to municipal employees (civil servants, secretary of town hall or the president of the district). Nationality questions and the celebration of marriages can be handled by members of the city council or by Italian citizens meeting the conditions of an elected member of the city council. Registrars are independent in performing civil status acts. Professional training has recently increased and there are ambitious efforts to adopt regulations on the content of such training and to create a specific diploma. Other officers of civil status are diplomatic and consular officials, navy police chiefs of military ships (Article 203 Navy Code) and captains of trading vessels for the births and deaths at sea, aircraft commanders for births and deaths which have occurred during a flight and conductors for the births and the deaths which have occurred during a train journey.

Against the behaviour of civil status officers, a complaint may be lodged to the court at first instance. Appeal against the decisions of this court lies with the court of cassation.

c) National Association of Registrars

The Italian Association of Registrars (Associazione Nazionale Ufficiali di Stato Civile e d'Anagrafe, ANUSCA) is the main authority for the development of a professional qualification of civil status registrars and for the provision of training to those working in the Registration Service, together with the Italian Communal Association (ANCI). Furthermore ANUSCA maintains a Civil status Academy, promotes the recognition of professional-status of those working within the

registration service, disseminates information and advice by publishing some professional journals, provides a consultative body, actively seeks development opportunities, promotes opportunities for the exchange of views, responds to government consultations, organises seminars and conferences and has established a website (<http://www.anusca.it>). ANUSCA is a member of the European Association of Registrars (EVS).

d) Civil Records

Birth, marriage, and death records are the most important civil registration records (registri dello stato civile). In addition, civil registration may include documents required for marriage, miscellaneous records (such as stillbirths), deaths occurring in other cities or countries, and legitimations or parental acknowledgements (ricognizioni).

Italian civil registration began officially as Italy became a unified country between 1860 and 1870. In most areas, the civil records began in 1866 and continue to the present. The registers are divided into separate volumes for each year. Records kept in the south used standardized forms. Many records in the north are handwritten, although they contain basically the same information. The records were almost always kept in Italian, except for some records kept during the rule of foreign powers such as France and Austria. In the northern regions, many records are in French and German, and given names were often written in the “ruling” language even though the person’s name was Italian. Some church records were transcribed into civil registration records. Transcribed church records are in Latin.

Article 10 Law No. 396/2000, entered into force on 31.03.2001 envisages a national electronic civil status register but until now it has not yet been established. The civil status offices maintain a birth, marriage, death and a nationality register of nationals residing in Italy and abroad. Until 2001 a copy of each record was sent to the Procura Della Repubblica in the provincial capital. Because the civil records are legal documents and needed for government purposes, such as military draft, the duplicate was held by the Tribunale (district court). Since 2001 the doubles are held by the prefectures (Article 109 Presidential Decree No. 396/2000). When each commune has replaced its registers with data-processed files, the computerized double will be preserved by the Ministry of the Interior (Article 10 Presidential Decree No. 396/2000). Acts drawn up abroad are preserved by the diplomatic and consular authorities. The double is sent to the authorised commune in Italy (commune of the last residence or failing this, Rome).

e) Correction, Amendment and Cancellation of Civil Records

Errors can be corrected locally by civil status officers. They have the obligation to inform the prefect and the public prosecutor of the correction. An interested party or the public prosecutor can apply to the court within the jurisdiction of which the register in question is located for an order to object the correction (Article 454 CC; Article 98 Presidential Decree No. 396/2000). Transcribed foreign acts can be corrected only on the basis of a court judgement upon the application of an interested person. The Court's decision is forwarded to the civil status officer; the correction is made in the form of an annotation in the margin of the certificate.

Certificates are not amended at a later date but annotations on the certificates are used to establish a relationship between two civil status acts, or between an act and a court decision. An annotation is a brief reference to the new act or decision on the margin of an act previously recorded or transcribed, changing the civil status of the person concerned.

A civil status act can be cancelled if its essential content is false or the act is irregularly drawn up although its content is exact. Cancellation is pronounced by the court. The delivery of a copy or an extract of a cancelled act is not possible. The reconstitution of a cancelled or lost record is made by the court by filling the gap with a copy of the double stored records. If both originals are destroyed

or lost, acts may be reconstituted by the court on the request of the public prosecutor using judicial and notarial documents. The Minister of the Interior may delegate the task to a local commission.

f) Access and Documents

The civil status registers are public in so far as any citizen can obtain certificates, extracts and copies but the public is not permitted to directly consult the registers.

Applications for certificates from registry acts (certificate of residence, family status, etc) and from civil status acts (birth certificate, marriage certificate, etc.) may be made at the Civil status Office (Ufficio di Stato Civile) of the Municipality or at the General Registry Office (Ufficio Anagrafe). In small towns, the General Registry Office and the Civil status Office are virtually the same place but this is not so in large towns and cities. Other authorities entitled to deliver civil status documents are the prefects and the Ministry of the Interior if it is impossible to get access to the data held by the communes. Civil status documents are valid six months.

These offices issue integral copies (copy integrali), extracts (estratti per riassunto), certificates (certificati) and the international family record book.

An extract contains the most important information reflecting the civil status of a person at the time of her delivery. An integral copy is the reproduction of the original act with the annotations. The international family record book is a collection of extracts. The extracts as well as the certificates of birth, marriage and nationality are in theory without indication of filiation. Birth extracts and birth certificates with paternity and maternity are issued upon request and presentation of documents.

Italian regulations explicitly prohibit keeping adoption secret to the adopted child: Art. 28 (1) of Law 184/1983 states that the adopted minor "is informed" of his/her condition by the adoptive parents, who are free to choose the best time and way to do it. Art. 28 (1)-(2) of Law 184/1983 prohibits officials in the register of births, marriages and deaths and any public authorities from disclosing information or certificates which might reveal the status of adopted child or the identity of biological parents, except when it is necessary to assess the existence of impediments to marriage or upon specific permission of the judicial authority. To avoid any form of stigmatisation or discrimination against the child who does not have parents, or who is the child of only one acknowledged parent, the extracts of the register of births must be released only in summary form (except when the public prosecutor of the republic authorizes the release of a full copy), omitting any indication which shows that the paternity or maternity is not known and indicating only the name of the parent or parents who have acknowledged the child (article 186 of Royal Decree No. 1238 of 9 July 1939).

g) Archives

The Italian system of record depositories is roughly divided into the following subdivisions: Archivi Comunali (Town Archives), Archivi di Stato (State Archives), Archivio Centrale dello Stato (the Central State Archive), Archivi Parrocchiali e Diocesani (Parish and Diocesan Archives) and Archivi dei Distretti Militari (Military Archives).

In the commune, records are kept in the Ufficio di Stato Civile (Civil status Office) or in the Archivio Comunale (town archive). The Ufficio di Stato Civile or Anagrafe di Stato Civile is not technically an archive. It is the repository for vital records, and files are stored there for the actual registry and use. It keeps documents from about 1870 to the present under a special legal status. It is not possible to search through the registers in person, but a person can request searches to be conducted. Searches can be requested for atti di nascita (birth records), atti di matrimonio (matrimony records), certificato di morte (death records), and certificato di residenza (certificate of residency). A civil record unique to Italy is beginning from 1869 the stato di famiglia, or state of the

family certificate. The certificate is issued by the Ufficio Anagrafe of the Comune and it contains names, relationships, birth dates and birthplaces of all family members living at the time the information was recorded. Almost each commune has an Archivio comunale or Archivio Storico Comunale (town archive), generally divided into pre-unitario and post-unitario (before and after unification of Italy) sections. Prior to the unification of Italy in 1861, parish churches kept all records of baptism, confirmation, marriage and death, many of these records were later transferred to the local Dioceses offices and archives located in the major cities. The parish church may direct the applicant to the appropriate Dioceses Archives.

h) Foreign relations

Some Italian civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Some Italian civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States (e.g. Austria, Germany, Sweden and Switzerland).

i) Consular Services

The Civil Registry of an Embassy or Consulate handles, just as an Italian municipality does, the registration, updating and maintenance of the civil registry of Italians abroad. In particular, the consulates receive acts emitted by foreign authorities and transmit them to Italian municipalities for registration. All certificates denoting civil status issued by the local authorities have to be presented in original and, where necessary, authenticated and translated into Italian in order for the consulates to send them to the competent municipality.

The Civil Status department of a Consulate, in addition to handling the four registry offices, assists citizens residing in its jurisdiction to complete the following procedures:

- writing of marriage bans and posting them at the consulate;
- celebration of consulate weddings, if permitted by local law or the consular agreement;
- transmission of requests addressed to the authorised prefecture to change a name;
- receipt and transmission of separation and divorce decrees for the purpose of registration in the Italian municipalities;
- issuance of a certificate of no impediment

In order for Italian citizens who have established their residence abroad to register births, marriages and/or deaths (and to obtain related certificates), they must be registered in the Registry of Citizens Residing Abroad (AIRE) (Law no. 470/1988). All Italian citizens who intend to live abroad are required to register at an authorised Consulate within 90 days of arriving in their country of residence. Such registration is also necessary in order to obtain documents and certificates issued by the Consulate as well as requests for passport renewal or issuance, and for voting in elections. Registration with the Consulate significantly reduces the time required for all procedures.

An Italian citizen is obliged to inform his/her municipality of origin, as well as the Consulate, of all registry data changes (marital status, citizenship, address, family composition and residency).

In addition, if it becomes known to the Italian authorities that an Italian citizen has taken residence abroad, registration with AIRE will also occur without any direct initiative on the part of the citizen concerned, who will, however, be notified of the fact by means of an administrative act of the municipality, which will be communicated, in turn, through the Italian Consulate where he/she resides. Persons wishing to request registration with the AIRE of an Italian municipality should do

so at the Italian Consulate in the place where they reside abroad, where they will have to show the following documents:

- valid Italian passport
- proof of stable and legal residence abroad

The Italian municipality automatically incorporates changes in data if these take place inside of Italy, but if the citizen resides abroad the Italian municipality can only be made aware of changes by that Italian citizen and through the Italian Consulate where he/she is living. Italian citizens living outside of Italy are obliged, therefore, to notify their local Italian Consulate of any change regarding:

- address abroad;
- citizenship;
- marital status;
- composition of nuclear family;
- name change.

Notifying the Consulate of changes regarding registration data, in addition to being a citizen's duty, allows the Italian Consulates to maintain updated records regarding their citizens residing abroad, thus facilitating both the distribution of all services requested in Italy and abroad, as well as communication between the Consulates and Italian citizens living within their jurisdiction.

Registration of the birth of the child of an Italian citizen abroad

Children of parents of whom at least one is an Italian citizen, even if they are born abroad and have citizenship in another country, are Italian citizens and, consequently, their births must be registered in Italy. In order to register a birth it is necessary to bring the following documents to the Consulate:

- birth certificate issued by the civil registry of the country of residence, translated into Italian by an official translator
- documentation proving the Italian citizenship of at least one of the parents (identity card, Italian passport, certificate of Italian citizenship).
- if married abroad, registration in Italy of said marriage.

A marriage celebrated abroad must be transcribed in Italian at the authorised municipality. An Italian citizen duly registered with AIRE will have to ask that the wedding bans be posted at the consulate and will then be able to be married either before the authorised foreign authorities or at the consulate. An Italian citizen residing in Italy will have to request that the marriage bans be posted in the municipality of residence in Italy and may then be married before foreign authorities. The persons concerned are then required to bring the marriage certificate issued by the local authorities, with relative translation and eventual authentication, to the authorised consulate to be forwarded to the authorised Italian municipality for registration.

Registration in Italy of a divorce ruling pronounced abroad

The documentation required for transcription of a foreign divorce decree in Italy is:

- the final ruling (original or authenticated photocopy), with a certificate pursuant to Annex I of Council Regulation (EC) No 2201/2003 if the ruling is from a court in another EU Member State,

- official translation of the ruling, unless there is a form provided as above,
- self-certifying affidavit
- photocopies of all the documentation presented.

These documents need to be in certified copy bearing the authentic stamp of the court. If the documents are valid according to the law of the country of issue, the Consulate sends the documents to the Italian municipality for the registration of the court's verdict.

Registering the death of an Italian resident abroad in Italy

The death of an Italian citizen abroad has to be registered in Italy. Documents necessary for registering deaths are:

- death certificate issued by the competent registry office of the country of residence, duly translated and authenticated (in cases where this is necessary);
- documentation of the deceased's citizenship: identity card, Italian passport or certificate of Italian citizenship.

j) Legalisation/Translation

The registry office does not accept documents, which are not duly certified or bear an Apostille.

Italy has concluded bilateral treaties abolishing legalisation of documents with Austria, Hungary, Germany, Switzerland, Spain and Malta.

Italy is a signatory to CIEC Convention Nr. 16 of 8 September 1976 on the issue of (multilingual) extracts from civil status records. Italy is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers and to the Convention abolishing the legalisation of documents in the Member States of the European Communities, signed at Brussels on 25 May 1987 (along with Belgium, Denmark, France, Italy, Latvia, Cyprus and Ireland). Under the first mentioned Convention, parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party. The latter exempts public documents from the procedures for certifying the authenticity of signatures, seals, stamps, etc.

Since legalizing foreign documents (certificates, acts, etc.) may be a problem, certificates can be replaced with self-certification (Law No. 15 of 1968). Self-certification is used in dealings with public administration and with agents and administrators of public services, who are obliged to accept it and simplify dealings with the Administration. Foreign citizens can use self-certification (substitute declarations of certification) for declarations on personal status, facts and qualities that are certifiable or attestable by public administration or other Italian individuals.

Copies of the documents are allowed, but such copies must also be legalized or made of the original documents, which have the certification (or Apostille) on it. All documents in a foreign language must be translated into Italian by a sworn translator.

The designated competent authorities in Italy are for judiciary acts, civil status acts and notarial acts: the Procuratore della Repubblica (Republic's Prosecutor) of the Tribunal of the relevant jurisdiction where the acts have been released and for all other administrative acts (signature of the mayor etc.) the Prefects competent by territory, for the Vallée d'Aoste the President of the Region and for the provinces of Trento and Bolzano the governmental commissary. The Apostille must be requested personally and is issued immediately. There is no fee payable for the issuance of an Apostille.

k) Law

Constitution of 27.12.1947; Civil Code of 16.03.1942; Law No.184 of 04.05.1983 on Provisions regarding the Adoption and Foster Placement of Children amended by Law No. 476 of 31.12.1998 on International Adoption ; Nationality Code of 05.02.1992; Royal Decree No. 1238 of 09.06.1939 on the Civil Status Payment (Ordinamento dello stato civile); Presidential Decree No. 396 of 03.11.2000 on the Simplification of the Civil Status Payment (Regolamento per la revisione e la semplificazione dell'ordinamento dello stato civile); Law No. 898 of 01.12.1970 and Law No. 74 of 06.03.1987 on the Dissolution of Marriage; Law No. 151 of 19.05.1975 on the Innovation of Family Law; Law No. 164 of 14.04.1982 concerning the rectification of gender assignment; Law No. 847 of 27.05.1929 and Law No. 121 of 25.03.1985 on the Implementation of the Concordat on Marriage; Act 218 of 31.05.1995 on private international law

Article 8 of the Italian Constitution envisages for the recognition of religious marriage, performed by other than the catholic church, an agreement between the State and the religious community: Law No. 449 of 11.08.1984 (Agreement between the State and the Waldensian Church); Law No. 516 of 22.11.1988 (Seventh Day Adventist Church); Law No. 517 of 22.11.1988 (The Assembly of God in Italy); Law No. 101 of 08.03.1989 (The Israelite Community); Law No. 116 of 12.04.1995 (The Italian Evangelical Church Unions); Law No. 520 of 29.11.1995 (The Italian Lutheran Evangelical Church).

Civil status including the right to a name, is governed by the national law of the interested party, except for the rights that derive from family relationships, to which the referral rules laid down by Act 218 /1995 apply on a case-by-case basis. As regards parent-child relationships, legitimate child status and citizenship are acquired on the basis of the national law of the parents or one of the parents at the time of birth. To establish the parent-child relationship, reference is made to the national law of the child at the time of birth. As regards adoption, in the case of adoption of a child for the purposes of giving him/her legitimate child status that is decided by the Italian courts, Italian law applies. For other conflict of laws' rules, Article 38 of Law 218/1995 contains detailed provisions on the different scenarios considered. As far as matrimonial matters are concerned, personal relations between spouses are regulated by the law of the common nationality of the spouses; otherwise they are regulated by the law of the State where the couple have mostly lived. Judicial separation and divorce are regulated by the law of the common nationality of the spouses; failing that, by the law of the State where the couple have mainly lived. In the latter case, if the foreign law does not provide for the above institutions, Italian law applies.

l) eGovernment

Online Services for Citizens

Portal

Italia.gov.it is an eGovernment portal for citizens, launched in 2002.

Civil Status Certificates

The national e-services strategy aims at reducing the use of certificates in relationships between citizens and government. A decree from 2000 (DPR 445/2000) specifies that certificates are not required anymore for administrative proceedings, and gives citizens the possibility to use self-produced declarations (autocertificazione) to substitute official certificates. Each administration can verify data declared by a citizen directly with the local administration involved (municipality).

2. Birth

The declaration of a birth is compulsory and the registration of birth must be made to the civil status officer at the Register of Births, Marriages and Deaths (Registro Comunale dello Stato Civile), (Article 67 of Royal Decree No. 1238 of 9 July 1939). An officer (Ufficiale di Stato Civile) will oversee the issuing of the Birth Certificate at the town hall. The child's birth certificate and a certificate of family status (certificato di stato di famiglia) are available from the general registry office (ufficio anagrafe).

When the child is born in a hospital or in a clinic, the registration of birth is carried out directly within such an institution in a simplified procedure. The declaration of birth is made orally, without witnesses, within 3 days of the birth at the hospital or clinic in which the child was born and is accepted by the director or a person who represents him. This has become the standard for most children.

Otherwise, declaration of birth is made within 10 days of the birth at either one of the following places:

- the civil status office in the town or city in which the child was born,
- the civil status office in the town or city of residence of the parents,
- the civil status office in the town or city of residence of the mother, if the parents are resident in different places,
- the civil status office in the town or city of residence of the father, when the parents are resident in different places and agree to register it there.

Registration is made by the person delegated by the hospital where the birth took place, one of the parents or their lawyer, or a person who has assisted at the birth. When the birth is registered with the civil status officer, the parents must exhibit the certificate of assistance at the birth issued by the doctor.

The failure to register a birth has been encountered in some cases and provision has been made to give the child an identity by way of a procedure of late registration of birth (Articles 68-69, Royal Decree No. 1238 of 9 July 1939). In some cases, the parents have hidden the birth in order to give the child to another couple who have registered the child as their own, committing an offence of forgery (art. 483, Criminal Code) punishable by imprisonment for up to two years.

The birth record of a foundling is made at the civil status office of the place where the child was found. The first name and the family name of the foundling are determined by the civil status officer.

Obligation of registration is incumbent on a large number of people and there is not imposing a statutory obligation on the *natural* parents as such to register a newborn child or to state their identity when registering it. Whoever registers the birth must respect the wishes of the mother not to be named.

In case of a stillbirth the civil status officer draws up a birth certificate indicating a reference to the death.

a) Birth Declaration

The birth declaration contains:

- the child's first name, sex, date, time and place of birth
- first name, surname, date of birth, nationality, marital status and residence of the parents, unless the mother does not wish to be named

- the declaring person's name, residence, date and place of birth
- data on medical assistance at the delivery
- singleton or multiple birth and birth order

At declaration the following documents should be presented:

- I.D. of one parent (or both if they are not married);
- a certificate of birth issued by the hospital (when registering the birth not at the hospital but at the Civil status Office).
- when recognising a child born out of wedlock: declaration from the parents' embassy or consulate which demonstrates that, in accordance with private international law, there is an authorisation (nulla osta) according to the national law of the parents' country
- foreign parents who intend to give the child the surname set down by their national law: consular or embassy declaration which demonstrates the exact surname of the child according to the laws of the country of the parents.

b) Birth Certificate

The birth certificate is the document issued by the Registrar or acting Registrar of the corresponding Civil Register or Consular Register, which certifies the birth. It indicates characteristics about:

- the child's first name, sex, date, time and place of birth
- first name, surname, date of birth, nationality and residence of the parent (if the parents are not married only the declaring person is indicated)
- the declaring person's name, residence, date and place of birth
- if necessary multiple births and birth order
- the number assigned to the act
- name of the certifying registrar and stamp

Certificates are not amended at a later date but annotations in the margin of the certificates are used to establish a relationship between two civil status acts, or between an act and a court decision. The marginal annotation corresponds to a brief reference to the new act or decision, in the margin of an act previously recorded or transcribed, changing the civil status of the person concerned.

Annotations relating to descent include decisions concerning the establishment of filiation, change of the parental force and legitimisation of a child by the marriage of its parents or court order. The adoption decree is mentioned in a marginal note to the birth certificate. Extracts show only the adoptive parents as the father and mother and do not disclose the adoption itself. When a marriage is celebrated, the act of marriage is recorded in the marriage register. The registrar of the birth place of each of the spouses is informed of the marriage so that the marriage can be mentioned in the margin of their birth certificates. When a divorce or annulment is pronounced, a copy of the judgement is sent to the registrar of the place in which the marriage was celebrated and to the birth place of the spouses so that the divorce or annulment can be noted in the margin of the relevant certificates. Furthermore, decisions relating to the change of the first name or surname, the nationality, the legal capacity, absence, presumed death and death are registered as annotations. A transsexual can after gender reassignment alter the birth certificate and have new certificates issued. The integral birth certificate (to which only public authorities have access) cannot be changed.

c) Recognition

A child descends from the married mother who gives birth to the child. Italy considers children who are born after the marriage as well as those who are born up to 300 days after the termination of a marriage to be born in wedlock.

A man who has lived with the mother for a period of not more than 300 and not less than 180 days before the birth is assumed to be the father of the child. This assumption can be invalidated only by a court decision which establishes that the child is not from the mother's husband. The husband is generally subject to a one-year time limit within he could contest affiliation (Article 244 CC). Other persons besides the husband have the right to contest affiliation. They include the mother within six months and the child within one year (Article 235 CC).

Filiation of a child born to unmarried parents is established by maternal and paternal recognition either at the same time the birth is registered or afterwards. The latter are made by declaration at the Ufficio di Stato Civile of any Municipality (at the Municipality in the Births Section), or by making a statement before a justice of the peace, before a notary or during testamentary declaration, as well as making a statement to issue at the same time as the celebration of marriage of the parents. In this case, the child acquires the status of legitimate child.

If the mother has recognized the child, the mother's consent is required for paternal recognition if the child is under sixteen, and that of the child if he or she is over that age (Art. 250 CC). The child's refusal is not open to legal challenge, unlike the mother's.

An incestuous child may be recognised only if, at the time of conception, the father and mother were unaware that they were related or if their marriage has been annulled. Recognition is then allowed only if the parent acted in good faith, subject to leave of the court, which is granted in the child's interest.

3. Marriage

Both, civil and religious marriages are recognized in Italy. There is no legal recognition for same-sex partners.

a) Personal Requirements

There is no specific residence requirement for marriages in Italy and no requirement of a residence permit for foreigners. A marriage tax is levied on non-resident foreigners.

A person who has attained eighteen years of age is of age to marry. Those who have reached the age of 16 may get married with the authorisation of the Juvenile Court (Tribunale dei minorenni). Applications may be brought by the spouses, the public prosecutor, the guardian or the parents.

Marriage is prohibited for those who are already married (Article 86 Civil Code). Women, who have been divorced or widowed less than 300 days, need an authorisation by the Court of Justice. Marriage is prohibited between blood relations in the direct line of ascent and descent, and between brothers and sisters of the whole or half blood, uncle and niece, aunt and nephew, the adoptee and his descendants, adopted children of the same person, the adoptee and children of the adopter. The court, on request of the interested parties can authorize the marriage between uncle and niece, between aunt and nephew. The authorisation can also be given for the marriage between blood relatives in the direct line of ascent and descent. Marriage is further prohibited if the marriage is entered into by two people, one of whom has been convicted of the murder or attempted murder of the other's spouse (Article 88 Civil Code). Marriage may be challenged if either of the party lacks mental capacity or was under the influence of violence, fear and error, or if marriage was simulated by the other party.

Depending on each of the grounds, invalidity may either be absolute and irremediable or may be challenged in court. Invocations of invalidity or applications contesting the validity may be invoked by spouses, the public prosecutor or anyone with an interest.

If the spouses acted in good faith (i.e. they were unaware of the impediment when they got married), the marriage is deemed valid until it is pronounced void, and the annulment is effective *ex nunc* (putative marriage). Children born or conceived during the marriage are considered legitimate and are therefore covered by the rule governing the separation of couples with children. Where only one of the spouses acted in good faith, the effects of the putative marriage apply to that spouse and any children. Where both spouses acted in bad faith, the marriage has effects on children born or conceived during the marriage, unless the voiding of the marriage is on the grounds of bigamy or incest; children born within a marriage that has been annulled on the grounds of bigamy may acquire the status of natural children of established paternity.

b) Preliminary Procedure

The couple wishing to marry should declare their intention to marry at the Registry Office (Ufficiale di Stato Civile) of the commune of residence signed in the presence of two witnesses. Foreigners also have to state under oath, in the presence of two witnesses, that there are no marriage impediments in accordance with articles 85, 86, 87 paragraphs 1-2-4, and articles 88 and 89 of the Italian Civil Code. If at least one of the parties is Italian or has Italian residency, banns must be posted at his or her residence or and if both parties have different places of residence, banns must be posted at both municipalities. The banns are displayed in the Town Hall for at least eight consecutive days (including two consecutive Sundays) and the wedding cannot be celebrated before the fourth day following the completion of the banns. On request the court can for serious grounds reduce the duration of publication or grant an exemption. If the wedding is not celebrated within 180 days, the posting of banns becomes invalid. If neither of the couple has Italian residency then banns may be waived and the ceremony could proceed on the fourth day after making the declaration.

An objection may be declared by a person married to one of the prospective spouses, the parents and in the absence of the father and the mother, the grandfathers and grandmothers, and the guardian and the Public Ministry on behalf of their children and descendants.

c) Documents

With the declaration of the intention to marry, the couple should present the following documents:

- valid identity document: passport or similar document recognised as equivalent, residence permit or proof of recent entry to Italy is required in the absence of other identification,
- proof of capacity to marry:
 - Certificato di stato libero for Italians, declaring that they are free to marry
 - "nulla osta" or declaration of no impediment for foreigners, issued by the national's Consulate in Italy, confirming there is no obstacle to their marriage in Italy and no older than six months
 - atto notorio, an affidavit declaring single status and freedom to marry, witnessed by two people, which may be drawn up at the Pretura Civile in the city where the marriage will take place, at notary or at an Italian Consulate outside Italy, no older than three months
 - for political refugees a declaration issued by the High Commissariat of The United Nations for Refugees in substitution of the declaration of permission, and in addition

a travel document demonstrating status as a political refugee, and an attested affidavit drawn up in the presence of two witnesses at the court

- birth certificate, long version showing parents' names (if the nulla osta includes details about the parents, a birth certificate is unnecessary)
- admission to marriage by the Juvenile Court with a certificate of the Court of Appeal for minors of more than 16 but less than 18 years of age,
- divorce decree or annulment or death certificate, and an authorisation by the court if a woman wishes to remarry within 300 days following divorce, annulment or widowhood
- for a religious marriage (Roman catholic) a set of documenti ecclesiastici (ecclesiastical documents): a letter by the church with seal and signature of the priest who will officiate at the wedding containing full details of the bride and groom, and of the church, as well as the date of the ceremony; certificates of Catholic baptism and confirmation; for each party a form signed by two witnesses stating to have known the person since childhood attesting to the stato libero ecclesiastico (free ecclesiastic status) and proof of participation in pre-marital counselling.

If the foreign citizen does not understand Italian perfectly he must be assisted by a translator or interpreter over 18 years of age in possession of an identity document, both when requesting the publication of the banns and during the marriage ceremony.

d) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Italy but also a declaration of no impediment issued by the national's Consulate in Italy, confirming there is no obstacle to the marriage in Italy and no older than six months is sufficient. In the absence of such a certificate or declaration a court may exempt a foreigner from this requirement. This procedure generally takes three up to six months and the cost is around € 35,00.

If an Italian citizen intends to get married abroad he/she may have to produce - in addition to other documents – an Italian certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Italian law and is valid for 6 months from issue. This certificate is issued by the local registry office free of charge or by the Italian embassy or consulate abroad. For the issuance of a certificate of no impediment the consular fee is € 8,27.

e) Religious Marriage

The marriage ceremony may be performed either by religious ceremony in Catholic church or by civil ceremony. If a Roman Catholic priest is performing the marriage, the banns may be requested directly at that church. The priest may then perform the marriage. Thereafter, the priest must register the marriage with the civil registrar in order for the marriage to be legal. The marriage certificate is drawn up immediately after the celebration and is under Article 13 of the Canon Law transmitted within five days to the civil status officer, who transcribes it within twenty-four hours. The marriage produces civil effects from the day of celebration even if the registrar makes the transcription after this time.

Religious weddings of other denominations do not have civil effects.

f) Civil Marriage Ceremony

A civil ceremony is performed by an official of the Registry Office (the Mayor or a delegate) at the Town Hall. Prospective spouses contract marriage with both being present in person at the same time. The marriage by proxy is allowed when one of the spouses resides abroad and there are

serious reasons, for example soldiers in wartime. Two witnesses with valid identity documents (in the case of foreign citizens they must possess a residence permit) must be present at the wedding. If the couple wishes to have joint financial responsibility (Beni Communi) or retain separate financial responsibilities (Beni Separati) this should be declared during the Civil Ceremony. The latter is similar to a pre-nuptial agreement where each partner renounces any claims on the other's assets in the case of divorce or is not liable to any claims against their partner such as in the case of bankruptcy claims, company liquidation etc.

The Marriage Certificate (Atto di Matrimonio) is drawn up and names and details entered into the Marriage Register (Registro di Matrimonio). After the ceremony, EU couples will be given five copies of an Italian marriage certificate written in five languages. Non EU couples will be given 5 copies of a standard Italian marriage certificate.

g) Contents of the Marriage Record

The marriage record indicates:

- marriage date
- place of marriage
- surnames before marriage
- level of education
- home address
- date of birth
- age
- place of birth
- nationality
- marital status
- marriage contract
- date of divorce

h) Cost

The marriage tax for foreigners is € 620.00, to be paid in cash. The fee for the banns is approx. € 22,36 (cash only).

i) Family Record Book

It is possible to obtain on request an international family record book instituted by ICCS (CIEC) Convention No. 15 (Convention introducing an international family record book). Parties to this Convention are Greece, Italy, Luxembourg and Turkey. No charge is made for issuing the international family record booklet. It is accepted without legalisation in the territory of each of the states parties.

j) Divorce/Separation/Annulment

The court will dissolve marriages concluded under the Civil Code or release the couple from the civil effects of matrimony if the couple were married in church and the marriage was duly recorded in the register of births, marriages and deaths. The rules on divorce proceedings also apply to legal separation proceedings, unless they are incompatible. Legal separation means that the law no longer

requires them to live together. De facto separation is without effect (except in situations arising prior to Reform Act No 151 of 1975). Legal separation may be by order of the court or by mutual consent. Separation by mutual consent is based on agreement between the spouses but becomes effective only with the approval of the court. The appropriate court for divorce, separation and annulment is at the defendant's place of residence or domicile or, where the defendant cannot be traced or resides abroad, at the applicant's place of residence or domicile. Where both parties live abroad, any court in the country may hear the case. Where divorce is by mutual consent, the spouses may choose the place of residence or domicile of one or the other. Italy has concluded agreements with the Holy See (so-called "Concordats") whereby a Catholic marriage can be annulled by canonical courts whose decisions produce civil effects.

4. Name

a) First Name

In Italy, children receive one or more first names and a surname.

Since 30.03.2001 a person may not have more than three first names. Parents, who have given their children more than three first names prior to this date must inform the registrar which first names should be stated in future extracts from the records. It is forbidden to give the baby the same name as his living father, as a brother or sister, family names which are ridiculous, shameful or contrary to public order, a toponym or geographical description.

In case of gender recognition once the birth record has been altered as a result of the court's authorisation and clinical change of sex, all new civil status certificates will bear the new first name and sex, including the birth certificate.

b) Surname

All the children resulting from the marriage and the legitimated children bear the name of the father. Other children take the name of the parent vis-à-vis whom affiliation is first established. If this is the mother and the child is later recognised by the father, the child may add the father's name. In the event that both parents recognise the child concurrently, the child takes the father's name (Arts. 262 CC).

Upon full adoption the surname of the adoptive parent(s) may be assigned to the child on the basis of the application of the adoptive parent(s). Upon simple adoption and in case of full adoption of a person full of age, the surname of the adoptive parent(s) is added to his/her surname.

Upon marriage the woman keeps her own surname followed by the surname of the husband. The widow must keep this surname until she enters into another marriage.

At divorce, the woman loses the surname she had added to her own; however, on application, the court may allow the woman to retain her husband's surname in addition to her own, where there is an interest on the part of the applicant or of children in their parents' custody. Upon separation the court may either allow or prohibit the woman to retain her husband's surname in addition to her own.

c) Name Change

A person may change or amend his or her surname or forename by submitting an application to the Prefetto (Prefect) of the Province where the applicant's birth certificate was originally registered. No surnames of a historical importance can be chosen or those which may lead people to believe that the applicant belongs to either a family of note or one who is well-known in the town where the applicant was born.

In the application the applicant has to:

- specify the name/surname change to be made or the new name/surname to be attributed;
- explain the reason (s) for the name change;
- specify his/her address;
- enclose a copy of his/her passport/identity card.

As soon as the applicant receives the decree authorizing the posting from the Prefetto, he/she has to bring the document to the Civil State Office (Ufficio di Stato Civile), together with a summary of the application. The decree is posted for 30 consecutive days. After a further 30 days have elapsed, to allow time for any objections to be raised and the Prefetto has carried out the relevant checks, a decree will subsequently be issued authorizing the name/surname change or the new name/surname. As requested by the interested party, a note of the above decree will be made in the applicant's birth certificate, marriage certificate and in the birth certificates of all those who have derived their surname from the applicant.

When a name change is required because the one given is considered ridiculous or shameful, the application and all necessary documentation may be produced free of charge.

Foreign forenames given to children of Italian nationality must be written in the letters of the Italian alphabet, including the letters J, K, X, Y and W. The names of children belonging to the recognised linguistic minorities may be written using the above-mentioned letters together with the diacritical signs of the alphabet of the language of the minority in question. Special provisions exist which establish the right to restore the original spelling of surnames and forenames taken or given on the basis of the Fascist provisions applying to both the German-language minority and the Slovenian-language minority.

In addition, as regards the populations of Alto Adige, there are further provisions to restore the original German spelling of surnames and forenames. The problem is also addressed in a Bill approved by the Chamber of Deputies and currently being examined by the Senate, laying down "Rules for the protection of the historic linguistic minorities"; Section 11 of this Bill provides that where the surnames and forenames of members of a recognised linguistic minority living in municipalities in whose territory protected minorities are present were altered before the entry into force of the law, or where such persons were unable in the past to choose the forename in the minority language, such persons are entitled to have the original spelling restored and to obtain documents certifying this restoration.

LT – Lithuania

1. Civil Registration System

a) Introduction

Lithuania's civil status records are based on a central population register. As with all population registers, Lithuania's system is person based as it records at a central place all relevant changes to the civil status.

All civil status acts are performed in Lithuanian language. Lithuanian employs a modified Latin alphabet comprised of 32 letters. Acute, grave and macron/tilde accents can be used. In addition, five digraphs are used. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-4, -10, -13.

The territory of Lithuania has a population of 3,361,100 (2008) and is divided into 10 counties (Lithuanian: singular apskritis, plural apskritys), all named after their capitals. The counties are divided into 60 municipalities (Lithuanian: singular savivaldybė, plural savivaldybės): 8 city municipalities and 52 district municipalities. Each municipality is then divided into elderates (Lithuanian: singular seniūnija, plural seniūnijos).

Registry Offices and Staff

All civil status events are registered by civil registry institutions of the local autonomous administrations. There are 60 offices (one in each municipality) with 60 registrars in Lithuania.

All registrars have university or non-university higher education and executive officers have legal education. According to the recommendations of the Ministry of Justice it is required that all registrars have legal education, but in reality in smaller municipalities those recommendations are not followed. Head officers have advanced trainings approximately 2 times a year, head officers of the register office of capital city municipality (Vilnius) can go on training up to 6 times a year, sometimes even more often.

They get monthly salary. Salary of civil status registrars is similar to the salary of civil servants, but it is a little bit smaller (they are working not for government, but for municipality). After Lithuania joined the EU, salaries of all civil servants are increasing much slower than salaries in private sector and, therefore, salary of civil status registrar is similar to salary of administrator or secretary working in private company.

Civil status registry offices are part of appropriate municipality's administration and all supportive works are done by municipality. There is some supportive staff in office in question, but not lot of. In each municipality there are different rules and conditions.

The register office of capital city municipality accomplishes some legal research. Suggestions are given to the Ministry of Justice as to the legal acts, which need to be passed, also concerning amendments which have to be done. Register office of Vilnius also informs the Ministry of Justice about problems which arise in practice.

In towns which do not have register offices, the heads of elderates have the right to register births and deaths. All registry offices are fully equipped with computer technology. After having recorded the events, the registry offices will send information of these acts to the Department of the Statistics' Population Register. On the basis of these documents, the Population Register is updated. Some documents are also kept in hard copy files by the registry offices; also data which have to be sent to archive is kept in hard copy files.

There is no hierarchy among register offices, as each office is part of appropriate municipality's administration and is controlled by director of municipality's administration. Register offices are also methodically supervised by the Ministry of Justice of the Republic of Lithuania. Ministry of Justice prepares legal acts, gives recommendations, consults and provides blanks for certificates and so on.

Acts and other documents drawn up by the mayors of the cities and the elderates must be presented regularly to the registry office of the city or qualified area for purposes of control and deposit. Illegal acts of the registrars or their refusal to achieve their duty can be the subject of a legal recourse. Depending on situation, they may apply to the director of municipality's administration, court or administrative court. The information in the register must be included in the Lithuanian language, except name, surname and the address of foreigners, stateless persons and refugees which is recorded in Latinised spelling in accordance with the travelling documents issued by a foreign country.

b) Civil Status Records

The registry offices keep the registers of births, establishment of paternity, deprivation of paternity, deaths, marriages, dissolution of marriage, adoption, changing of a name, surname and other changes relating to the persons' civil status. Divorce is registered in the register office of the district of the court that has rendered the divorce decision. On receiving a court judgement on divorce, the register office makes a record of divorce, issues divorce certificates to both the former spouses and makes a record of divorce in their passports or any other identity document.

Adoption is registered in the register office where the child's register was registered on the basis of the court order on adoption. If the child's birth has been registered abroad, adoption is registered in the register office of the district of the court that has rendered the adoption decision. Where on the basis of a court judgement the adopted child is given a new first name or the surname of the adoptive parents, these data are changed accordingly in the child's birth record. In the birth record of the adopted child the data on the child's parents are replaced by the data on the child's adoptive parents. Such data include name, surname, nationality and personal identification number of each parent. Where a child has been adopted only by a man or a woman, the data on the other parent of the child is deleted from the record and is not replaced by new data. The change of data in the child's birth record is followed by the issuance of a new birth certificate. Adoption data may not be divulged to the child until he attains majority (18 years) without agreement of adoptive parents. Having reached 18 years, the child is entitled to know his biological parents.

Acknowledgement of paternity is registered in the register office of the child's mother's residence on the basis of the applications of the child's mother and father for the confirmation of the acknowledgement of paternity. Where the paternity is acknowledged after the registration of the child's birth, the acknowledgement of paternity is usually registered in the register office where the child's birth was registered. On the basis of the application on the acknowledgement of paternity or the court order on the determination of paternity, the register office records data on the child's father in the record of the child's birth and issue a new birth certificate.

The change of a name, surname or nationality is registered in the register office of the applicant's residence with the permission of the Ministry of Justice. If there is a permission of the Ministry of Justice to change a name, surname or nationality, the register office makes the respective changes in the records of birth, marriage and divorce and shall issue a certificate on the change of the name, surname or nationality and new birth, marriage and divorce certificates.

c) Resident's Register

The Resident's Register has been established since 1992. The Resident's Register is managed by the Population Register Service to the Ministry of the Interior of the Republic of Lithuania. The Population Register compiles data of:

- Citizens of the Republic of Lithuania
- Citizens of foreign countries and persons without citizenship permanently residing in the Republic of Lithuania or registering a change of civil status in the Republic of Lithuania.

The data of the Resident's Register have legal value, they are based on the personal documents. The following personal data on a person is recorded and updated:

- Personal Identification number (means a unique sequence of eleven decimal figures intended for the identification of a person, accumulation of data about him, ensuring of the interoperability of state registers and information systems)
- Name

- Surname
- Sex
- Date of birth
- Citizenship
- Place of birth
- Place of residence, date of arrival at a place of residence, upon departure for foreign countries, place of departure (state) and date of departure
- Family status and the date of its change
- Date of death
- Personal Identification numbers of parents, children, spouses, in case they lack the personal identification numbers - other data substantiated by documents and indicated in register regulations shall be recorded
- Nationality (data on nationality are provided in pursuance of the procedure laid down by the Law on Personal Data Protection).
- Nationality (data on nationality are provided in pursuance of the procedure laid down by the Law on Personal Data Protection).
- Face picture;
- Fingerprints;
- Signature;
- ID data (type, code and name of the stated issuer, serial number, etc.);
- Data on applications to provide ID data;
- Data on records of civil status acts.

The data of the Resident's Register are based on the data accumulated during the issue of passports of citizens of the Republic of Lithuania and the data which is being accumulated on births and deaths since April 1992.

The Resident's Register receives and updates data from the following sources:

- Civil registration institutions: The institutions record the changes of civil state persons: birth, marriage, divorce, death and changes regarding the name or the surname of a person, etc. The civil registration institutions are sending the duplicators of the Acts of civil state changes to the Statistics Lithuania.
- Ministry of the Interior: The Department of Informatics to the Ministry of the Interior provides the information on persons who received personal documents (at the age of 16, having not changed passport on a timely basis, having been granted the citizenship of the Republic of Lithuania, having obtained permission to reside in Lithuania and other cases), on persons' permanent place of residence and its changes (migration of the population)

comes daily from the Ministry of the Interior through communication lines on a centralized basis.

Based on the agreement, the data of the Resident's Register are submitted to the Ministry of Defence. Fixed order has been established for data submission to state tax inspection, Ministry of Finance and Board of State Insurance Fund. Moreover, unpersonified data of the Resident's Register are submitted for various surveys by single contracts. Based on the agreement between the Ministry of the Interior and the Statistics Lithuania, the Resident's Register data are submitted for the information system of personal documents issue implemented by the Ministry of the Interior. Lists of youths of military age are submitted to the Ministry of Defence in the magnetic storage twice a year.

The data is submitted to state tax inspection, Ministry of Finance and Board of State Social Insurance Fund in the mode of lists of the population in the regions (beginning with 16 years of age) in the magnetic storage twice a year.

Ministry of the interior is supplied with data on a daily basis by communication lines as stipulated in the protocol of the agreement. It has been agreed to set up database of common usage for the transmission of data and permanent usage with the information necessary to both parties (Resident's Register and Ministry of the Interior. Automated data information system). Both Resident's Register and Ministry of the Interior possess a copy of such a database. Other users are supplied with the data under the conditions provided for in the agreement, most frequently in the magnetic storage (seldom in print).

Currently, the Resident's Register is centralised. Work is underway to set up creation of a local database of the Resident's Register which will contain the population central base section of this territory and which will be regularly updated by data of central database.

Statistical information related to the vital and internal, international migration is being collected by Lithuanian Department of Statistics. Regularly data on births, deaths, marriages and divorces are presented to the the Department of Statistics of Lithuania. Persons changing residence must notify the change of address to the local Passport Office. Two different forms are filled in at registering the person at place of residence, or registering out of place of residence. One is for the Address bureau and the other is for statistics. The statistical form is filled in if change of place of residence occurs from one Lithuanian local administrative district to another, from rural areas to urban areas of the same district or across Lithuanian borders. Data on international population migration are processed according to arrival or departure forms, data on internal migration – according to arrival form.

The above mentioned forms include data about the place of birth, sex, nationality, citizenship, education level marital status, the place of the present and previous residence, reason of the migration and number of children arrived or leave together with parents.

Correction, Amendment and Cancellation of Civil Status Records

Civil status records are restored, supplemented or corrected by a register office provided the restoration, supplementation or correction has a justified reason and is not disputed by interested parties. In case of a dispute between the interested parties, civil status records shall be restored, supplemented or corrected by a court decision.

Application may be submitted by the person whose civil status record has to be updated, corrected or changed, or his representative providing the following data: applicant's name and surname; personal number; place of birth; place of residence; name, number and date of civil status record, which is in question; arguments of application; certificate of civil status record, which is in

question; any documents proving arguments for the application. Such application has to be decided per one month.

After update, correction or change of civil status record person must return his old certificate of civil status and is given the new one.

A Civil status record is cancelled on the request of concerned person, initiative of register office or court's decision. Civil status record is cancelled when:

- it becomes clear that for the same person two same civil status records were entered;
- it emerges that termination of marriage was registered after the death of one of the spouses;
- there is a court's decision which indicates that the record is false.

Copies of the conclusion that record was cancelled are sent to the Department of the Population Register, archive and to the concerned person or institution.

A birth certificate may be obtained if there is no record in the civil registry of birth.

In case there is no record (birth, marriage etc.) in the electronic register, the registry office shall issue the second certificate of birth according to the records in the books of register office. If there is no proper record in the register office, the register office shall ask Lithuanian State Archive for note about concerned record and then issue the certificate for the applicant. In case if there is no necessary record in register offices books and state archives, the person may apply for reinstatement of record in register office. In order to obtain data necessary for reinstatement of record, other records in register office may be used, also person's identification documents and witnesses.

Access

A person has the right, once during the calendar year, to request and to receive free of charge the information from the Register about himself and about his own children who are younger than 16 years of age. For every following request of such kind shall be collected the state duty. Further access to the information in the civil status registries is given to civil status registrars, some servants from administration of municipality and also some other civil servants- according to their competency. Special agreements are signed with those, who have access to that information. Government offices or private institutions may obtain full data sets of all registrations according to the Law on legal protection of personal data. All information may be obtained when court's decision is presented. Information may be approved without court's decision (when information is already known (for example by police) and just need to be approved). Formal proof is always required.

Direct consultation is possible and it is not necessary to submit any documents to get such consultation. Consultations are given in Lithuanian, English, Polish, Russian and German languages.

Archives

At present, the system of state archives in Lithuania is organized in a centralized way. The state archival system concerning vital records consists of the Lithuanian Archives Department under the Government of the Republic of Lithuania, Lithuanian State Historical Archive in Vilnius, Lithuanian Central State Archive Lithuanian State New Archive, Lithuanian Special Archive, Lithuanian Literature and Arts Archive and ten county archives. Access to documents which contain information on private life and personal data is regulated by the Law on Documents and Archives of the Republic of Lithuania of 19.12.2006 and related legislation particularly Civil Code and the Law on Legal Protection of Personal Data of the Republic of Lithuania of 21.01.2003. Article 20 (5) of Law on Documents and Archives of the Republic of Lithuania determines fixed

restrictions on access to the documents which contain information on person's private life, as well as to structured sets of personal data - 30 years after the person's death, and in the event of failure to determine the date of death – for a term of 100 years from his birth. If neither the date of birth nor the date of death of a person is determined, the access shall be limited for a term of 70 years from the creation of the documents.

Restrictions on access set in related legislation do not mean that documents are not accessible at all. The archives services are taxable.

The Lithuanian State Historical Archives maintain vital records books (birth, marriage and death) of the different religious communities and churches of today's Lithuania dating up to 1940. At the request the archives give official certificates about the birth, marriage and death of persons, estate, record of service and other legal status facts. At the requests the Lithuanian Central State Archive gives official certificates (on the base of archival documents from the period since 1918 till 1990 years) about citizenship etc.

d) Legalisation/Translation

The registry does not accept documents which are not duly certified or bear an Apostille.

Lithuania has bilateral treaties abolishing the legalisation of documents with Latvia, Estonia and Poland.

Copies of documents are permitted, but such copies must be legalized or made of the original documents with a certification (Apostille). All documents in foreign language must be translated into Lithuanian.

In Lithuania the competent authority for the issuance of Apostilles is the Ministry of Foreign Affairs.

The Apostille can be requested only in person or by an authorised person. The Apostille issued by the competent authority is placed on the document itself. The number of pages is certified by the official and a separate sheet with the Apostille is added to the document. The Apostille is issued in Lithuanian and/or English. An electronic system is used.

Generally the Apostille is issued within 5 days. It may take longer if there is an additional need to verify the authenticity of the document. According to the decision of Cabinet of Ministers Nr. 1135 of 16th November, 1994 which was amended by the decision of Cabinet of Ministers Nr. 1771 on the 11th of November, 2002, following fees are payable:

- for Lithuanian nationals at the Foreign Ministry – 1,00 € (1 document);
- for Lithuanian nationals at the diplomatic mission or consular post – 5,00 € (1 document);
- for Estonians, Latvians and CIS country nationals – 10,00 € (1 document);
- other country nationals – 15,00 € (1 document);
- urgent legalisation: in 24 hours – 20,00 € extra; in 48 hours – 15,00 € extra;
- services provided in other places than diplomatic mission or consular post and on bank holiday, weekend or at night – double fee.

e) Documents

The registry office issues certificates, extracts and copies of the civil status records. Applications for all documents may be made in person, by postal mail, by fax, by modern technology, by proxy through any third party, by power of attorney to a licensed attorney at law, through Lithuanian consular offices abroad and through foreign consular offices in Lithuania. Usually it takes 15-20

minutes to issue a deliver, but only in case if there is no need to look for data in archive. In cases when application is made by fax or by mail, or application is made from abroad- the time necessary to deliver certificate must be added.

A person considered to be living illegally in Lithuania may be issued the certificates of birth and death.

f) Cost

Simple marriage registration ceremony costs 20 LTL (€ 5.80);

Solemn marriage registration ceremony costs 80 LTL (€ 23.20);

Entering into accounting marriage registered in the church or foreign state costs 15 LTL (€ 4.30);

Fulfilment, reinstatement or change of civil status records (except change of name, surname and nationality) costs 12 LTL (€ 3.50);

Change of name, surname or nationality (including issuance of certificate of change of name, surname or nationality) costs 30 LTL (€ 8.70);

Repeated issuance of certificate of civil status record costs 6 LTL (€ 1.70);

Entering into accounting birth which was registered in foreign state costs 15 LTL (€ 4.30);

Entering into accounting termination of civil marriage costs 15 LTL (€ 4.30);

Issuance of certificates of legal capacity to marry when marriage occurs in foreign country costs 15 LTL (€ 4.30);

Entering into accounting termination of marriage which was registered in foreign country costs 15 LTL (€ 4.30);

Notice of marriage, recognition and registration of birth is free of charge. If birth is registered in consular office, the registration and issuance of certification of birth will cost € 5,00.

All fees may be paid by wire transfer or using duty stamps.

g) Foreign relations

Information about civil status acts and changes of citizens of Poland, Estonia and Latvia that occur in Lithuania are directly transmitted to their authorities. Information about civil status acts and changes of Lithuanian citizens who were born in another EU Member State is not transmitted. Lithuania receives information about civil status acts and changes of their own citizens (or of citizens whose birth was registered in Lithuania) directly from the authorities of Spain, Poland, Estonia and Latvia.

h) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Lithuanian citizens can obtain from Lithuanian foreign missions. The registration of civil status events is not compulsory.

Lithuanian consular officials assume the same duties of those which are reserved for registrars in their country. The Lithuanian consular offices register the civil status events of their citizens abroad and issue the respective certificates. They offer assistance to obtain civil status certificates (birth, marriage and death) for Lithuanian citizens from civil status registries in Lithuania and the host country. They do not issue a certificate of no impediment. The diplomatic and consular officials are also authorised to celebrate marriages. The consular offices abroad transmit the acts drawn up

abroad into the Lithuanian Population Register. A fee of € 5,00 is payable for procuring and issuing of civil status documents.

If a child of Lithuanian citizen was born in a foreign country, the birth of the child shall be registered in the consular posts of the Republic of Lithuania. If there is no consular post in that state, where the birth occurred, the child's parents can register the birth in register office of the state, where the birth occurred, or register it in the closest consular post, or parents can send documents, which prove the birth, to register office in Lithuania.

Parents have to declare the birth in register office of their declared residence place or register office of Vilnius city municipality. Application, also necessary documents may be submitted through entitled persons or consular post. Parents must submit written application to add their child into accounting and the following documents:

- copy of marriage if parents are married;
- if parents are not married, the application for recognition of paternity or court's decision on filiation, except for the cases when child has citizenship of foreign state;
- legalized copy of birth certificate issued by foreign state institution.

The authenticity of copies of submitted documents and signatures must be approved by consular officer's signature and stamp. Documents issued by foreign states' institutions must be translated into Lithuanian language, approved by notary public and legalized (unless there is a treaty). Registration is not obligatory, but as it was mentioned above, parents must submit application in order to add their child into accounting. It is also possible to register birth voluntary. The procedure doesn't apply to permanent resident foreigners who were temporarily abroad when birth occurred.

i) Law

Constitution of 06.11.1992; Civil Code of 18.07.2000 No. VIII-1864; Civil Procedure Code of 07.07.1964; Residents Register Law of 23.01.1992 No I-2237; Order No 1R-160 of 19.05 2006 of the Minister of Justice of the Republic of Lithuania on the Approval of the Civil Registry Rules, Order No 111 of 20 June 2001 of the Minister of Justice of the Republic of Lithuania on the Approval of the Rules for Changing the Persons Name, Surname or Nationality;

Current versions of the texts of the legislation are available: http://www3.lrs.lt/dokpaieska/forma_1.htm (Lithuanian, English)

Rules applicable to the civil status of natural persons are essentially defined by the Civil Code. The origin of a child (ascertainment or contest of paternity or maternity) shall be established either in accordance with the law of the state the citizenship of which the child acquired at his birth, or with the law of the state which is recognized as the domicile of the child at the time of his birth, or with the law of the state in which one of the child's parents is domiciled, or with the law of the state the citizen of which one of the parents was at the time of the child's birth, whichever is more beneficial to the child.

Relationships of adoption shall be governed by the law of the state of the child's domicile. Where it becomes evident that the adoption performed according to the law of the state of the child's domicile will not be recognized in the state of domicile or citizenship of the adoptive parents, the adoption may be performed pursuant to the law of the state of domicile or citizenship of the adopter if this will not prejudice the best interests of the child. If the recognition of adoption remains uncertain, the adoption shall not be allowed. Relations between the adopted person on the one side and the adopting persons and the relatives of the latter on the other side shall be governed by the law of the state of the adopters' domicile.

Matrimonial capacity and other conditions to contract marriage shall be governed by the law of the Republic of Lithuania. The procedure of contracting marriage shall be determined in accordance with the law of the state where the marriage is solemnized. Separation and dissolution of marriage shall be governed by the law of the spouses' state of domicile. If the spouses do not have their common domicile, the law of the state of their last common domicile shall apply, or failing that, the law of the state where the case is tried.

j) eGovernment

Online Services for Citizens

Portal

Launched in January 2004, the Lithuanian eGovernment portal offers a one-stop shop to public information and services for citizens. It serves to redirect citizens to the appropriate website of public administrations.

eIdentification

There is currently no central eIdentification infrastructure in Lithuania.

Civil Status Certificates

Since December 2006, a service accessible from the 'Internet portal of eGovernment services' allows citizens to order birth or marriage certificates online. Access to this service is, however, limited to Lithuanian citizens who are able to identify themselves electronically online, either through the use of an eSignature digital certificate issued by a qualified provider, or through the eBanking system of a commercial bank. Alternatively, municipalities' websites contain mostly information and several municipalities offer forms for download.

2. Birth

a) Registration of Birth

The birth of a child is registered with the register office of the child's residence or one of the parents' residence. In each municipality there is one register office.

At the request of the parents, the register office makes the registration of the child's birth a solemn occasion. The birth is notified, orally or in writing, by the parents or one of the parents. If the parents are ill, deceased or are unable to notify for any other reasons, the birth is notified by relatives, neighbours, the administration of the maternity home where the child was born or the state institution for the protection of the child's rights.

The birth of a foundling is registered on the application of the person who found the child or the state institution for the protection of the child's rights. In case of a foundling the following documents must be presented: application of the state institution for the protection of the child's rights, police report on the circumstances of finding of baby and medical certificate. An application for the registration of a foundling shall be filed within three days of the moment when the child was found.

The time limit for registration of birth is three months of the date of the child's birth. In the case of a stillborn, time limit for registration is within three days from the time of the birth. Stillbirths are registered by writing record of birth in the documents of register office. In those documents it must be noted that child was born dead, also the total amount of dead and alive babies who that mother had is written (including just born child). Personal number is not given to that child and parents are

not given certificate of birth, but parents can be given certificate that the child was born dead if they wish so. If the child died during the first week and his birth wasn't registered, the records of birth and death are entered, however, only certificate of death is issued, also certificates to get death and birth grants are issued.

Registration is compulsory according to the Civil Code of Lithuania. However, there are no sanctions provided in legal acts and in such cases the birth is registered according to the general rules.

b) Documents

The following documents should be submitted when registering a birth:

- a medical birth certificate from the maternity hospital;
- the parents' passports or the mother's passport if she is not married and a marriage certificate;
- in cases of a stillborn baby or within first six days after the birth- medical certificate of perinatal death; (in cases of stillborn baby born in healthcare institution, the healthcare institution must inform register office about the case);
- if the birth occurred aboard the ship- free form certificate issued by the captain of the ship (the following information shall be provided at that certificate: the time of birth, gender of baby, mother's name and surname, mother's personal number or day of birth, if it is possible, also data about child's father shall be provided);
- in case when it is impossible to submit identification documents of one of the parents, because he/she is not in Lithuania, then his/her data is collected from the Population Register Service of the Republic of Lithuania or from certificate of marriage;
- citizen of the foreign country must present his documents of identification; person without citizenship- permit to live in the Republic of Lithuania or permit to live in other country;
- in cases of a foundling the following documents must be presented: application of the state institution for the protection of the child's rights, police report on the circumstances of finding of baby and medical certificate;
- if child's parents are not married, passports of both parents must be presented and also applications of the child's mother and father for the confirmation of the acknowledgement of paternity (it must be approved by notary public).

The birth is registered and a birth certificate issued on the day of application. Birth certificates are issued automatically. The birth certificates are issued by register office and signed by director of the register office. Blanks of the birth certificates are provided to the register offices by the Ministry of Justice of the Republic of Lithuania.

c) Birth Certificate

The record of birth indicates characteristics about:

- the first name, surname, sex and nationality of the child
- personal identification number
- birth date

- live or stillbirth, birth order, multiple or singleton
- name, age, marital status, address, occupation of the parents

Where the paternity of the child has not been ascertained, data on the child's father is not entered. The name and surname of a child whose parents are not known is recorded on the instructions of the state institution for the protection of the child's rights.

d) Recognition

The parents of a child shall be proved by the record of birth in the Registrar's Office and by the certificate of birth issued on the basis thereof.

In observance of Article 3.139 of the Civil Code, the child's origin from his mother is established on the basis of the child's birth certificate issued by a medical institution or by a medical consultative commission. In addition, the Civil Code provides for the possibility to establish the maternity in court. A certificate of maternal recognition is not issued.

The child's origin from his father is determined according to the marriage record or a certificate issued on the basis thereof. Where a mother who contracted a new marriage within less than three hundred days of the dissolution of her previous marriage gives birth to a baby, the new spouse of the mother is considered to be the baby's father. Where an unmarried woman gives birth to a baby after more than three hundred days have elapsed from the dissolution of her previous marriage, the man who has acknowledged his paternity or whose paternity has been established by a judicial judgement may be identified as the baby's father in the record of the baby's birth. Where a divorced mother gives birth to a baby within less than three hundred days of the divorce, the baby's mother, her ex-husband and the man who acknowledges his paternity of the child shall have a right to file a joint application seeking that the man who acknowledges his paternity of the child be identified as the baby's father. After the court approves such a joint application, the man who acknowledges his paternity rather than the ex-husband of the baby's mother shall be entered in the record as the baby's father.

The man considering himself as the father of a child has a right to file an application on a standard form certified by a notary public with the Registrar's Office seeking to be recognised as the father of the child. Registrar's Office is determined according to the declared mother's residence place (if birth wasn't registered in foreign country); if paternity is recognised after child's birth, in registry office where birth was registered; if child's father is citizen of Lithuania, but mother is not citizen of Lithuania, the paternity recognition is registered in registry office determined according to the residence place declared by father.

Where the child has attained the age of 10, the Registrar's Office may accept an application for the recognition of the child's paternity only with a written consent of the child. Where the man acknowledging his paternity of a child is a minor, the filing of an application for the recognition of paternity with the Registrar's Office requires the written consent of the minor's parents, guardians or curators or care institutions. If the parents, guardians or curators or care institutions refuse to give their consent, such a leave is handed down by the court at the minor's request.

If there are circumstances that will bar the filing of an application acknowledging the paternity of a child after the birth of the baby, the man considering himself the father of the child conceived but not yet born can file a joint application with the child's mother for the recognition of his paternity for the period of pregnancy with the Registrar's Office of the district where the child's mother resides. The application acknowledging the paternity of a child before the child's birth must be accompanied with the certificate of pregnancy issued by a medical centre. Where before the child's birth the child's mother marries or the man who has filed an application acknowledging his

paternity or another man, the paternity of the child may not be confirmed after the birth of the child on the basis of that application. If the application is withdrawn by the mother or the man filing the application before the birth has been recorded, the paternity will not be registered on the basis of that application.

If the child's mother is dead, incompetent or cannot, for other reasons, file a joint application with the child's father for the recognition of his paternity, or the parents or guardian/curator of the man who considers himself the father of the child, but who is a minor or of limited legal competence, refuse to recognise his paternity or the child of at least 10 years does not give his written consent, the application acknowledging paternity may be considered a valid basis for the registration of paternity if the court approves the application, only. In examining an application acknowledging paternity where the child's mother is dead, incompetent or cannot, for other reasons, file a joint application with the man acknowledging to be the child's father, the court must require that the child's father adduce evidence corroborating his paternity of the child. The application acknowledging the paternity of a child is not registered without the consent of the child who is of full age. The court examines applications for the approval of the acknowledgement of paternity in a simplified procedure.

The res judicata judgement on the approval of the application acknowledging a child's paternity shall be sent to the Registrar's Office that has registered the birth of the child within three business days. Where the application for the approval of the acknowledgement of a child's paternity is contested by the parents or guardians/curators of the minor or the person of limited legal capacity who considers himself the father of the child, the application is submitted to the court to be examined by contentious proceedings.

Where the child is born out of wedlock, and in the absence of paternal acknowledgement, paternity affiliation is determined by the court. Having determined a child's paternity, the court shall send its res judicata judgement to the Registrar's Office that has registered the child's birth within three business days.

3. Marriage

The formation of a marriage in accordance with the procedures established by the Church (confessions) entails the same legal consequences as those entailed by the formation of a marriage in the Register Office provided that:

- the certain conditions have been satisfied;
- the marriage has been formed according to the procedures established by the canons of a religious organisation registered in and recognised by the Republic of Lithuania;
- the formation of a marriage in the procedure established by the Church (confessions) has been recorded at the Register Office in the procedure provided for herein.

“Living together as husband and wife” can have civil effects as long as it has been registered as a partnership. In any way, some civil effects may still appear even in the case of unregistered “living together”. There is no legal recognition for same-sex partners.

a) Personal Requirements/Impediments to Marriage

Marriage can be contracted by persons who have attained the age of 18. At the request of a person who intends to marry before the age of 18, the court may, in a summary procedure, reduce his the legal age of consent to marriage, but by no more than three years. However, in the case of a pregnancy, the court may allow the person to marry before the age of 15.

Marriage may be contracted only with a person of the opposite gender. A person who has been declared by a res judicata court judgement to be legally incapacitated may not contract a marriage. Marriage between parents and children, adopters and adoptee's grandparents and grandchildren, real or foster-brothers and real or foster-sisters, cousins, uncles and nieces, aunts and nephews are prohibited. A married person who has not terminated his or her marital bond cannot enter into a second marriage. Marriage must be contracted by a man and a woman without any threat, coercion, deceit or any other lack of free will.

In the case of religious marriage, a residence permission is not necessary. On the other hand, if foreigners are not going to conclude religious marriage, at least one of them shall have a residence permit in Lithuania.

b) Preliminary Procedure

Future spouses must file in person an application of a standard format with the registration office of the residence of one of them or, at their own discretion, of that of their parents. Citizen of the Republic of Lithuania temporary or permanently residing abroad may file the application through consular of the Republic of Lithuania.

In their application, they shall confirm that all the conditions for contracting a marriage have been complied with; each of them shall indicate the number of their previous marriages and the number of their children. The application for the registration of marriage is cancelled if at least one of the applicants fails to appear to register the marriage at the set time or withdraws his or her application. At the time of filing an application to register a marriage, the officials of the Registry Office shall suggest to the intended spouses that they undergo a premarital medical examination and prior to the date of the registration of their marriage submit a doctor's certificate drawn up in the form specified by the institution authorised by the Government. However, failure to submit a doctor's certificate shall not be an impediment for the registration of the marriage.

Failure of one of the parties to an intended marriage to inform the other party that he or she is suffering from a venereal disease or AIDS provides a cause for rendering the marriage null and void.

The filing of an application for the registration of marriage shall be publicly announced in the register office no later than two weeks before the registration day. The announcement shall indicate the names, surnames and birth dates of the future spouses and the date of the registration of the marriage.

The marriage shall be registered no sooner than after a month from the day of filing the application for the registration of marriage. In the case of important circumstances (pregnancy, child birth, serious illness, sailor's (soldier's) departure for a time period longer than 3 months or departure for diplomatic service) the head of the register office may register marriage before one month since the day of application has elapsed.

If a written evidence on the impediment to a marriage is presented, the Register Office suspends the registration of the marriage and, in the event of a dispute, advises the intended spouses on their right to apply to the court. In such a case, the marriage can be registered only if the court declares the refutation of the declaration as ill-founded.

Any interested person has a right to make a written declaration to the Register Office that has made the application to register a marriage public to the effect that there are impediments to the marriage. Having received a declaration on impediments to a marriage, the official of the Register Office must postpone the registration of the marriage and request that the declarant submit written evidence of the facts alleged in the declaration within three days. If the declarant fails to submit such evidence within three days, the marriage is registered.

c) Documents

Together with their application for the registration of marriage, the future spouses shall present their:

- Birth certificate
- Passport or any other identification document.
- A divorcee must also present his or her divorce certificate, while a widowed person should submit their spouse's death certificate.
- The application of foreign nationals for the registration of marriage shall be accompanied with a document issued by a competent authority of their home country confirming that there are no obstacles for the marriage. This document must be translated into Lithuanian and legalised.

If a national of the Republic of Lithuania wants to contract a marriage abroad (irrespective of the nationality of the other party), he must obtain a certificate on marital status. He will have to submit this certificate to the institution of the foreign state where marriage will be registered.

Marital status certificates are issued by a local registry office at the individual's place of residence. The certificate can be obtained by the individual or by another authorised person by applying directly to the civil registry office (according to the place of residence) or through diplomatic missions and consular posts of the Republic of Lithuania.

Originals or copies of the following documents certified by a notary public must be submitted:

- birth certificate;
- valid passport;
- divorce certificate (if the person is divorced);
- death certificate of former spouse (if the person is a widower);
- a power of attorney approved according to the established procedure (if the certificate is requested on behalf of another person).

The certificate on marital status issued by the civil registry office is valid for six months. The certificate is issued subject to a fee.

The certificate is issued in the Lithuanian language. Before submitting the certificate to a competent body in a foreign state it should be translated into the language of that country and legalised according to the established procedure, if not provided for otherwise by international agreements.

Certificates are legalised by the Consular Department of the Ministry of Foreign Affairs of the Republic of Lithuania.

Marriages of nationals of the Republic of Lithuania which are registered by institutions of a foreign state are entered into the records of the civil registry office of their place of residence in the Republic of Lithuania thus a marriage record entry is made and a marriage certificate is issued. .

The following documents must be submitted for entry of marriage registered in a foreign state:

- a copy of the marriage certificate issued by a foreign institution, certified by a notary public, translated into the Lithuanian language and legalised, if not provided for otherwise by international agreements of the Republic of Lithuania;

- valid passports of citizens of the Republic of Lithuania or identity cards, a passport of a foreign national or copies thereof certified by a notary public;
- a receipt of paid due.

An application for a marriage to be entered must be submitted to the civil registry office. Citizens living abroad may submit their application to enter marriage into the records through a diplomatic mission or consular post of the Republic of Lithuania abroad. The Register office is entitled to issue a certificate of no impediment upon the application of the person intending to marry abroad.

Marriage Ceremony

Officers of register office and priests are eligible to solemnise marriage. Such a right will be granted to consular officers from the 1st of July, 2008. Marriages are registered in the register office of the residence of one of the spouses or their parents as well as in the consular posts of the Republic of Lithuania and must be registered in the presence of both the future spouses and two witnesses. The marriage by proxy is not allowed. If one of the persons is seriously ill and cannot arrive at the register office, marriage may be registered at the person's home or at the hospital. The language of the ceremony shall be Lithuanian. Persons intending to marry have to hire translator if needed of their account. A state does not have such a duty.

The making of the marriage record is followed by the issuance of a marriage certificate. The fact of the registration is entered into the passports or any other identity documents of the spouses by indicating the name, surname and birth date of the other spouse, the place and date of the registration of the marriage.

In case of a religious marriage, within ten days of the marriage, the person authorised by the respective religious organisation is obliged to present a notification of the religious marriage solemnised in the procedure set by the Church (confession) to the local register office. Having received a notification of a religious marriage, the register office makes a record of the marriage and issues a marriage certificate.

d) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Lithuania. In the absence of such a certificate it is not possible to marry in the Republic of Lithuania.

If a Lithuanian citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Lithuanian certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Lithuanian law and is valid for 6 months from issue. This certificate is issued by the local registry office. The cost is € 4,30.

e) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- surnames before marriage
- date of birth
- age
- place of birth
- nationality

- marital status
- number of previous marriages

f) Cost

All fees for marriage registration must be paid in advance and they can be refunded in the case the person refused to marry. Such person shall obtain certain certificate from register office on the refuse to register his/her marriage and submit it to the State Tax Inspectorate.

g) Divorce/Separation/Annulment

If a marriage is dissolved by the mutual consent of the spouses, a mutual application shall be presented to the court of the district where one of the spouses resides. If a marriage is dissolved by the application of one of the spouses, the application shall be represented to the court of the district where the applicant resides. If a marriage is dissolved by on the basis of the fault of one or both of the spouses, the application of one of the spouses shall be represented to the court of the district where the defendant resides. The application for legal separation shall be represented to the court of the district where the defendant resides. The court must send a copy of the divorce judgement to the local Register Office for the registration of the divorce within three business days of the date of res judicata of the judgement. The application for marriage annulment shall be represented to the court of the district where the defendant or one of defendants resides. Having pronounced a marriage null and void, the court must send a copy of its judgement to the Register Office where the marriage was registered within three business days of its effective date.

4. Name

The child's right to a first name and surname from birth is enshrined in Article 3.161 of the Civil Code. The child's naming procedure is established under Articles 3.166-3.167 of the Civil Code.

In its Resolution of 31 January 1991 on the Use of Names and Surnames in the Citizens Passport of the Republic of Lithuania, the Supreme Council of the Republic of Lithuania, with regard to the provisions of the State Lithuanian Language Commission, has decided to regulate the writing of names and surnames. The name and surname must be spelt in the letters of the Lithuanian language in concordance with the Lithuanian name and surname record in other personal documents or passports available. The name and surname of the persons of non-Lithuanian origin must be spelt in the letters of the Lithuanian language. On the citizen's request in writing, the name and surname can be spelt according to pronunciation and without attending to the rules of national grammar (e.g. without Lithuanian endings) or according to pronunciation alongside the rules of national grammar (e.g. adding Lithuanian endings).

On 21 October 1999, the Constitutional Court of the Republic of Lithuania confirmed by its decision that the Supreme Council Resolution of 6 February 1991 on the Use of Names and Surname in the Citizens Passport of the Republic of Lithuania is in conformity with the Constitution of the Republic of Lithuania. In the implementation of the principle of the use of names and surnames in the minority language was implemented. Article 14 of the Agreement on Friendly Relations and Good Neighbourly Co-operation between the Republic of Lithuania and the Republic of Poland, which was ratified by the Seimas of the Republic of Lithuania on 10 October 1994, provides that persons belonging to the Lithuanian national minority in the Republic of Poland and persons belonging to the Polish national minority in the Republic of Lithuania have the right to use their names and surnames as it is pronounced in the language of the national minority. Both States have not agreed on the detailed norms of writing surnames. Lithuania suggests writing the names and surnames according to the sounding of the language of the national minority in Latin characters.

However, Poland has rejected this proposal and holds to its proposal that the names and surnames of persons belonging to the Polish national minority in the Republic of Lithuania be written with diacritics that are characteristics to the Polish language.

In autumn 2005, the Ministry of Justice drafted a Law on Spelling of Names and Surnames in Documents. The Government approved the law and presented it to the Seimas of the Republic for consideration. Currently, no legislation regulates the spelling of names and surnames in the civil status registers.

Father's names (of the Slavic tradition), nobility titles, academic titles, pen names, nicknames and pseudonyms, are not registered. However, the legal right to a name in Lithuania does include a right to a pseudonym, which may be used unless it belongs to another person.

A stillborn child is not provided with the first name, a surname is granted in accordance with general procedure.

a) First Name

A child may be given one or two first names by mutual agreement of both parents. According to the Civil Code, parents of a child are free to decide on the name of the child. However, parents shall be responsible for their children's education and development, their health and spiritual and moral guidance. Therefore, it can be assumed, that parents are not allowed to decide on the name which is clearly unreasonable, immoral or contrary to the child's interests. According to the State Commission of the Lithuanian Language, the names registered in Lithuania have to show the gender of the child. International names (for example, Nikita) may be registered without changes.

Where the child's mother and father cannot agree on the name, the child is given a first name by the court. While registering the birth of a child whose parents' identity is not known, the child is given a first name by the state institution for the protection of the child's rights.

b) Surname

The surname has to reflect person's gender. However, foreigners' surnames which do not reflect their gender are recognized by Lithuanian authorities without any change. Unmarried females' surnames are declined with "ytė", "aitė", "utė" or "ė", while married women's surnames are declined with "ienė" or "ė" as an ending. Males' surnames have other endings.

The surname of the child is established according to the surname of parents. If parents have different surnames, the child is given the surname of the mother or the father by mutual agreement of parents. A child is not allowed to have double (hyphenated) surname. If the parents cannot agree, the child is given the surname of one of the parents by a court. While registering the birth of a child whose parents' identity is not known, the child is given a surname by the state institution for the protection of the child's rights.

In case the parents of a child are not married and there is neither an official nor an unofficial father's recognition, the child shall be given his/her mother's surname. In the case a father has been officially recognized (paternity affiliation) by the court, the surname of a child remains the same, unless there is a mother's prescription to replace the child's name with the father's name. In the case a father of a child is not known, the child shall be given his/her mother's surname and the father's surname will be granted if a mother is unknown.

In the case of marriage, both spouses have the right to retain their respective surnames or to choose the surname of the other spouse as their common surname or to have a double surname by adjoining the surname of the other spouse to one's own surname (a hyphen is not compulsory). The surname must consist of not more than two words. As it has been mentioned, married women's surnames are usually declined with "ienė" or "ė" as an ending.

On divorce, a spouse may retain his or her married surname or the surname he or she had before the marriage. Where a marriage is dissolved on the basis of the fault of one of the spouses, the court may, at the request of the other spouse, prohibit the spouse at fault from retaining his or her married surname, except in cases where the spouses have children.

The widow/widower may retain the marriage surname or return to the last name he or she had before the marriage or to the birth/maiden name. The widower/widow or the divorced spouse may retain his/her surname in the event of remarriage or may transfer it to the new spouse. Upon separation the surname remains the same. Each spouse is entitled to return to the original name. If the marriage has been declared null and void, only fair spouse's surname can remain unchanged upon his/her decision.

The adopted child is given the surname of the adoptive parents by court judgement; the child's first name may be changed with the consent of the child capable of expressing his or her views. At the request of the adoptive parents and the adopted child capable of expressing his or her views, the child is allowed to retain the surname of his or her natural parents. If there is a dispute between the adoptive parents or the adoptive parents and the adopted child over the change of the child's surname or first name, the dispute is resolved by the court taking account of the child's interests. The law establishes that if adoption is voided, the court decides to retain the child's name and surname that were given to the child upon adoption or to return the name and surname that the child had prior to the adoption.

c) Name Change

The change of a name or surname is registered in the register office of the applicant's residence with the permission of the Ministry of Justice. If there is a permission of the Ministry of Justice to change a name or surname, the register office makes the respective changes in the records of birth, marriage and divorce and issues a certificate on the change of the name or surname and new birth (in return of the old birth certificate), marriage and divorce certificates. The previous name is not deleted from the register. The old birth certificate is deleted by the register office

The application form may be found online at

http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=140657&p_query=&p_tr2=

Any person who has reached the age of 16 has a right to apply for the name change. It is planned to raise the age from 16 to 18. In the case of a minor child, the parents themselves have a right to change the child's name, provided the latter's age is below 7.

Pursuant to Order No 111 of 20 June 2001 of the Minister of Justice of the Republic of Lithuania on the Approval of the Rules for Changing the Persons Name, Surname or Nationality, citizens of the Republic of Lithuania and stateless persons permanently residing in Lithuania have the right to change their first name (names) and surname (surnames) in the following cases:

- If the existing name or surname sounds bad or is difficult to pronounce;
- if a person wants to have the surname of the spouse or to get back the surname he had before the marriage, provided that the fact has not been notified in dissolution of the marriage;
- if a person wants to change a double name or surname into one of them, or vice versa;
- if a person wants to have his or her name or surname written according to the pronunciation and without adhering to the grammatical norms of the language (without Lithuanian endings) or according to the pronunciation and adhering to the grammatical norms of the language (with Lithuanian endings);

- upon changing the surname with a view to preserving the surname of the ancestors;
- if a person participates in the programme for the protection of witnesses.

In Lithuania there is no limit to the number of name changes. The change of the surname does not lead directly to the change of the surnames of any other person except minor children (in the case both parents have changed their surnames). There is no set name-change procedure specifically for transsexuals provided in Lithuanian law.

Register offices shall inform on name change the commissariat of the district where the person concerned resides. The list of conscripts and (men) bound to military service, which have changed their name and/or surname, is submitted quarterly to the local territorial military authority.

LU – Luxembourg

1. Civil Registration System

a) Introduction

Luxembourg's system is event-based.

Three languages are recognised as official in Luxembourg: French, German and Luxembourgish. The Luxembourgish alphabet consists of the 26 Latin letters plus three modified letters: "é", "ä", and "ë". In loanwords from French and German, other diacritics are usually preserved. All civil status acts are performed in French according to the Language Act.

Luxembourg has a population of 480.222 (2007) and is divided into three districts, which are further divided into twelve cantons and then 116 communes. Twelve of the communes have city status, of which the city of Luxembourg is the largest. Each administrative district has a district commissioner, appointed by the Grand Duke. Commissioners are State officials under the direct authority of the Minister of the Interior in particular and of the Government in general. Their function is to act as official intermediaries between the central Government and the communal administrations. All communal administrations, with the exception of the town of Luxembourg, come under their immediate authority and may only communicate with the higher authority through them, except in serious and exceptional circumstances. Supervision of communal management is regulated by statute and certain acts of communal bodies may have to be submitted for approval to the supervisory authority and even be annulled or suspended if they are unlawful or incompatible with the public interest, without prejudice to the responsibilities of the judicial or administrative courts. If an act by a communal authority is annulled or rejected by the Grand Duke, the Minister of the Interior or any other competent authority, the commune may appeal to the Council of State's Litigation Committee for the measure to be quashed.

b) Registry Offices and Staff

According to Article 108 of the Constitution, "the preparation of birth, marriage and death certificates and the keeping of the registers shall lie exclusively within the competence of the communal authorities".

In Luxembourg, where there are neither provinces nor departments, the commune is the only expression of the principle of territorial decentralisation. From the administrative angle, the commune is an autonomous community on a particular territory having legal personality. Civil status documents and the civil registry are the sole responsibility of the communal authorities. Accordingly, Luxembourg has 116 registry offices. Burgomasters (mayors) are appointed and

removed by the Grand Duke. Urban aldermen are appointed by the Grand Duke and aldermen in other communes by the Minister of the Interior. The burgomaster or an alderman acts as registrar. They can delegate the registrars' function to deputies or other civil servants. There are no precise regulations for the professional training. Usually, the appointed civil servant exercises the functions as a registrar after receiving a short specific training by local authorities and may attend advanced training once a year. Registrars receive a regular monthly salary.

Articles 59 to 61 of the Civil code (birth certificates drawn up at sea) and Articles 86 to 98 CC (civil status acts concerning the soldiers based in a foreign country) have no practical value now-a-days. Although civil servants and employees are controlled and monitored by Minister of Interior Department as the Official Authority, the civil status registration system belongs to the State Public Prosecutor of the commune. Problems are reported to and solved by the Prosecutor. He also makes the annual check-up of the registers. Lawsuits concerning the civil status must be reported to the Public Ministry.

All offices are equipped with computer technology; however, the registration system is only partially computerized; records are made in paper form.

c) Civil Status Records

All records are held in double at the local registry office. The doubles relating to the previous years are deposited at the district court. Records more than one hundred years old are transferred to the Archives (Article 43 CC). Acts drawn up abroad are valid if they conform to the Luxembourg law and if they were received by diplomatic or consular officials (Article 48 CC). The double is deposited in the following year at the Ministry of Foreign Affairs (Article 43 CC).

In the town of Luxembourg, a special register on divorce is maintained, if the marriage was conducted abroad.

d) Correction, Amendment of Civil Status Records

Correction of records of civil status is ordered by the district court. The application for correction can be lodged by any party concerned. The state public prosecutor may undertake administrative correction of merely clerical mistakes and omissions in the record of civil status: for this purpose, he can give all necessary instructions directly to the registrar (Article 99 CC).

In theory, the certificates are not amended at a later date but notes in margin of the certificates are accomplished. Marginal notes are a way of establishing a relationship between two civil status acts, or between an act and a court decision. It corresponds to a brief reference to the new act or decision, in the margin of an act previously recorded or transcribed, changing the civil status of the person concerned. They must be written with red ink, be dated and signed by the registrar. In practice, a registrar can also affix marginal annotations which have only the value of simple information and never appear on the copy or the extract delivered to a person or a public authority. They are written with black ink and neither are dated nor signed.

The cancellation of records is not envisaged in Luxembourg.

The reconstitution of a cancelled or lost record is made by the district court by filling the gap with a copy of the double stored records. If the two originals are destroyed or lost, the acts can be reconstituted by the district court using titles and declarations of witnesses on request of the state public prosecutor. If an act was omitted or cannot be produced, the district court can compensate it by a judgement holding place of the act. This is always necessary if birth was not declared within the legal time (Article 55 CC). Engaged couples who have no possibility to produce a birth certificate can compensate this by a notarial act delivered by the Justice of Peace of the place of birth or residence (Article 70 CC).

e) Archives

The legislation governing the archiving of administrative documents of the Grand Duchy of Luxembourg and therefore also foreign affairs documents is closely linked to the development of State structures themselves. These regulations really took off during the second half of the twentieth century, through the "Law of 5 December 1958 for the organisation of the National Library and the State Archives" initially, and then with the "order of the Grand Duke of 21 October 1960 establishing the organisation and operation of the Archives of State". Internally, the archives service of the Ministry of Foreign Affairs was a decentralised organisation from the beginning, governed by different directorates and even by some related services. While waiting for a legislation governing the obligatory filing of official documents in the National Archives, the permanent preservation of documents produced by the Ministry of Foreign Affairs as historical archives is assured by the National Archives. Consultation of the archived records rests upon the "Grand Ducal Ruling of 15 January 2001 on the consultation of archives collections of the National Archives". The Grand-Ducal Ruling of 15 January 2001 states in article 2, that: "the consultation of documents...is to be undertaken on the premises, unless otherwise authorised by the director of the National Archives. Anybody wishing to consult these documents will be admitted upon the presentation of a personal reader's card issued by the National Archives. Documents of great historical or artistic value, as designated by the director of the National Archives, may only be viewed in the presence of an employee of the National Archives, or otherwise only as a copy of the original document. Any reproduction of documents which are freely accessible, subject to the provisions contained in articles 4 and 5, are subject to prior authorisation by the director of the National Archives, who is also responsible for safeguarding the legitimate interests of the people or the institutions mentioned in these documents". Copies, photographs or microfilms of the National Archive documents may be requested against payment of a fee, whereas entire files may not be copied. Article 4 of the Grand Ducal Ruling of 15 January 2001 on the consultation of archives collections at the National Archives states, "State and local archives which were not freely available prior to their filing in the National Archives may not be freely viewed until thirty years after the date of the document(s) in question or until the expiry of any other specific period..." The same ruling specifies these special periods in paragraph 1 of Article 5: "Without prejudice to any specific texts governing the availability of certain documents, the specific periods are set as follows:

- A period of 150 years from the date of birth of the person concerned, for documents which include personal medical information;
- A period of 50 years from the date of death of the person concerned, for documents which include individual information relating to the person's private, family and professional life;
- A period of 50 years from the census or survey date for private information and attitudes collected as part of statistical surveys by public services;
- A period of 50 years as of the date of the document:
 - For documents relating to proceedings brought before the courts, for Notaries' original documents as well as for birth and civil status records;
 - For documents relating to State security or national defence."

According to Article 2 of the same paragraph: "in accordance with the government Minister responsible for the file, the director of the National Archives may authorise the consultation of a file prior to the expiry of the specific period ..., but only after the expiry of a period of 30 years, as long as the person wishing to view the file can prove a legitimate interest."

Furthermore, the Grand Duchy's membership of certain international organisations demands the respect of certain obligations or restrictions imposed by the respective issuing bodies.

f) Legalisation/Translation

The registry office does not accept documents which are not duly certified or bear the Apostille.

Luxembourg has concluded bilateral treaties abolishing legalisation with France, Belgium, Austria and Germany. In addition, Luxembourg is party to the CIEC Convention No. 16 of 8 September 1976 on the issue of multilingual extracts from civil status records, birth certificates, marriage certificates and death certificates.

Luxembourg is also party to the “European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers”. Under this Convention, parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

Copies of documents are allowed, but must be legalized or made of the original documents, which have the certification or Apostille on it. Certificates that were drawn up in a foreign language must be translated in French by a sworn translator. German, Luxembourgish and English certificates are accepted by the administrations without translation.

In Luxembourg the competent authority for the issuance of Apostilles is the Ministry of Foreign Affairs.

The Apostille can be requested in person, by registered mail or by ordinary mail. The Luxembourg passport office, which is responsible for the issuing of the Apostilles, verifies the authenticity of the signature or the identity of the seal or stamp which a document bears by comparing these elements to original signatures/seals/stamps that have previously been made available to the passport office by the concerned authorities (notaries, lawyers, municipalities, etc.). The lists containing the originals are regularly updated. If a signature or stamp is presented that does not occur on the lists of originals, the Apostille is refused. The Apostille is issued in French including an English translation. The Apostille used consists of a stamp and a signature of an official of the passport office. The Apostille is usually placed on the public document itself. An Allonge is used if the document itself does not contain sufficient place for the Apostille stamp. The Apostille is issued on the last page of the document. A mechanical system is used.

The issue of an Apostille usually takes a minimum of four working days. The fee payable for the issuance of an Apostille is € 1,00.

g) Documents

Civil status registers dating less than one hundred years back may be consulted directly only by public officials authorised to do so and persons with the written permission of the state prosecutor. The public nature of civil status documents is ensured by the issue of copies or extracts and not by direct consultation. The registry offices issue certificates, extracts and copies only of the respective records of the own commune. Their validity is not limited. Upon presentation of an identity card (sometimes it is sufficient for the registrar to be personally convinced of the identity of the applicant), the application for a document can be made in person, by mail, by fax, by telephone, by modern technology, by power of attorney to a licensed attorney at law, through Luxembourg consular offices abroad and through foreign consular offices in Luxembourg. If the application is made in person, the document is issued immediately. If the application is made by fax, by telephone or by modern technology, the document is issued after the fee is paid.

h) Cost

Extracts and copies issued by the registry office cost € 2,00 to € 3,00. All costs must be paid cash. Recognition is free of charge. The cost for the registration of birth varies from free of charge to € 2,50 depending on the commune.

i) Foreign relations

Luxembourg transmits information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member State. Some civil status registrars of Luxembourg receive information about civil status acts and changes of their own citizens from some EU Member States (e.g. Austria, Belgium, Germany and France).

j) Consular Services

Consular and diplomatic officials, authorized by the Ministry of Foreign Affairs, fulfil civil status tasks. The honorary consuls, authorized by the Ministry of Foreign Affairs, fulfil these tasks, too. In the absence of authorisation, consuls are nevertheless qualified for the publication and the celebration of the marriages but, in practice, they generally do not exert the functions of a registrar. In certain cases, civil status tasks can be exerted by the Dutch and Belgian diplomatic and consular officials. Luxembourg and the Netherlands signed on 24.03.1965 a treaty relating to the co-operation in the field of the diplomatic representation and on 20.09.1965, a Convention of September 30, 1965 relating to the co-operation in consular duties.

There is no obligation to inform one of the national authorities of a birth abroad of or to one of nationals of Luxembourg. However, the transcription of a foreign birth certificate may be made voluntarily.

k) Law

Civil Code of 03.09.1907 (CC); Communal Law of 13.12.1988 ; Nationality Act of 22.02.1968; Language Act of 24.02.1984 and various Royal or Grand Ducal Decrees

Current versions of all the texts of the legislation are available: <http://www.ecp.public.lu> (French)

l) eGovernment

Online Services for Citizens

There is currently no eGovernment services portal for citizens in Luxembourg. The 'Single Window government', a one-stop portal for citizens based on life-cycle event that will offer access online to administrative forms, procedures and public services is, however, under development.

Portal

<http://www.ecp.public.lu/>

Civil Status Certificates

Information only on civil status certificates is available online. Certificates requests are handled by local authorities. In the future, citizens will be offered the possibility to download forms on the websites of all municipalities which are responsible in the matter.

2. Birth

Births must be declared to the local registrar in the commune, where the child was born within five days, not counting the actual day of birth (Article 55 (1) CC). The birth of a child must be declared by the father or, in the absence of the father, by the doctors or surgeons, midwives, health officials or other persons present at the birth (Article 56 CC). If the mother gives birth away from her home, it must also be declared by the person on whose premises she gives birth. If a birth has not been declared within the statutory period, the registration officer may only record it pursuant to a court

decision (Article 55 (2) CC). If the place of birth is unknown, the court with jurisdiction will be the court of the applicant's domicile. A sanction is envisaged against the person who attended the birth but did not declare the event (Article 361 Penal code). For the registration of the child, a medical certificate is required and a family record book must be presented upon declaration. If no family record book exists, the person who declares the birth of the child must procure documents which contain all the necessary information. If the father declares the birth of a child born in wedlock, he has just to present the family record book. If the father declares the birth of a child born out of wedlock, he has also to present an identity document and state the name of the child.

The children of the grand-ducal family must be presented to the registrar in order to ascertain the sex of the child with regard to the succession.

A stillbirth is entered into the register of deaths. The parents can choose a first name and a surname for the still born child. A child alive at birth but dead on declaration is entered into the register of births and the register of deaths.

The birth record of a foundling is made at the registry office of the place where the child was found. Where the child is declared to be born of unknown parents, the guardianship magistrate is informed of the fact by the registration officer within 24 hours (Article 57 CC). In this case, it is usually stated that the child was born of an anonymous mother, or of "x". It is then for the guardianship magistrate to appoint a public administrator for the child. The first name and the family name of the foundling are determined by **the** person who found the child and the registrar (Article 58 CC).

If the birth certificate issued relates to an illegitimate child, the registration officer must inform the guardianship magistrate of the fact within one month.

The birth declaration contains pursuant to Article 57 CC:

- the child's first name and surname, sex, date, time and place of birth;
- the declaring person's first name, surname, profession, age, residence and date of birth;
- surname, first names, date and birthplace, profession and residence of the father and mother;
- name of the hospital and
- legitimacy and birth order

Luxembourg is not imposing a statutory obligation on the natural parents to register a newborn child or to state their identity when registering it.

At the end of each month, the registrars inform the statistical office, STATEC, of the number of births registered within their commune.

a) Birth Certificate

The birth certificate is the document issued by the registrar on request only, which certifies the birth. It indicates characteristics about:

- the child's first name and surname, sex, date, time and place of birth;
- the declaring person's first name, surname, profession, residence and date of birth;
- surname, first names, date and birthplace, profession and residence of the parents;
- number of the act;
- date and time of registration;
- name and signature of the registrar and

- signature of the declaring person.

In theory, the birth certificate is not amended at a later date but notes in margin of the birth certificate are accomplished. Margin notes relating to descent include the establishment of filiation, in particular the recognition and legitimation, and court decisions relating to adoption.

Decisions relating to the change of the first name or surname, the nationality, the legal capacity, marriage, change of gender, absence and death are registered as marginal notes.

b) Recognition

In pursuance of Article 334 (3) CC, the Luxembourg Government states that maternal affiliation follows automatically only from indication of the mother's name on the child's birth certificate, provided, however, that maternal affiliation may nevertheless be established judicially by means of a maternal affiliation suit if it is proved by due legal process that the child concerned is the one to whom the alleged mother gave birth. Moreover, following the model contained in the International Commission on Civil Status Conventions (CIEC), if maternal recognition is necessary to meet the requirements of the law of a non-contracting state, the mother may make such a declaration before the competent authority of any of the States parties. States parties to the Convention of 12 September 1962 (on the establishment of maternal descent of natural children) are: Germany, Greece, Luxembourg, Spain, Netherlands, Switzerland and Turkey.

The mother's husband is the legitimate father of a child conceived in wedlock (Article 312 CC). Conception is presumed to have taken place between 180 and 300 days before birth (Article 313 CC). The legitimate father may disown the child if he can show that he cannot be the biological father (e.g. owing to absence or state of health, or following a blood test). To do so he must file an action before the circuit court to disclaim paternity within six months of the child's birth (Article 316 CC).

Where the child is conceived before the marriage but born during the marriage, he or she is recognized as legitimate from the moment of conception, but the procedure for disclaiming paternity is simplified. Any person may bring an action to disprove paternity, with the exception of the legitimate father - the person against whom the action is most usually brought (Article 314 CC).

Such an action is possible only in cases that are enumerated in Article 312 (3) CC where the child's apparent status and the birth certificate do not coincide, that is, where the birth certificate names a father other than the legitimate father. The child may bring against the father and mother and the parents may bring against the child, an action to claim the status of legitimate child, so as to establish that status (Article 329 CC). In order for such an action to be brought, the child must not already have another established legitimate or natural affiliation.

In the event of an affiliation already being established in law, whether natural or legitimate, it must first be invalidated. If a child's natural parents marry, they may legitimize their child. If the child's natural affiliation is established in law with respect to both parents, legitimation occurs automatically at the moment of marriage. It is also possible to recognize the child during the marriage ceremony before the registration officer (Article 330 CC).

Lastly, legitimation is also possible after the marriage if the natural affiliation is recognized subsequently by a judgement (Article 331 CC). Legitimized children are treated on an equal footing with legitimate children. However, it is easier to dispute their status: to do so, it is simply necessary to dispute the natural affiliation.

A child that is not born of a marriage is considered illegitimate. Natural affiliation is established either by voluntary recognition or by a court declaration following an action to establish paternity or maternity (Article 334 CC). The recognition may simply be recorded on the birth certificate.

Natural affiliation to the mother is established by naming her on the birth certificate. For this, the mother does not need personally to appear before the registration officer. For recognition of natural paternity, the father must personally appear before the registration officer, a notary or a judge. The father must present a medical certificate and an identity document. The mother does not have to accept. The acceptance is required only, if the child is born of an act of violence (Article 335 CC). The registrar must inform the mother of the recognition. In the case of an act of violence, recognition without acceptance of the mother may be declared null and void by the mother or the public prosecutor. Natural affiliation, like legitimate paternity, may be challenged by means of an action to contest recognition. The action may be brought by the child, by the person who has recognized the child, by the person claiming to be the true father, or by the mother, the heirs or the Public Prosecutor (Article 339 CC). If the child has attained the age of six years or if the person who has recognized the child has a regular contact to the child of more than three years, the recognizing person cannot contest recognition anymore. An action to establish natural maternity serves a purpose only if the mother is not named on the birth certificate. Such an action may be brought by the child to prove that the person named by him is indeed his biological mother (Article 341 CC). An action to establish natural paternity is more common. It may be brought only by the child and is directed either against the putative father or against his heirs. The evidence supporting the natural paternity must be provided by the child and the putative father must disprove it.

In Luxembourg, in the case of absolute incest, affiliation may be established by law in respect of only one parent, who may equally well be the mother or the father, since it is optional to give the mother's name on the birth certificate (Article 334 (7) CC).

3. Marriage

Legal consequences arise only from the civil marriage. A religious marriage may be celebrated later. Registered partnership (4946-12.05.2004) applies to same sex and opposite sex couple. The official declaration is made before the registrar of civil status. Residence requirements exist.

a) Personal Requirements/Impediments to Marriage

A marriage is contracted between a man and a woman (Article 144 CC). Close relatives can not marry i.e. a marriage is not contracted between the legitimate or natural brother and the sister and the allies with the same degree, between the uncle and the niece, the aunt and the nephew, between an adoptee and the adopter or adopter's offspring; between an adoptee and the spouse of the adopter; between the adopter and the spouse of adopted thereof; between two adoptive siblings of the same adopter; or between an adopter and the progeny of an adoptee thereof (Articles 161,162,163 and 358 CC). The Grand-Duke can raise, for serious causes, prohibitions relating to the marriages between uncle and niece or aunt and nephew (Article 164 CC), between brothers-in-law and sisters-in-law (law of April 23, 1827) and between the adopted children. A woman who has been previously married may not remarry until 300 days after termination of the previous marriage (Article 228 CC). Exemption to this rule made for a person whose previous marriage ended in divorce by mutual consent (Article 297 CC). Another procedure to abbreviate the period of 300 days is stated in Article 228 (3) CC.

A man who has attained eighteen years of age and a woman who has attained sixteen years of age is of age to marry (Article 144 CC). The Grand-Duke can waive the age limit for serious reasons (Article 145 CC). These reasons are not defined by the law. A minor between fifteen and eighteen years of age can marry with the written consent of his or her parents or guardian (Article 148 CC). If a child has one parent or if the other parent is missing or a guardian has been appointed to the other parent due to his or her restricted active legal capacity or if one parent is deprived of parental rights, the consent of one parent is sufficient for the minor between fifteen and eighteen years of age to marry (Articles 149 to 160 CC). In the event of a refusal by the legal representative(s), the circuit

court may, at the request of the State Procurator, authorize the marriage if he considers the refusal unjustifiable.

Marriage must be contracted with the free consent of the spouses (Article 146 CC). This is not the case if there has been violence or if the person concerned was mistaken as to the essential qualities of the person (Article 180 CC). Other impediments to marriage are bigamy (Article 184 CC) and if the conditions as regards the form of the marriage were not met: a marriage not publicly contracted, a marriage celebrated before an incompetent public official or failure to observe the formalities for the publication of banns (Article 191 CC).

Marriage may only be celebrated in the commune where one of the future spouses lives. Accordingly, one of the spouses to be must be resident in Luxembourg.

b) Preliminary Procedure

Application for marriage may be filed by one of the future spouses. All weddings must be published 10 days at the civil office of the local authority where the future spouses are registered (Article 64 CC). The publication is also obligatory in the event of marriage abroad if the Luxembourg national has his residence in Luxembourg. Exemptions of publication can be granted due to important reasons on written request, addressed to the Prosecutor of State of the district where the marriage shall be celebrated (Article 169 CC). The publication is done by way of poster affixed with the door of the common house of the place of celebration. The publishing of a wedding can be done after handing in a medical certificate to the concerned marriage license bureau. All the other documents needed for the wedding must be handed to this office two weeks before the date of the wedding. The wedding must take place in the 12 months after the publication. If the registrar rejects the publication for marriage, a person may contest this in the administrative court. The right to file an objection against the celebration of the marriage belongs to the person engaged with one of the two contracting parts (Article 172 CC). Also the father and the mother, and, in the absence of father and mother, the grandfathers and grandmothers can file an objection in opposition of the marriage of their children and descendants, even major (Article 173 CC). The objection can be raised in the civil court.

The existence of a marriage contract must be declared and is registered.

c) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Luxembourg only if it is envisaged in a bilateral agreement (e.g. Germany but not with Austria).

If a Luxembourgian citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Luxembourgian certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Luxembourgian law and is valid for 6 months from issue. This certificate is issued by the registry office of the main place of residence of one of the future spouses. If no primary residence or domicile exists in Luxembourg, the registry office of the last primary residence is considered the relevant authority. If both parties to the marriage are non-residents, the application should be filed at the registry of Luxembourg City. The certificate is issued free of charge.

d) Marriage Ceremony

The wedding is celebrated only in one of the two possible local authorities where the two persons wanting to marry are registered. No marriage may be performed in Luxembourg unless one of the parties is a legal resident of Luxembourg. The burgomaster or his delegate is the only qualified person to celebrate the marriage. Prospective spouses contract marriage with both being present in

person at the same time. A marriage by proxy is not allowed. No witnesses must be present. The ceremony may be held in the language the spouses have chosen provided that they understand the language. The presence of an interpreter might be necessary.

e) Documents

- Identity document
- Medical certificate issued by a doctor from Luxembourg. At the day of the publication of marriage, this certificate should not be older than 2 months. The documents for the medical check-up can be obtained from the registry office. The certificate is not needed in case of danger to life and physical condition and in the exceptional cases (e.g., very close childbirth). The State Public Prosecutor the prosecutor of State can grant the exemption (Article 169 CC).
- Birth certificate (certified copy with indication of the names of the parents) less than 3 months old if delivered in Luxembourg, less than 6 months old if delivered by another country. If it is not possible to get the birth certificate, the judge of the peace justice of the residence can deliver an official document proving the birth dates.
- Residence certificate (not obligatory)
- Civil status certificate (if the civil status is not indicated on the certificate of residence)
- Death certificate of the last spouse
- Marriage certificate with indication of the divorce decision or a certified copy of the divorce judgement
- Birth certificate of a child to legitimate by the marriage
- In addition, a foreigner must present a certificate of no impediment and often a custom certificate is required by the registrar. The certificate of no impediment is issued to nationals intending to celebrate the marriage abroad.
- All documents are no longer accepted as valid after three months in case of a national and after six months in case of a foreigner. According to Article 70 CC, an affidavit attested by witnesses may substitute the birth certificate.

f) Contents of the Declaration of Marriage

If a marriage is celebrated, the act of marriage is recorded in the marriage register. The registrar of the birth place of each of the spouses is informed of the marriage so that the marriage can be mentioned in the margin of their birth certificates.

The record on the marriage certificate indicates:

- marriage date
- place of marriage
- surnames before marriage
- home address
- date of birth
- place of birth

- country of birth
- nationality
- marital status

g) Family Record book

The national family record book was replaced by the international family record book instituted by ICCS (CIEC) Convention No. 15 (Convention introducing an international family record book). Parties to this Convention are Greece, Italy, Luxembourg and Turkey. No charge is made for issuing the international family record booklet. It is accepted without legalisation in the territory of each of the states/parties.

The civil registrar hands to the spouses upon contradiction of marriage the booklet or later while transcribing the marriage record. The booklet contains the original particulars and subsequent annotations appearing in the civil status records concerning the marriage of the spouses, the birth of the children of the marriage and the death of the spouses and of those children. Miscellaneous information peculiar to each Contracting State are also be shown in the space provided for the purpose.

h) Cost

The marriage and the family record book are issued free of charge.

i) Divorce/Separation/Annulment

Applications for divorce (fault divorce or legal separation), legal separation or annulment must be submitted to the court of the district in which the spouses have their common domicile or, failing this, in which the respondent has the domicile. As regards divorce by mutual consent, the two spouses must be present together and in person before the president of the civil court of their district. Marriage annulment means that the marriage is rendered null and void by a court decision. In other words, the marriage is deemed never to have been celebrated. A marriage rendered null produces, nevertheless, some effects to certain person.

The updating of civil records in the Grand Duchy following a judgement of a court of a foreign EU-country is provided for without any preliminary procedure. The decision of the court granting the divorce must be mentioned in the margins of the marriage certificate and of the birth certificates of the spouses. If the marriage was celebrated abroad, the decision of the court must be entered into the civil registers of the municipality in which the marriage certificate was transcribed, otherwise in the civil registers of the city of Luxembourg. Furthermore, it must be mentioned in the margins of the birth certificates of each spouse.

If a divorce or separation is pronounced in Luxembourg, a copy of the judgement is send to the registrar of the place in which the marriage was celebrated and the birth place of the spouses so that the divorce or separation gets mentioned in the margin of the relevant certificates.

4. Name

The declaration and registration of naming of the child is made before and by the Registry Offices as part of the completion of the birth entry.

On naturalisation, an application may be made for the transposition of the first names if their foreign character can obstruct his integration in the Luxembourg community (Article 1 L of June 7, 1989 relating to the transposition of the surnames and first names of the people who acquire or cover Luxembourg nationality).

The Grand Duchy of Luxembourg understands by "national minority" in the meaning of the Framework Convention, a group of people settled for numerous generations on its territory, having the Luxembourg nationality and having kept distinctive characteristics in an ethnic and linguistic way. On the basis of this definition, the Grand Duchy of Luxembourg is induced to establish that there is no "national minority" on its territory.

Nicknames and pen names are not registered. Pursuant to the Grand Ducal Decree of 26.01.1822 nobility and academic titles are registered.

a) First Name

The first name of a child born in wedlock is assigned by the father. In case where the child is born out of wedlock, the first name is assigned by the mother unless the declaration of birth is made by the father. In principle, only first names listed in almanacs or of historical characters should be assigned. In practice, this rule is handled tolerant and since 2006, all first names may be accepted.

A first name can be of a foreign origin or a diminutive and must not correspond to the sex of the child. A limit of first names is unknown to the law, so in theory one could give a child an endless series of names. Only ridiculous or discriminatory first names are refused and those which are exclusively surnames and which could harm the rights of a third party. If the registrar assumes the existence of one of the aforementioned cases, he cannot draw up the birth certificate and must inform the state prosecutor. The birth certificate being later drawn up includes the declaratory judgement.

Upon adoption, a new first name may be assigned to the child by a court decision on the basis of the application of the adoptive parent(s) (Articles 359 and 368-1 Civil Code).

b) Surname

• *before 01.05.2006*

In 1979, the principle of equal rights for legitimate and illegitimate children was established, except for children born of incestuous relationships. Legitimate children automatically took their father's name, and illegitimate children took the name of the parent with respect to whom affiliation was first established. If affiliation was established simultaneously with respect to both parents, the child took the father's name. However, it was possible to change the minor's name by opting for that of the other parent. This necessitates a joint declaration by both parents before the guardianship magistrate and, in the case of a change of name to that of the father with respect to whom affiliation has been established at a later stage, the consent of the minor if he or she is a child over 15 years of age. The child may receive the name of the mother's husband if natural affiliation has been established only with respect to the mother.

• *since 01.05.2006*

Since this date, a child is assigned the surname upon the agreement of the parents (married or not). The parents can choose the surname of the father, the surname of the mother or a joint surname. The sequence in case of a double name is chosen by the parents. If the parents fail to reach an agreement, the decision is made in front of the registrar by drawing lots. This decision applies to all children to be born or adopted by the same parents. If the father is unknown, the child is assigned the name of the mother. Upon paternal recognition after the registration of naming, the child maintains the name of the mother.

Until 31.10.2007, the parents could file a joint application to the registrar on the place of residence of the child for their minor common children to assign them another surname according to the new applicable rules. The personal assent of the child of more than thirteen years was necessary. If

several children are concerned, a new surname could be allotted only with the assent of all children of more than thirteen years. For the natural child, the joint application must be made in front of the supervisory judge who will transmit a copy of the declaration to the registrar of the birthplace of the child.

Upon contradiction of marriage, both spouses retain their pre-marital surname. In everyday life, women often use the surname of the husband. Also they can apply for the issuance of identity papers showing the husband's surname. Civil status records cannot be changed. The divorced wife cannot use the surname of her ex-husband in everyday life.

Upon adoption, the name of the adoptive father is assigned to the adopted child. If the child is adopted by the two spouses, they may choose the child and assign the surname upon an agreement among them. If a wife adopts the child of the husband, the adopted child maintains the name of the father. If the adoption is revoked, the adopted child gets the original surname back.

c) Name Change

In Luxembourg, it is allowed to change the first name and the surname.

A change of name can be granted by grand-ducal decree. Any national, residing in Luxembourg or abroad, which has a good reason to change the surname or first name must submit an application showing an adequate reason to the Government. In the event of refusal, the interested party can bring an action within three months to the administrative court. In the event of authorisation, a copy of the grand-ducal decree is sent to the interested party. The decree is then published in the Memorial B (the Official Journal of Luxembourg), but its execution can take place only after the expiry of a three months deadline. During this time, any interested person is allowed to file an objection, and, if the Government considers the objection is founded, it can pronounce the revocation of the decree. In the absence of a founded objection, the applicant receives from the Ministry for Justice a certificate of no-objection. After presenting the certificate and the grand-ducal decree authorizing the change of name, the event is transcribed by the registrar.

If a child is born out of wedlock and a joint parental authority is established later it is possible to change the child's name upon application to the juvenile court.

d) Cost

The state fee for a change of the first name is € 61,00. The state fee for a change of the surname is € 123,00 and if the surname of several members of the family shall be changed it is € 185,00.

LV – Latvia

1. Civil Registration System

a) Introduction

Latvia's civil status records are based on a central population register. As with all population registers, Latvia's system is person based as it records at a central place all relevant changes to the civil status of a person occurring in Latvia.

All civil status acts are performed in Latvian language. The Latvian standard alphabet consists of 33 letters and is a variant of the Latin alphabet. The alphabet uses 22 unmodified letters of the Latin alphabet (all except Q, W, X and Y). It adds further eleven letters by using diacritic marks. In

computing, several different coding standards have existed for this alphabet, among them: ISO 8859-4, -10, -13.

Latvia has a population of 2.276.282 (2007) and is divided into 26 districts (singular -apriņķis; plural - apriņķi) (more often – singular – rajons; plural - rajoni) and 7 cities (republikas pilsētas; singular – republikas pilsēta). The districts of Latvia are divided into 569 communes: 65 cities (Latv.: plural – pilsētas; singular – pilsēta), 11 amalgamated municipalities (Latv.: novads), 26 districts (Latv.: rajoni) and 465 rural municipalities (Latv.: pagasts). Latvia is currently going through administrative-territorial reform.

The Department of Population Register is responsible for keeping record of the population. The general purpose of the Population Register is to ensure the recording of Latvian citizens, Latvian non-citizens, as well as foreigners, stateless persons and refugees, who have received permits for residing within Latvia, and to include and to constantly update the information about these persons.

The Office of Citizenship and Migration Affairs (OCMA) is a supervisory body of the Ministry of Interior of Republic of Latvia responsible for maintenance of the Population Register. For including information about a person in the Population Register, an individual personal identity number is assigned by the OCMA. This number shall be permanent, except in cases where the date of birth of a person is being corrected or the person has been adopted.

Registry Offices and Staff

The registration of civil status documents is a function delegated by the state to the General Registry offices of local governments.

The Law on Local Government sets the autonomous function of registration of civil status as a compulsory permanent function for authorities of the communes. In order to ensure the accessibility of the services provided by a local government, the Civil Registration Department was established. The General Registry Department supervises the observance of regulatory enactments in the registration of civil status documents, as well as methodologically manages the General Registry Offices.

The Civil Registration Department acts under the supervision of the Ministry of Justice and is head of the 530 General Civil Registry Offices. The General Registry Office is an institution belonging to the court system, which registers civil status documents, renews and amends the civil status document register and issues again marriage, birth or death certificates according to the procedures specified in the Civil Status Documents Law.

The relevant local government determines the number of employees of each General Registry office and the remuneration of such employees. The relevant local government hires the employees of the office. The head of the General Registry office is appointed to his or her position after co-ordination with the General Registry Department of the Ministry of Justice. There are approximately 600 Civil Status registrars in Latvia. There is at least one Civil Status registrar in every General Registry office. Depending on the number of population in the municipality in which the General Registry office is situate, there can be more than one Civil Status registrars. This is more common in big cities of Latvia - Riga, which has several General Registry offices, Daugavpils, Liepaja and others.

Only a citizen of Latvia who has a higher education and whose personal and professional qualities comply with such position may be the head of the General Registry office. Only a citizen of Latvia whose personal and professional qualities comply with such position may be an employee of a General Registry office.

The head of the General Registry office is responsible for the operation of the office. The head of the General Registry office or an employee of the General Registry office to whom the local

government has assigned the fulfilment of the duties of the head of the office in the cases provided in Civil Status Documents Law shall sign each entry in the register.

The interested person may appeal to a court an unjustified refusal of the head of the General Registry office to register a civil status document or to correct or supplement the entries of civil status registers according to the Administrative Procedure Law.

General Registry offices do not have their own web-sites, but information about General Registry offices can be found in web-sites of local governments.

According to the information obtained from Riga City General Registry office and Vidzeme Suburb General Registry office registrars, an ordinary day of the registrars is spent with members of the public coming to the office (1/3 of a day) and on the phone, at the computer and at the desk with paperwork (2/3 of a day).

b) Civil Status Records

Each General Registry office has marriage, birth and death registers, in which within a period of a single year in chronological order, marriages and notified facts of birth and death are registered. Each register is maintained in two copies. The information in the Population Register is constantly updated. The amendments are made in the Population Register by indicating the date of the amending, the legal basis and the number of the document which certifies these amendments, the date of issuing and issuing country or issuing institution.

The information about a person in the Register includes that branch office of the OCMA within the territory of which is located the registered place of residence of the person. If a person does not have a declared place of residence in Latvia that information is included in the Register by the Office division in whichever territory of Latvia the place of residence of a person has been indicated.

The information in the Register must be written in Latvian language, except name, surname and address in case of foreigners, stateless persons and refugees which shall be recorded in Latinized orthography.

In order to update the information in the Population Register, information for the OCMA is provided by:

- Institutions implementing State authority and administration;
- Local authorities and institutions;
- The court;
- Persons who have Latvian nationality and who reside outside Latvia for a period exceeding six months;
- Persons regarding whom information has been included in the register, if information relating to their former spouse, children, father or mother has not been included in the register;
- Latvian citizens who are changing their nationality and
- Latvian non-citizens who acquire citizenship of another country (except Latvia).

Services provided by the General Registry Offices:

- birth registration;

- application;
- legitimation of the newborn;
- marriage registration;
- confirmation of the marital status;
- change of the last/first name;
- elaboration, correction and cancellation of the civil registration records;
- wedding-day celebration;
- consulting on issues regarding the civil registration

General Registry offices make civil status records in a computer-based system as well as in hard copies. The first copy of the Marriage, Birth and Death Registers is stored at a General Registry office. A register of marriages solemnised by a clergyman is stored at the relevant congregation. A General Registry office transfers the second copies of the registers to the Central Statistics Bureau not later than by the fifth date of the following month. At the end of the year, the Central Statistics Bureau transfers the second copy to the General Registry Department of the Ministry of Justice for examination and storage. After the record in the General Registry office is made, the General Registry office informs the Population Register and it enters a record in the Population Register.

In the representative offices of the Republic of Latvia in foreign states, the first copy of a register is sent at the end of the quarter of a year through the Consular Department of the Ministry of Foreign Affairs to the General Registry Department of the Ministry of Justice, which examines and transfers such register for storage to the Riga City General Registry Office. The second copy of the register is sent to the Central Statistics Bureau, which shall transfer such register for storage to the General Registry Department of the Ministry of Justice at the end of the year.

Correction, Amendment of Civil Status Records

The General Registry office may correct mistakes in entries and enter missing information upon a submission of the interested persons if it has a sufficient basis and if the referred to persons are not in dispute. Corrections shall be made and the missing information shall be entered on the basis of a written opinion of the head of the General Registry office and it shall be approved with the signature of the head of the General Registry office and a seal with the State's coat of arms.

If interested persons are in dispute, an entry of a register may be corrected or supplemented only on the basis of a court judgment.

In correcting mistakes, the incorrect entry shall be deleted so as to make it possible to read the deleted words clearly.

Entries of a register may be cancelled on the basis of a court judgment, but entries that have been incorrectly renewed or made repeatedly – on the basis of an opinion of the General Registry Department of the Ministry of Justice if there is no dispute regarding the correctness of such entries.

If the Marriage, Birth or Death Register has been partially or completely destroyed, the General Registry Department of the Ministry of Justice may allow for the substitution of the destroyed Register with true copies of the second copy. If both copies of a register have been completely or partially destroyed, the General Registry office where the destroyed register was stored may renew the entries upon a request of the interested persons after an official determination of facts. If a sufficient basis for the renewal of an entry does not exist, the head of a General Registry office

issues a written refusal to the interested person. In such cases, the entry is renewed only on the basis of a court judgment. Entries of the civil status documents registered in foreign states are renewed by the Riga City General Registry Office on the basis of a court judgment.

If a registered person discovers a mistake or the inclusion of information prohibited by this Law within the information included in the Register about himself, his children who are younger than 16 years of age and persons under his trusteeship or guardianship, he has the right to demand that the mistake gets corrected or the prohibited information gets deleted from the Register.

If some of the information included in the Register is changed, the new information is recorded without cancelling the former.

Access

A person has the right, twice during the calendar year, to request and to receive free of charge the information from the Population Register about himself and own children who are younger than 18 years of age. For every additional request of such kind a fee shall be collected as determined by the Cabinet of Ministers. Applications must be made in person at a registry office with proof of identity (picture ID).

Courts, Offices of Prosecutors and investigative institutions have the right to get acquainted with the entries of civil status registers and to request documents certifying registration.

Persons to whom such documents apply, as well as the spouses and direct ascending and descending kin of such persons have the right to become acquainted with the entries of civil status registers (except entries, which are related to adoption) and to request documents certifying registration. Until the age of majority of an adoptee, only adopters may become acquainted with the Birth Register entries that are related to adoption. Other persons have the right to request and receive documents certifying the registration of civil status documents if such persons prove their legal interest.

Archives

The archives system of Latvia consists of Latvia State Historical Archive, State Archive of Latvia, State Archive of Personnel Files and 11 Regional State Archives. All the work is carried out under the guidance and supervision of the Directorate General of Latvia State Archives. The work of Latvia state archives is based on the Law "On Archives" of 25.03.1991. The legislation provides opening of public archives without particular restriction (with several exceptions in the cases of national security, commercial sensitivity or personal confidentiality). Each archive has an Enquiry Service which offers to prepare inquiries on social and legal matters based on archival documents and attested copies of documents, makes investigation and analysis of archival files. These services must be paid according to the price list.

An important activity of the Latvia State Historical Archive is the preparation of information about birth, death and marriage registration, family relationships, residence, court orders etc. The Personal Document Archives of Rīga and Jūrmala were established in 1994. There are personal documents (personal files, out dated passports and certificates), medical documents (health and birth history, medical files) etc. In accordance with legislation, most of these documents will be saved for 75 years and then appraised for further keeping or disposal. The Regional State Archives contain files of the state and local government institutions from the Soviet occupation period 1944–1991.

c) Legalisation/Translation

The registry office does not accept documents which are not duly certified or bear an Apostille.

Latvia has bilateral treaties abolishing legalisation with Estonia, Lithuania and Poland. Latvia is also party to the Convention abolishing the legalisation of documents in the Member States of the European Communities, signed at Brussels on 25 May 1987 together with Belgium, Denmark, France, Italy, Cyprus and Ireland.

Copies of documents are permitted, but must be legalized or made of the original documents, which have a certification or an Apostille. All documents in a foreign language must be translated into Latvian and the translation must be verified by a notary.

In Latvia the competent authority for the issuance of Apostilles is the Ministry of Foreign Affairs.

The Apostille can be requested only in person or by an authorized person. The competent authority verifies the authenticity of the signature and identity of the seal or stamp, by comparing it to examples of signature and mark of seal or stamp submitted to the Ministry of Foreign Affairs. Examples of signature and marks of seals or stamps are electronically stored. The Apostille is placed on the document itself, as label, and in situations, where there is no place on the document, the Apostille is annexed. If the public document consists of multiple pages, then it is required that the document is sewn and sealed together. The Apostille is issued in English. The Apostille and document legalisation in Ministry of Foreign Affairs is issued electronically. Generally the Apostille is issued within 10 days. In urgent matters, the Apostille can be issued within 48 hours (not including holidays).

According to Rules of Cabinet of Ministers Nr.254 from June 25, 2002 “Amendments to Rules of Cabinet of Ministers from 28 December 1999 Nr.443 on “Regulation on State Fees for Legalization of Foreign Public Documents, the following fees are payable:

- Physical persons – 5 LVL (€ 7,11)
- Urgent legalization (within 48hr, not including holidays) – 10LVL (€ 14,22)
- Authorized person, that is not relative or spouse of authorizer – 10LVL
- Urgent legalization (within 48hr, not including holidays) – 20LVL. (€ 28,44)
- Senior citizens and politically repressed persons (showing documentation) – 1,5LVL (€ 2,13)
- Urgent legalization (within 48hr, not including holidays) – 3LVL (€ 4,26)

d) Documents and Cost

On the basis of the entries of civil status registers, a General Registry office issues the marriage, birth and death certificates; and true copies, extracts or statements from the entries of the registers.

Application for civil status documents can be submitted in person or by postal mail as well as by proxy through any third party. If a person has a valid secure electronic signature, the application for copies can be submitted by e-mail. An application can also be submitted through consular offices.

Issuing of a written certificate from the Population Register costs

- within five business days: LVL 3.00 (4,27 EURO)
- within one business day: LVL 6.00 (8,54 EURO)

State fees for registration of civil status documents are:

- registration of marriage – LVL 5.00 (7,12 EURO)
- renewal, supplementation, correction and cancellation of entries - LVL 3.00 (4,27 EURO)

- issuance of a repeated certificate – LVL 1.00 (1,42 EURO)

Costs for information or certification from the General Registry office are set by each local government. State fee must be paid for registration of civil status documents. State fee for registration of civil status documents is transferred to the State basic budget. Additional costs for marriage ceremony are transferred to the budget of the respective local government. State fee can be paid by money transfer through the bank. It is not possible to pay for civil status registration directly in General Registry office by cash or credit card or any other way.

e) Foreign Relations

Information about the changes in civil status records are not transmitted directly to the authorities of EU Member States and such information is not received from the authorities of EU Member States. A General Registry office shall immediately inform the Consular Department of the Ministry of Foreign Affairs regarding the registration of a fact of a marriage entered into by a foreigner (except persons who have been recognised as stateless persons in the Republic of Latvia) and the fact of a birth or death.

f) Consular Services

Career consular officials in diplomatic and consular representations of the Republic of Latvia in foreign states perform the registration of civil status documents of citizens and non-citizens of Latvia residing in foreign states if such citizens or non-citizens have presented a personal identification document issued in the Republic of Latvia. Latvian diplomatic or consular representatives have the right to include in the Population Register information about a newborn child of such Latvian resident or non-resident who remains abroad for more than two months. The Latvian Ministry of Foreign Affairs urges residents of Latvia to register in the Consular Register before leaving the country or while staying abroad.

The Ministry's Consular Department has created a Consular Register with an aim to compile information about residents of Latvia who are staying abroad. The register will be kept and maintained in Latvian embassies, consulates and the Ministry's Consular Department. Latvian embassies and consulates register Latvian residents who are staying in the respective country. If Latvian residents are leaving for countries where no Latvian mission has been established, these persons are registered in the Consular Department of the Ministry of Foreign Affairs. In order to register, persons should provide the Latvian embassy, consulate or the Ministry's Consular Department with a completed questionnaire containing basic information about themselves. This can be done personally, via e-mail, regular mail or otherwise. Data of personal character can be furnished at will. Information on a person's stay in a foreign country is kept as long as the person stays there.

In order to obtain an official document issued in Latvia, for example birth, marriage, death certificate, the applicant must fill out a request form in triplicate and either bring or mail in the 3 copies to the Embassy, along with payment for the processing (in cash or postal orders). A copy of the information page from the person's passport, including a photograph must be added to the submission.

On 2 January 2002, the Division for registration of Latvian nationals residing abroad started functioning. Its main tasks are:

- inclusion of the information into the Population Register on Latvian nationals residing abroad, as well as updating this information;
- processing passports for Latvian nationals residing abroad and

- record keeping of Latvian nationals residing abroad who emigrate to foreign countries, aggregating the information, as well as making respective amendments in the Population Register.

To ensure that relevant information in the Population Register is updated regularly, the Department of Persons' Status Control (hereinafter – DPSC), as of 3 December 2001, started attending to persons who wish to emigrate to foreign countries. At the end of the year 2002 a number of activities were carried out to ensure more efficient claims of the Naturalisation Board on verification of the information submitted by the applicants and to improve examination of person's legal status on citizenship issues (the Division Citizenship Matters has been reorganised and its functions transferred to DPSC as of 20 January 2003).

In order to register a child as a citizen of Latvia, one of parents (citizen of Latvia) must present the following documents at the Consular section of the Embassy:

- Both parents' passports;
- Full (where both parents' names are written) birth certificate and
- If one of the parents is a citizen of another country - a signed application from this parent with confirmation / agreement that child becomes a citizen of Latvia (the signature shall be approved by Notary public)

After the registration, in approximately 4 weeks, the identity code is granted to the child. Latvian diplomatic or consular representatives have the right to include in the Population Register information about a newborn child of such Latvian resident or non-resident who remains abroad for more than two months.

Accordingly Latvian consular officials assume the same duties of those which are reserved for registrars in their country. The Latvian consular offices register the civil status events of their citizens abroad and issue the respective certificates. They offer assistance to obtain civil status certificates (birth, marriage and death) for Latvian citizens from civil status registries in Latvia and the host country. They issue also a certificate of no impediment and are also authorised to celebrate marriages. The consular offices abroad transmit the acts drawn up abroad into the Lithuanian Population Register. A fee is payable for procuring and issuing of civil status documents.

g) Law

Civil Law of 28.11.1937; Law on Local Government of 08.06.1995; Population Register Law of 27.08.1998; Regulations on Spelling and Identification of Names and Family Names of 23.05.1996 issued according to Part 3, Article 19 of the State Language law of 09.12.1999; Law on Changing the Registered Name, Surname or Ethnicity of 15.06.1994; Law on Declaring the Place of Residence of 01.07.2003; Civil Status Documents Law of 17.03.2005; Nationality Act of 22.07.1994; Diplomatic and Consular Service Law of 11.06.1998

Current versions of the texts of the legislation are available at: <http://www.likumi.lv> (Latvian) and <http://www.ttc.lv> (English)

h) eGovernment

Online Services for Citizens

Portal

The latvija.lv portal, which was launched in August 2006, provides people living in Latvia and abroad with Internet resources relating to state institutions as well as a centralised access point to public eServices. However, it is not possible to order birth, marriage or death certificates from abroad through this system.

2. Birth

a) Registration of Birth

The parents are usually the persons who should declare the birth within one month at the General Registry office according to the place of residence to one or both parents. The birth of a child may be notified in oral or written form. The father and mother of the child may authorise another person to notify in writing regarding the birth of the child. If the parents of a child are deceased or the birth of a child may not be notified due to other reasons, a midwife, doctor or other person who was present at childbirth has a duty to notify regarding the birth of the child. The head of a medical treatment institution or his or her authorised person has a duty to notify regarding the birth of a child in writing – regarding all children who are born in the relevant medical treatment institution. If the child was born in a shelter or a place of imprisonment, the head of the relevant institution has a duty to notify regarding such birth in writing.

If the declaration of the birth of a child has been overdue for more than three month after the term for declaration of the birth of a child, the birth of a child can be registered after clarification of the reasons for such delay. There is no additional penalty for non-compliance to the register on the stipulated time.

For registration of the birth of a child, parents shall present their passports and medical certificate testifying the birth of a child, place and time of birth and parents' marriage certificate. Birth certificates are issued by the General Registry office after the birth of a child has been declared. If the records in the General Registry office are amended or supplemented, this information is included in the reissued birth certificate.

If the birth of a child has taken place on a vessel during the voyage, a certificate of the fact of the birth of a child compiled by the captain of the vessel testified with his signature and stamp of the vessel is submitted to the General Registry office.

Stillbirths are also registered in the Republic of Latvia. The medical treatment institution must inform General Registry office about the fact of a stillbirth within three days after this fact. In registering a stillborn child or a child who died at birth, such child is assigned a personal identity number in the Birth Register and the notation "bērnš piedzimis nedzīvs" (stillborn child) or "miris dzemdībās" (died at birth) is made. In such cases, the registration of the fact of death shall not be performed. In these cases, the fact of death is not registered. Stillborn children are not registered in a special register. If a child lived for a short period of time (also a few minutes) after birth, the fact of both birth and death are registered.

In case of registering a found child, the municipality, after reception of information from the medical treatment institutions, establishes the possible time and place of birth, gives the child a name and surname and informs General Registry office. In such cases, an entry "found child, parents unknown" is made in the register.

If the birth of a person is not recorded in the civil registry, a person cannot obtain a birth certificate until an entry about the birth of a person is made in this register.

The following information is entered in the Birth Register:

- the place, year, month, day and hour of birth of the child
- the given name, surname, personal identity number and sex of the child. If the child is stillborn or has died prior to the provision of a notification, name need not be written. In such case, the relevant notation shall be made in the entry;
- the given name, surname, personal identity number, age, place of residence, citizenship and ethnicity (if parents wish and such ethnicity is indicated in the personal identification document) of the parents; if the parents wish – also their affiliation with a specific denomination, faith or association of a particular worldview. If the paternity of the child has not been acknowledged up to the registration of the birth of the child, only the referred to information regarding the mother shall be entered;
- the given name, surname, place of residence and relation to the child of the person who notified regarding the birth of the child.
- If twins or multiple children have been born, the birth of each child is registered individually. The sequence of the births of the children is indicated in the Register.

Registration of the birth, stillbirth or a found child is free of charge.

b) Birth Certificate

After registration of birth, a birth certificate is issued. The birth record indicates characteristics about:

- the given name, surname and personal identification number of the child;
- the place, year, month, day and hour of birth of a child;
- the given name, surname, personal identity number, nationality and ethnicity of the parents (if they wish and if the ethnicity is indicated in the personal identification document) and
- the place, year, month and day of the registration of the birth, as well as the number of the entry in the Birth Register.

If a mother or father of a child is unknown, a dash shall be drawn in relevant box.

A trans-sexual can alter after gender reassignment the birth record/certificate.

c) Recognition

According to Article 146 of the Civil Law as the mother of a child shall be recognised the woman who has given birth to the child, which is certified by statement from a physician. A certificate of maternity is not issued.

The Civil Law envisages that paternity can be established by presumption, voluntary recognition of paternity or judicial decision. A child, born to a woman after she has entered into marriage or not later than on the 306th day thereafter if the marriage has ended with the husband's death or in a divorce, is deemed to have been born in marriage. A child, born to a woman not later than on the 306th day after the termination of marriage, if the woman has already entered into a new marriage, is deemed to have been born in the new marriage. In the given case, the former husband or his

parents have the right to contest the origin of the child. The assumption if the child has been born in marriage, i.e., if the father of the child is the husband of the child's mother can be contested in court. Until the resolution of the case in court, the child is deemed to have been born in marriage. The assumption that the child has been born in marriage, the husband of the child's mother can contest in court in the course of two years since the date when he learned that the child had originated from him. The mother of the child enjoys the same rights. The child may contest his birth in marriage within two years after the attainment of majority.

The paternal origin of a child born out of wedlock is based according to Article 154 of the Civil Law on the establishment of the paternity with its voluntary recognition or by court judgement. The father and the mother of the child submitting a joint application to the General Registrar's office or at a notary a publicly certified application effect the recognition of paternity according to Article 155 of the Civil Law. The recognition of paternity is entered into the Birth Registers.

An application for recognition of paternity can be submitted when the birth of a child is registered, as well as after the registration of the birth of the child, or already prior to the birth of the child. If the mother of the child has died or has been found by a court to be lacking capacity to act due to mental illness or mental deficiency, or her whereabouts are unknown, an application for recognition of paternity can be submitted by the father of the child alone. If the child is a minor, the consent of the guardian of the child and of an orphan's court is required. If a court has found that the father of the child lacks capacity to act due to mental illness or mental defect, an application for recognition of paternity on his behalf may be submitted by his trustee with the consent of an orphan's court. The father of a child who has not attained legal age may submit an application for the recognition of paternity of the child with the consent of his parents or his guardian. Recognition of paternity requires the consent of the child if he has attained twelve years of age.

If the paternity of a child is not recognised by an application to the registrar's office, paternity can be established by court, allowing all types of proof which make it possible to prove or exclude the origin of the child from a specific person. A court declares an acknowledgement of paternity null and void only if a person who has acknowledged that a child is his, cannot be the natural father of the child and he has recognised the child as his as a result of mistake, fraud or duress.

Paternity can be contested by the person who has acknowledged paternity, the parents of the person if such person is deceased, the trustee of the person if such person has been found to be lacking the capacity to act due to mental illness or mental deficiency, or by the mother of the child within two years calculated from the day when they have found out about the circumstances that preclude paternity. Children themselves can contest the acknowledgement of paternity within a two-year period after reaching legal age if their parents have died. The guardian or the natural father can submit an action, too. Although the paternity of children born out of wedlock is recognised voluntarily by parents reaching an agreement, the man's willingness or unwillingness to recognise paternity is decisive. The woman has no right to unilaterally determine who is the father of her child if the man does not agree to it. In this case, the matter can be resolved only through court, the child's mother submitting a demand in court for the establishment of paternity. Paternity that has been determined by a court judgement which has come into legal effect cannot be disputed.

As the court practice testifies, establishment of paternity by the court may continue for several months. Thus, even though the father of the child wants to recognize paternity voluntary, for four months or longer only the mother's name is indicated in the child's documents.

d) Notifications

When the birth of a child is registered, the General Registry office informs the Population Register about it and a record is made in the Population Register. Other state institutions can obtain the needed information from the Population Register.

3. Marriage

In order to ensure the protection of the state for matrimony and the family as well as to form grounds for the development of stable marital relations, the part on Family Law in the Civil Code and the Civil Status Documents Law prescribe compulsory conditions for entering into marriage, which, if ignored, serve as grounds for declaring marriage invalid. There is no legal recognition for same-sex partners. Living together as husband and wife has no civil effect.

a) Personal Requirements/Impediments to Marriage

The conditions that have been defined in the Civil Law as "obstacles to entering into marriage" are minimum requirements to ensure the development of the basis for wholesome marital relations, entering into marriage with full and free consent, compliance with the principle of monogamy. The conditions are compulsory for public registry offices, consular and diplomatic institutions of Latvia that register marriage as well as priests who have the right to register marriage.

The said obstacles to entering into marriage are the prohibition of bigamy and the prohibition of marriage between persons of the same gender. Marriage may not be concluded between close relatives, namely, between relatives in direct ascent or descent, a brother and a sister and a half-brother and a half-sister. Marriage of an adoptee and the adopter is not banned, except if the legal relationship established by adoption has been terminated.

The regular minimum age for a marriage under is 18. In exceptional cases, a person who has reached the age of 16 may enter into marriage with the consent of parents or the guardian if the person enters into marriage to a person who has reached majority. If parents or guardians deny their consent without any valid reason, the consent may be given by the Orphan's court. It should be noted that a marriage concluded before the respective persons have attained the above-mentioned age limits cannot be annulled if in such a marriage a child is expected or if both spouses have attained the minimum age for the registration of the marriage by the time a court judgement on the annulment of the marriage is made.

According to Section 59 of the Civil Code, further impediments to marriage are:

- if the marriage has not been registered at the Civil Registry Office or by a minister of the Lutheran, Roman Catholic, Orthodox, Old-Believer, Methodist, Baptist, Seventh Day Adventist or Moses (Judaist) church;
- if the marriage was concluded fictitiously, without the intention of establishing a family and
- if at the time the marriage is entered into one of the spouses has been declared incapable due to mental illness or mental deficiency, or his condition has prevented him/her from understanding the meaning of his actions or from controlling these actions.

There are no restrictions in legislation as to re-marriage of divorced persons and no restrictions in time to re-marry after the divorce.

According to Section 3 of Article 15 of the Civil Status Documents Law, if a foreigner resides in Latvia legally at the time of entering into a marriage, he or she may enter into the marriage with a citizen of Latvia or a non-citizen of Latvia or a foreigner who have valid permanent residence permits or a person who has been recognised as a stateless person in the Republic of Latvia and who has a valid temporary residence permit. In addition, the foreigner shall submit a document issued by a competent authority of the relevant foreign state regarding the fact that no impediments exist for this person to enter into a marriage in the Republic of Latvia. If a citizen of Latvia or a non-citizen of Latvia enters into a marriage with a foreigner or a stateless person outside of the Republic of Latvia, observing the laws of such foreign state in which the marriage is entered into, such

marriage shall be valid in the Republic of Latvia if the above mentioned provisions have been observed.

If the marriage is solemnized by the registrar of a General Registry office, there are no restrictions as to the marriage between two persons of different religions. If the persons are to be married by the minister of their denomination who has the relevant permission from the leaders of the denomination, they are to be married according to the procedures of the denomination concerned and if the denomination concerned forbids, there can be restrictions to solemnize the marriage between two persons of different religions.

b) Preliminary Procedure

Before a marriage is solemnised, it must be published. Both prospective spouses must submit an application to the General Registry Office in person. Publication takes place in the General Registry office where the application has been submitted for entering into marriage and is effected by posting a notice for one month. It simply can be a leaflet on the wall of the office. In urgent cases, having regard to the circumstances, the Registrar of the General Registry office can reduce the time period for the publication at his discretion. In disallowing a publication, the Registrar of the General Registry office shall render a reasoned decision, which the persons seeking to be published may, within a period of two weeks, appeal to a court.

During the one month, persons, whose rights are affected by the marriage, can raise objections against it, making reference to legal impediments. Objections may also be raised by a prosecutor and must be submitted in writing to the General Registry office according to the place of the publication. If an objection has been raised, the General Registry office where the application regarding intention to marry was submitted shall, without delay, notify the published persons about the objection raised. If the published persons consider the objection unfounded, they shall notify the General Registry office thereof within two weeks from the day of receipt of the notification. The Office shall notify the objector without delay. If the objector submits to the General Registry office a certificate that a court action has been brought to prohibit the published persons from marrying within two weeks calculated from the day when he or she received the answer from the published persons, the General Registry office must suspend the publication until the matter is decided by the court.

Marriage without prior publication can be granted, if the bridegroom is going on active duty or if the bridegroom or the bride have a life-threatening illness.

If the General Registry Office receives no objections to the marriage, the Director of the General Registry Office joins the couple in matrimony or makes the certificate about successful advertisement. With this certificate, the couple can go to any other Registry Office or to an appropriate church (if it recognized the certificate as the proof of successful advertisement) and the actual marriage could take place there. Prospective spouses may enter into marriage within six months of the day on which it becomes clear that there are no obstacles to the forthcoming marriage.

The conclusion of marriage contracts is registered after the marriage registration. Marriage contracts are registered in Spousal Property Relations Register, which is kept in the Register of Enterprises.

c) Certificate of no impediment

A foreigner residing in Latvia legally at the time of entering into a marriage must produce a certificate of no impediment issued by a competent authority of the relevant foreign state regarding

the fact that no impediments exist for this person to enter into a marriage in the Republic of Latvia. In the absence of such a certificate it is not possible to marry in the Republic of Latvia.

A Latvian citizen who wishes to marry in a foreign state may receive a certificate of no impediment at the local registry office, the Office of Citizenship and Migration Affairs or in a diplomatic or consular institution of the Republic of Latvia in a foreign state, if it has not been specified otherwise in international agreements. For the issuance of a certificate of no impediment the consular fee is € 10,00. The certificate issued by a diplomatic or consular institution is not treated as a certificate of no impediment in all surveyed countries, for instance not in Germany. The cost for a certificate of no impediment issued by the Office of Citizenship and Migration Affairs is 3 LVL (€ 4,27) if issued within five business days and 6 LVL (€ 8,54) if issued within one business day. The State fee rate shall be reduced by 50%, if the information, which is prepared applying special selection criteria indicated by demandant, is requested by a repressed person or guardian, trustee on person under his or her guardianship or trusteeship. The following persons are exempt from the payment of the State fee: disabled persons; participants at the elimination of the aftereffects of the accident at the Chernobyl Nuclear Power Plant; pensioners, whose scale of pension does not exceed the state minimum wage; persons with low incomes, who are recognized as low-income persons as stated by the procedure of the Cabinet of Ministers and persons whose document has been lost for reasons independent of his or her will – in the accident or as a result of an illegitimate action.

d) Marriage Ceremony

A marriage is solemnised by the registrar of a General Registry office or a minister from the denominations of Evangelical Lutherans, Roman Catholics, Orthodox, Old Believers, Methodists, Baptists, the Seventh Day Adventists and Moses church. The Registrar of a General Registry office or a minister doesn't solemnise a marriage if he knows about any impediments to the entering into of the marriage. Marriage is solemnised in the personal presence of the bride, the bridegroom and two witnesses of legal age. Where taking place at the General Registry office, a marriage is solemnised publicly on the office premises. A marriage can be solemnised outside of these premises only on the grounds of illness of the bridegroom or the bride or for other good cause.

A marriage is solemnised in Latvian language. The wedding can be attended by an interpreter if the spouses decide on it. The costs for interpreter are paid by the spouses.

According to the Law, only a registered marriage is the lawful marriage. If a couple was joined in matrimony by a Registry Office, then the registration occurs automatically. If an appropriate clergyman joins a couple in a church, then it is his duty to inform the appropriate Registry Office about the marriage in written form within forty days and, as soon as the official information was received, the Registry Office will register the marriage.

e) Documents

Together with the application regarding intent to marry there must be submitted:

- passports;
- in relevant cases, written permission from parents, guardians or an orphan's court;
- regarding persons who have previously been married, the death certificate for the previous spouse, or a copy of a court judgement which has come into lawful effect and by which the marriage was dissolved or annulled, or an extract from the Marriage Register with an entry regarding such a judgement and
- certificate of no impediment in case of a foreign spouse.

If it is not possible to obtain these documents, they may be substituted for by a court judgement concerning the determination of the applicable facts.

A foreigner residing in Latvia legally at the time of entering into a marriage shall submit a document issued by a competent authority of the relevant foreign state regarding the fact that no impediments exist for this person to enter into a marriage in the Republic of Latvia.

A person who wishes to marry in a foreign state may receive a document certifying marital status at the Office of Citizenship and Migration Affairs or in a diplomatic or consular institution of the Republic of Latvia in a foreign state, if it has not been specified otherwise in international agreements.

f) Contents of the Declaration of Marriage

The following information is entered in the Marriage Register:

- marriage date
- place of marriage
- surnames before marriage
- surnames after marriage
- home address
- religion
- date of birth
- place of birth
- country of birth
- nationality
- marital status
- number of previous marriages
- number of children

An entry in the Marriage Register shall be supplemented with information regarding the dissolution of a marriage, annulment of a marriage, as well as with the relevant information if one of the spouses changes his or her surname, given name, entry of ethnicity or citizenship (nationality). An entry of the Marriage Register shall be supplemented on the basis of a court judgment or administrative act. A marriage certificate is issued immediately after the registration of the marriage.

The following information is indicated in a marriage certificate:

- the given name, maiden surname and marital surname, personal identity number of the spouses;
- the place and date of birth of the spouses;
- nationality of the spouses and

- the place, year, month and the date of the entering into of the marriage as well as the number of the entry in the Marriage Register.

g) Cost

State fee for marriage registration is LVL 5.00 and there are additional costs for marriage ceremony that are set by each local government.

In case the marriage registration does not take place, state fee for marriage registration is refundable.

Divorce/Separation/Annulment

Divorce can be obtained only by means of a court ruling on the basis of an application by a spouse or a joint application by spouses. The term “legal separation” does not exist under the Latvian legal system. A marriage can be annulled if the marriage was concluded in breach of legislative provisions whereby the marriage was not lawfully concluded. From the point in time when a court judgement on the annulment of a marriage comes into effect, the respective persons are treated as never having been married, and the marriage is considered null and void from the time it was concluded.

Marriage may be dissolved if the marriage is broken down. A marriage is deemed to have broken down if the spouses no longer cohabit and there is no longer any prospect that the spouses shall renew cohabitation. A marriage is presumed to have broken down if the spouses have lived apart for at least three years.

If the spouses have lived apart for less than three years, the marriage can be dissolved only in the case if:

- the continuation of marriage for the spouse who has requested the dissolution of the marriage is not possible due to reasons that are dependent upon the other spouse and due to which cohabitation with him or her would be intolerable cruelty towards the spouse who has requested the dissolution of the marriage;
- both spouses request the dissolution of the marriage or one spouse consents to the request of the other spouse for the dissolution of the marriage;
- one of the spouses has commenced cohabitation with another person and in such cohabitation a child has been born or the birth of a child is expected.

According to the provisions of the Act on Civil Procedures, a claim for divorce or annulment of a marriage may be brought to a district (city) court:

- in the place where the respondent is resident (in the case of a defendant whose place of residence is unknown or who has no permanent place of residence in Latvia, the claim should be brought before a court in the place where immovable property owned by him is located or in a place where his last known place of residence is located);
- in the place where either spouse is resident in the event of a joint application;
- in the place where the applicant is resident, if:
 - the applicant looks after minor children;

- divorce is being claimed in respect of a marriage with a person declared incapable due to mental illness or who is in guardianship;
- divorce is claimed in respect of a marriage with a person serving a custodial sentence;
- divorce is claimed in respect of a person whose whereabouts are unknown or who lives abroad.

4. Name

a) First Name

A child is given a first name by agreement of the parents. A person may be given at most two first names. In case that such an agreement was not made, the name of the person is determined by the judicial decision of the Orphan's court.

The name of a child is declared together with the declaration of the birth of a child. The name is declared at the General Registry office.

There are no restrictions or requirements as to the given name under the Latvian legal system. The gender of a person is shown by masculine or feminine ending of the name both in names of Latvian or foreign origin. In spelling of person names, only letters of Latvian alphabet can be used.

In case of registering a found child, the municipality gives the child a name and surname and informs General Registry Office. Pen names, nicknames are not registered.

b) Surname

A child is given the surname of the parents. If the parents have different surnames, the child is given the surname of the father or the mother by agreement of the parents. In the absence of an agreement, the Orphan's court decides which surname is given to the child. The child is given the mother's surname if the child born or conceived during the marriage does not descend from the man who is married to the mother and paternity from the father has not been verified nor ascertained. If the child's paternity has been established upon the registration of the child's birth, the surname for the child is determined following the same procedure as prescribed for a child born in marriage. The same procedure can be followed to give the surname to an adopted child. If in the establishment of adoption the adoptee has acquired the surname of the adopter or another name, the court, if it is in the interests of the adoptee, may retain the acquired surname and given name after the revocation of the adoption.

Upon contraction of marriage both spouses retain their pre-marital surnames, spouses can choose the surname of one spouse as the common surname or the surname of the other spouse can be added to the spouse's pre-marital surname.

The Civil Code prescribes that a spouse who has changed his surname entering into marriage is entitled to retain this surname after divorce; but on the request of the spouse concerned, the court shall grant him entitlement to use his premarital surname. Nevertheless, it should also be noted that the court may forbid the spouse who has promoted the failure of the marriage to retain the marital surname, provided that this does not prejudice the interests of a child.

A spouse whose marriage is annulled regains his premarital surname. A person who was not aware of the non-validity of the marriage at the time it was registered may keep his marital surname upon request to the court.

When spelling and using name and family name in the Latvian language, the following basic rules shall be observed in records:

- A person's name (names) and family name (double family name) must be written in Latvian language in the basic documents;
- name and family name are spelled according to the spelling norms of the Latvian language and Latvian alphabet letters;
- every name and family name must have an ending corresponding to the Latvian language grammatical system in masculine or feminine gender according to the person's gender (except common gender family forms with the feminine endings for person's of both genders);
- names and family names of foreign origin that end in a vowel are indeclinable;
- foreign names and family names are spelled in the Latvian language (expressed with Latvian language sounds and letters) as close as possible to their pronunciation in the original language.

The institution that issues or reissues a personal document spells the name and family name according to the aforementioned requirements, in case of necessity performing equalisation – matching the form of the name and family name to the valid language norms (hereafter equalisation). Equalisation is not a change of a name and family name. The institution that performed equalisation must inform the Population Register about it within 7 days. Equalisation and reproduction of the form of name or family name is performed by:

- local government registry offices – by making a record in the civil status register, as well as reissuing registry certificates, based on former records;
- the Department of Citizenship and Migration Affairs – issuing new personal basic documents (if equalisation has not been performed in the civil status registry certificate);
- diplomatic and consular representatives of the Republic of Latvia abroad issuing personal basic documents.

Should the spelling of a person's name and family name not be regulated, the conclusion made by the State Language Centre on how the name and family name of this person must be spelled in the state language is binding. If the spelling of a person's name or family name offends vital personal interests, the person may turn to the State Language Centre with a request to reproduce the personal name in the state language in a form less offending to this person's interests. The father's name (of the Slavic tradition) is not registered.

c) Name Change

In Latvia it is allowed to change both the first name and the surname with the necessity of good reasons stipulated in the Law on Changing the Registered Name, Surname and Ethnicity. There are no restrictions in legislation as to the limit of the number of name changes.

A given name or surname may be changed if one of the following important reasons exists:

- the given name or surname is difficult to pronounce, cacophonous or it has a pejorative meaning;
- the given name or surname does not correspond to the ethnicity of the submitter;

- the submitter has a double surname;
- the submitter wishes to add the surname of the spouse to his or her surname, if it has not been done when registering the marriage;
- the submitter wishes to acquire the surname of the actual upbringing thereof;
- the submitter wishes to regain his or her family name or premarital surname upon dissolution of the marriage;
- the submitter wishes to regain his or her premarital surname, if the marriage has been declared invalid and the premarital surname has not been restored by a court judgement;
- the submitter wishes to acquire his or her historic family name in the direct ascending line;
- the submitter wishes to add a second name to the name recorded in the Birth Register;
- another reason, if the Director of the Department of Civil Registries of the Ministry of Justice considers it to be important.

The change of a given name or surname shall not be permitted, if it injures the interests of third persons; if it contradicts good morals; if the submitter has chosen a given name or surname, which is difficult to pronounce or is cacophonous; if the submitter is being accused of committing a crime; or if the submitter has been convicted for committing a crime and the conviction has not been set aside or extinguished.

If a citizen of the Republic of Latvia or a person who is not a citizen of the Republic of Latvia or of another country, but who has a personal identity number assigned by the Population Register and a permanent place of residence in Latvia and who has reached 16 years of age wants to change the registered name, this citizen or person must submit an application to the Civil Registry Office of his place of residence, indicating the reason for changing the registered name. Minors between 16 and 18 years may submit an application for changing the registered name only with the consent of their parents or guardians. If the parents have been divorced, the consent to the change of the registered name shall be given by the parent with whom the child resides. If the parents or guardians, for a valid reason, do not give their consent, the issue is decided by the Orphans' Court. If a person, by a court decision, has been found incapacitated, the application, upon the consent of the Orphans' Court, shall be submitted by that person's guardian.

The following documents must be annexed to the application for changing the registered name:

- the birth certificate of the submitter or the true copy thereof;
- the marriage certificate or the true copy thereof, if the submitter is married;
- the birth certificates of the minor children or the true copies thereof, if the submitter has minor children;
- the extract from the submitter's passport or another personal identification document with the personal identity number assigned by the Population Register;
- the submission that attests to the consent of the parents, guardians or Orphan's Court regarding the change of the given name or surname, if the submitter is a minor or has been recognised as lacking the capacity to act by a judgement of a court;
- the photograph of the submitter;

- If a person of 16 years of age submits the submission regarding the change of the given name or surname prior to receiving a passport or another personal identification document, the birth certificate or the true copy thereof with the personal identity number assigned by the Population Register shall be appended to the submission instead of the passport.

After verifying the application documents, the Head of the Civil Registry Office sends them, together with his opinion, to the Civil Registry Department of the Ministry of Justice. In order to prevent the use of the change of a given name or surname with malicious intent, the Civil Registry Office may send the documents regarding the change of a given name or surname for verification to the territorial State Police Board (Office), which shall give an opinion thereof regarding the results of the verification within 30 days after receiving the documents. The time period for the examination of a submission regarding the change of a given name or surname shall be three months. The time period may be extended according to the procedures specified in the Administrative Procedure Law. The permission to change the applicant's registered name is granted by the Civil Registry Department of the Ministry of Justice. This permission is the document confirming the lawfulness of the change of the registered name. The Civil Registry Office notifies the applicant about the permission or the refusal to change the registered name in his documents. The refusal to change the registered name, within one month as of the date of receiving the notification thereof, can be appealed against in court.

On the basis of the permission to change the registered name, the registrar of such Civil Registry Office to which a submission regarding the change of the given name or surname has been submitted shall make a note regarding the change of the given name or surname in the passport or another personal identification document of the submitter. The given name or surname of the submitter shall be changed from this moment.

Additional entries in the civil status registers shall be made.

A registrar of the Civil Registry Office shall notify the Civil Service Administration, the territorial State Police Board (Office) and the division of the Office of Citizenship and Migration Affairs of the Ministry for the Interior according to the place of residence of the submitter regarding the change of the given name or surname not later than within 10 days from the moment when the given name or surname has been changed.

Upon the name change, the new birth certificate is issued.

If a person's gender is changed also, the person's name and surname is changed by the Civil Registry office.

Cost

For the change of the registered name or surname, a stamp duty of 20 LVL (€ 28,22) is charged.

MT – Malta

1. Civil Registration System

a) Introduction

Malta's civil registration system is event-based, but a central government database exists which links the information of various documents and registries.

The official languages are Maltese and English. All civil status acts are performed in these languages. The Maltese alphabet is based on the Latin alphabet but uses the diacritically altered letters *ż*, as well as the letters *ċ*, *ġ*, *gh*, *h* and *ie*, which are unique to Maltese. The alphabet contains

30 letters. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-3.

Malta has a population of 402.000 (2006) and is an archipelago in the central Mediterranean Sea. Only the three largest islands Malta Island (Malta), Gozo (Għawdex), and Comino (Kemmuna) are inhabited. Since 1994, Malta has been subdivided into sixty-eight local councils or districts.

The civil status registration services is administrated by the Directorate General, Land and Public Registry Division that comprises the Public Registry, the Land Registry and the Civil Registration Department (including the Passport Office) within the Ministry for Justice and Home Affairs.

Registry Offices and Staff

In Malta Central Registry Office exists under the overall management of the Registrar General for the receipt and registration of notes relating to acts of civil status. The Central Registry Office is also the Marriage Registry and is situated in the island of Malta. A branch of the Office is situated on the island of Gozo and has also the functions of the Marriage Registry for all matters relating to marriages taking place in the island of Gozo. The Central Registry Office is charged with the responsibility to develop, administer and control the Central Registry, and the functions of the Office include:

- the preservation and safe custody of all notes;
- the filing and registration of registrable acts;
- the production and preservation of copies reproduced by electronic or by any other means, as may be prescribed;
- the security of the Registry, archives, databanks and databases, including the production of certificates and copies from the said Registry;
- the production and preservation of the centralised electronic index or indexes mentioned in article 12 of this Act;
- the production of certificates, reports and official searches as may be prescribed, which certificates, reports and official searches may be generated or transmitted by electronic means.

Acts of birth or death are drawn up by the officers appointed as registrars of the public registry by the President of Malta. The Public Registry deals with the registration and issue of copies of acts of birth, marriage and death. All annotations to these acts are dealt with the Public Registry. Statistical data is also regularly supplied to government departments especially the Central Office of Statistics. Civil status officers are the Registrar General and two Directors (Malta) plus one for Gozo. Besides Senior Officials, the Officers of the Registry will be made up of four categories

- Legal Officers - the two registries already employ a number of legal officers in various grades
- registry officers in the employ of the registries
- officers of the it unit and
- general administrative staff.

To have officers of the registry is a totally new concept. Since this is a specialised profession, instead of having a large organisation, with resources spread thin to the ground, it is proposed that

notaries will, ex officio, be appointed as Officers of the Registry. The registrar has the functions, powers and duties vested in him by the provisions of the Central Registry Act or any other law and has under his direct responsibility the Central Registry Office and the officers attached to it, as well as the Central Registry itself. He shall also have those functions as are assigned to the Director of the Public Registry and the Land Registrar in virtue of any other law. In the exercise of any such function, the said officer has the same powers and the same obligations as are conferred or imposed upon the Director. The registrars are subject to the authority, direction and control of an Assistant Director so delegated by the Director of the Public Registry.

Any person aggrieved by any act done by the Registrar in relation to any matter that materially affects the register may appeal to the Court of Appeal.

The Civil Registration Department in Valletta is made up of the following sections:

- Passport Office
- Birth/Death Notification Section and
- The Common Data Base Section

and is responsible for these three main services, namely:

- issuing of Maltese Passports;
- notifying the Public Registry of Births and Deaths.

Gathering of information such as births, deaths, marriages, separations, change of surnames, and organisation details, etc. in a core database: The Government Data Base.

The Central Registry is a registry, where all notes are deposited and preserved and where registrable acts are registered, in order to have effect with regard to third parties. The Central Registry consists of the Registry archives, the Registry databank and the Registry databases.

The archives consist of all the original paper-based documents filed at, or preserved in, the Registry. There are two archives, one in the island of Malta, for the custody and preservation of all notes filed in the Office situated in the island of Malta, and one in the island of Gozo for the custody and preservation of all notes filed in the Gozo branch. In the archives situated in the island of Malta are deposited and preserved:

- notes filed in the Office in Malta;
- records and documents, including indexes, registers and volumes which up to the day of coming into force of this Act were preserved in the Public Registry of Malta in terms of the Civil Code, the Public Registry Act, or the Marriage Act, or any other law; and
- the register, including the certificates of title, whether guaranteed or not, relating to immovables situated in the island of Malta, issued in terms of the Land Registration Act, the condominium register, as well as all documentation relating thereto.

In the archives situated in Gozo all the aforementioned documents there are deposited and preserved up to 2003. Copies or extracts thereof are given upon the demand of any person provided that the person asking for such extract gives the correct details and that he shows his identity card.

The Registrar can refuse to issue the copy or extract unless ordered to do so by a Court of Voluntary Jurisdiction, or other Court dealing with such matters.

b) Civil Status Records

The Registrar keeps a register wherein are preserved all notes, including the accompanying documents, and all certificates, declarations, notices, reports, or other records drawn up, deposited, preserved or kept in the Registry, whether such records are composed of the alphanumeric records, forming part of the Central Registry archives, or whether such records are computerised versions forming part of the Central Registry databases. The register is made up of, at least one original and a copy.

The Central Registry Office in Malta and the branch in Gozo keep three register books: one for the registration of acts of birth, another for the registration of acts of marriage, and the third for the registration of acts of death. In the Central Registry Office in Malta get registered all acts of birth, marriage and death which have taken place in the island of Malta, as well as the acts of births, marriages and deaths which have taken place in foreign countries and have been registered in Malta and births have taken place on a vessel registered in Malta. The Registry Office in Gozo registers acts of birth, marriage and death which have taken place in the islands of Gozo and Comino.

Correction, Amendment of Civil Status Records

Where it is necessary to correct any error, the Director makes the correction in the manner and form following - in the case of a registration, by means of a margin note ("postil") at the foot thereof to be signed by him, and, in the case of a note, by means of a postil at the foot thereof before it is signed; and necessary cancellation is made so that the words cancelled remain clearly legible; it is not lawful to make any erasure.

Where a person requests the registration of the name or names which he shall have used or shall have been used for him by his family, and in the opinion of the Court, such name or names are those by which the person has been consistently called, in substitution of the name or names appearing on the relative act of birth as the name or names given to the deed and the name or names by which the child is to be called, the interested party in a the law suit issues a notice in the Gazette and if there is no objection within fifteen days from the publication of such notice, and after a court order he proceeds to rectify the register.

The Common Database Section (CDB)

The Government had a number of disparate systems amongst a number of departments which caused problems for maintaining the same information that is used in all departments. This resulted in inconsistent and inaccurate data problems. Government therefore decided to embark on an Information Sharing Initiative to be based on the Common Database System. The mission of the Common Database is:

- To produce a repository for commonly used information which is in the Public Domain, to be shared between Government Departments;
- To facilitate the One-Stop Shop Concept in Government Departments.

The Common Database System therefore integrates public domain information that is commonly used amongst Government Departments and which is available in computerised systems. This information is to be shared by Government Departments and other organisations under established security and control procedures.

The information contained inside the Common Database concerns persons and their addresses. Procedures were initiated to include also the Organisations Area of Information. Transactions are gathered from the Public Registry and the Electoral Office. These are validated against pre-defined rules so as to ensure data integrity and quality. Those transactions that pass the validation rules

update the respective records inside the CDB. The source department verifies transactions that fail the validation process. Government Departments run the query module to conduct searches as required. Therefore they can view information that is current, consistent and correct on a daily basis. Mechanism is also provided so that feedback on the integrity and quality of the data is obtained from different users. Action is taken accordingly to rectify the information after investigations are carried out.

It is Government policy to eliminate the requirement of going to the Public Registry for the production of birth, marriage and death certificates in connection with various applications for benefits and services provided by Government to the Maltese public. This is achieved through the effective use of the Common Database in the Departments concerned.

This concept has been introduced both in Malta and Gozo at the following Departments: The Public Lending Library; the Examinations Branch; the Passports Office, Department for Social Security (Child's Allowances). Applications processed in these departments no longer require the presentation of the Public Registry's civil status certificates in question, since the information is being obtained on behalf of the various clients from the Common Database. Procedures have already been initiated so that other Departments will implement this concept so as to provide a better and more effective service to the public.

Archives

The main repository of the National Archives of Malta is in Rabat. Research facilities are available at the main premises of the Archives in Rabat and the Banca Giuratale in Mdina. The objects and functions of the National Archives are defined in the National Archives Act (no. IV of 1990). The National Archives of Malta do not include the records related to births, marriages, deaths and wills. These form part of the Public Registry and the Notarial Archives, both in Valletta.

c) Legalisation/Translation

The registry office does not accept documents which are not duly certified or bear the Apostille.

Malta has signed an agreement with Italy abolishing the need for legalisation of public documents. Between Cyprus, Malta, Ireland and the jurisdictions of the U.K., common law tradition does not require legalisation of documents.

Copies of the documents are permitted, but such copies must be legalized or made of the original documents with an apostille. All foreign documents must be translated into Maltese or English by an accredited translator.

In Malta the competent authority for the issuance of Apostilles is the Ministry of Foreign Affairs.

An Apostille can only be requested by a person who takes the document with him to the office of the competent authority. The Apostille is normally placed on the public document itself where there is the signature to be certified. If the document is of multiple pages, the Apostille is always placed on the page where there is the signature to be legalised. If there are more than one Apostilles, then more Apostilles may be needed. The language of the Apostille is the English language. The system is electronically.

The fee is € 17,00 for general documents and is reduced to € 12,00 for University certificates and Public Registry documents. The fee is set by the Government as part of the fees set by for services offered by the Government. The total process takes about 5 minutes.

Documents

Copies of birth, marriage and death certificates can be ordered by:

- calling personally at the Public Registry, Civil Status in Valletta
- collecting the relative application forms from Police Stations, Local Council offices, the Public Registry or by filling in an on-line application form at the public registry department's website www.certifikati.gov.mt.

In general, all the information which will be in the certificate needs to be known and provided for in the application. Therefore, the necessary information to be presented are:

- in the case of a birth certificate the name, surname, date of birth as well as the name and surname of both parents is required;
- in the case of a marriage certificate the names, surnames of both spouses including the maiden name of the wife, and the date of marriage is required;
- in the case of a death certificate the name, surname and date of death, as well as the name and surname of both parents is required.

If this information is known and provided in the application and the fees are paid, the respective certificate will be issued to any applicant. The Registry Office will

- ensure a waiting time not more than 20 minutes
- in the case of a request for a certificate, which is not yet entered in the database, issue a certificate within two working days in the case of an extract and within four working days in the case of a full certificate.

Each certificate may be requested in an extract format or in full. The extract includes the main details pertaining to the act in question, whilst the full version would include all details.

d) Cost

Payment of all fees is possible online by keycard, by credit card, in cash, by wire transfer and cheque, which must be drawn up in Maltese Lira (Lm). Bank charges must be borne by the clients. The following costs arise:

- For the registration of an act of birth: € 2,33
- For the registration of an act of marriage: € 2,33
- For the registration of the legitimation of any person whose act of birth is not registered in the Public Registry: € 1,16
- For any note: € 1,16
- For the inspection of any registration or note whereof the date is indicated: € 1,16
- For every search for entries against a particular individual, with or without a perusal thereof: € 1,12
- For every certificate attesting that no entry exists in Civil Status Records in respect of a particular individual including the fee for the search: € 4,66
- For every extract from a registered act of birth, marriage, death or entry in the Adopted Persons Register in accordance to the Civil Code: € 2,33

- For every certificate containing a copy in full of a registration of birth, marriage or death with such notes as may be appended thereto: € 9,32
- For an entry in the Adopted Persons Register: € 2,33.

e) Foreign relations

Malta neither transmits information about civil status acts and changes of Maltese citizens born in another EU Member State or of citizens of other EU Member States occurring in Malta directly to the authorities of that EU Member State nor receives information about civil status acts and changes of Maltese citizens (or of citizens whose birth was registered in Malta) directly from the authorities of that EU Member State.

f) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Maltese citizens can obtain from Maltese foreign missions. The registration of civil status events is not compulsory.

A diplomatic or consular representative, when so requested by any person interested, must, in respect of a child who is born or of a person who dies in a foreign country and is a citizen of Malta

- draw up the act of birth of such child or the act of death of such person and record such act in an apposite register;
- receive for registration the act of birth of such child or the act of death of such person issued by the competent authority of the place where the birth or death has taken place and record such act in the apposite register.

If a citizen of Malta marries in a foreign country, a diplomatic or consular representative must effect the registration, at the request of either of the parties contracting the marriage or of their parents. Any act which according to the law of the foreign country is evidence of the marriage and will be recorded in an apposite register. A certified duplicate copy of such registers will be transmitted to the Director of the Public Registry, for preservation in the Central Registry Office in Malta. This must be effected not later than the 31st day of March of the year immediately following the year to which the registers refer.

Accordingly Maltese consular officials assume limited duties of those which are reserved for registrars in their country. Maltese citizens may apply for copies of their civil status certificates online via the Maltese Government's relevant web pages and e-services. The Embassies are not entitled to apply on behalf of citizens. Maltese consular officials are not authorized to conduct marriages and they do not issue any civil status certificate.

Registration of foreign Certificates concerning Citizens of Malta

When the birth, marriage or death of a citizen of Malta occurs outside Malta, the relative certificate, drawn up or registered in a foreign country by a competent authority, other than an act drawn up or registered by a diplomatic or consular representative may be registered at the Malta Public Registry at the Department for Citizenship and Expatriate Affairs on request.

If the applicant is a citizen of Malta who was married abroad, the following documents will be required: Marriage certificate; Birth certificate; Father's birth certificate; Parents' marriage certificate; Maltese passport. If the applicant is a female citizen of Malta whose husband is/was a citizen of Malta by birth, apart from certificates outlined above, the following documents will be

required: Husbands birth certificate, father's birth certificate, parents' marriage certificate and his passport.

If a citizen of Malta dies abroad Malta the following documents will be required: Birth certificate; father's birth certificate; parents' marriage certificate; Maltese passport together with a copy of the death certificate. If the deceased person was a female citizen of Malta, who was married, the same documents as for marriage are required together with a copy of the death certificate.

The required documents should be presented to an official at the Department for Citizenship and Expatriate Affairs. After having ascertained that all the necessary documents have been produced and that these are in order, this official will prepare a letter for the Director of Public Registry so that the relevant certificate may be registered at his office. This letter should be presented at the Public Registry together with the original certificate and an official translation in English or Maltese, or a photocopy thereof duly certified as a true copy by a Notary Public, an Advocate or a Legal Procurator.

g) Law

Constitution of 02.09.1964; Nationality Act of 27.08.1965; Civil Code of 22.01.1874 (CC); Marriage Act of 12.08.1975; Central Registry Act of 2003.

Current versions of the texts of the legislation are available at:
<http://www2.justice.gov.mt/lom/> (Maltese and English)

h) eGovernment

Online Services for Citizens

Portal

The Government of Malta's portal (www.gov.mt) is at the same time an institutional site and the official entry point to electronic public services. It provides access to information as well as to a number of interactive and transactional services.

eIdentification

In March 2004, the Maltese Government launched its Electronic Identity. Citizens can apply for an electronic identity by presenting themselves at any District Office of the Department of Social Security with a copy of their paper ID card and a valid e-mail address. An officer registers their details and submits them to the Electronic Identity Administrator, which performs validity checks and sends the applicants a first-time password through their registered e-mail address and an activation number by post. These passwords and activation numbers enable citizens to activate their electronic identity and services account on the government portal.

Website

<http://www.certifikati.gov.mt/>

ePayment

Electronic Identity is part of the horizontal infrastructure supporting all e-Government. It complements the electronic payment gateway in providing a layer for the development of e-Services to Citizens. The client's contact is through the e-Government Services Portal (www.mygov.mt), which is to be launched in the near future.

Civil Status Certificates

Public Registry civil certificates, including birth, marriage and death certificates can be ordered and paid online from the certifikati.gov.mt website. This service is available on a twenty-four hour basis, seven days a week. The relative certificate is delivered by post. Using this electronic system, Public Registry is committed

- to send an instant electronic acknowledgment of the receipt of the application
- to send an e-mail, if the applicant has an e-mail account, advising the applicant that the requested certificate has been processed and that it will be posted to the applicants address
- if the application is for some reason or other not accepted to inform the applicant accordingly giving an explanation for this rejection.

2. Malta - Birth

a) Registration of Birth

In the case of every child born, it is the duty of the father and the mother, and in default of both, of the physician, surgeon, midwife, or any other person in attendance at the birth, or in whose house the birth has taken place (Section 272 CC), to give, within five days of such birth, notice thereof to the officer charged with the duty of drawing up the act of birth. It is lawful for the officer drawing up an act of birth to demand to see the child, before drawing up such act (Section 284 CC). The Director of Public Registry informs the police to take criminal action against person who has not registered the birth. In practice the registry gives a concession for children born out of wedlock in order that the procedure contemplated by law is followed, and in the case of legitimisation of births due to subsequent marriage. Notice of the birth may also be given by transmitting to the officer a certificate of baptism, signed by the parish priest or other clergyman who have baptised the child. Any such certificate shall, if it contains the particulars required for the drawing up of the act of birth be accepted in lieu of the declaration mentioned in the law and, the said officer, if satisfied as to the correctness of the particulars therein contained, may on such certificate draw up the act of birth. In any case, however, the certificate of baptism is delivered to the Director together with the act of birth.

Notice of the birth of a child may also be given by means of a letter signed by the person giving the notice, or verbally; in the latter case, the person giving the notice must attend personally before the officer charged with the duty of drawing up the act of birth. Where the notice of the birth is given personally by the father or the mother of the child, the said officer shall draw up such act without any delay. Where notice of the birth is given by any person other than the father or mother of the child, or where such notice is given by the parents by means of a letter, the said officer shall, within the three next following days, require the father or the mother of the child, or both to attend at his office to make the declaration respecting the said particulars. In default of the father or mother of the child, or if no notice has been given at all, the said officer shall require any person whom he believes to have knowledge of the particulars required for the drawing up of the act, to attend in order to make the declaration concerning such. The same shall apply where the said officer is not satisfied as to the correctness of the particulars given to him by the father or mother or any other person or contained in the baptism certificate.

Notice of birth must be accompanied by a medical certificate from the hospital, and the parents identification documents. The birth certificate is issued on request.

b) Birth Certificate

The birth record indicates characteristics about:

- the date of the act itself;
- the hour, day, month, year, and place of birth;
- the sex of the child;
- the name given to the child, and, where more names are given, a special indication of the name or names by which the child is to be called and the surname of the child;
- the name, surname, identification document, age, place of birth and of residence of the father of the child, of the mother, and of the person making the declaration: provided that (i) where the child is born in wedlock, an indication of the marriage to the husband shall be stated in the act of birth next to the name and surname of the mother by using the words 'wife of the said' (ii) when a child is born more than three hundred days from legal separation, divorce or annulment of the marriage no reference shall be made to such legal separation, divorce or annulment of marriage of the mother (iii) when a child is born less than three hundred days from the legal separation, divorce or annulment of the marriage of the mother a reference shall be made to such fact in the act of birth (iv) a reference in the act of birth is also made where the husband was, during the whole period of the three hundred days preceding the day of the birth of the child, absent from Malta, and such absence is attested in writing and on oath before one of the Visitors of notarial acts and at least two trustworthy persons or if the husband had, during the whole of the said period, lived legally separated from his wife
- the father's occupation
- the name and surname of the father of each of the parents of the child and of the father of the person making the declaration, stating whether he is alive or dead;
- live or stillbirth

In the case of a child conceived and born out of wedlock, the name of the father is not stated in the act, except at the request of the person acknowledging himself before the officer drawing up the act to be the father of such child and the mother's single status shall not be declared or in any manner indicated. Where the child is not acknowledged jointly by both the father and the mother, a specific procedure law is to be followed. Where no such request is made, there shall be stated in the proper place in the act that the father of the child is unknown.

Where a child is born by a married woman, the name of her husband is entered in the act as that of the father, notwithstanding any declaration to the contrary, saving any correction which may subsequently be made upon a judgement in regard to the filiation of the child. These provisions are not effective if the husband was, during the whole period of the three hundred days preceding the day of the birth of the child, absent from Malta and such absence is attested in writing and on oath before one of the Visitors of notarial acts by at least two trustworthy persons. The same occurs if the husband had, during the whole of the said period, lived legally separated from his wife.

In the case of a child conceived and born out of wedlock, where notice of the birth of such child or the declaration of the particulars concerning the birth of such child has not been given or made by the mother herself or by either of her parents or any of her brothers or sisters, the said officer shall, at least two days before entering in the act the particulars relating to the mother of the child, give notice to the person who shall have been indicated to him as the mother of the child, or to either of

her parents. If within the said two days it is denied that this person is the mother of the child, the officer makes a report thereof to one of the Visitors of notarial acts, who, after examining on oath the person and any other person whom he believes to be able to give correct information, orders, if satisfied that such person is the mother of the child, that her name, together with other particulars is entered in the act of birth and that the depositions taken be delivered, in original, to the Director together with the act.

If in the case of a child conceived and born out of wedlock notice of whose birth has not been given to the authorities and if the mother and her parents are dead or cannot be found, notice of the birth may at any time be given to the said officer by any person, having an interest or by the child or its lawful representative and the said officer shall make a report thereon to one of the Visitors of notarial acts who shall cause a notice to be published in the Government Gazette, calling upon any party interested to declare within fifteen days from the publication of that notice, by means of a note that he desires to contest such registration. On the expiration of this period, after examining on oath any person whom he believes may be able to give correct information and after examination of any documentary evidence that may have been produced, the officer orders - if the maternity of the child has been established - that the name and surname of the mother, together with other particulars will be entered in the act of birth and that the depositions taken be delivered, in original, to the Director together with the act. The act of birth shall be countersigned by the said Visitor of the Notarial Acts.

On the entry of the particulars concerning the birth of a child, the act shall be read to the person making the declaration of such particulars; it shall thereupon be signed by such person and then by the officer drawing up the act.

Where the person making the declaration states that he is unable to write, an entry of such fact is made by the side of the declarant's name.

Where the child, having been born alive, dies at any time before the drawing up of the act, the act of death is drawn up immediately after the act of birth.

In the case of abortion, an act of birth shall only be drawn up where the foetus shall have completely assumed the human form.

In the case of any birth at sea, on board a vessel registered in Malta, the master must enter in his log-book the fact of such birth within twenty-four hours. Upon the arrival of such vessel in Malta, the Malta Maritime Authority transmit a copy of such entry to the officer charged with the drawing up of the acts of birth in Valletta, who forthwith draw up the act of birth of such child. Where the arrival of such vessel in Malta does not take place within three months after the birth of the child, the master transmits, not later than three months after the said birth, a copy of the relative entry to the Malta Maritime Authority who deals with it as if the said vessel had arrived in Malta.

Nevertheless the father, or in his default, the mother of the child has the obligation to make, within five days from his or her arrival in Malta, the declaration of the particulars concerning the birth of the child to the officer who, having regard to the place of residence of the father, or, in his default, of the mother of the child, is charged with the duty of drawing up the act of birth. Such officer shall, upon this declaration, proceed to draw up the act of birth, unless such act shall have already been drawn up and registered under the aforementioned provisions. If the particulars contained in the said declaration or any of them differ in any respect from the corresponding particulars entered in the registered act, or if any of the particulars contained in the said declaration is omitted from the registered act, a correction in the register may be made under the authority of one of the Visitors of notarial acts, who must countersign such correction.

Where any new-born child is found, the officer charged with the duty of drawing up the acts of birth in the place where such child is found, shall with the assistance of one or more Government

District Medical Officers, draw up an act to be styled "repertus". In such act the said officer enters the following particulars: the apparent age and the sex of the child, the name given by him to the child, the place where the child was found, the person or institution in whose charge the child was placed, whether the child bore any apparent mark, the kind of clothing and any other object found on the person of the child. Such act must be delivered within two days to the Director for registration as in the case of an act of birth.

Where, after an act of birth of a child conceived and born outside wedlock has been registered without indication of the name of the father, the paternity of such child is determined by a judgment of the court, or acknowledged by the father himself in a public deed, the name of the father may, at the request of any person interested, entered by means of a note in the margin of the register.

The same applies where, after the registration of a repertus it becomes known who the parents of the foundling are, either by means of a declaration made by themselves or by a judgement of the court. The party making the request for any entry as provided before must deliver to the Director an authentic copy of the public deed, judgement or decree, relating to the judicial declaration of paternity or maternity. In the case of a presumption arising out of subsequent marriage, which has been duly registered, a reference to such registration is made in the note: where the marriage has not been registered, the entry can not be made unless the party making the request for the entry delivers to the Director a document attesting the celebration of the marriage. The person giving notice of the birth must also deliver a declaration by the parents of the child indicating the surname to be used by the child conceived and born out of wedlock, and such surname is registered in the column under the heading "Name or names by which the child is to be called" in the act of birth immediately after such name or names. Where no such declaration is made in the case of a child conceived and born in wedlock the father's surname is presumed to have been so declared and in the case of a child conceived and born out of wedlock the maiden surname of the mother is presumed to be the surname so declared.

c) Recognition

The filiation of children conceived or born in wedlock is proved by the act of birth registered in the Public Registry. It may also be proved by the parochial registers. In default of the act of birth and the possession of status, or if the child has been registered under a false name, or as being born of parents uncertain, or in case of supposition or substitution of a child, although in these last two cases, there exists an act of birth in conformity with the status possessed by the child, the proof of filiation can be made by any other evidence admissible according to law.

According to Section 67 Civil Code a child conceived in wedlock is held to be the child of the mother's husband. Therefore the legal presumption is that in wedlock the male spouse is the father of the born child. There is also a legal presumption concerning conception during wedlock. In fact Section 68 Civil Code states that a child born not before one hundred and eighty days from the celebration of marriage, nor after three hundred days from the dissolution or annulment of the marriage, shall be deemed to have been conceived in wedlock.

Notwithstanding the legal presumptions provided for in Sections 67 and 68 the male spouse may still repudiate a child conceived in wedlock if any one occurrence demanded by law in Section 70 Civil Code ensues and is proved by such spouse. Hence a husband can repudiate a child conceived in wedlock if he proves any of the following:

- that during the time from the three hundredth day to the one-hundredth-and eightieth day before the birth of the child, he was in the physical impossibility of cohabiting with his wife on account of his being away from her, or some other accident; or

- that during the said time he was de facto or legally separated from his wife, provided that he may not repudiate the child if there has been, during that time, a reunion, even if temporary between him and his wife; or
- that during the said time he was afflicted by impotency, even if such impotency was only an impotency to generate; or
- that during the said time the wife had committed adultery or that she had concealed the pregnancy and the birth of the child, and further produces evidence of any other fact (which may also be genetic and scientific tests and data) that tends to exclude such paternity.

The acknowledgement of a child born out of wedlock by a person claiming to be the father of the child, made separately by the mother, shall not have effect and shall not be registered unless the mother of such child, or her heirs if she is dead, and the child himself if he is of age, shall have been served with a judicial letter by any person interested stating that such person intends to apply for the registration of such acknowledgement and the mother or her heirs as the case may be, and the child, shall not have within a period of two months from such service, by a note filed in the acts of the said judicial letter and agreement note showing agreement shall be served upon the Director of the Public Registry who shall register the said acknowledgement in the relative acts of civil status: Provided further that where the mother or the child where he is of age does not as aforesaid agree to such registration, any person interested may proceed by application before the competent court against the person or persons who shall have so agreed, for the court to declare that the person making the acknowledgement is the father of the child and to order the registration of such acknowledgement in the relative acts of civil status.

The acknowledgement of a child conceived and born out of wedlock may be made in the act of birth or by any other public deed either before or after the birth. Any declaration of paternity or maternity made otherwise by either of the parents, or by both, or by a minor, can only be admitted as evidence of filiation in an affiliation suit.

With reference to genetic and scientific tests Section 70(3) Civil Code goes on to say that the court may in an action of disavowal invite all or any of the parties including the child whose filiation is in dispute to submit to the tests necessary to establish the genetic proof that may be relevant to the case. In this context, the court shall be entitled to draw such inferences as may be justified by the refusal to submit to such tests. Where the child whose filiation is in dispute is a minor, the court itself shall determine whether the child shall submit to the tests. Within the context of filiation of illegitimate children, when there is a judicial demand for a declarator of paternity or maternity which may be contested by any party interested, the court may without prejudice to any evidence that may be produced by the parties, invite the parties to submit to examinations necessary to establish a genetic proof. If any of the parties involved refuses to submit to such tests, the court, may draw any inferences as may be justified due to such refusal. (Section 100A Civil Code). DNA Paternity Tests were carried out in judgement proceedings concerning the establishment of paternity.

3. Malta - Marriage

A marriage may be contracted either in civil way as established by the Marriage Act, or in a religious form. The Marriage Registry was founded on the 12th August 1975, the year in which the Marriage Act was enacted. The Act regulates all marriages in the Maltese islands and also introduced civil marriages. The law has been frequently amended, the last time in 2008.

There is no legal recognition for same-sex partners.

a) Personal Requirements/Impediments to Marriage

Marriage is indefinite in duration, contracted between a male and a female, and it is monogamous in nature. Polygamy is not permitted by law and foreign polygamous marriages are not recognised. A marriage contracted between an ascendant and a descendant in the direct line, a brother and a sister, whether of the full or half blood, persons related by affinity in the direct line, or the adopter and the adopted person or a descendant, or the husband or wife, of the adopted person, is, whether the relationship aforesaid derives from legitimate or illegitimate descent, forbidden. The court of voluntary jurisdiction within whose jurisdiction either of the spouses resides may upon good cause being shown grant permission to marry to persons related by affinity in the direct line, or the adopter and the adopted person or a descendant, or the husband or wife, of the adopted person.

Children in Malta reach majority at the age of 18 years (section 157 of the Civil Code). It has been so since the Civil Code was first enacted. But there are cases where a child is vested with adult responsibility at an earlier age, namely: On contracting marriage at the age of not earlier than 16 (and when parental authority ceases in his regard). There is no residence requirement. Furthermore marriage is prohibited if the parties who are subject to paternal authority or to tutorship do not have the consent of the person exercising such authority or of the tutor, as the case may be, and do not have the authorisation of the court of voluntary jurisdiction or:

- if either of the parties are infirm of mind, whether interdicted or not;
- if the consent of either of the parties is extorted by violence, physical or moral, or fear;
- if the consent of either of the parties is excluded by error on the identity of the other party;
- if the consent of either of the parties is extorted by fraud about some quality of the other party which could of its nature seriously disrupt matrimonial life;
- if the consent of either of the parties is vitiated by a serious defect of discretion of judgement on the matrimonial life, or on its essential rights and duties, or by a serious psychological anomaly which makes it impossible for that party to fulfil the essential obligations of marriage;
- if either of the parties is impotent, whether such impotence is absolute or relative, but only if such impotence is antecedent to the marriage;
- if the consent of either of the parties is vitiated by the positive exclusion of marriage itself, or of any one or more of the essential elements of matrimonial life, or of the right to the conjugal act;
- if either of the parties subjects his/her consent to a condition referring to the future; if either of the parties, did not have at the time of contracting marriage, even on account of a transient cause, sufficient powers of intellect or volition to elicit matrimonial consent.

b) Preliminary Procedure

Application for marriage may be requested by both spouses in writing or where marriage is to take place by proxy, by the proxy and the other person. Either applicant shall appear in person but it is possible to apply through an agency provided that full documentation is given. Appropriate authority is the Marriage Registrar. According to the said law, a request for the publication of banns must be received by the registry in Valletta earlier than six weeks before the date of the intended marriage. The publication of the banns consists in the posting up of the banns in a place at the Marriage registry accessible to the public and reserved for that purpose and in keeping the banns

so posted up for a period of not less than eight consecutive days excluding Saturdays, Sundays and other public holidays. The banns shall also be posted up at the place where official acts are usually posted up in the town, village or parish in Malta in which each of the persons to be married resides.

Where banns have been published and it appears to the registrar that there is no legal impediment or other lawful cause why the marriage should not take place, the registrar shall, at the request of either of the parties to be married, issue a certificate that the banns have been so published. If the registrar is of the opinion that he cannot proceed to the publication of the banns or that he cannot issue a certificate of such publication he shall notify the persons requesting the publication of his inability to do so, giving the reasons therefore. In any such case, either of the persons to be married may apply to the competent court of voluntary jurisdiction for an order directing the registrar to publish the banns or to issue a certificate of their publication.

A marriage contracted before the sixth day after the completion of the period during which the banns are to remain posted up, and a marriage contracted after the expiration of three months from the day on which the banns are first posted up, shall be void. The period during which the banns are to remain posted or the period which must elapse before the marriage can take place, or both such periods, may be shortened by the registrar if he is satisfied that the shortening of those periods is justified by the circumstances of the case. Where either of the persons to be married is in imminent danger of death, the publication of the banns may be dispensed by the registrar.

In Malta the law does not provide for marriage by special license. The couples who are getting married in Gozo should apply for their marriage banns at the Marriage Registry in Victoria.

Marriage contracts must be registered in the Public Registry but the fact is not annotated in the marriage certificate.

c) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Malta. In practice a declaration(s) on oath stating that to the best of his/her knowledge and belief there is no legal impediment to the marriage is sufficient. This declaration is to be signed on a separate form by the party either in the presence of a commissioner for oaths attached to an embassy of Malta in the home country of residence or, alternatively, in the presence of a commissioner for oaths located in the home country. It is necessary that the authorized person dates the declaration and affixes a personal stamp or seal. Persons who have never been married must then also produce a free status certificate (if not otherwise specified on the certificate, the expiry date of the certificate will be taken as three months from date of issue) from their local registrar. If the registrar cannot issue such a certificate a statutory declaration by a third party drawn up in the presence of a commissioner for oaths is required. It is necessary that the authorized person dates the declaration and affixes a personal stamp or seal.

If a Maltese citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Maltese certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Maltese law. This certificate is issued by the public registry office. The cost is € 4,66.

d) Marriage Ceremony

A civil marriage may take place at the marriage registry itself in Valletta or Victoria or at any other public place that is accepted by the Marriage Registrar in the presence of at least two witnesses of full age in addition to the registrar. Marriage may also be contracted by proxy with the authority of the Marriage Registrar, provided that, one of the persons to be married is abroad, and the other person to be married is present in Malta and the registrar endorses strong reasons for permitting the

marriage to take place by proxy. The ceremony may only be conducted in the Maltese or English language. If one or both partners do not speak or understand the required language an interpreter is officially appointed. The costs must be borne by the parties. Only the consent may be given in another language. The celebration of marriage may be prevented during the publication of banns only.

Where any marriage takes place, the parties contracting such marriage must draw up or cause to be drawn up an act with

- the date of the act;
- the name, surname, date and place of birth, age, nationality, identification document and place of residence of the parties;
- the name, surname, date and place of birth and place of residence of the witnesses present at the solemnisation of the marriage;
- the name and surname of the father, and the name, surname and maiden surname of the mother of the parties;
- the day, month and year when, and the church, chapel, or other place where the marriage took place;
- a declaration as to the solemnisation of the marriage signed by both of the parties, or if the marriage takes place by proxy by the proxy and by the other party, in the presence of and countersigned by an officer of the marriage registry or other person authorized for the purpose by the marriage registrar
- a record of the spouses identity papers.

The act of marriage is, as soon as it is completed and signed, delivered for registration to the person by whom the declaration is countersigned, and such person must at the earliest opportunity take all such steps as may be required for its registration by the Director.

A religious marriage is contracted according to the rituals or practices of a church or religion recognised, and to which, either of the two persons to be married belongs or professes. A church or religion is recognised if it is generally accepted as a church or religion, or if it is recognised as such by the Minister responsible for justice. Prior to 1975, marriage was regulated by Canon Law. When the Marriage Act was enacted, all marriage jurisdictions became vested in the Courts of Malta.

The Marriage Registrar should be given the following information:

- The church or place where the marriage will be held
- The date of marriage
- The name of the priest who will celebrate the marriage ceremony
- The surname which the bride will be using after marriage (her maiden surname, her husband's or - in the case of widows - possibly that of her predeceased spouse).

Ten days prior to the marriage date the couple are to collect three documents prepared by the Marriage Registry and submit them to the Parish Priest of the place where the wedding ceremony will be held. After the Wedding Mass, together with the witnesses and the priest who administered the Wedding Sacrament, the couple should sign their Marriage Certificate; the bride should sign using her maiden surname.

For marriage on a vessel in Maltese national waters the same procedure is envisaged as if marriage take place on land. Outside is possible if the vessel is registered in Malta and the captain records bearing to make sure the ship is in international waters.

e) Documents

The following documents are required:

- Request for the publication of banns (a declaration on oath made and signed by each of the persons to be married stating that to the best of his or her knowledge and belief there is no legal impediment to the marriage or other lawful cause why it should not take place);
- birth certificates (showing parents` names); if it is impracticable to obtain a certificate of birth, the registrar may accept instead such other document or evidence as he may deem adequate for the purpose;
- identity cards and copies thereof;
- a photocopy of the identity cards of the witnesses(not less than 18 years old);
- a non-resident national if has been a considerable time abroad may be requested to provide a free status certificate

In case of attendance of a foreigner:

- Declaration(s) on Oath stating that to the best of his/her knowledge and belief there is no legal impediment to the marriage

This declaration is to be signed on a separate form by the party either in the presence of a commissioner for oaths attached to an embassy of Malta in the home country of residence or, alternatively, in the presence of a commissioner for oaths located in the home country. It is necessary that the authorized person dates the declaration and affixes a personal stamp or seal.

Persons who have never been married must produce a free status certificate (if not otherwise specified on the certificate, the expiry date of the certificate will be taken as three months from date of issue) from their local registrar. If the registrar cannot issue such a certificate a statutory declaration by a third party drawn up in the presence of a commissioner for oaths is required. It is necessary that the authorized person dates the declaration and affixes a personal stamp or seal.

Persons who have been previously married are to provide official documents certifying that such marriage is no longer binding. Again a free status certificate or declaration is required.

Documents which are not in Maltese or English language are to be translated and legally authenticated.

If it is shown to the satisfaction of the registrar that is it impracticable to obtain a birth certificate, the registrar may accept instead such other document or evidence as he may deem adequate for the purpose.

f) Other services offered by the Marriage Registry

- Registration of all marriages which have taken place abroad where at least one of the married couple is a Maltese national;
- registration of divorces conceded by competent courts abroad, with the condition that one of the couple is a citizen or domiciled in that country where the divorce is granted;

- as regards women who have completed procedures for legal separation, the Marriage Registry annotates the change to their maiden surname;
- legitimation of children born out of wedlock, when the parents marry each other.

g) Cost

When submitting the request for the publication of banns, it is required to pay in advance a fee of € 69,88 for the services rendered by the marriage registrar which includes the celebration of the marriage at the marriage registry. To get married elsewhere in Malta the fee goes up to € 93,17 which includes the service of a marriage officiator. This fee is not refundable in the event of cancellation of the marriage.

h) Divorce/Separation/Annulment

In Malta divorce is not part of the legal system. However, by virtue of Article 33 of the Marriage Act (Chap. 255 – Laws of Malta) an interested party may register a foreign divorce at the Annotations Section of the Public Registry, provided that the decision was delivered by the competent court of the country in which either of the parties to the proceedings is domiciled or of which either of such parties is a citizen. When such a divorce is registered, the parties are free to remarry.

Personal separation may not take place except on the demand of one spouse against the other and on any of the grounds specified in the law (Articles 35-66 of the Civil Code – Chap 16, Laws of Malta), or by mutual consent of the spouses as specified in Article 59 of the Civil Code.

Once a marriage annulment is pronounced by the court, this means that the marriage never existed from the beginning, saving the legitimation of any children born in marriage. Proceedings for separation are started by means of a letter to the Registry of Civil Court, Family Section. A request for an annulment may be filed by either one of the spouses in front of the Civil Court, Family Section. Malta has concluded agreements with the Holy See (so-called “Concordats”) whereby a Catholic marriage can be annulled by canonical courts whose decisions produce civil effects.

4. Malta – Name

The declaration and registration of naming of the child is in made before and by the Public Registry as part of the completion of the birth entry. Names written in foreign letters are registered using the Latin alphabet. Characters and diacritical signs to Latin letters which are not in use in the national language recorded are recorded. Neither pen names, nicknames nor nobility and academic titles are registered. Stillbirths may be given a first name and a surname. The names for a found or orphan child are assigned by the registrar.

a) First Name

A child is given one or more first names. There must be a special indication of the name or names by which the child is to be called. The only restriction is that the first name must be adequate.

b) Surname

The person giving notice of the birth shall also deliver a declaration of the parents of the child indicating the surname to be used. Where no such declaration is made in the case of a child born in wedlock the father’s surname shall be presumed to have been so declared. The entire family uses the husband’s surname. The children of the marriage must take their father’s surname, to which they may add their mother’s.

A child conceived and born out of wedlock, if he has been acknowledged by the father, shall also assume his surname, to which may be added the surname of the mother; otherwise, he shall assume the surname of the mother. These provisions apply to such persons acknowledged or born on or after the 1st day of January, 1966 with certain provisions for judicial resolution of the names of persons born before that date. A child conceived and born out of wedlock who has not been acknowledged by the father bears the surname of the mother unless declared otherwise by the court.

Following amendments to the Civil Code, married women have obtained the right to choose whether to assume their husband's surname, or to retain their maiden surname. Surnames are not hyphenated. Married women were also given the choice of adding their surname to that of their husband's. Furthermore, women who had married prior to 1993 were given a period of six months to apply to the Public Registrar if they so wished to revert to their maiden surname. The wife may retain either her maiden surname or the surname of her predeceased husband after remarriage provided that she declares her intention of doing so when applying for the publication of the bans in accordance with the Marriage Act. Such form must be delivered to the Public Registry together with the Act of Marriage and shall be signed by the spouses and countersigned by all the other signatories in the Act of Marriage.

In Malta, there is no provision for divorces. The registry would need to seek legal advice from the office of the attorney general.

The wife can, on separation, choose to revert to her maiden surname. In the case of a consensual separation, a declaration of such choice shall be made in the public deed of separation and in the case of a judicial separation, by a note filed in the records of the case before final judgement. The court may also, at the request of the husband which may be made at any time before judgement, prohibit the wife from continuing to use the husband's surname after separation, where such use may cause grave prejudice to the husband.

If a marriage is declared void the wife reverts back to her maiden surname.

The widow may retain her marriage surname but may not be transfer it to a new spouse in the case of remarriage. On remarriage she may opt to retain her maiden name

Upon an adoption decree being made, the person in respect of whom the adoption decree is made assumes the surname of the adopter: Provided that where the person to be adopted is a child below the age of four years, the adopter may, with the approval of the court, give such child a new name.

c) Name Change

It is lawful for any person to bring an action for the registration of the name or names, which name or names the person shall have used or shall have been used for him by his family, and which is declared by the court as being the name or names by which the person has been consistently called, in substitution of the name or names appearing on the relative act of birth as the name or names given to the child and the name or names by which the child is to be called. This action includes a request that the change effected in the act of birth through the registration is reflected in every act of civil status relative to the same person and, where any, to the children and further descendants of such person; which acts must be indicated in the request by the relative number and year thereof. Any action shall be brought against the Director of Public Registry by way of sworn application before the Civil Court, First Hall, or the Court of Magistrates (Gozo) (Superior Jurisdiction) as the case may be. Fifteen days at least before the hearing of the action a notice is, by order of the court, published in the Government Gazette, calling upon any party interested to declare, within fifteen days from the publication of such notice, by means of a note, whether he desires to contest the action. A reference of such judgement shall be made by means of a note in the margin of the register.

If the application concerns a minor child, both parents and the Director of Public Registry must be party to the suit.

A name change for transsexuals is possible. It shall be lawful for any unmarried person domiciled in Malta to bring an action for an annotation regarding the particulars relating to sex which have been assigned to him or her in the act of birth. Before delivering the judgement, the Court shall appoint experts to verify whether the person who has brought the action has, in fact, undergone an irreversible sex change from that indicated in the act of birth or has otherwise always belonged to the other sex. Any action shall be brought against the Director of Public registry by way of sworn application before the Civil Court, First Hall, or the Court of Magistrates (Gozo) (superior Jurisdiction) as the case may be. This provisions shall apply to foreign acts of birth registered in Malta. All expenses relating to such litigation including those incurred by the Director of the Public Registry shall be borne by plaintiff (Section 257 A CC). The court shall allow the plaintiff's request if it is of the opinion that it has been sufficiently established that the plaintiff belongs to the sex claimed by him and that the plaintiff's condition is irreversible.) The court may also order an annotation in the name or names of plaintiff if it has allowed the request (Section 257 B CC).

NL – Netherlands

1. Civil Registration System

a) Introduction

The civil status registration system is event-based.

The official language is Dutch. Another official language is Frisian, which is spoken in the northern province of Fryslân. All civil status acts are performed in Dutch. In the northern province of Fryslân civil status acts are performed in Frisian as well. The Latin alphabet (26 letters) is used for the Dutch language. Dutch uses ligatures, the diaeresis and diacritics. Grave and acute accents are used on a very small number of words, mostly loanwords. The ç also appears in some loanwords. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-1 (only the IJ/ij (letter IJ) is missing, which is usually represented as IJ).

The Netherlands have a population of 16.570.613 (2007) and are divided into twelve administrative regions, called provinces, each under a Governor, who is called Commissaris der Koningin (Commissioner of the Queen), except for the province Limburg where the commissioner is called Gouverneur. All provinces of the Netherlands are divided into municipalities (gemeenten), together 443 (2007). Recent politics have led to a great number of mergers between smaller municipalities or with cities, a process which will continue in the future (with a few mergers set to occur on 01.01.2009 and 01.01.2010) and in addition, Bonaire, Saba and Sint Eustatius will become part of the Netherlands with a status equivalent to that of municipalities.

The GBA, which stands for 'Gemeentelijke Basis Administratie persoonsgegevens', basic facilities are managed from a central location. The Ministry of the Interior and Kingdom Relations is responsible for the appropriate performance of this national infrastructure. The management is delegated to the Personal Records Database and Travel Documents Agency (the BPR), part of the Ministry of the Interior and Kingdom Relations. The BPR is also charged with the performance of the ministerial duties pertaining to travel documents. The BPR is located in The Hague. The Municipal Database (Personal Records) Act constitutes the statutory framework to be complied with by all those involved with the GBA system. The Act is supplemented by a number of GBA decrees and regulations. In addition, the supply of data to clients is laid down in what are referred to as authorisation decrees issued by the Minister responsible for the GBA.

Every municipality in the Netherlands has its own population register containing information on all inhabitants of that municipality. This information is listed per individual inhabitant in a so-called personal list (PL). In the registration system, each inhabitant has been given a unique personal identification number (PIN), which enables the municipal authorities to link his or her data to those on the spouse, parents and children. For this reason, not only the inhabitant's PIN is stored on each PL, but also those of the parents, the spouse and the offspring. The main features of the GBA system are:

- the municipalities have retained responsibility for storing and supplying data. There is no central database, except the central register with the information about the municipality in which a person is registered.
- central government has developed an electronic communications network which links all municipalities and users of population data;
- this network provides fully standardised communication between all municipalities and users of population data;
- the network is an electronic mail system, according to the EDI principle (Electronic Data Interchange). Interactive real-time data exchange is possible;
- central and local government maintain the network jointly.

The GBA contains the personal records of all members of the Dutch population fulfilling the conditions for registration pursuant to the Municipal Database (Personal Records) Act. A personal list (PL) consists of, among other information, the following categories:

- personal data;
- data about the mother;
- data about the father;
- data about marriage, partnership, widowhood and divorce;
- data about the address;
- data about the offspring;

The population registers are a basic element in national and local governance. Much attention was paid to the rules with respect to keeping the population register data up-to-date. The information which is needed to update these registers is provided by local registrars (births, deaths, marriages, partnerships), the judicial courts (divorces), the Ministry of Justice (changes of citizenship) or by the persons concerned (change of address, immigration, emigration, births / marriages / other events that took place abroad). Prior to the implementation of the GBA, all personal records were kept on personal record cards. The municipalities have been assigned the responsibility to collect, register and maintain up-to-date data in the form of personal records for all members of the Dutch population. The administration of the GBA is a decentralized municipal duty. An electronic personal record is prepared for each individual registered in the GBA. This record contains the personal data about one individual. "Source" documents, such as birth certificates and marriage certificates, are of vital importance to the accuracy of the records. Municipalities carefully inspect these documents to ensure that they are correct. Nevertheless, in a number of situations the population register does not match reality:

- Those who change address do not always notify the municipality of a new residence as required and especially among young people, students for instance, the proportion of mis-registrations seems to be higher than among other groups.
- An unknown number of people live in the country without being registered in the population register.
- Emigrants should notify the local authorities of their departure but often fail to do so.
- Events that have taken place abroad are usually registered with some delay, of ever and especially marriages contracted abroad are a frequent example of delayed registration.

Each municipality and each client linked to the GBA is assigned an electronic GBA mailbox and personal records are issued using these mailboxes. For example, on the move of a resident of one municipality to a new municipality, the first municipality sends the personal data of that resident to the new municipality's electronic mailbox. The GBA's client also receives the GBA data via their GBA electronic mailboxes. Municipalities and clients make use of their own automated systems to create and send messages.

Upon submitting a picture ID and paying the fees, a person can obtain a copy from the municipality personal records database of himself or his family members from the municipality he is registered in. In case a person would like to obtain personal copies of other people, he must submit proxy and valid identification of these people.

Registry Offices and Staff

Civil registration records were kept at the local civil registration office (Burgerlijke Stand) in each municipality (Art. 1:17 Dutch Civil Code). In each municipality at least two registrars are appointed by the mayor and the aldermen (Art. 1:16 CC). Registrars are civil servants employed by the various municipalities. Before being allowed to exert their functions, the registrars must take the official oath or give a solemn affirmation in court. The law does not envisage criteria for the training of the registrars. They can be assisted by special staff members, not necessarily communal officials, also appointed by the mayor and the aldermen, whose authority is limited to the performance of marriage and registered partnership. Registrars are independent in performing civil status acts. Judges exercise control functions. In case of uncertainty concerning practices with foreign documents, registrars may ask an advisory commission (Commissie van advies voor of zaken betreffende of burgerlijke staat in nationaliteit), which is part of the Ministry of Justice. Provisional acts of birth and death can be drawn up by registrars of another municipality, the mayor, the secretary or an alderman of a municipality, a notary or a candidate-notary, a lawyer, a prosecutor, certain officers of the army or certain officers appointed by the Minister for Justice in the event of war, natural disaster or other extraordinary circumstances, by the captains of ships - when the births or deaths occurred on board of a vessel - by the commanders of aircrafts when births or deaths occurred on an international flight.

National Association of Registrars

The Dutch Association of Registrars (Nederlandse Vereniging voor Burgerzaaken, NVVB) is working to facilitate the development of a professional qualification, promotes the recognition of professional-status of those working within the Registration Service, disseminates information and advice, actively seeks development opportunities, promotes opportunities for the exchange of views, responds to government consultations, organise conferences and has established the website

<http://www.nvzb.nl>.

The Nvvb is a Member of the European Association of Registrars (EVS).

b) Civil Status Records

Births, marriages, registered partnerships and deaths are written in the civil registration records as they have occurred and thus are arranged chronologically. Indexes are usually bound with each year's register. Ten-year indexes were kept in a separate register. The indexes are alphabetical by surname. The indexes list the name, document number and date of the civil register entry. In marriage indexes, the groom's name is usually in alphabetical order.

All registers are held in double and one is submitted to the Ministry for Foreign Affairs to be deposited in the central files (Central Bewaarplaats). Moreover, the Hague municipality holds a central register for court decisions concerning the annulment, divorce, judicial separation and the dissolution in respect of marriage and registered partnership which were entered into abroad. This registration is mandatory (Art. 1:17/21 CC) in order to make the decree valid in the Netherlands.

Foreign registrations and court decisions in accordance with the foreign law will be added by the civil status registry to the registrations in its office on request, on order of the Public Ministry or on its own initiative in so far as they refer to Dutch registrations of marriages, registered partnerships or birth (Art. 1:20b CC). Foreign registrations of birth, marriage, registered partnership and death – drawn up by the competent authority – will be registered in The Hague on request of an interested party or on order of the state if the registration concerns a current/former Dutch national or a foreigner who resides in the Netherlands with a valid permit (Art.1:25 CC). Foreign registrations of birth are also registered if these registrations have to be altered according to Dutch law. The registrar can also register such events on his own initiative if he considers it suitable. Consular registers are held in double and one copy is deposited in the central files.

Archives

The Dutch government collects records relating to Dutch people. In the Netherlands, there are three major types of repositories: State (national and provincial) archive, Regional and municipal archives and Church archives.

The General State Archives (National Archives) is in The Hague. The State archives (provincial archives) are located in the capital of each of the 12 provinces. Each archive collects records from its respective province. Records include the Church records, civil registrations and Population registers. The Archives Law of 1962 allows free public access to any document found in government archives. Fees are charged for copies of these records. The state archives of the Netherlands are open to the public. The state archives of the Netherlands are preparing a national online index of all civil registration records open to the public. Currently, entries from the provinces of Drenthe, Flevoland, Friesland, Noord-Brabant and Utrecht have been added to the database. The web site is available in either Dutch or English under the address www.archiefnet.nl/rad/genealogie/genlias.htm. Regional archives consist of the records from two or more municipalities. Municipal archives exist for most large towns. They contain the same type of records found in the state archives. Birth registers are open to the public and are available in the state archives after 100 years, marriage registers and marriage supplements after 75 years and death registers after 50 years.

c) Legalisation/Translation

The registry office does not accept documents which are not duly certified or bear the Apostille.

The Netherlands is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, parties

undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

The Netherlands is party to the CIEC Convention no. 16 of 8 September 1976 (on the issue of (multilingual) extracts from civil status records, birth certificates, marriage certificates, death certificates) together with Austria, Belgium, Bosnia and Herzegovina, Croatia, France, Germany, Italy, Luxembourg, Macedonia, the Netherlands, Portugal, Poland, Serbia and Montenegro, Slovenia, Spain, Switzerland and Turkey and of other CIEC Conventions. In addition, the Netherlands have a bilateral treaty with Belgium abolishing legalisation for public documents.

Copies of documents are permitted, but such copies must be legalized or made of the original documents with the certification (Apostille) on it. All foreign documents must be translated if they are not written in Dutch, French, English or German and the translation must be made by a sworn translator. English, German and French documents are generally accepted without translation; the same applies if the registrar understands the language of the document which is presented.

The central authorities for the Netherlands are the registrars of the courts of first instance (rechtbanken). There are 19 courts of first instance, each responsible for a district that is described in the law of Court Organisation (“Wet op de Rechterlijke Organisatie”).

Requests can only be made by (registered) mail, by courier or in person. The registrars of the courts keep paper files of all signatures of notaries public, civil servants, judges, sworn translators and members of the chamber of commerce within their district. Each signature for which an Apostille is requested is then compared with the signature in the file. One central authority stated that in case a signature deviates substantially from the signature in the file, a new signature may be requested. Some of the central authorities use a word document with the text from the annex to the treaty in Dutch, German, French, Spanish or Italian in combination with the official court seal and a mechanical stamp with the signature of the court’s president. The others use a mechanical print with the text from the annex to the treaty in Dutch, German, English, French, and either Spanish or Portuguese in combination with the official court seal and a mechanical stamp with the signature of the court’s president. The Apostille issued by the competent authority is placed on the public document itself or on a so-called allonge. The Apostille is issued on the page with the signature which is usually the last page of the document.

The fee is set in the Law on Tariffs for Civil Cases (“Wet Tarieven Burgerlijke Zaken”). The fee is for the issuance of an Apostille is presently € 16,00 € (according to article 13 paragraphs 7 and 8 of the Law on Tariffs for Civil Cases. The applicant can wait for the Apostille if he/she uses the walk in service. Documents handed in before 11.30 can be collected the same day. The applicant will normally have to wait about an hour. Documents handed in later than 11.30 can be collected from 9 a.m. on the next working day. Expected processing time for mail service is about six weeks.

d) Access and Documents

Only registrars and the officials of the Public Ministry are entitled to directly consult the registers of births, marriages and deaths. Judges and the Public Ministry can order civil status records.

The registry office issues certificates, extracts and integral copies of the birth certificate, the marriage certificate, the act of registered partnership, the act of conversion of a marriage into a registered partnership, the death certificate, the act of recognition and the act of dispute of paternity. Certificates and copies are delivered to the person justifying a legitimate interest. An extract never indicates the filiation and must be requested in the municipality where the relevant certificate has been drawn up. Request must be submitted in person. This can be done in writing or at the town hall at the desk of Burgerzaken (Citizen Services). The applicant must be able to produce valid proof of identity. If the applicant wants someone else to submit the request for him, he must authorise this

person in writing. In this case, both valid proof of identity of the applicant and of the person for whom the extract is being requested must be shown including written authorisation. The applicant can write a letter that includes his request and a copy of the valid proof of identity when making a written request. Online requests are possible with an electronic access code. The requested extract will be received within two weeks including an invoice. Furthermore, the registry office issues with a less significance, extracts from the population register and on request a family record book upon marriage or registered partnership. The law does not regulate the period of validity.

The Netherlands allows adoptees to request copies of their birth certificate, which contain the names of their original parents (Article 1:22 of the Civil Code).

e) Procedure, Cost, Time and Payment

The applications for copies or records and certifications can be made to Dienst Persoonsgegevens in the registry office:

- In person; by proxy through any third party, with an original, notarized letter signed by that person authorizing release of his certificate to the applicant.
- by postal mail, fax or online.

For use abroad an international certified copy can be made. Dependent upon current request volume, it will take up to 2-3 weeks to process the request.

To obtain a document, the applicant must:

- present valid photo identification (e.g. drivers license, passport); include a photocopy of the photo identification if the application is made by mail or fax; make a light and sharp scan of the photo-ID if the application is made online;
- pay a € 10,60 fee for each certificate (may vary depending on the municipality)

The Registry Office sends the requested certificate to the mailing address with a specification of the costs. If the applicant lives abroad, he has two options of paying: Cash or wire transfer. It is not possible to pay by money order or credit card.

f) Foreign relations

Dutch civil status registrars do not transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Some Dutch civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States.

g) Consular Services

The Ministry of Foreign Affairs in The Hague coordinates the worldwide network of missions. The Netherlands is represented by 110 embassies, 1 embassy office (in Pristina, Serbia-Montenegro), two representations (one to the Palestinian Authority in Ramallah and another in Kabul, Afghanistan), and 27 professional consulates. The Netherlands' missions abroad are generally staffed by employees of the Ministry of Foreign Affairs. The Consular Decree empowers a limited number of heads of Dutch embassies and consulates-general to issue consular certificates (examples are certificates of birth, marriage or death) for Dutch nationals living in the area covered by that embassy or consulate-general. Therefore, certificates are not always available from a Dutch embassy or consulate. The Ministry of Foreign Affairs can arrange a request for a duplicate or extract of a consular certificate on behalf of Dutch nationals if the birth, marriage or death in

question has been registered with one of the authorised Dutch embassies or consulates. They are not entitled to draw up recognition acts for Dutch children of foreigners. Diplomatic or consular officers are not authorized to perform marriages, testify to the legal ability of persons to marry, nor make certifications as to any countries law regarding marriage. Only the head of the diplomatic or consular agency can act like a registrar as far as registration of marriages occurring abroad or on a vessel are concerned.

Only once a foreign birth or marriage certificate has been legalised a foreign birth or marriage can be registered in the Netherlands. Registration with the municipal personal records database (GBA) is compulsory if the person lives in the Netherlands.

Certificates of births, deaths and marriages issued by the authorities of another country and duly legalised may be included in the register of births, deaths and marriages in The Hague (Foreign Documents Department - afdeling Landelijke Taken). The person referred to in the document must be (or have been) a Dutch national or an A-status refugee. Including a foreign certificate in the register is not compulsory, but it does offer the advantage that the registry of births, deaths and marriages can subsequently issue the applicant with duplicates and extracts from the register on request and that the information is stored and linked in the records database. This means the applicant does no longer need to request the document abroad and have it legalised for use with any Dutch authorities. Declarations of unmarried status or of place of residence or proof of nationality are issued to Dutch nationals who live or have lived abroad and who require such documents for a Dutch authority. If a Dutch national wish to get married abroad, the foreign authorities often request a declaration of intention to marry issued by the Dutch embassy or consulate in the country where he/she wishes to get married. The Ministry of Foreign Affairs can request consular declarations on behalf of Dutch nationals. The Ministry of Foreign Affairs charges a fee of € 103.00 per document for requesting consular documents on your behalf. Requesting a consular document may take several weeks. Since consular documents are issued by Dutch embassies or consulates, they are Dutch documents and need not be legalised for use in the Netherlands.

h) Law

Dutch Civil Code of 11.12.1958; Civil Status Order of 25.02.1994.

i) eGovernment

Online Services for Citizens

Portal

The Dutch eGovernment portal provides citizens, businesses and public administrations with an easy and convenient access to an increasing amount of information and services. Amongst its features, there is a search engine allowing users to search in the more than 1.200 existing government websites. It also provides an eCounter (Overheidsloket), acting as a one-stop shop for a number of interactive and transactional services organised around citizen's needs.

Website

www.overheid.nl.

Civil Status Certificates

Civil certificates requests are handled by local authorities. Most of them provide information and forms to download and some even have online request applications.

2. The Netherlands - Birth

a) Registration of Birth

The father is obliged to register the birth of his child with the registrar of births, deaths and marriages in the municipality of the town where the parent live within three days of the birth. The declaration of birth which has occurred abroad must be made to diplomatic or consular staff within thirty days. If the father is absent or is unable to register the birth, any person present at the birth of the child or the owner of the house where the child was born is obliged to register the birth. The mother is also entitled to register the birth (article 1:19e Civil Code). Failure to register is a criminal offence (article 448 Criminal Code) but late declaration must be registered by the registrar who informs the Public Ministry. The registrar of births, deaths and marriages confirms the identity of the person making the registration. The registrar may also require a statement from a doctor or midwife present at the birth, certifying that the child was born to the woman stated to be the mother. Such a document is required only if the registrar has doubts about the genuineness of birth. If the persons entitled or obliged to register the birth fail to do so or are absent, the birth must be registered by the burgomaster of the municipality where the birth certificate is to be drawn up. This occurs, for example, in the case of a foundling (article 1:19e Civil Code). The Crown gives a foundling first name and surname.

In a later stage, the Municipality confirms with the hospital if the birth did occur. An official birth certificate is issued and the data of the newborn child are registered in the GBA (Municipal Personal Record Database). The Citizen Service Number (the “burgerservicenummer”) is allocated by the municipality to all persons born in the Netherlands, if their parents are registered in the GBA (Municipal Personal Record Database), and the people who have immigrated into the Netherlands. The municipalities manage their own database.

Stillborn children are not registered in the birth records, only in the death records. It is possible to give the stillborn child a first name and a surname and to request that this is being entered in the register. Is the child born alive but dead on declaration, the child is entered into the register of births and its death is entered into the register of deaths.

b) Documents

The birth declaration contains:

- the child's first name, surname, place, date and time of birth and sex
- Names of parents; the Netherlands make it obligatory to provide the names, not only of the mother, to whom the child is automatically linked, but also of the father.
- Name, profession, place of birth and age of the one registering the birth
- Names, profession and age of the witnesses
- Often: address where the birth took place

c) Birth Certificate

The birth certificate is the document issued by the registrar or acting registrar of the corresponding civil register, which certifies the birth.

It indicates characteristics about:

- the child's first name, surname, place, date and time of birth and sex (if necessary, by specifying that the names were given by the registrar)

- number of the act
- first name, surname, place and date of birth of the parents and the informant
- name and signature of the registrar

In theory the birth certificate is not amended at a later date but annotations can be added in the form of a note in the margin or at the end of the certificate. Additions relating to descent include decisions concerning the filiation (for example: recognition). The adoption decree is mentioned in a marginal note to the birth certificate. Extracts show only the adoptive parents as the father and mother and do not disclose the adoption itself. Furthermore decisions relating to the change of the first name or surname are added. A transsexual can after gender reassignment alter the birth certificate. The birth certificate is reissued in the reassigned sex of the transsexual person.

d) Recognition

The mother of a child is the woman who has given birth to it, or who has adopted it (art. 1:198 Dutch Civil Code). Following the model contained in the International Commission on Civil Status Conventions (CIEC), if maternal recognition is necessary to meet the requirements of the law of another state the mother may make such a declaration before the competent authority of any of the States parties.

Juridical motherhood is directly derived from biological reality. However, the development of human fertilisation techniques can lead to a situation where a child has two biological mothers: one who is genetically related and another who carried and gave birth to it. Such a situation can arise due to egg donation or in the case of surrogate motherhood. The biological bond created by carrying and giving birth to a child is considered to be sufficient for the ascertaining of legal motherhood, even if the child is genetically related to another woman because of egg donation. No denial of this maternity or recognition of a child by its genetic mother is possible under Dutch law. The second ground for legal affiliation is apparent status. The concept of apparent status means possession of status. One possesses a certain status by exercising the rights and performing the duties associated with a certain personal status. What is important is that apparent status is not dependent on genetic affiliation: one can have the apparent status of being a certain person's child, without being the genetic child of that person. This Dutch legal concept is used to prevent actions for annulment of legal affiliation. The rationale behind that Dutch rule is that if apparent status indicates that a certain person is the child's legal mother or father, apparently a certain social reality has crystallised and it is deemed undesirable to disrupt that social reality.

The registration of legal maternity is regulated in the Dutch Civil Code and in the Civil Status Degree 1994 (Besluit Burgerlijke Stand 1994). Registration of the child's legal mother is mandatory. According to Article 19e (9) Dutch Civil Code, the civil status registrar is authorised to require a written declaration given by a doctor or midwife that the woman mentioned as the child's mother indeed gave birth to that child. The registrar is, however, not obliged to ask for such evidence. It may occur as a result of fraud or mistake that the birth certificate does not mention the legal mother, but another woman as the child's mother. In that case the birth certificate can be amended on the basis of Article 24 Dutch Civil Code, upon request by an interested party or the public prosecutor. There are neither statutory periods of limitation nor any special requirements with regard to evidence. However, if the child has apparent status in conformity with the affiliation status as recorded in the register, only the child is allowed to apply for an amendment of his or her birth certificate.

The paternity of the child is determined by the following rules. According to Art. 1:199, the legal father of a child is the man, who is the husband of the mother at the time of the child's birth or

where the marriage is dissolved as a result of death or divorce, provided that the child is born before the 307th day after the dissolution of the marriage (if the mother has, however, remarried during this period, the new husband is the father), who has recognised the child, whose parentage has been established in court proceedings or who has adopted the child. Different to the establishment of the mother-child relationship, the establishment of the father-child relationship is primarily based not on biological reality, but on a number of legal presumptions.

The presumption of marital paternity, i.e. the presumption of paternity on the part of a man who is married to the mother of a child, is preserved in the new law, because it appears to largely coincide with the biological truth. Since marriage is now available to same-sex couples this presumption is only limited to heterosexual marriages. While retaining the husband's presumption of paternity the legislator has, however, limited the application of this presumption and made it easily revocable in order to bring it into line with the modern requirements. Under the law the mother, the father and the child itself can contest the paternity of the husband of the mother of a child. The biological father of the child cannot contest another man's presumption of marital paternity. If there is any doubt the judge is entitled to order a DNA test upon his own initiative. The possibility of contesting marital paternity is subject to some limitations. Both the father and the mother cannot contest paternity if the father knew of the mother's pregnancy at the time of marriage, if he knew that he was not the biological father. The same applies if the father has consented to donor insemination or to a deed that could lead to a child being conceived. Although in such cases the presumption of paternity clearly becomes a fiction, the legislator understandably considers the social relations based on an agreement between the parents to be more important than the biological truth. These restrictions do not preclude a father from contesting paternity, however, if the mother has misled him concerning the genetic origins of the child. It is worth mentioning that the consent of the father to donor insemination does not prevent the child from contesting the paternity.

Establishment of parentage in court proceedings is a novelty of the law. Before this time only maintenance claims were possible against the biological father of a child (Art. 1:394). The establishment of parentage in court proceedings under the new law places a child in the same legal position in respect of the father, as it would be in case of recognition.

Under Dutch law, legal paternity can also be established by means of acknowledgement of paternity. A child born out of wedlock had the status of the natural child of its father after having been recognised by the latter – the “father”, for the purposes of this provision, being the man who recognised the child, whether or not he was the biological father (Article 1:221 of the Civil Code). Recognition of a child could be effected on the birth certificate itself or by a separate deed of recognition drawn up for that purpose by the Registrar of Births, Deaths and Marriages or a notary public (Article 1:223 of the Civil Code). A deed of recognition drawn up by the registrar is entered in the register of births (Article 1:21 § 3 of the Civil Code). At the request of an interested party, the regional court could order that a deed be entered in the appropriate registers (Article 1:29 § 1 of the Civil Code). The father can acknowledge the child before (acknowledging the foetus) or after birth.

The recognition requires the mother's prior written consent (Article 1:224 § 1 (d) of the Civil Code). However, in view of the right of the father and the child to respect for their “family life”, if the mother's consent is lacking, it may be replaced by the consent of the Regional Court (Article 1:204 § 3). The man who seeks alternative judicial consent must be the child's biological father; in addition, recognition must not be detrimental to the mother's relationship with the child or to the child's own interests (*ibid.*) and a decisive factor might be if the father's relationship with his child was such that it should be considered as amounting to “family life”. Furthermore, the child's written permission is required if he or she has reached the age of 12 (Article 1:204 § 1 (d)).

Recognition of an incestuous child is prohibited.

3. The Netherlands - Marriage

Civil marriage ('huwelijk') is regulated by Book 1 of the Civil Code (Burgerlijk Wetboek = CC). Since 1 April 2001 art. 30(1) of Book 1 states that a 'marriage can be contracted by two persons of different sex or of the same sex'.

Only civil marriages, those performed by civil servants, are recognised by Dutch law and are therefore required. Church weddings have no legal effect in the Netherlands. Art. 68 Book 1 CC even prohibits churchweddings of couples who have not first married each other at the Registry. Article 449 of the Penal Code determines that contravening this rule is a criminal offence.

There are only two legal differences between a marriage of two people of the same sex and a marriage of two people of different sexes. One exception concerns intercountry adoption, which is only available to married couples of different sex. The other exception is the presumption of paternity: when a child is born to a woman married to a man, the man is deemed to be the father of the child. That rule does not apply when a child is born to a woman married to another woman. However, since 2002 a new rule provides that when a child is born in a marriage of two women, both women automatically get joint parental authority over the child, unless a man has acknowledged the child as his own before its birth. Registered partnership ('geregistreerd partnerschap') is also regulated by Book 1 of the Civil Code. It was introduced, both for same-sex couples and of different-sex couples, on 1 January 1998 by the insertion of art. 80a to 80e into Book 1, by the law of 5 July 1997 (Staatsblad 1997, nr. 324). Almost all procedures and consequences of marriage also apply to registered partnership.

When a child is born to a woman in a registered partnership, her (male or female) partner does not automatically become a legal parent. However, since 2002 a new rule provides that when a child is born in a registered partnership, both partners automatically get joint parental authority over the child, unless a man has acknowledged the child as his own before its birth.

Both Art. 43(1) Book 1 CC, and Art. 2 of the Act on Conflicts of Law with Respect to Marriage (Wet Conflictenrecht Huwelijk, Staatsblad 1989, nr. 392) require for marriage that one partner either has residency in the Netherlands or has Dutch citizenship. Since April 2001 the same applies to partnership registration (art. 80a(4) Book 1 CC, as amended by the law of 13 December 2000, Staatsblad 2001, nr. 11). Whether or not the law of the country of origin of a foreigner permits or recognises registered partnership or same-sex marriage is not relevant in the Netherlands.

Art. 63 of Book 1 CC, declared applicable to partnership registrations by art. 80a(6) states that the authority for starting marriage and registered Partnership is the Register of births, marriages and deaths.

a) Personal Requirements/Impediments to Marriage

A couple may not marry in the Netherlands if neither is a Dutch national and both live abroad. However, they may marry if at least one of them is resident in the Netherlands or if at least one partner is Dutch (even if they both live abroad). The requirements and impediments to marriage are determined by Dutch law. If the conditions are satisfied, the couple may get married, regardless of whether they are allowed to do so under the law of the country of which a non-Dutch partner is a national.

Non-Dutch nationals who want to enter into marriage with each other must have a permanent residence permit but a special statement of permission may be granted from the immigration authority (IND) when this is not the case. Marriage with a Dutch national does not automatically convey a residence permit.

Only people aged 18 and over may get married, but it is possible to obtain parental permission and a Royal Decree, which is only granted under extenuating circumstances or a court may grant

permission to marry on the application of the minor. In the event of marriage between people of different sex, they can marry aged 16 if the woman presents a medical certificate attesting that she is pregnant; this waiving of age limit is granted by the Minister for Justice.

Anyone who has been placed under the supervision of a guardian must obtain his guardian's consent to the marriage. If even the parents or a guardian does not consent to the marriage, a court can grant permission to marry on the application of the minor.

Marriage is not allowed between parents and children, grandparents and grandchildren and between brothers and sisters. This follows from art. 41(1) Book 1 CC, declared applicable to partnership registrations by art. 80a(6). However, the Minister of Justice may allow a marriage or partnership registration between those who are brother(s) / sister(s) through adoption (art. 41(2)). Other impediments to marriage are bigamy, duress or error, sham marriage, mental disorder of one of the spouses, lack of competence of the registrar and too few witnesses.

b) Preliminary Procedure

A couple intending to marry has to give notice of their intention to the registrar of births, deaths and marriages, first. The intention to marry (notice of engagement or *ondertrouw*) must be made at the local municipality (*Gemeente*) or Town Hall (*Stadhuis, Afdeling Huwelijkszaken*) of the district of residence where the couple wishes to marry. The applicants also have to provide documents showing that they are eligible to marry. The nature of these documents will depend on the situation. The registrar enters a record confirming that notice has been given of the couple's intention to marry. The notice of marriage must be done no less than two weeks and no more than a year before the wedding (*huwelijk*) is planned to take place. Exceptions can be granted by the Minister of Justice in special circumstances. If the couple both live abroad and wish to marry in the Netherlands they must give notice of their intention to marry at the City of The Hague Registrar's Office.

In the event of a violation of public policy, registrars decide on a refusal of celebration independently but also have the power to ask the public prosecution service for information and advice. Appeals may be brought before a court of first instance.

c) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in the Netherlands. In practice foreign nationals need to present a certificate of no impediment to marriage in nearly every registry office in the Netherlands. Sometimes it may be substituted by a certificate of single status.

If a Dutch citizen intends to get married abroad he/she may have to produce - in addition to other documents - a Dutch certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Dutch law and is valid for 6 months from issue. This certificate is issued by the registry office of the main place of residence of one of the future spouses. If no primary residence or domicile exists in the Netherlands, the registry office of the last primary residence is considered the relevant authority. The cost is € 19,60. If the party to the marriage had never a residence in the Netherlands, the Dutch embassy or consulate in the country where he/she wishes to get married is the competent authority. For the issuance of a certificate of no impediment the consular fee is € 30,00. The Ministry of Foreign Affairs can request consular declarations on behalf of Dutch nationals. The Ministry of Foreign Affairs charges a fee of € 103,00 per document for requesting consular documents on their behalf. Requesting a consular document may take several weeks.

d) Marriage Ceremony

The civil marriage takes place at a Registry Office (Burgerlijke Stand) and is performed by a Registrar of Marriages (Ambtenaar van de Burgerlijke Stand). The civil ceremony may take place in a municipal district other than that of residence but the municipal office must be informed so that arrangements for moving documents can be made. Prospective spouses contract marriage with both being present in person at the same time. However, the Minister of Justice can, for serious reasons, grant the permission to marry by proxy.

The marriage or registration ceremony must take place in the presence of no fewer than two and no more than four witnesses, who are over the age of 18 and present identity documents. Their names and addresses must be submitted to the registrar when the couple give notice of their intention to marry. This rule applies to a wedding taking place in the town hall or an equivalent office (Art. 1:63 CC). For a wedding taking place in a special place, for example an hospital or a prison, six adult witnesses are required (Art. 1:64 CC).

e) Documents

When applying for a civil marriage the following documents have to be presented:

- A full birth certificate; if it is impossible to obtain a copy of the birth certificate for a person born out of the Netherlands, an extract of this is sufficient. The engaged couple who has no possibility to produce a copy or an extract of the birth certificate can substitute it either by court decision of his home country (four major witnesses must be stated in the declaration) or by a statement of the witnesses made under oath at the time of the celebration of the marriage or by a sworn statement of the engaged couple in front of the registrar affirming that they can get neither a birth certificate nor a court decision.
- Proof of identity.
- Document of authorisation from a legal guardian (for applicants under 18 years).
- Extract from the municipality registry (Gemeentelijke Basisadministratie, GBA) declaring marital status and nationality.
- A marriage certificate in the case of a previous marriage with divorce decree in the case of a previous divorce or death certificate in the case of being widowed.
- Foreign nationals complete a Form (issued by Immigratie en Naturalisatiedienst IND), available from the Town Hall.
- Foreign nationals may also need to present a certificate of no impediment to marriage or certificate of civil status proving they are not married elsewhere, usually available from their Consulate.

Completed witness forms for the witnesses (who must be 18 years or older) should be presented at this time.

f) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- marriage date
- place of marriage

- surnames before marriage
- surnames after marriage
- date of birth
- place of birth

A Marriage Certificate (proof of the marriage) is available from the local sub municipal office of the place where the marriage was held. It may be issued at the time of the marriage. The law does not envisage a family record book. On request a family record book is handed out by the registrar at the time of the celebration of a marriage and it can then be updated. This booklet is however not an official document.

g) Cost

There are costs arising for a civil marriage ceremony. However, every municipality reserves certain times at which these ceremonies are performed free of charge.

h) Divorce/Separation/Annulment

The Relationship is ended by court decision, only.

For marriage this follows from art. 149 Book 1 CC, for registered partnerships from art. 80c and 80e. Article 80c deals with the different ways a registered partnership can be ended. For the most parts, these methods can be compared to those available to married couples. Judicial separation, which is available to married couples who wish to draw their marriage to a close, is not available to registered partners. Article 80c(a) and (b), Book 1, Dutch Civil Code provide for the termination of a registered partnership by the death or presumed death of one partner along similar lines as the dissolution of a marriage (Articles 412-425, Book 1, Dutch Civil Code are therefore applicable to missing persons and Articles 426-430, Book 1, Dutch Civil Code are applicable to presumed dead persons). A mutually agreed contract to terminate the registered partnership does not require the parties to attend court. In such an agreement, Article 80c(c), Book 1, Dutch Civil Code requires that the parties declare that their relationship has irretrievably broken down and that they wish to terminate it. The declaration must be delivered to the Registrar for Births, Deaths, Marriages and Registered Partnerships. It must be dated and signed by both parties and one or more lawyers or notaries. According to Article 80d(3), Book 1, Dutch Civil Code, the declaration referred to in Article 80c must be registered in the Registry of Births, Deaths, Marriages and Registered Partnerships within three months of the agreement being entered into.

Indirectly, the possibility of a contractual divorce is also available for mutually agreeing married couples: they can first convert their marriage into a registered partnership, and then dissolve that by contract as provided by art. 80c. For marriage this follows from art. 77a Book 1 CC and for registered partnerships from art. 80g. Conversion only requires the consent of the two partners. The procedure itself, as laid down in Article 80g, states that, if two people have notified the Registrar of Births, Deaths, Marriages and Registered Partnerships that they wish their registered partnership to be converted into a marriage, or vice versa. The Registrar of the residency of one of the parties may draw up an instrument of conversion. It seems that this provides the Registrar with a discretionary competence to refuse to draw up such a document. This is not the case, however. The Registrar is only allowed to refuse to draw up such an instrument on the grounds listed in Article 18b (If the Registrar considers the documents inadequate, the party fails to submit the documents or it is contrary to Dutch public policy). The spouses must live in the Netherlands, although not necessarily together, or one of them must possess Dutch nationality. In the latter case, the conversion must take place at the Registry in The Hague. It is also stated that the conversion shall constitute a termination

of the registered partnership and cause the marriage to commence on the date of drawing up the deed of transformation in the register of marriages, or vice versa.

A legal separation is a means of ceasing to live together without the marriage itself coming to an end.

After annulment by the court, a valid marriage is deemed never to have existed. An exception is made to this in certain circumstances. In these cases, the annulment has the same consequences as a divorce. For instance, the children born of an annulled marriage remain related to both parents.

The divorce/annulment petition must be filed with the court. If the petitioner lives in the Netherlands, the petition may be filed with the court for the district in which the petitioner lives. If the petitioner does not live in the Netherlands, but the other spouse does, the petition is sent to the court for the district in which the other spouse lives. If both spouses live outside the Netherlands, the petition must be sent to the court in The Hague. The divorce takes effect upon the recording of the court ruling in the register of births, deaths and marriages.

4. The Netherlands - Name

The laws on naming of children follow the nationality of the child, and if the child has another nationality in addition to a Dutch nationality, the latter prevails.

If a married couple's first child is born outside the Netherlands and that child has Dutch nationality, the name that appears on the child's birth certificate is not automatically decided in accordance with Dutch law. This means that the freedom people have in the Netherlands to choose their children's names does not always apply. Even if they choose a name before leaving the Netherlands, the authorities of the foreign country might not accept it. If the couple have not chosen a name, they can still do so within two years of the birth, before any registry office. Or they can confirm the name chosen before the child's birth. If the child comes to the Netherlands, or if a passport is issued for him, the Dutch authorities will register the child, under the chosen name. If a name is not chosen, the name that appears on the foreign birth certificate will be used. It is therefore possible to choose a child's name at a later stage in the Netherlands or at a Dutch consulate, within two years of birth. The same applies if the child is acknowledged abroad and, in some cases, if it is adopted abroad. But in all cases the child must have Dutch nationality or acquire it when it is acknowledged or adopted.

a) First Name

If Dutch law is applied, the registrar may only refuse to register a first name if the name is unsuitable or offensive or resembles an existing surname, unless the latter is also a common forename (Art. 1: 4 CC). A name is unsuitable if it can be expected that the bearer of this name will have problems therewith during all his life. Formally, the first name does not have to reflect the gender of the child, that is to say, the name may be neutral. Where a name well known for a certain gender is given to a child of the opposite gender, such name will be most likely considered unsuitable. If the person making the registration does not specify any first names or if they are all refused by the registrar and are not replaced with one or more other names by the person registering the birth, the registrar, acting ex officio, will give the child one or more first names and state expressly in the certificate that the first names were given ex officio (article 1:4 Civil Code). If a person does not know his or her first names, the Crown may be asked to determine one or more first names.

A limit of first names is unknown, so in theory one could give a child an endless series of names. Five is usually the limit but in one case a child was assigned all first names of a whole football team (23). The first names of a child are notified by the person registering the birth to the registrar of births, deaths and marriages and are included in the birth certificate.

b) Surname

On 23 September 1988 the Supreme Court held that the parents have a right under article 26 of the International Covenant on Civil and Political Rights to choose a surname for their child themselves. As a result of this judgement, the legislation enable parents themselves to decide whether their children are to take the surname of the father or of the mother. The parents must make known this choice when registering the birth of the first child. To make this choice official, both parents are required to apply to the civil registry office, preferably in their own municipality. Both parents must be present at the office; written applications are not considered valid. The choice of surname must be made known no later than the registration of birth. It is also possible to notify the choice of surname before the birth. It is often difficult, from a practical point of view, to make a joint application for surname choice when registering the child's birth. It is therefore advisable that the parents go to the registrar and register the surname officially during pregnancy. If the parents fail to make a choice, the child takes the name of the father; there is no need to go to the registrar. Once a choice has been made, it will apply to all the children of the parents.

If there is no father known, the child takes the surname of the mother. If one parent dies before the child's name has been registered, the surviving parent can choose either of the parents' surnames and register it with the civil registry office. If the identity of the mother is unknown, the registrar of births, deaths and marriages enters a provisional surname. The Crown takes a final decision on the surname (article 1:5 Civil Code). If a person does not know his or her surname, he or she may apply to the Crown for a surname to be adopted.

A child does not automatically receive the surname of the father in the event of acknowledgement. The child retains the mother's name unless the mother and the person acknowledging the child together agree that it should have the father's name even before it is born.

Under a law introduced on 01.01.2002, a child born to officially registered partners or to a marriage between two women is automatically subject to the parental responsibility of the mother and her partner. In such cases, the child may take either the mother's surname or her partner's.

A couple who adopts a child in the Netherlands may give their child the surname of either partner, providing it is their first child. If not, the child takes the same surname as the other children. The couple must choose the name when the adoption is arranged in court.

There is no procedure for giving the child a double-barrelled name. But this is possible in practice if the parent whose surname he or she bears added a new surname to his or her own following an application to change his or her name, since the effects of this are transmitted to minor children of the person concerned who are placed under his or her authority. Moreover, on reaching the age of majority, the child is entitled to hyphenate the mother's surname to the surname he or she received at birth if that double-barrelled name was borne by his or her ascendants before 1838 or if the surname has died out. In such case, he or she has to make an application to the Crown.

Upon marriage, each partner may keep his or her own surname or may use the name of his or her partner, or to use a combination of his or her own name and that of the partner (even without permission by that partner) in and order. Official documents must state the person's birth surname. Hyphenated, different-sex name combinations traditionally place that of the female last. In theory unmarried/unregistered partners may give each other permission to use each other's name, but this is not specified in the Civil Code.

Upon a divorce, the surname borne during the marriage or registered partnership will be preserved but if no children have arisen from the marriage a former spouse can deprive through a court decision the other one the right to bear his or her surname.

c) Name Change

To change one's first name(s), an application has to be made to court. The applicant will need a Dutch solicitor to act on his behalf.

The Dutch Civil Code provides that anyone desiring a change of surname can file a request with the Minister of Justice. The Code does not specify in what cases such a request should be granted. The ministerial policy has been that a change of surname can only be allowed in exceptional cases. In principle, a person should keep the name acquired at birth, in order to maintain legal and social stability. The State party submits that Dutch law allows the change of surnames for adults in special circumstances, namely when the current surname is indecent or ridiculous, so common that it has lost its distinctive character or, in cases of Dutch citizens who have acquired Dutch nationality by naturalisation, not Dutch-sounding. The State party submits that outside these categories, change of surname is only allowed in exceptional cases, where the refusal would threaten the applicant's mental or physical well-being. If a completely new name is chosen, it should be a name which is not yet in use, which sounds Dutch and which does not give rise to undesirable associations (for instance, a person would not be allowed to choose a surname which would falsely give the impression that he belongs to the nobility).

As regards foreign surnames, the Government's policy is that it does not wish to interfere with the law of names in other countries, nor does it wish to appear to interfere with cultural affairs of another country. This means that the new name must not give the false impression that the person carrying the name belongs to a certain cultural, religious or social group. In this sense, the policy with regard to foreign names is similar to the policy with regard to Dutch names. Children aged 16 or older who are adopted or acknowledged may choose their surname themselves. Application for a change of name can only be filed once. A fee is charged for this service.

The applicant's request is heard by the Minister of Justice, who then adopts his decision in the matter. If the decision is negative, the applicant can appeal to the independent judiciary.

PL – Poland

1. Civil Registration System

a) Introduction

The civil status registration system is event-based.

Polish (język polski, polszczyzna) is the official language of Poland. All civil status acts are performed in Polish. It is based on the Latin alphabet but uses diacritics such as kreska, which is graphically similar to acute accent (for example: ź, ś), as well as superior dot (ż) and ogonek (ą, ę). The standard character encoding for the Polish alphabet is ISO 8859-2 (Latin-2), although both ISO-8859-13 and ISO-8859-16 encodings include glyphs of the Polish alphabet. There are 32 letters in the Polish alphabet. The letters Q, V and X do not belong to the Polish alphabet but they are used in some foreign words.

Poland has a population of 38.115.000 (2007) and is sub-divided into sixteen administrative regions known as voivodeships (województwa, singular - województwo). Lower levels of administrative division are powiaty (counties) and gminy (communes). Currently the sixteen voivodships of Poland are divided into 379 powiaty (including 65 independent cities) and 2478 gminas (307 urban, 528 mixed and 1589 rural).

The scope of activities covered by the Citizens Matters and Migration Department of the Ministry of the Interior is inter alia the supervision over the activities in the field of civil status and other tasks resulting from the rights of the civil status act performed by Civil Status Office managers and the supervision over the conduct of the head of the commune proceedings concerning changes of names and surnames, establishing the spelling or sound of names or surnames.

Registry Offices and Staff

According to the law, the head of the 2299 registry offices is the chief of the commune, namely, the mayor (wójt, burmistrz, president) elected in the general elections. The head of the registry office is the superior officer to every registrar. The functions of the registrars are exerted by the chiefs and their assistants. They are recruited on general principles expected for the self-government's employees and receive a regular monthly salary. In special cases, the consular and diplomatic officials, ship captains and aircraft commanders are entitled to receive declarations about civil status acts having occurred abroad; they are obliged to complete reports and send them to the registry office of Warsaw-Centre. In Poland there are currently 3.740 registrars and a total of 8.000 people working in the registry offices. The commune constitutes the registry district, but the Wojewoda (the representative of the government on the level of the województwo) can create offices qualified for several districts or several offices on the territory of a commune. The capital Warsaw is divided into several communes and each one has a registry office. The town of Lodz is the only commune which has three registry offices.

The registration system is partially computerized and the total scope of activities covered by the registry offices is as follows:

- Registering births, marriages and deaths
- Issuing birth, marriage and death certificates
- Issuing formal certificates about defining dates of marriages
- Receiving motions and issuing decisions concerning the following:
 - correcting simple writing mistakes
 - correcting mistakes in official documents, on request
 - transcription of foreign acts consisting in registering a foreign act in a Polish register
 - shortening the time of waiting for a marriage
- Issuing certificates concerning:
 - legal ability to contract a marriage abroad
 - confirming ordering a marriage
 - confirming the non-existence of circumstances which would exclude a marriage
- Receiving certificates from churches, confirming contracting a marriage in the religious form; issuing official acts
- Reporting acknowledging a child
- Reporting changes of the first name within six months since creating the official document

- Reporting giving the child its mother's husband's surname
- Reporting reassuming the maiden name after a divorce
- Issuing birth certificates on the basis of the court's decision about adoption
- Motioning to the Voivodes about medals for "long-standing marriages" granted by the President of the Republic of Poland
- Confirming the personal information in applications for issuing the Identity Document
- Celebrations of:
 - marriages
 - handing medals for "long-standing marriages" granted by the Polish President.

In the event of refusal by a registrar to establish a civil status act, an administrative recourse in front of the wojewoda is possible. The decision is in theory final; however, it is possible to file a complaint with the administrative court.

National Association of Registrars

The Polish Association of Registrars (Stowarzyszenie Urzedników Stanu Cywilnego Rzeczypospolitej Polskiej, SUSC RP) is working to facilitate the development of a professional qualification and provide training for those working in the Registration Service. Furthermore, SUSC RP publishes civil status commentaries, promotes the recognition of professional status of those working within the Registration Service, disseminates information and advice, provides a consultative body, actively seeks development opportunities, promotes opportunities for the exchange of views, responds to government consultations and organises seminars and conferences. The SUSC RP is a Member of the European Association of Registrars (EVS).

b) Civil Status Records

Registers of births, marriages and deaths for nationals and foreigners are preserved by the local registry office. Since 1987, the registers are held in one copy only. Reports drawn up abroad are sent to the registry office of Warsaw-Centre. All registers are paper-based. Electronic registers, in addition to paper registers, is envisaged by § 17 of an implementing regulation of 26.10.1998. One third of the municipalities has announced to do so and half of them have computerized their registers.

Correction, Amendment of Civil Status Records

Spelling or phonetic errors can be corrected by the chief registrar upon the application of the interested person or by its own initiative if there is sufficient basis. False or vague information can be corrected on the basis of a court judgement, only.

In theory, the birth certificate is not amended at a later date but notes in margin of the birth certificate and annotations are accomplished. Annotations have the value of information only. Marginal notes are a way of establishing a relationship between two civil status acts or between an act and a court decision. It corresponds to a brief reference to the new act or decision, in the margin of an act previously recorded or transcribed, changing the civil status of the person concerned.

Cancellation of an original record is accomplished on request of the person concerned on the basis of a court judgement, a decision of the public prosecutor or the head of the registry office. Afterwards a new record is established. If several records relate to the same event, they are declared

null and void by the wojewoda. Only the first record remains valid. No copy or extract of a cancelled record can be delivered. The reconstitution of a destroyed or lost record is made by the chief registrar using various kinds of evidence. Omitted records can be reconstituted on the basis of a court judgement, only.

Archives

A Decree on State Archives was issued on 29.03.1951. State offices were subjected to archival supervision exercised by the state archival service. They were duty-bound to a systematic transfer of their records to state archives. The 1983 Act of Parliament, replacing the 1951 decree, introduced the notion of the national archival resource comprising the entire body of archival material preserved and produced on Polish territory irrespective of the nature of ownership as well as those records which, in line with international law and customs, should have belonged to Poland even if they exist beyond the country's frontiers. General Director of State Archives became the central organ of state administration in all matters pertaining to archive keeping. Poland has the Central Archives of Historical Records preserving the records of the central, and partially provincial, authorities as well as the archives of families of all-Polish importance produced prior to 1918 and the Central Archives of Modern Records. Both are located in Warsaw. Furthermore, there also exist 30 state archives and 50 local branches with 4 local offices subordinated to them. The state archives and their branches preserve the records of the local authorities and state institutions; the judiciary organs; administrative and self-government bodies (including the records of towns).

Civil registration records are kept in the different branches of the Polish State Archives and Civil Records Offices across Poland. Records in Poland are recorded in each town's Registry Office and those records less than 100 years old are generally still kept there. After 100 years, the vital records registers are supposed to be transferred to one of the branches of the Polish State Archives. There are exceptions, typically when a register book contains records for more than one year. In such cases, the transfer is not legally required until the final year in the volume is more than 100 years old. In July 2000, the Polish State Archives instituted a new system, specifying that requests for information or research are to be directed to the specific branch holding the records in question, rather than the main archive in Warsaw. Parishes continue to keep Birth, Marriage and Death registers and are not obliged to transfer them to state archives.

Archives make replies to inquiries sent by mail or electronic mail and also provide access to archive materials at study rooms. State archives provide access to the originals of documents. If there are copies of registry records, in the form of microfilms, these copies are made available. State archives provide access to archive materials free of charge. The database entitled the Programme for the Registration of Records from Parish and Civil Registration Offices - PRADZIAD - comprises data on parish and civil registers preserved in all State Archives, from the holdings of the Stanisław Staszic Pomeranian Library in Szczecin, the Archdiocesan Archive in Łódź, of the Archdiocesan Archive in Poznań, from the holdings of the Diocesan Archive in Drohiczyn, of the Diocesan Archive in Włocławek, Archdiocesan Archive in Wrocław and on Jewish and Roman Catholic parish registers preserved at the Civil Registration Office for the capital city of Warsaw - Archive, the so called "Zabużańskie" Archive.

c) Legalisation/Translation

The registry does not accept documents, which are not duly certified or bear the Apostille.

Poland is party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, Parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

Poland is party to the CIEC Convention No. 16 of 8 September 1976 (on the issue of (multilingual) extracts from civil status records, birth certificates, marriage certificates, death certificates) along with Austria, Belgium, Bosnia and Herzegovina, Croatia, France, Germany, Italy, Luxembourg, Macedonia, the Netherlands, Portugal, Poland, Serbia and Montenegro, Slovenia, Spain, Switzerland and Turkey.

In addition, Poland has concluded bilateral agreements abolishing legalisation either of public documents in general, or of civil status documents with Austria, Bulgaria, Cyprus, Czech Republic, Finland, Greece, Hungary, Italy, Croatia, Slovenia, Latvia, Lithuania, Estonia, Slovakia and Turkey.

The copies of the documents are allowed, but the copies must be legalized or made of the original documents, which have the certification (apostille) on it. All foreign documents must be translated into Polish by a sworn translator.

The appropriate authority for the issuance of Apostilles is the Ministry of Foreign Affairs (Ministerstwo Spraw Zagranicznych).

An Apostille can be requested in person or by regular mail. The Apostille is stapled together with the document and one of the edges of the Apostille is sealed in such a way that a part of the seal is placed on the Apostille and another part of the seal is placed on the document. If a document consists of multiple pages, the Apostille is placed on the last page of a document. The Apostille is bilingual: Polish and English but all the entered information is in Polish. The system used for issuance of Apostille is electronic. After entering relevant data into the system, the Apostille is printed on a piece of paper and then placed on the document. If one applies for the Apostille in person, it is issued at once. If application is made by mail, the Apostille is issued during the day the application has been received or within one or two days. In most cases, before an Apostille can be attached, the authenticity of the document needs to be certified by a public agency, a procedure that has been introduced to avoid fraud.

Certification of a document with an Apostille clause is subject to a charge of 60 PLN (€ 18,72) per document. The administrative fee for certification of the authenticity is PLN 19, so that whole cost of the proceeding is PLN 89 (€ 27,44).

d) Access

The registers are public as far as the citizen can obtain the release of certificates, extracts and copies. Documents are delivered at the request of the court or another public body (welfare centre) or at the request of the person concerned with the act, of his/her ascendant, descendant, brother, sister, wife, husband or the legal representative. They can also be delivered to other people proving a legitimate interest (e.g. creditor of a deviser). In case of the relatives, the registrar verifies the status in the registry upon presentation of an identity document. The legal representative (with exception of the parents) should present a proper certificate of the court and an identity document. Direct consultation is reserved to representatives of public authorities or scientific institutions upon agreement of the head of the registry office.

e) Documents

The registry office issues integral copies (odpis zupełny), extracts (odpis skrócony) and certificates (zaświadczenie) only of the respective records of the own commune. The Act on Civil Status Documents does not envisage the issuance or update of family record book any more. Integral copies are the reproduction of the original inscription including all later marginal notes. Extracts state the most important information reflecting the civil status of a person at the time of the delivery. The certificate states certain facts recorded in the register.

Various certificates may be issued such as birth, marriage and death certificate, certificate of no impediment and, for the religious marriage, the special certificate stating that all conditions for marriage are met.

The law allows an adoptee for whom a new birth certificate was issued the right to request that the information in the original birth certificate is made available to him once he becomes of age (Art 48 (4) and Art. 49 (2) of the Act on Civil Status Documents).

Application for documents may be made in person, by mail, by power of attorney to a licensed attorney at law or through a Polish consular office abroad. A fee is charged for the delivery of the documents which must be paid cash (Polish zloty), by wire transfer or by postal money order. The delivery of the document takes if the application is made in person one day up to two weeks. If the application is made from abroad, the applicant is asked to make payment of the fee to the Consulate general. The delivery can take up to six weeks; much of the time is used for the Consulate to communicate receipt of payment to the registry office, and for the postal service.

Documents are drawn up in Polish language (Article 4 Law on the Polish language of October 7, 1999). However, multilingual documents can be obtained. The validity of all documents is in theory not limited except for a certificate of no impediment which expires after three months.

The costs are:

- Birth certificate or death certificate is free of charge
- Marriage certificate (drawing up): 84 PLN (€ 24,56)
- Other certificates: 28, 34, 36 PLN (€ 8,19; 9,94; 10,53)
- For the delivery of an extract 22,00 PLN (€ 6,43), integral copy 33,00 PLN (€ 9,65). Three extracts delivered directly after drawing up a birth, marriage or death certificate are free of charge.
- A transcription of an act issued abroad: 50,00 PLN (€ 14,62)

f) Foreign relations

Some Polish civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States that occur in the country directly to the authorities of the EU Member State if a bilateral treaty requires so. Information about citizens who were born in other EU Member States is not transmitted by the Polish authorities. Polish civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States (e.g. Austria, the Czech Republic, France and Germany).

g) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Polish citizens can obtain from Polish foreign missions. The registration of civil status events is not compulsory

The consuls do not draw up acts and do not hold registers of births, marriages and deaths. They however perform certain functions regarding civil status and make notice of events which have occurred in their district and concerning Polish nationals domiciled or remaining abroad. Thus, the consul receives the declarations of marriage if the two spouses are Polish. He draws up a report of the ceremony of the marriage and transmits it to the registry office of Warsaw-Centre, where the marriage certificate will be drawn up and preserved in the registers; consuls may issue certificates of no impediment, plays a part of intermediary by informing the registry offices in Poland of the birth or the death of Polish nationals abroad, transmits the verbal notice of births and deaths which

took place on a ship and aircraft, receives declarations of recognition of paternity concerning a child whose parents are Polish; and receives the declarations on the name (names) which will be carried by Polish nationals married by a foreign authority. Polish consular officials are also authorized to conduct marriages. They offer assistance to obtain civil status certificates (birth, marriage and death) for Polish citizens and for citizens of other countries from civil status registries in Poland and the host country (Polish citizens only). A fee is payable for procuring and issuing of civil status documents.

h) Law

Act on nationality of 15.02.1962; Civil Code of 23.08.1964; Act on Civil Status Documents of 29.09.1986; Names Act of 15.11.1956; Language Act of 07.10.1999

Current versions of the texts of the legislation are available: <http://isip.sejm.gov.pl> (Polish)

i) eGovernment

Online Services for Citizens

Portal

There is currently no central eGovernment portal in Poland, but the creation of such a portal providing access to public sector information and services for both citizens and businesses is a key project under development.

Website

<http://www.mswia.gov.pl/>

Civil Status Certificates

Currently, there are no real e-services which concern life events. Some communes maintain websites with information about their civil status registry office. The citizen can read about needed documents in order to settle a matter or download forms in some municipalities and fill them in later.

2. –Poland - Birth

a) Registration of Birth

The birth of a child in Poland should be registered within two weeks at a registry office, but Polish authorities are sometimes flexible in this case. A medical certificate and, if the parents are married, the marriage certificate must be presented.

The father is obliged to declare the birth, the mother as soon as is possible for her, as well as any other person present at the birth, the doctor, or the midwife. If birth took place in a private clinic, the person in charge of the clinic has to declare the birth. A special procedure or sanction is not envisaged in the event of a late declaration. According to the general rules, the birth certificate must always be drawn up, which can also be done a few years afterwards.

In the case of a stillborn child, the event should be registered within three days. A child already deceased at the time of the birth declaration is registered in the register of births. The death certificate is not drawn up, but an annotation of stillbirth is made on birth certificate.

A found child is registered on the basis of a decision of the family court. After having collected the notification of the people who found the child, the court declares the place and the date of birth and chooses a surname and first names for the child.

Births occurring on a vessel sailing under Polish colours or on an aircraft are registered by the registry office for the District Warsaw-Centre. The captain shall register the birth in a protocol signed by two witnesses and file this document in the registry office of the first Polish port or airport. It is not compulsory to declare birth occurred abroad for Polish citizens and permanent resident foreigners to a national authority in Poland but a foreign birth certificate may be transcribed on request. The competent registry office is the office of the last residence. If there is no such place, the competent registry office is the registry office for the District Warsaw-Centre.

The registry office notifies after the registration of birth the registry of residence, the passport office, the social welfare offices and the tax offices.

b) Documents

The birth declaration contains:

- number of the act
- first names, surname and sex of the child
- date and birthplace, without particular stipulation in the event of multiple births
- first names, surname, maiden name, date, birthplace and addresses of each parent; marital status of the mother
- the declaring person's name, address, date and place of birth
- the name of the medical clinic where the birth took place
- medical assistance at the delivery, type of delivery (spontaneous birth, caesarean section, forceps-delivery, etc)
- pregnancy duration
- legitimacy, born alive or stillborn, multiple or singleton and birth order
- birth weight
- the APGAR score — i.e. the outcome of a test on Activity (muscle tone), Pulse, Grimace (reflex, irritability), Appearance (skin colour) and Respiration (performed immediately after birth)
- the parents' socio-economic status
- marriage date and place
- names (also previous names) of the grand-parents

c) Birth Certificate

The birth certificate is the document issued by acting registrar of the corresponding Civil Register, which certifies the birth. It indicates characteristics about:

- the child's first name, surname, sex, date and place of birth (the time of birth is in practice often mentioned)
- first name, residence, date and place of birth of the parents
- first name, surname and residence of the informant
- if necessary, the name of the medical clinic where the birth took place
- number of the act.

In theory, the birth certificate is not amended at a later date but notes in margin of the birth certificate and annotations are accomplished. Annotations have the value of information only. Marginal notes relating to descent which can be written in the margin of birth certificates include the decisions concerning the filiation (for example: recognition) and the adoption. Furthermore, decisions relating to the change of the first name or surname are mentioned as marginal notes.

A trans-sexual may, after gender reassignment, alter the birth certificate; this is done by a marginal note, too. Other events, such as marriage or death can be the subject of an annotation.

d) Recognition

The child's mother is the woman who gives birth to the child (Art. 61 of the Family and Guardianship Code (hereinafter referred to as "the Code"). If a birth certificate has been prepared for a child of unknown parents, or if the maternity of the woman entered in the birth certificate has been denied, then the child and its mother may demand that maternity be determined.

A claim to deny maternity is possible when a mother who did not give birth to the child was entered as the mother in the birth certificate. Claim may be filed by the child, the woman entered in the birth certificate as its mother, the woman who gave birth to the child, the husband of the woman who is declared as mother in the birth certificate, a man who has recognised the child of the woman who is declared as mother in the birth certificate as his own, a man whose paternity has been established by the court on the basis of the fact that, during the conception period, he had sexual intercourse with the woman who is declared as mother in the birth certificate, and the public prosecutor. The action to positively determine the legal relationship of maternity may be brought only by the child itself, its mother and the public prosecutor.

Article 62 of the Code creates a presumption of paternity in favour of the husband of the child's mother, where the child was born during their marriage or within 300 days following the termination or annulment thereof. A person regarded as the father on the basis of the presumption of paternity is recorded in the birth certificate as the child's father. The presumption of paternity is refutable – its effects may be cancelled within a court procedure contesting paternity (Articles 63–71 of the Code). Where paternity has been effectively contested, the biological father may voluntarily acknowledge paternity (Article 72–79 of the Code). The mother's permission is required for a child to be recognised by the father. Recognition of the child shall be carried out before the head of the registry office, before the Family Court or a Polish consul abroad. The family court or the Polish consul abroad must inform the competent registry office. The unilateral act of voluntarily acknowledging paternity has *ex tunc* effects: the person having acknowledged paternity is legally considered as the child's father from the moment of its birth. If paternity is established after another man had been entered into the birth certificate, a marginal note is made to the birth registry and the birth certificate regarding the acknowledgement of paternity and alteration of the child's surname. The personal details of the person previously considered to be the child's father are not deleted.

Paternity to a child whose mother is not married may also be established by court judgement. Only in this case a fee of 40,00 PLN (€ 11,70) must be paid.

3. –Poland - Marriage

Since the entry into force on 15 November 1998 of the Law of 24 July 1998, which amends the Family and Guardianship Code, the Code of Civil Procedure, the Law on Documents of the Registrar's Office, the Law on the Relationship of the State to the Catholic Church in the Republic of Poland and certain other laws (Legislative Gazette No. 117, item 757), couples may also be married by a clergyman (if the formal requirements set down in article 1 of the Family and Guardianship Code are fulfilled). Marriages contracted on the basis of canonical law have the same legal consequences under civil law as marriages contracted in the local civil status offices.

There is no legal recognition for same-sex partners.

a) Personal Requirements/Impediments to Marriage

Marriage in Poland can be contracted only between a woman and a man and cannot be contracted until one month after the date that the persons intending marriage have filed all documents and have given written assurances ("Zapewnienie") that they do not know of any reasons why the marriage should not be contracted. The minimum marriageable age for both men and women has been set at 18. But a family court may allow a woman who has attained 16 years of age to marry (Article 10, paragraph 1, of the Family and Guardianship Code)

Impediments to Marriage are:

- a spouse is completely legally incapacitated,
- a spouse is mentally ill or mentally retarded,
- a spouse is already married to another person,
- there is a relationship of lineal consanguinity or collateral consanguinity (brothers and sisters, including step-brothers, step-sisters and extra-marital brothers and sisters) or lineal affinity between the spouses,
- there is an adoption relationship between the spouses,
- submission of a statement that a spouse contracted the marriage when in a state not permitting a conscious expression of will for any kind of reason, under the influence of an error concerning the identity of the other party or under the influence of a wrongful threat.

The family court may agree to a marriage between in-laws.

b) Preliminary Procedure

The future spouses have to visit the local registry office in person in order to file an application and submit the necessary documents. One month later, an affirmation of lack of marriage impediments (Zapewnienie) can be issued by the head of the registry office.

The Polish legislation does not know the concept of opposition to marriage; however, any person being informed of circumstances preventing the celebration of a marriage can inform the registrar. He/she can go to the court, which will decide whether the marriage can be concluded or not. In the presence of preventions, the registrar may also refuse to contract marriage or to issue a certificate

allowing the celebration of a religious marriage. In that case, the future spouses can file a complaint to the Wojewoda within 14 day.

If a religious marriage is intended, the head of the registry office draws up the special certificate (valid 3 months) stating that all conditions for marriage are met.

c) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Poland. If a foreigner is not able to obtain such a certificate of no impediment, a Polish court may exempt a foreigner from this requirement.

If a Polish citizen or a resident stateless person intends to get married abroad he/she may have to produce - in addition to other documents – a Polish certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Polish law. This certificate is issued by the registry office of the main place of residence. If no primary residence or domicile exists in Poland or the Polish citizen has permanently left the country before attaining the age of 16, the Polish embassy or consulate in the country where he/she wishes to get married is the competent authority. The certificate issued by a diplomatic or consular institution is not treated as a certificate of no impediment in all surveyed countries, for instance not in Germany. For the issuance of a certificate of no impediment the consular fee is € 126,00. The registry office charges for the issuance € 11,82.

d) Marriage Ceremony

The marriage can be concluded as a civil ceremony or before the authorized religious celebrant. Marriage contract parties wishing to have their religious marriage to be recognized by Polish law would have to file an appropriate affidavit before that ceremony. A family court can, for serious reasons, allow marriage to be contracted by proxy. The civil wedding is celebrated in Polish language by the head of the registry office. If a foreigner enters into marriage, the registry offices accept presence of an interpreter appointed by the fiancées, who bear the costs. The civil marriage takes place in the registry office but, upon important reasons shown, there is a possibility to organize the ceremony elsewhere. The future spouses have to present a proof of identity and two witnesses (full of age) must be present.

e) Documents

- ID card (Polish nationals) or passport (foreigners)
- Short copy of the birth certificate (of both spouses)
- "Zapewnienie" - (written assurance) presented and signed before the appropriate Registrar or Polish Consul by the person intending to enter the marriage contract
- Short copy of death certificate of a former spouse (if applicable)
- Short copy of marriage certificate with divorce annotation (if applicable) and legally valid court decree of divorce
- Decree of annulment of previous marriage (if applicable)
- Confirmation of payment of the stamp duty (for the application procedure) and the charge for drawing up the certificate

- In addition, foreigners must file a certificate proving that they have full capacity to enter a marriage contract according to the laws of their country. If a foreigner is not able to obtain such a certificate of no impediment, a Polish court may exempt a foreigner from this requirement.

A decree of annulment or dissolution of marriage by divorce issued by a foreign court and being the basis for contracting the marriage must be recognized by the appropriate Polish District Court, unless it is from another EU Member State under Council Regulation (EC) No. 2201/2003.

f) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- marriage date
- place of marriage
- level of education
- home address
- date of birth
- marital status
- date of divorce
- number of previous marriages

g) Cost

For the marriage, the following costs will arise:

- Application Procedure: 84 Zloty (€ 24,80)
- Ceremony: free
- Three copies of the marriage certificate are issued free of charge immediately after its preparation

h) Divorce/Separation/Annulment

Separation is subject to a court decision under Articles 61(1) to 61(6) of the Family and Guardianship Code.

If the spouses have no children in common, the court may decree a separation at the request of the spouses. The legal consequences of separation are the same as those of a divorce but, a separated spouse may not contract a new marriage.

It is also possible to apply for an annulment of marriage. That means, the cancellation with retrospective effect of all the results of the marriage, excluded the status of children of the annulled marriage, who retain the status of children born in wedlock.

Applications for divorce, separation or annulment of a marriage must be lodged with the regional court (sąd okręgowy) with jurisdiction for the most recent place of joint residence of the spouses, in the absence of which the statements must be lodged with the regional court with jurisdiction for the place of residence of the respondent; if the respondents do not have a residence in Poland, the

competent court is the court of the applicant's residence. Poland has concluded agreements with the Holy See (so-called "Concordats") whereby a Catholic marriage can be annulled by canonical courts.

4. Poland - Name

Each individual entry should be clear and in conformance with obligatory orthographic norms, except for names, which can be recorded using the traditional spelling used by the person so named. All names must consist of characters from the Latin alphabet. Rules for transcription are stated in the ordinance of the Ministry of the Interior of 30.05.2005.

Neither pen names, nicknames nor nobility, academic titles are registered.

a) First Name

A child is given a first name by agreement of the parents, at the most; however, two first names including foreign names. The chief clerk of the civil registry shall refuse to register a child if the name chosen by the child's parents is ridiculous, indecent, in diminutive form or does not indicate the sex of the child. When the parents did not indicate a first name at the moment of registering birth, the registrar registers a first name usually used in the country, by mentioning this fact in the act or the family court must decide.

Within six months, the parents can present a written declaration aiming to modify the first name (or the first names) to the registrar. The change of first name can also be related to adoption. At the request, the court can modify the first names of the adoptee. If the adoptee is fourteen years, this modification requires his or her consent.

b) Surname

The surname may consist of maximum two parts.

When entering the marriage contract, the wife may keep her maiden name (nazwisko panie;skie), adopting the husband's surname as a joint surname or add her husband's surname to hers, thus creating a double-barrelled name (nazwisko). However, if she already has a double-barrelled name, she must leave one of the parts out. It is illegal to use a triple- or more-barrelled name. It is also possible, though rare, for the husband to adopt his wife's surname or to add his wife's surname to his family name. In lack of a decision, both bride and groom keep their original surnames.

For three months after the divorce ruling takes final effect, a divorced spouse who changed the surname at marriage may revert to his or her former surname by submitting an application to the head of the registry office. There is no such possibility for the widow/widower. The widow/widower retains the marriage surname. Upon dissolution of a marriage, a name obtained by marriage may be transferred to a new spouse. Upon marriage annulment, the spouses resume the marital status which they had prior to the marriage and resume their previous surnames.

The prevailing regulations accept, as a rule, that a child affiliated with the husband of the mother (Art. 88 1 of the Family and Guardianship Code) and a child born out of wedlock recognised by the father (Art. 89 (1) of the Family and Guardianship Code) should have the father's surname (unless the directly involved parties make consistent statements that the child will bear the mother's surname). If the child is aged 13 or more, the change of the surname requires his or her consent. If paternity is established by court, the child receives the father's surname by virtue of the court award only upon application of the child or upon request of its statutory representative (Art. 89 (2) of the Family and Guardianship Code). All the children resulting from marriage must bear the same surname.

An adoptee acquires the surname of an adoptive parent. The surname of the adoptee can also be composed of his previous family name and the name of an adoptive parent by order of the court.

c) Name Change

The change of the first name or surname of a Polish citizen to another name or surname may take place on request under certain conditions defined in the provisions of the Act on Changing Names and Surnames of 1956.

A request for change of name or surname is taken into consideration if it is justified for good reason shown. With respect to the surname, the following reasons have been recognized:

- if the applicant has a surname which is ridiculing or incompatible with the human honour;
- if the applicant's surname has non-Polish wording;
- if the applicant wishes to change his surname to a name which he or she has been actually using for a long time.

If the change only involves a change in the spelling of a name or surname, the change is free of charge.

Change of surname of both parents also extends to minor children. If the change of surname refers to only one parent, extending it to cover minor children requires consent of the other parent unless such parent does not have full capacity to perform legal actions, is dead, is not identified or deprived of parental authority. In case of disagreement between the parents, the family court decides. If the child is aged 14 or more, also his or her consent is required for change of the surname.

The decision is made by the head of the registry office competent for the place of residence of the requesting party. If the applicant's place of residence is abroad, application is submitted through the Embassies or Consulates to President of the capital city of Warsaw. The decision to change a name is then notified to the fiscal office, further to the Military Recruitment Agency, to the population registering organs and to the Central Register of Convicted Persons.

d) Change of Gender

Polish nationals can be granted legal recognition of their gender change by a civil court. Following such a decision, applicants can apply to the head of the registry office for a change of name, as indicated above. The head of the registry office then decides whether to approve the change of name on grounds of gender change and forwards the decision to the above mentioned authorities.

e) Minorities

It is possible to have the name and surname written in the minority language. According to the provisions of the Act of 1990 on division of duties between commune and government administration bodies, district organs of government administration are competent for issuing judgements "in cases of change of names and surnames, adjustment of spelling of names and surnames to the principles of Polish spelling according to their phonetic sound, as well as establishing of oral or written form of their names and surnames", no charges are collected for the issue of new identity cards and passports from persons who wish to return to their former names and surnames that had to be changed after 1945. Polish citizens belonging to national minorities may change their name and surname into a version consistent with the wording and spelling of their mother tongue under administrative procedure on the basis of the Act of 15 November 1956 on the Change of Names and Surnames (1963 Journal of Laws no. 59, item 328 as amended), and on the

basis of Art. 23 of the Civil Code (1964 Journal of Laws no. 16, item 93 as amended). The right to use names and surnames in the wording of a national minority language is also guaranteed in treaties with Germany and with Lithuania.

f) Cost

The cost for a name change is 37,00 PLN (€ 10,82). If the change only involves a change in the spelling of a name or surname, the change is free of charge.

PT – Portugal

1. Civil Registration System

a) Introduction

The civil status registration system is event-based.

Portuguese is the official language of Portugal. All civil status acts are performed in Portuguese. Portuguese is written in the Latin alphabet and makes use of the acute accent, the circumflex accent, the grave accent, the tilde, and the cedilla, to denote stress, vowel height, nasalisation, and other sound changes. The Portuguese alphabet consists of 23 letters. Portuguese makes use of six diacritics to expand the Latin alphabet. Letters with diacritics are not included in the alphabet. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-1.

Although the letters "K", "W", and "Y" are not used in the vernacular, family names are exempt from these restrictions. Thus, a foreigner who emigrates to a Portuguese speaking country and whose family name contains one of these letters does not have to change its spelling. First names must be either Portuguese or adapted to the Portuguese orthography and sound and should also be easily discerned as either a masculine or feminine name by a Portuguese speaker. There are lists of previously accepted names. Names not included therein must be subject to consultation of the national director of registries.

Portugal has a population of 10.642.836 (2007). Until recently, Portugal was divided into 18 districts (distritos, singular: distrito) and 2 autonomous regions (Portuguese: regiões autónomas), Azores and Madeira. The districts were further divided into the metropolitan areas of Lisbon and Oporto and 308 municipalities (municípios, singular: município, also known as concelho) which are subdivided into more than 4,252 civil parishes (freguesia/freguesias). Today, according to the Constitution of the Portuguese Republic, the political subdivisions of the Portuguese territory are the (referended) regions - not yet implemented, the municipalities and the civil parishes. However, according to Law No. 11 of 15.05.2003, the municipalities are allowed to organize themselves into intermunicipal communities (comunidades intermunicipais, singular: comunidade intermunicipal), that can be of general or specific purposes; and metropolitan areas (áreas metropolitanas, singular: área metropolitana), that can be of two types: great metropolitan areas (grandes áreas metropolitanas, singular: grande área metropolitana) and urban communities (comunidades urbanas, singular: comunidade urbana). The existence of the political subdivision of "district" is now disappearing. However, they are still relevant, serving as a base for a number of administrative divisions.

b) Civil Status Registration Service

Until recently, registrars depended on the DGRN - Directorate General of Registries and Notaries (*Direcção-Geral dos Registos e Notariado*), a department of the Ministry of Justice. Decree-Law 129/2007 of 27.04.2007 provided for the creation of the Institute of Registries and Notariat (Instituto dos Registos e do Notariado, IRN). The IRN, which is formally a separate legal entity from the Government, depends on the Ministry of Justice, managing, monitoring and coordinating Portugal's notaries and registries. Within the IRN, there are central services, and decentralised services (*serviços desconcentrados*). The Conservatória dos Registos Centrais in Lisbon acts as Central Registry (e.g. for births of Portuguese citizens occurring abroad). Since 2006 all requests for Portuguese nationality are under the responsibility of the Conservatória dos Registos Centrais. Thus, the request, completed with the necessary documents, may be presented in a registry office, in an extension of the Conservatória dos Registos Centrais or in this Conservatória. If residing in a foreign country, the request may be presented at the Portuguese consular services of the residence area. Decentralised services include the 326 Civil Registry Offices (Conservatória do Registo Civil) in the municipalities or metropolitan areas.

Registry Offices and Staff

In general, there is one Civil Registry Office in each of the municipalities. Whenever the volume of service so justifies, more than one Registry may be created in a given municipality. This is namely the case in Lisbon, where there are currently 11 such offices. It is important to take into account that in many small municipalities, where the volume of work is smaller, all of the Registration Services are concentrated in one, (eg. Land, Commercial, Civil and Vehicle Registries), with only one registrar. There is one registrar in each Civil Registry Office. The total number of registrars is in the region of hundreds as opposed to thousands.

Recruitment and training of registrars is regulated by Decree-Law 206/97 of 12.08.1997, which generally deals with the requirements for prospective registrars and notaries. Registrars are recruited among law graduates. They are selected by public contest and undergo a period of general training of six months, following which they are subject to examinations. A period of internships ensues whereby the candidates work in different services (e.g. Land, Commercial, Civil), and a final evaluation of the candidate. Registrars undergo training several times a year. Usually when new legislation enters into effect, registrars will be subject to specific training.

Registrars have, on the one hand, a fixed monthly salary and, on the other hand, are remunerated by case, i.e., personal emoluments (*emolumentos pessoais*). This matter is the subject of some contention between the Government and the registrars. The Government has announced that it wishes to overhaul the system (Government Ruling 118/2008). Registrars have a monthly salary comparable to magistrates (judges and district attorneys).

Generally, at the top of each of the Registry Offices, there is a registrar assisted by support personnel and services, the latter being subject to the orders of the former. There are two main categories of clerks: *ajudantes* and *escriturários*. Within each of these categories there are sub-categories. There is an on-going effort to computerize all registration systems. Currently, all new registration acts are directly computerized. Past files are progressively being computerized. All Registry Offices are awarded the same equipments.

In addition to normal private bodies of the Civil Register (the Conservatórias do Registo Civil and the Conservatória dos Registos Centrais), other entities may, in specific circumstances, perform civil register acts. These entities are, according to Article 9 CRC, the diplomatic and consular agents in foreign countries, captains of Portuguese ships and aircraft, as well as any entities mentioned in military regulations and individuals (as provided by the applicable law).

Since a Law Ordinance No. 272/2001, the responsibility of Portuguese registrars was extended. In addition to the registration of events and the up-dating of records, they are competent for various matters usually decided by a court in other countries, such as separation, divorce, conversion of the separation into a divorce, homologation of a reconciliation, granting the release of the public notice and the waiting period as far as marriages are concerned, or authorising or refusing that an ex-spouse keeps carrying the name of the other one after divorce, etc.

c) Civil Status Records

The registrars keep the register of births, marriages and deaths, parentage, adoption, marriage, pre-nuptial agreements, facts pertaining to the parental guardianship and custody, death as well as all other facts that modify or extinguish the aforementioned facts. Registration acts performed abroad and foreign court decisions concerning the civil status and the capacity to act may be registered in the Portuguese Civil Registry, in accordance with Articles 6 and 7 CRC. According to Article 3 CRC, the proof arising from the register cannot be disproved, except in the civil status or register actions (*acções de estado e acções de registo*).

Facts mentioned in Article 1 CRC are subject to mandatory registration, as well as any facts which lead to their modification or deletion. According to Article 50 CRC, the registration of facts is made either through main registrations (*assentos*) or annotations (*averbamentos*). The main registrations are performed either by inscription or transcription. The latter is used in specific instances mentioned in Article 53 CRC, namely for the registration of catholic and urgent civil marriages, as well as foreign marriages. The transcription is *sine qua non* of the effectiveness of the entry. The transcription of foreign entries is compulsory if a Portuguese citizen is affected or if a foreigner acquires the Portuguese citizenship.

Correction, Amendment and Cancellation of Civil Status Records

There is a general procedure for the correction of registers, including marriage records, regulated in Articles 92 and the following CRC (*rectificação do registo*). If the mistake is attributable to the Civil Registry Office, it should be corrected regardless of request. If this is not the case, the interested individuals may request the correction or the registrar order it. Whenever there is a false civil status act or registration, it is subject to correction (*rectificação*) (Article and 93 CRC). In most cases, the correction is made by a decision of the registrar. In more serious cases, where the register is null and void, the correction is made by the registrar, with a more complex procedure of “*justificação administrativa*” (*administrative justification*). In case of doubts about the person to whom the registered act refers to, a judicial correction is required (*rectificação judicial*). It is possible for the interested persons to request the correction or cancellation of a false civil status act or registration, which may lead to a new *assento* (main register) incorporating such corrections and/or eliminations (Article 94 CRC).

In principle, changes are performed by annotation to the main registers (*assentos*) (Article 68 CRC). There are different kinds of *assentos*, including birth and marriage *assentos*. The law mentions the facts that trigger annotations to the *assentos*. As established in Article 69 CRC, annotations to be made at the margin of birth registers include marriage and its dissolution, establishment of filiation, marriage of the parents, adoption, change of name, the maintenance of surnames in the case of dissolution of marriage or new marriage, facts pertaining to guardianship or custody, insolvency related facts, death or the judicially declared presumed death and in general any facts that modify the identification elements or the civil status. Upon adoption, it is indicated in extracts, which invariably show affiliation, with only the adoptive parents being designated as the parents. But the adopted person is entitled to request that a new certificate be drawn up which does not show the identity of his or her biological parents. The legislative reform of 22.05.1993, which came into force on 23.08.1993, reinforces the rule of confidentiality. Unless the adoptive parents agree, their

names may not be communicated to the natural parents and, conversely, the natural parents may preclude, by means of an express declaration, their identity from being communicated to the adoptive parents.

There is no specific legislation and the relevant jurisdiction is ambiguous in relation to gender recognition. Change of gender is not mentioned as a fact subject to registration. The case has been brought before the Portuguese Courts. In 2004, the lower court had refused to grant the registration of a change of gender through medical procedures. The Superior Court of Lisbon, however, overturned that decision on 22.06.2004 ordering the annotation to the birth certificate of the gender change.

As established in Article 70 CRC, annotations to the register of marriages include the dissolution of the marriage, the catholic marriage performed persons already linked by a civil marriage, separation of persons and assets, the existence of pre-nuptial agreement if proof of the same is made after the marriage. Annotations are a way of establishing a relationship between two civil status acts, or between an act and a court decision. It corresponds to a brief reference to the new act or decision, in the margin of an act previously recorded or transcribed, changing the civil status of the person concerned.

The annotation is made at the request of the interested person or, if the omission persists, it may lead to the officious suppression of the omission, and a request for the required documents to be remitted to the Civil Registry Office (Article 81 CRC). The procedure generally applicable to the suppression of registration omissions would in this case (*processo de justificação administrativa*). The procedure is started based on a notice (*auto de notícia*) by the Registrar or an application by the interested person(s). The process is instructed with the documents and further evidence provided by the latter. The persons to whom the registration concern are heard, whenever necessary. Bans are required in case of registration omissions (Article 242/5 CRC). A decision is then made by the Registrar (Article 243 CRC).

d) Appeal

Decisions of refusal to perform any requested registration acts are subject to appeal to the court with jurisdiction in the area to which the relevant Civil Registry belongs to (Article 286 CRC). In addition, it is also possible to appeal to the President of the IRN. The refusal to solemnise the marriage is an expressly considered ground for an appeal (Article 292 CRC).

Archives

The Direcção-Geral dos Arquivos (DGARQ), formerly Instituto dos Arquivos Nacionais/Torre do Tombo, was created by Decree-Law 93/2007 of 29.03.2007.

Civil status records are kept in the civil registry offices until the record is about 100 years old. Then the record is sent to the district archive. Each district in Portugal has its own archive. A list of all district archives is available at the Portuguese National Archives (Torre do Tombo). Almost all of the district archives have a website nowadays. District archives will pass the applicant a certificate from an old record. The cost is € 15,65. A photocopy is much cheaper. District archives do not accept credit cards yet, but they will accept money orders.

e) Access and Documents

The direct consultation of the records and archives by the public is not possible. Judicial and police authorities, as well as tax authorities have free access. On-line transmission is possible (Article 315/3 CRC).

The facts subject to registration may be proved through certificates. Objects of the certification are birth, maternal and paternal recognition, adoption, marriage, the change, exposure, restriction and withdrawal of the parental force, the incapacitation and restriction of the legal competence, the guardianship over minors, the tutelage and death. In principle, any person may request such certificates. There are a number of limited exceptions, outlined in Article 214 CRC, dealing with the recognition of paternity and adoptions. These exceptions, however, do not apply to the police and judicial authorities, or the IRN. There is a civil registry database, which is subject to interconnection with the civil identification database, for the purpose of keeping both updated (Article 220A CRC). The information contained in these databases is protected under the Data Protection Law.

All Civil Registry Offices may issue documents for any area of the country. Issued documents are copies and extracts. The Central Registry Office does have a specific jurisdiction. This fact, however, does not prevent the Civil Registry Offices around the country from issuing certificates concerning such acts performed by the aforementioned Office. They can be in integral form (cópia integral) or in summary form (narrativa) (Article 212 CRC). The document should be issued immediately after the reception of the request. This is imposed by the law (Article 315 CRC).

Certificates of no impediment are issued for catholic marriages and civil marriages subject to the religious form. In addition, it is possible for the Civil Registry Offices to issue certificates of no impediment to Portuguese nationals, both resident and non-resident, wishing to marry abroad, as provided by Article 163 CRC (*Verificação da capacidade matrimonial de portugueses*). The certificate is granted by the registrar, following the organisation of a preliminary marriage procedure (*processo de casamento*) (Article 163/2 CRC). In the case of nationals residing abroad, the diplomatic and consular agents are also competent.

Application for documents can be made in person, by postal mail, fax, telephone, proxy, by power of attorney to a licensed attorney at law, through Portuguese consular offices abroad. And as provided by Article 215 CRC, there is a new service under which civil status certificates can be obtained by modern technology (web-site form).

f) Cost

Costs arising from the register are set down in the Regulamento Emolumentar dos Registos e Notariado. A petition must be submitted. Whoever has a legitimate interest has a right to petition.

The general cost of a certificate is € 16,50. There are cases where the certificate is issued free of charge (eg. certificates requested by judicial or police authorities, Article 10). The fees can be paid by cash payment, cheque, credit card or postal cash on delivery. The latter is subject to the conditions of the Portuguese Postal Services (*Pagamento à cobrança*).

g) Legalisation/Translation

The register office does not accept documents, which are not duly certified or bear the Apostille.

Portugal is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

Portugal is party to the CIEC Convention No. 16 of 8 September 1976 (on the issue of multilingual extracts from civil status records, birth certificates, marriage certificates, death certificates) together with Austria, Belgium, Bosnia and Herzegovina, Croatia, France, Germany, Italy, Luxembourg, Macedonia, the Netherlands, Portugal, Poland, Serbia and Montenegro, Slovenia, Spain, Switzerland and Turkey.

Documents issued in a foreign country need not be legalised if there is not doubt concerning their authenticity (Article 49/1 CRC). If there are any doubts about their authenticity, confirmation of authenticity may be requested from the foreign issuing authorities (Article 49/2 CRC). All costs are borne by the interested parties. It is up to the Registrar to decide the evidentiary value of the documents issued abroad. He may consider those documents lack any value or decide to perform further inquiries. In any case, it is possible to appeal to the courts (Article 49/7 CRC). Copies of the documents are accepted but the copies must be legalized or made of the original documents, which have a certification (apostille). In Portugal, the authority that is in charge of issuing the Hague Apostille is the Office of the Attorney General (*Procuradoria-Geral da República*), which should be requested by the interested person. The apostille is granted free of charge.

Pursuant to Article 49/8 CRC and Article 172 of the Code of Notariat, as a rule, documents issued in a foreign country, when written in a foreign language, must be accompanied by official Portuguese translations authenticated by a Portuguese notary public.

In Portugal, the office of the attorney general of the Republic and the administrative distribution of the Public prosecution (*Procuradoria Geral da República; Repartição Administrativa do Ministério Público*) are competent for the issuance of Apostilles. The Apostille can only be requested in person.

When the public document to receive the Apostille has several pages, it is treated as a single document, and only one Apostille is issued. The Apostille is placed in an allonge (attached to the document). When the document consists of multiple pages, the stamp together with the signature of the Procurador da República is also placed on the first page of the said document. The system used for the issuance of the Apostille is mechanical. No specific measures are used to avoid fraud.

The Apostille can only be requested in person. The total process generally takes 24-48 hours and no fee is payable for the issuance of an Apostille.

h) Foreign relations

i) Foreign relations

Generally, there is little connection or communication between the Portuguese and the foreign Civil Registry Offices. Portuguese law does not require transmission of information about civil status acts and changes of citizens of other States, unless that transmission is required by any International Conventional to which Portugal is a party. Some Portuguese civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Some Portuguese civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States. A common problem arises when it is necessary to obtain reliable information concerning the contents of foreign laws. According to Portuguese international private law, the personal law of individuals is, in principle, the law of his/her nationality. This leads to the larger issue of conflicting international private law solutions and the substantial solutions of the laws, e.g. in relation to marriages. A second area is that of the legalisation and translation of documents issued abroad. The aforementioned problems are less likely to occur in relation to countries with a cultural and legal tradition similar to the Portuguese, or in relation to countries which are parties to international conventions to which Portugal is also a party.

j) Consular Services

Today the Portuguese State through its Ministry of Foreign Affairs has a vast Diplomatic and Consular network abroad, consisting of 143 posts which range from diplomatic missions, permanent

representations and Consulates, employing approximately 1800 employees of different nationalities with the majority being Portuguese nationals. The existing Personnel of Portuguese nationality at the service of Diplomatic Missions and Consular posts, undertake duties which fall within the functions of Public Administration, namely those connected to Civil Registration and Notariat, issue of official documentation, Identity cards, passports, other travel documents and certificate, amongst others as well as duties related with the Consular protection of Portuguese Nationals resident abroad.

It is possible, but not required, to register a birth that occurred abroad to a Portuguese citizen in the Portuguese Civil Registry. In accordance with Article 11 CRC, the birth registration of Portuguese abroad is performed by the Central Registry Office. Portuguese diplomatic and consular agents abroad may also register births. However, in this case, as well as with maternity and paternity declarations, the consular registration acts (*assentos consulares*) may only be integrated once a number (*cota*) or electronic annotation (*averbamento electrónico*) has been awarded by the Central Registry Office (Articles 5/3 and 11 CRC. The procedure is essentially the same applicable to any registration of birth that occurred in Portugal, the difference being that the procedure requires, as mentioned, the intervention of the diplomatic and consular agents and/or the Central Registry Office.

Portugal accepts the right for people with links abroad to enjoy more than one nationality. The Portuguese nationality may be acquired or attributed by several ways or circumstances, as provided by the applicable legislation (*Lei da Nacionalidade*). According to Article 1, children born abroad from Portuguese citizens become of Portuguese origin (*Portugueses de origem*) if their birth is inscribed in the Portuguese Civil Registry, in which case a new birth certificate is established.

Descendants of Portuguese citizens born abroad may become Portuguese citizens of origin, in accordance with the Portuguese Nationality Law (Law 37/81, as amended). The concrete requirements and documents for this purpose are set forth in Decree-Law 237-A/2006 of 14 December 2006. The descendants of a Portuguese mother or father who wish to become Portuguese must, either directly or through a legal representative, declare that they wish to be Portuguese or by inscribing the birth in the Portuguese Civil Registry. In any of these cases, proof that one of the parents is Portuguese must be filed together with the declaration. A birth certificate is required. The inscription may be requested through the Consular Services or the Conservatória dos Registos Centrais. According to Article 9 of the Nationality Regulation (*Regulamento da Nacionalidade*) the birth may be registered in the Central Registry Office or in the consular services. The individual will need to be properly identified. If he or she is older than 14, and unable to present proper identification and the foreign birth certificate, the intervention of two witnesses is required and, if possible, a document proving the exactness of the declaration (*Article 9 of the Regulamento da Nacionalidade*), without prejudice to the performance of additional inquiries. As a rule, the establishment of a new birth certificate does not have to be mentioned in the original certificate completed abroad. Indeed, concerning foreign citizens, what Article 43 of the Nationality Regulation states is that the Central Registry Office must only notify nationality changes to the relevant consular authorities or other foreign authorities whenever an international agreement or convention so requires, as is the case under the Convention on the exchange of information relating to acquisition of nationality (1964). Stateless people are subject to specific treatment for the purposes of attribution of Portuguese nationality. Individuals born in Portugal whose birth certificates mention they do not have any other nationality, are considered Portuguese citizens (Article 3 (c) of the Nationality Regulation). This is why Article 6 states that, in respect of individuals born in Portugal that prove that they do not have any other nationality, such fact should be mentioned in their birth certificates. Also the Asylum and Refugees Law states that refugees are recognised the right to an identity title proving their quality, in accordance with the Geneva Convention of 1951. Furthermore, there is abundant legislation on the status and protection of

foreigners, asylum seekers and refugees, eg, implementing Directive 2001/55/EC, dealing massive influxes of people. In the case that one of the parents does not have Portuguese nationality, he or she should present a valid passport and local birth certificate to the Consulate. In case the parents are married but failed to inscribe their marriage in Portugal, prior to the registration of their child, they will have to seek the transcription of their marriage in Portugal through the Consulate. All changes of civil status (marriage/divorce) properly communicated to Portugal, will be stated in the margins of the birth record of the Portuguese citizen.

Portuguese citizens residing abroad who intend to marry (or a Portuguese citizen residing abroad who intends to marry a foreign national), may ask the Portuguese Consulate in their area to either celebrate or transcribe their marriage. The registration will be made, thus, respectively, by inscription (*inscrição*), if performed by the consular officer, or by transcription (*transcrição*), if performed by religious celebrant or by the local competent civil authorities. The consulate will then issue a Portuguese marriage certificate.

Accordingly Portuguese consular officials assume the same duties of those which are reserved for registrars in their country. The Portuguese consular offices register the civil status events of their citizens abroad and issue the respective certificates. They offer assistance to obtain civil status certificates (birth, marriage and death) for Portuguese citizens and for citizens of other countries from civil status registries in Portugal and the host country. They issue also a certificate of no impediment. A fee of € 16,50 is payable for procuring and issuing of civil status documents.

k) Law

Civil Code of 26.11.1966 (*Código Civil*, CC); Nationality Act No. 37 of 03.10.1981 (*Lei da Nacionalidade*); Code of Civil Registry No. 131/1995 (*Código do Registo Civil*, CRC); Law Ordinance No. 272/2001; Law No. 11 of 13.05.2003; Nationality Regulation (*Regulamento da Nacionalidade*); Regulation on Emoluments of the Registries and Notariat (*Regulamento dos Emolumentos dos Registos e do Notariado*).

IRN issues from time to time instructions and opinions on practical issues that come up when applying the aforementioned legislation.

Current versions of the texts of the legislation are available:

<http://www.irn.mj.pt/sections/irn/legislacao/docs-legislacao> (Portuguese)

The basic rules of Portuguese private international law are enshrined in the Civil Code, specifically in Articles 25 through 65. In general, personal status is governed by the personal law of the individual's nationality (Article 31 CC) or, in the case of a stateless person, the law of the place of his habitual residence (in the case of a person of full age) or of legal domicile (in the case of a minor or a person with judicial disability), Article 32 CC.

The establishment of affiliation is governed by the personal law of the parent at the time the relationship is established (Article 56 (1) CC). In the case of the child of a married woman, establishment of this relationship as regards the father is governed by the common national law of the mother and of the husband; the law of the place of the habitual joint residence of the spouses will apply, failing which it will be the personal law of the child (Article 57 CC). For this purpose, the crucial point in time is the birth of the child or the time the marriage was dissolved if this takes place earlier (Article 56 (3) CC). Relationships between parents and children are governed by the common national law of the parents, failing which they are subject to the law of their habitual joint residence; if the parents normally reside in different countries, the personal law of the child will apply. If affiliation is only deemed to have been established with one of the parents, that parent's personal law will apply (Article 57 CC); if one of the parents has died, the personal law of the survivor will apply.

The establishment of an adoptive relationship is subject to the personal law of the adopting parent (Article 60 (1) CC). However, if the adoption is by the husband and wife, or the adopted child is the child of the spouse of the adopting parent, the common national law of the parents will apply, failing which it will be the law of their habitual joint residence. If there is no habitual joint residence either, the law of the country with which the family life of the adoptive parents is deemed most closely connected will apply. Relationships between the adopting parent and the adopted child, and between the adopted child and the original family, are governed by the personal law of the adopting parent (Article 60 (3) CC). If the law governing the relationship between the adopted child and his or his parents does not recognise the institution of adoption, or does not allow it for persons in the family situation of the child to be adopted, adoption is not permitted (Article 60 (4) CC). If, as a prerequisite for affiliation or adoption, the personal law of the person to be affiliated or adopted demands his or her consent, that requirement must be complied with. There must also be compliance with any requirement for the consent of a third party to whom the person concerned is linked by any relationship of family or guardianship, where this accords with the law governing that party (Article 61 (2) CC). Additionally, the Munich convention on the Law Applicable to Surnames and Forenames makes the effects of affiliation on the child's name subject to the law of the child's nationality.

The formal validity of marriage is governed in Portugal by the Hague Convention relating to the Settlement of the Conflict of Laws Concerning Marriage of 12.06.1902. This international convention, however, is of increasingly limited significance due to the small number of States bound by it. Thus, it is the rules on conflicts derived from the Portuguese Civil Code which are now applied more widely, namely Articles 50 and 51 CC.

Divorce and separation are governed by The Hague Convention relating to the Settlement of the Conflict of Laws and Jurisdictions with regard to Divorce and Separation (of 12.06.1902). Again, a very small number of States are bound by this convention and its practical significance is, therefore, limited. Accordingly, the rules for the settlement of conflicts contained in the Portuguese Civil Code have a wider application. In accordance with the Civil Code, relationships between spouses are governed by their common national law (Article 52 CC). If they are not of the same nationality, the law of their habitual joint residence applies, failing which it is the law of the country with which the family life is deemed to be most closely connected.

l) eGovernment

Online Services for Citizens

Portal

The Citizen's Portal (www.portaldocidadao.pt) is the central digital channel for public services, complementing with total convenience and availability the physical Citizen's Shops. Launched in the first quarter of 2004, "The Citizen's Portal" now offers more than 800 citizen-oriented 24/7 services (about 1/2 informational, 1/4 interactive, 1/6 transactional), provided by 125 public administration bodies. It is already a well known brand, recognised by more than 30% of the Portuguese population. More than half a million users access it on a regular basis, with 3 million page views per month originated from more than 33 countries of all world continents, mainly for such services as information on the public administration, income tax declaration, change of address notifications to public services, official certifications requests from public bodies.

An electronic payments platform was introduced at the end of 2005 allowing different forms of payments, including the issuing of payment orders which can be completed through the unified ATM network widely available in Portugal or even without leaving home or office for people who have home banking, in this case, allowing full process dematerialisation of requests.

Website

<http://certidoes.portaldocidadao.pt/> and <http://www.irn.mj.pt>

Civil Status Certificates

Birth, marriage and death certificates can be directly requested and paid by credit card to the Portuguese Civil Registration Services through the civil status website.

2. Birth

Registration of Birth

Only births in the Portuguese territory must be declared and registered. The declaration of a child should be made within 20 days after the birth in any Civil Registry Office (Conservatória do Registo Civil), or the health unit where the birth occurred until the discharge of the mother, provided that the declaration of birth is possible in such health unit (Article 96 CRC). According to Article 97 CRC, the persons responsible for the declaration of birth are, in successive order, (a) parents or other legal representatives, or any other person authorised in writing to act on their behalf; (b) the closest relative, with legal capacity, that becomes aware of the birth; and (c) the director or administrator, or any official appointed by them, of the health unit where the birth occurred or to which the birth was conveyed.

Pursuant to Article 98 CRC, whenever a birth is not declared within the legal deadline, the administrative and police authorities must inform the registrar and the District Attorney (*Ministério Público*) so that the omission of registration is suppressed. According to Article 295 CRC, failure to comply may lead to fines ranging from € 50,00 to € 150,00 (for individuals) and € 150,00 to € 400,00 (for collective persons). It is possible to have a late declaration of birth, as provided in Article 99 CRC. The voluntary declaration of birth which occurred more than a year ago, can only be received if made by (a) one of the parents, (b) by someone who has the person at its care or (c) by the interested person, if older than 14. The parents should, whenever possible, be heard, if they are not the declarants. If the birth occurred more than 14 years ago, the intervention of two witnesses is required and, whenever possible, a document showing that the declaration is correct should be presented. In addition, the Registrar may determine the performance of additional inquiries to establish the facts.

Whenever the birth occurs in the Portuguese territory outside of a health unit where the birth declaration may not be performed, the declarant should present a document issued by the health unit proving that the birth occurred and the name of the mother (Article 105/5 CRC). If the birth occurred in the Portuguese territory outside of a health unit, a document issued along the same terms as the one issued by health units should be presented (Article 105/6 CRC). Article 102(3) CRC states that, whenever possible, the parents' identification documents should be presented. It should be noted that the official that receives the birth declaration should check the exactness of the declarations, taking into account the documents presented, the registers available to him and any other information he may be able to obtain (Article 102/3 CRC). However, the performance of additional inquiries does not prevent the registration of birth pursuant to the birth declaration (Article 102/4 CRC).

The procedure for registration of birth occurring on a vessel sailing under Portuguese national colours and for registration of birth occurring on an aircraft is covered in Article 109 CRC. The authority on board must, within 24 hours of the occurrence of the fact, perform the birth registration according to the general formalities and requirements provided for in the CRC, also mentioning the latitude and longitude in which the birth occurred. In the first country where the ship enter or the aircraft lands, the registering authority must send a certified copy to the Portuguese diplomatic or

consular agent in that country, should one exist, which should within 20 days send the copy to the Central Registries, through the Foreign Affairs Ministry. If no Portuguese diplomatic or consular agent exists in such country, or the ship enters or the aircraft land first in the Portuguese territory, the authority should send within 20 days the duplicate the Central Registries (Article 110 CRC).

The CRC provides for the registration of abandoned children (*abandonados*) in Articles 105 and following. The person that finds the abandoned child should present the child within 24 hours, with all the objects and clothes, to the administrative or police authority, which should promote, where applicable, the registration of birth and record the occurrence (*auto de ocorrência*), based on which the registration of birth is performed in any Civil Registry Office (Article 107 CRC).

a) Stillbirth

For the child alive at birth but dead on declaration, the same rules are applied as to children still alive. The birth is registered in the register of births and the death is recorded in the register of deaths (Article 100 CRC). Since the reform introduced by the Decree No.36/97, no special certificate is made out for stillbirths, although the respective medical certificate should be presented and deposited in any Civil Registry Office (Article 209 CRC). The applicant should be officially heard (*auto*), in which the following facts should be mentioned: gender, probable duration of pregnancy, in months or weeks, complete name and habitual residence of the parturient and, if married, name of the husband, date and place of the delivery, and the cemetery the burial took or it takes place.

In accordance with Article 209/4 CRC, the deposit of the medical certificate of fetal death is subject to, with the necessary adaptations, to the provisions on the registration of death. The medical certificate of fetal death is dispensed in case of voluntary interruption of pregnancy, as provided by Article 142/1 (c) of the Penal Code or, when occurring within 24 weeks of gestation, the pregnancy interruption is spontaneous (Article 209-A CRC).

b) Documents

According to Article 102 CRC, the birth declaration contains:

- the declaring person's name and address
- the child's name, sex, nationality, date of birth, parish and municipality of birth
- name of the grandparents
- name, age, marital status, place of birth and residence of the parents

c) Birth Certificate

Following the birth declaration, the Civil Registry Office of the corresponding civil register registers the birth (*assento de nascimento*). Whenever a birth is registered, a birth certificate is issued, free of charge, to the person interested in the registration (Art. 215/5 CRC). It indicates characteristics about:

- the child's first name, surname, sex, nationality, date, time and place of birth
- first name, surname, age and residence of the parents and the grandparents
- name and signature of the declaring person
- the time of registration

- the number assigned to the birth or verification file
- the Register, indicating the municipality and province of its location
- the page and book of the entry, or the corresponding page and file
- the date, name and signature of the registrar and the office seal

A new birth certificate (*assento de nascimento*) may be established at the request of the interested person in the cases of the establishment of filiation, change of consequent name, name of the grandparents, full adoption (*adoção plena*) and the marriage of the parents (Article 123/1 CRC). It is also possible to establish a new birth certificate in the cases of Article 123/2 CRC which include the elimination of discriminatory filiation references allowed under previous legislation, annotations that do not confirm with the established filiation, facts pertaining to paternal authority and annotations of facts not subject to registration.

Mandatory notifications are outlined in Article 102A CRC. In addition, there have been made efforts to update and interconnect the relevant government databases, namely the Civil Registry database and the Civil Identification database (Article 220A CRC). Whenever there is a birth, the relevant data should be subject to computerised registration (Article 101A and 101B CRC), to be accessed by the health units, the Institute of Registries and Notariat and the Social Security Institute. There is also an additional notification procedure imposed on the health units in order to prevent social exclusions provided in Article 101° D CRC. If the parent or other legal representatives so request, the tax authorities are also notified. If the birth declaration is performed by someone other than one of the parents, this fact should be notified to the National Commission for the Protection of Children and Young People at risk (Article 102A/2 CRC).

d) Cost

Costs of the registration are enshrined in the Regulation of Emoluments of the Registries and Notariat (*Regulamento Emolumentar dos Registos e do Notariado*). According to Article 10 (1), the registration of birth is free of charge.

e) Parental Responsibility

If the parents are married when their child is born, both exercise parental responsibility (Article 1901 No.1 CC). If the parents are not married when their child is born but marry later, both parents exercise parental responsibility during the marriage (Article 1901 No. 1 and 1911 No. 1 CC), provided the parenthood of both has been legally established. When parents are not married to each other and parenthood has only been legally established with one of them, parental responsibility belongs only to that parent (Article 1910 CC). If parenthood has been established with both parents and they were not married when the child was born nor have they married since, then the exercise of parental responsibility falls to the parent who has custody of the child (Article 1911 No. 1 CC).

The law presumes that the mother has custody of the child (Article 1911 No. 2 CC), although this presumption may be legally overturned (Article 1911 No. 2 CC). Parental responsibility belongs to both if the parents are not married but live together and have declared before the official of the Registry Office that they wish to jointly exercise parental responsibility over their child (Article 1911 No. 3 CC).

f) Recognition

Maternal recognition is envisaged by the legislation of Portugal. The registration of maternity is regulated in Articles 125 and the following of the CRC.

The requirements concerning the establishment of paternity are established in Articles 1826 and the following of the Civil Code, varying in accordance with the mother's marital state. In case the mother is married, the law presumes that the husband is the father. No further declaration is necessary (Article 1826). Thus, when the birth is registered, it is mandatory for the presumed paternity to be mentioned (Article 1835 CC and 118 CRC). If the parents marry after the child is born, the presumed paternity is annotated to the birth certificate.

Otherwise, if the mother is single or if her husband is not the father, the mother can state that fact in a declaration, thus setting the presumption aside (Article 1832 and 119 CRC). In these cases, the establishment of paternity depends on a voluntary or a judicial recognition (Article 1847 CC and 120 CRC). A representative with special powers can do the voluntary recognition. This act can be carried out through a declaration before a Civil Registry' Official, in which case an autonomous register (*assenro*) is drafted (Article 125 CRC), in a will or a public document. In the latter cases, the registration of paternity must be annotated to the birth certificate (Article 129 CRC). The requirements for the registration of a declaration of paternity are, pursuant to Article 130 CRC, modelled on the requirements for the registration of the declaration of maternity, which, according to Article 126, require the presentation, where possible, of the identification documents of the parent and the child. If these documents are not presented, the civil registry database is checked (Article 126/4 CRC). There are a number of facts that must be mentioned (Article 126/1 CRC) which may be complemented with other facts necessary for the identification of the child. The lack of any of these elements, however, does not prevent the registration, as long as there are no doubts concerning the identity of the person (Article 127 CRC). Foreign issued documents need not be legalised if there are no doubts concerning their authenticity (Article 49/1 CRC), but must be translated (Article 49/8 CRC). Also, Portugal is a party to the Convention extending the competence of authorities empowered to receive declarations acknowledging natural children (1961). The mother does not have to accept or acknowledge the recognition for it to become valid. However, in the cases of existence of a legal presumption of paternity (the mother is married), the voluntary recognition of paternity may only operate if the mother declared that the husband is not the father of the child. The established paternity may, even in this case, be challenged. If the recognition of paternity concerns an adult, his/her consent is required (Article 1857 CC).

Voluntary recognition is irrevocable (Article 1858 CRC). The recognition may, however, be judicially challenged, even by the person that performed the recognition. There are, in any case, restrictions imposed on the biological father who wishes to contest paternity whenever a legal presumption of paternity exists. In fact, the judicial proceedings would have to be started by the District Attorney (*Ministério Público*), at the request of the biological father, provided that the court considers such request viable (Article 1841 CC). In addition, there is a deadline of 60 days from the registration of the presumption of paternity for such request to be filed in the court (Article 1841 (2) CC). The recognition of paternity may also be challenged by other individuals, namely by the husband, the mother or the son. If the registration only mentions the identity of the mother, the Civil Registry's Office sends the court a copy of the process to promote an *ex officio* inquiry of the father's identity (Article 121 CRC). Any legally admissible evidence can be used.

A judicial process to establish paternity can be started if maternity has been established or, if this is not the case, if a judicial process to establish maternity starts simultaneously. The process for an inquiry can be requested by the guardian and any legally admissible evidence can be used. The judge shall hear the mother to gather more information about the paternity. The man pointed out by the mother as the presumed father will also be questioned. After having gathered information, the judge decides to dismiss the case if no sufficient evidence is provided or to send the process to the District Attorney based in the competent court for that lawsuit. The instruction of the demand is secret and shall be carried out in a discrete way to prevent any harm to the dignity or reputation of the persons involved. Judicial representatives can only participate in the phase of appeal. As

previously mentioned, paternity can also be established through judicial recognition. The petition for this lawsuit can be brought on by the child or by the mother, if the child is a minor. The law presumes paternity if the relationship between the child and the defendant is perceived to the general public as a father-son relationship; if the father states, in any written document, including private letters, that he is the father; if the mother and the defendant lived as a couple during the legal period of conception; or if the presumed father had sexual relations with the mother during that same period. Raising serious doubts about the defendant's paternity can set these presumptions aside. As far as the biological issue is concerned, Article 1801 CC determines that the methods to be used in these procedures are blood tests and other scientific methods, including DNA tests. The presumed father cannot refuse to provide a blood sample to the authorities and can be fined if he does so.

The recognition of paternity bears significant legal impacts in the areas of family and inheritance law, particularly in respect of paternal authority, alimony and inheritance rights. *Jus sanguini* is a criteria used by Portuguese Law to determine who has a right to the Portuguese nationality. Therefore, following the recognition of paternity by a Portuguese citizen, the child would have a right to the Portuguese Nationality, in accordance with the rules and procedures established by applicable legislation.

g) *Cost*

The declaration of paternity is free of charge, pursuant to Article 10/1 (b) of the Regulation on Emoluments of the Registries and Notariat.

3. Marriage

Article 1587C CC states the existence of civil and catholic marriages, the latter recognised by the civil law pursuant to the concordat signed by Portugal and the Holy See. Civil marriages may also be subject to the religious form (*casamento civil sob forma religiosa*) – Article 1616 CC.

Portuguese law also accepts urgent marriages (Article 1622 CC), which can be either civil or catholic (Article 1590 CC). Portuguese law refers to putative marriages (“casamentos putativos”). Essentially, this means that civil effects may be attributed to marriages declared void by a judicial decision, until the moment of such judicial decision, in case one or both parties were in good faith (Article 1647 CC).

Civil marriages are registered at Conservatoria do Registo Civil (Civil Registries). Unregistered civil unions in Portugal were introduced for opposite-sex couples in 1 July 1999 and extended to same-sex couples by the act of 15 March 2001. The current legislation extends to same-sex couples the same rights as heterosexual couples living in a de facto union for more than two years.

a) *Personal Requirements/Impediments to Marriage*

Portuguese law does not restrict marriage based on nationality or residency. The marriageable age, both for men and for women, is 16 (Article 1601/1 (a) CC). However, the marriage of persons under 18 years of age requires the consent either of both parents exercising parental authority or of a guardian, or a court decision (Article 1612 CC).

According to Portuguese law further impediments for a marriage between two people are:

- Possessing notorious dementia even during lucid periods,
- Interdiction by psychic/mental illness reasons.
- A previous marriage having not been dissolved (even when occurring abroad and not registered in Portugal),

- An insufficient period between marriages (civil or religious), the requirement being 180 days for men and 300 days for women from the date of dissolution of the previous marriage– Article 1605 CC.
- Any family relationship in descending line or second degree transverse line (Article 1602 CC).
- Family relationships in the third degree of the transverse line, involving a legal bond of guardianship or similar, simple adoption including close relatives of the adopted and the person who adopts (Article 1607 CC).
- When either the bride or groom having been charged (perpetrator of or accomplice) with intentional homicide of the other' spouse (Article 1604 CC).
- Where there is a lack of consent or consent invalidated by an error or by duress on the part of one or both of the betrothed parties;
- Marriage without the presence of witnesses, when required by law.

The requirement of parental authorisation for the marriage of minors between the ages of 16 and 18 may be overcome by the registrar if “ponderous reasons” justify the marriage and the minor is mature enough, physically and psychologically (Article 1612 CC). Legal impediments concerning family relationships in the third degree of the transverse line and simple adoption may also be set aside by the registrar (Article 1609 CC).

b) Preliminary Procedure

The Civil Registry Offices is the appropriate authority receiving the application for marriage (Article 134 CRC). In accordance with Article 135 CRC, those wishing to marry must file a marriage declaration, either personally or through a representative, and request the start of the marriage procedure. The declaration for marriage may be mailed or filed, where applicable, by the religious authorities (Article 136 CRC). The preliminary procedure is designed to ascertain if any legal impediments to the marriage exist. No banns or publication are required. According to Article 140 CRC, the publicity of the procedure is ensured by the right to obtain a partial copy of the marriage declaration.

There is no minimum time required between application and marriage. During the preliminary marriage procedure, it is possible for anyone to declare any legal impediments. The Civil Registry officials are also obliged to declare such impediments as soon as they become aware of them (Article 142 CRC). The registrar has powers to perform any inquiries concerning impediments that he may deem necessary. The registrar should within one day from the performance of the last inquiry, issue the decision. In any case, it is advisable to start the procedure at least one month before the marriage, which should take place no longer than six months from the favourable decision by the registrar (Article 145 CRC).

In the case of civil marriages subject to the religious form, the Civil Registry Office performs inquiries to confirm that the religious minister is accredited for such purpose, without prejudice to the requirement that the spouses present the respective documents (Article 137/6 CRC).

Once the preliminary marriage procedure has been concluded, the registrar decides to authorise the spouses to marry (Article 144 CRC). If the spouses declared that they wish to have a catholic marriage, or a civil marriage subject to the religious form, a marriage certificate must be issued for the marriage to take place (Article 146 CRC).

Marriage Ceremony

The registrar performs the civil marriage ceremony. Civil marriages subject to the religious form as well as catholic marriages, are solemnised by the respective religious authorities. Pursuant to Article 153 CRC, the time and place of the marriage ceremony is agreed upon by the spouses and the registrar. The place of catholic marriages and civil marriages subject to the religious form are agreed upon in accordance with the procedures of the respective religious communities. One of the spouses may be represented at the marriage ceremony (Article 1620 CC). The representative must be present, as the law considers indispensable for the marriage to occur the presence of the spouses or one of them and the representative of the other (Article 1616 CC). The Power of Attorney must contain special powers for the act, expressly designate the other spouse and mention the type of marriage. During the marriage ceremony, the registrar must ask to all the persons that are present if they are aware of any impediment to the marriage. If no impediment is declared, the registrar may proceed with the ceremony (Article 155 CRC).

The ceremony is conducted in Portuguese. Therefore, if neither marrying parties can speak Portuguese, the future spouses should arrange for an interpreter to be present throughout the ceremony (Article 42 CRC). If the person is deaf or mute, and knows how to read and write, answers are provided in writing. If not, an interpreter is appointed (Article 41 CRC).

Between two and four witnesses may intervene (Article 154 CRC). The presence of two witnesses is mandatory if the identity of any of the spouses, or the representative, is not verified through the personal knowledge of the registrar, the presentation of identification documents (or residency title or authorisation, passport or equivalent document, in the case of foreigners). The registers of catholic marriages and civil marriages subject to the religious form should include the identification and place of residence of two witnesses (Articles 167 and 187A CRC)

Authorities on vessels under Portuguese colours may not, as a rule, solemnise marriages. There is one specific instance where this is possible, which, however, is not exclusive of marriages on vessels: urgent marriages, where there is a risk of death of one of the spouses in the near future. Minutes of urgent marriages must be drawn and signed by all individuals present (Article 156 CRC). In addition, urgent marriages are afterwards subject to approval (*homologação*) by the registrar. Urgent marriages taking place aboard vessels (and aircraft) are registered by the Civil Registry Offices, regardless of the nationality of the spouses (Article 10/1(e) CRC).

Catholic marriages, civil marriages under the religious form and urgent marriages, are subject to registration, by transcription, in the Civil Registry (Article 53 CRC). For this purpose, the religious minister should send a duplicate of the marriage register to any Civil Registry Office (Article 169 CRC). A catholic marriage between persons already bound by a civil marriage is subject to annotation (*averbamento*) in the Civil Registry (Article 1589 CC).

c) Documents

- Article 137 CRC states that together with the marriage declaration and a copy of the public deed concerning the marriage contract (if one exists) should be filed:
- Certified birth certificates issued less than six months ago.
- Passports.
- Residence permit or passport if not a permanent resident of Portugal.
- Certificate of No Impediment.

- In the case of divorce then the final divorce papers must be shown, certified within the last six months or if in the Azores, in the last three months.
- If one or both are widowed, then the death certificate of previous spouse must be shown (if requested).
- Written consent from the parents or guardians (if either of the future spouses are under 18 years of age).

Once the initial marriage declaration has been filed, the civil registry database is immediately checked, being integrated in it any documents necessary to confirm that the births of the spouses were registered. Where applicable, the registration of the deaths of the parents (in case the spouse is a minor) and the execution of a marriage contract declared before a registrar is also subject to this procedure. Foreigners are identified by their residency permit, passport or equivalent document (Article 137 CRC). If the spouse is foreign, he or she should present a birth certificate, which must meet the form required for this purpose by the law of the country of origin (Article 137/2 CRC). In addition, foreigners wishing to marry in Portugal must present a certificate of no legal impediments to the marriage under the spouse's personal law (*lei pessoal*) – Article 166 CRC. It should be noted that marriages in Portugal between a Portuguese and a foreign spouse may only take the forms and the procedures established in the Art. 164 CRC.

Whenever refugees or beneficiaries of a residence permit on humanitarian grounds, do not possess any paper certifying their personal data, they must address themselves to the central registry office ("Conservatória dos Registos Centrais") and to apply for a notoriety certificate ("Certificado de Notoriedade") for which the presence of two witnesses is requested. The notoriety certificate (*certificado de notoriedade* (Article 266 CRC) may substitute the birth certificate or other certificates. The certificate of no impediments required from foreigners may be substituted by a declaration that, under the personal law, there are no legal impediments to the marriage. This is possible if there is no diplomatic or consular representation of the country of that nationality or any other unforeseeable circumstances (*força maior*) - Article 166/2 CRC. Should the Registrar or the Register official have any doubts concerning such declaration, he may decide to hear two witnesses (Article 137/3 CRC).

Documents are generally valid for 6 months. This also applies to foreign documents, namely the certificate of no impediment, unless another period is determined by the competent foreign entity (Article 166/1 CRC).

d) Certificate of no impediment

Foreigners wishing to marry in Portugal must produce a certificate of no impediment to the marriage under the spouse's personal law (*lei pessoal*) – Article 166 CRC. The certificate of no impediments required from foreigners may be substituted by a declaration made by the respective spouse before the registrar that, under the personal law, there are no legal impediments to the marriage. This is possible if there is no diplomatic or consular representation of the country of that nationality or any other unforeseeable circumstances (*força maior*) - Article 166/2 CRC.

It is possible for the Civil Registry Offices to issue certificates of no impediment to Portuguese nationals, both resident and non-resident, wishing to marry abroad, as provided by Article 163 CRC (Verificação da capacidade matrimonial de portugueses). The certificate is granted by the registrar and is valid 6 months. In the case of nationals residing abroad, the diplomatic and consular agents are also competent. The general cost of a certificate is € 16,50.

e) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- marriage date,
- place of marriage,
- surnames before marriage,
- surnames after marriage,
- level of education,
- home address,
- date of birth,
- place of birth,
- country of birth,
- nationality,
- marital status,
- date of divorce,
- number of previous marriages,
- number of children.

f) Marriage Contract

Marriage contracts are recorded. The marriage declaration filed by the spouses should include a reference to the existence, or lack of, a marriage contract (*convenção antenupcional*) (Article 136/2 (h) CRC). Also from a practical point of view, and with respect to the matrimonial property regime of foreign citizens married in Portugal, perhaps one of the most difficult problems has to do with the inscription in the Portuguese Civil Registration of foreign matrimonial property regimes, different from those admitted by Portuguese Law. For example, if a Portuguese citizen married a German citizen in Germany, according to the "Zugewinnngemeinschaft" regime under German Law, the Civil Registrar in Portugal will not mention that regime as the matrimonial property regime of the couple. At best the Civil Registrar may consider that the Portuguese citizen is married under the Portuguese regime of community of property between spouses regarding assets and property non-gratuitously acquired during marriage, which clearly does not correspond or match the German regime of *Zugewinnngemeinschaft*. This fact might have important consequences in the future when, for example, the spouses want to divorce in Portugal and the Portuguese court has to apply the matrimonial property regime of the couple. The fact that, according to the Portuguese Civil Registration Services, the couple is considered married under the Portuguese default regime of community of property will entail negative consequences for the couple who will have to clarify that the matrimonial property regime is not what it appears a priori to be.

g) Cost

The cost is addressed in the Regulation on Emoluments of the Registries and Notariat. For the organisation and registration of the marriage a fee of € 100,00 is payable. The fee is € 170,00 or

210,00 (depending on transportation arrangements), if the marriage is to be solemnised by the registrar, at the request of the spouses, outside of the Civil Registry Office, or outside of normal working hours or on Saturdays, Sundays or holidays.

h) Divorce/Separation/Annulment

Through the law ordinance no. 272/2001, separation and divorce by mutual consent are applied for, at the civil registry office for the area in which either of the spouses is resident or at another office chosen and expressly designated by both spouses. Proceedings for divorce by mutual consent are brought by submitting to the civil registry office an application signed by the spouses or their representatives. The application is lodged, together with a certificate containing a full copy of the record of marriage, a detailed list of the communal property indicating the respective values, a certificate of the court judgement ruling on the exercise of paternal authority with regard to any minor children, an agreement on the payment of maintenance to the spouse in need of maintenance, a certificate of any prenuptial agreement, and an agreement on the disposal of the marital home. Unless otherwise specified in the documents submitted, it is understood that the agreements apply both to the period of the proceedings and to the subsequent period.

Other applications for separation or divorce are submitted to the Family Proceedings Court or, if no such court exists, to the district court having territorial jurisdiction. This territorial jurisdiction is defined according to the domicile or residence of the applicant (the person bringing the action). Marriage annulment is pronounced by the court only.

Portugal has concluded agreements with the Holy See (so-called “Concordats”) whereby a Catholic marriage can be annulled by canonical courts whose decisions produce civil effects (the current concordat was signed in 2004).

4. Name

The declaration of birth should include the first name and the surname (Article 102/2 CRC), based on which the birth registration is completed (Article 102/1 CRC). The choice of the first name and surname is regulated in Article 1875 CC and 103 CRC. In accordance with Article 103/2 (a) CRC, the names of Portuguese citizens must be in Portuguese or adapted to the Portuguese language, graphically and phonetically by using Latin characters. Names of individuals who acquired the Portuguese nationality, or to whom the Portuguese nationality was attributed, when non-written in Latin characters, are transliterated in accordance with the Latin alphabet (Article 38 of the Nationality Regulation). In Portugal names must contain a minimum of two and a maximum of six first names and surnames in combination, corresponding to two first names, two surnames from the mother’s side and two surnames from the father’s side. A hyphen is not envisaged in Portuguese legislation. In accordance with the constitutional principle of gender equality, the inclusion of the names of either of the parents and the order in which they appear is a matter to be agreed by both (similarly, the law prohibits any discrimination between children born within or out of wedlock). Traditionally the surname adopted from the mother comes first and the surname of the father at the end.

If the child's parents are not known, as for example, in the case the child is abandoned, the registrar has to give him a name, composed of a maximum of three first or family names selected from among those most commonly used, or connected with a particular characteristic of the child or with the place where he was found, but never equivocal names or names liable to draw attention to his status, for example, as an abandoned child (Arts. 135 and 136 CRC). In the selection of the name should, however, be respected any written indication found in the power of the abandoned, or with him, or conveyed by him (Article 108 CRC).

Notorious pen names and nicknames (under the general designation of pseudónimos) enjoy the same level of protection as names (Article 74 CC). However, pseudónimos are not subject to registration in the Civil Registry. Nobility titles are merely recognised by a private scientific council, the *Conselho da Nobreza* (Nobility Council). Although being generally protected as part of the right to a personal identification, they are not subject to registration in the Civil Registry. Academic titles are not registered.

In Portugal, no special rules exist for members of national minorities to use their minority-language names or to give children minority-language names.

Neither a surname nor first name is given to a stillborn child.

a) First Name

A first name for the child is assigned upon the agreement of the parents (Article 1875 CC). If there is no agreement between the parents of the child, a court decides in accordance to the best interest of the child, which first name is assigned to the child. The child should have a recognisable Portuguese first name allowed by the Portuguese onomastics and which gives clear indication to the sex of the child (Article 103/2 (a) CRC). Only if one or both of the parents are foreigners or have another nationality besides the Portuguese, foreign names under its original form are accepted, if the child is foreign or born abroad or has another nationality besides the Portuguese (Article 103/2 (b) CRC). First names must not contain obscene expressions or terms liable to injure personal dignity. Siblings must not bear the same first name unless one of them is deceased.

b) Surname

In Portugal, surnames are chosen by the parents from amongst their own surnames. The child's birth certificate may, therefore, indicate several (a maximum of four) single words taken from the surnames of each or of one of the parents. Surnames that the father or the mother have a right to use may also be chosen. Lacking these, it is possible to choose names that they are known for (Article 103/2(e) CRC). Not all children born in wedlock must bear the same surname. If there is no agreement between the parents of the child, a court decides which surname is assigned to the child. If the father is not known, the surname(s) of the mother would be relevant. It is also possible to attribute to the child surnames of the husband of the mother if she and her husband so declare (Article 1876 CC). If both the father and the mother have not been established, the declarant may choose the surnames to be attributed to the child (Article 103/2 (f) CRC)

Upon marriage, each of the spouses can retain their original surnames. They can also adopt one or two of the other spouse's names, except if they have retained surnames of a spouse in a previous marriage, but nevertheless they always keep their birth names (Article 1677 CC). As a rule, the surname is merely added at the end of the original name. Although rare, it is possible for both spouses to adopt surnames of the other. Concerning the adoption of one joint surname, the law is not clear in this regard. Indeed, it states that each of the spouses may "add" up to two surnames of the other spouse. There has been different decision in this regard from courts. A decision from the Portuguese Supreme Court, dated 23-11-1999, states that the adoption of a joint surname is possible, meaning that the word "add" in Article 1677 also includes "insert".

Despite divorce, a spouse who has adopted the surname of the other spouse may retain it, provided that the latter consents or the court gives its authorisation (Article 1677B CC). It is possible to renounce the use of surnames adopted by virtue of marriage (Article 104/2(d) CRC). The consent of the former spouse may be given through a notarial document, a document drawn up in court (a written record, in proceedings, of the declaration of intent of the party) or a declaration before an official from the registry office. The application for court authorisation to use the surname of the

former spouse may be submitted within the divorce proceedings or in separate proceedings, even after the divorce has been decreed.

Each of the spouses legally separated maintains the surnames adopted from the other (Article 1677B CC).

The widower and the widow may retain the marriage surname. This is also the case if after a new marriage, if he/she declares so (Article 1677A CC). The court may decide, however, to take the right to use the name from the widower or the widow in the case such use gravely harms the moral interests of the other spouse or his/her family.

The widower/widow or the divorced spouse may also retain his/her surname in the event of remarriage. However, the use of the surname of the new spouse is not possible if the person decides to retain the surname of the previous spouse (Article 1677(2) CC). The transfer to the new spouse is not specifically addressed. However, there are restrictions imposed on the use of the surnames of previous spouses. Therefore, such transfer could face legal restrictions.

Upon full adoption (*adopção plena*), Article 1988 CC states that the adopted loses the original surnames and the new surnames are chosen by the parents from amongst their own surnames. It is possible for the first name to be exceptionally changed to safeguard the interest of the child, namely the right to his personal identity and to favour his integration in the family (Article 1988 CC).

Upon simple adoption (*adopção restrita*), the person that adopts may request to the court that the adopted obtains his surnames, in which case a new name is composed together with one or more surnames of the natural family (Article 1995 CC).

c) Name Change

In Portugal it is possible to change the name registered in the birth certificate (Article 104 CRC). Therefore, an individual must be in a position of qualifying for registration of birth in Portugal in order to change the name. A limit to the number of name changes does not exist.

An authorisation from the Registrar of the Central Registries Office is required, except in the cases mentioned in Article 104 (2) CRC, namely, changes based on the establishment of filiation, adoption, its revision or revocation, marriage, correction of the register, addition of surnames to a register that only includes first names, renunciation to the surnames adopted by virtue of marriage, and, in general, loss of the right to the name, exercise of the right to use the surname of the husband of the wife, if paternity has not been established, in accordance with Article 1876 CC, and the adoption of the name initially wanted, if the birth was registered pending onomastic consultation over its admissibility. A name change for transsexuals is not addressed in the law. The topic is connected with the change of the registered gender, which has only been accepted in the past pursuant to judicial proceedings for this purpose (meaning that it is not being possible to directly request the change of registered sex directly to the Civil Registry).

The appropriate authority for the application of name changes is the Civil Registry Offices or the Central Registries Office (Article 278 CRC). All Civil Registry Forms made available online are so at the web site of the Institute of Registries and Notariat (www.irm.mj.pt). The application must be justified in those cases where an authorisation from the Registrar of the Central Registries Office is required. The law does not provide any hint on what is considered “justified” grounds for the name change. A case-by-case approach analysis is required. Currently the law does not require the publication of notices of the name change. Name changes are notified to the identification services (Article 104/8CRC). If a person intervenes or objects the application the registrar may order any inquiries he may deem appropriate before issuing his decision (Article 279 CRC).

The name change is annotated (*averbada*) to the birth certificate (Article 69/1(m) CRC). The original birth certificate may be replaced upon request of the interested person (Article 123 CRC).

d) Cost

The cost of a name change is € 200,00 in accordance with paragraph 6.4 of the Regulation on Emoluments of the Registries and Notariat.

RO – Romania

1. Civil Registration System

a) Introduction

The civil status registration system in Romania is event based.

According to the Constitution of Romania of 1991, as revised in 2003, Romanian is the official language of the Republic. All civil status acts are performed in Romanian. The Romanian alphabet is a modification of the Latin alphabet and consists of 28 letters. The letters K, Q, W and Y occur only in foreign words. Five letters of the Romanian Alphabet have diacritical marks. In computing, several different coding standards exist for this alphabet, among them: ISO 8859-16 and Unicode.

Romania has a population of 22.276.056 (2007) and is divided into forty-one counties, plus the municipality of Bucharest, which is its own administrative unit. Bucharest is officially subdivided into six administrative sectors. The country is further subdivided into 2820 communes, which are rural localities, 210 towns and 103 municipalities. Communes, towns and municipalities have their own local councils and are headed by a mayor (*primar*).

Registry Offices and Staff

The Civil State Service Departments are set up within the structure of the Ministry of the Interior in the subordination of the local councils of the communes, cities and municipalities as well as in the sectors of Bucharest Municipality.

The department services have the following main duties:

- issue of the certificates of civil status etc. in unique pay desk system,
- record of the civil status documents as well as the mentions and modifications intervened in the civil statute, in the domicile and residence,
- draw up and keep the registers of civil status,
- draw up, complete, rectify, cancel or reconstitute the documents of civil status, as well as any mentions made on the civil status documents and on the identity documents,
- constitute, update and administer the local register of person records, which contains the data of identification and address of the citizens having the domicile in the area of territorial competence of the respective local community public service.

Mayors are the head of departments. At par with them, concerning the duties of a registrar, are the head of the diplomatic and consular representatives; the ship captains and flight captains. The mayors and the head of the agencies abroad can confer its authorities on the deputy mayor, the secretary or other officials of their own authority.

The County Civil State Service respectively of Bucharest Municipality, within the structure of the Ministry of the Interior, fulfils the following main duties:

- constitute, update and turn to best account, the county Registry,
- coordinate and control the activity of the local civil state service methodologically,
- control the mode of management and of drawing up of the registers of civil status,
- ensure the producing and issuing of civil status certificates, of identity cards etc.,
- monitor and control the mode of observing the legal provisions in the field of ensuring the protection of the data referring to person,
- manage the material resources and of endowment necessary to their own activity,
- keep record and maintain the civil status registers copy, and make mentions on them, according to the communications received.

Prefects appointed by the government are charged with the control of legality of civil status acts.

In the civil status register entries of birth, marriage and death are made. Entries in the civil status registers are carried out by application or ex officio as a result of the statements of the persons obligated in addition, whereby the registrar is obligated to verify the correctness of the statements and the presented documents. Names must be written the same way as they are contained in the documents. As a result of these entries, the extracts are issued. Extracts of birth and marriage can be obtained by the related persons and their legal representatives; an extract of death can be issued to the family members and other beneficiaries. The Ministry of the Interior decides on extract applications of foreigners concerning acts happened in Romania and that were directed to Romanian representation authorities abroad; just as applications of Romanian citizens with residence or stay abroad.

Nobility titles are not registered into the extracts even if they are contained in the entries.

Civil status records for Romanian citizen abroad are erected through the diplomatic and consular representations. If a foreign authority erects a civil status record for a Romanian citizen, it will only be valid in Romania if it was transferred into the Romanian civil status register.

Foreigners with residence or temporary stay in Romania can apply for civil status acts under the same conditions as Romanian citizens. Stateless people are obligated in addition.

Later statings of change of civil status (declaration of the descent through recognition or judicial decision and permission of the choice of name; appeal against the recognition or defrayal of fatherhood; marriage and dissolution, ending or annulment of marriage; adoption and its abolishment, ending or annulment; loss or acquisition of the Romanian citizenship; change of name; death; correction, supplement or annulment of civil status records and annotations; trans gender recognition) are registered in the form of annotations.

The civil status is proved by the certificates and the extracts issued from them. The proof of the civil status can be adduced by each evidence if no records existed, if the records get lost or were destroyed, if the acquisition from a foreign country is not possible or if the correction of a register has to be omitted.

Had a foreigner married in Romania or is deceased there, the civil status registrar transfers an extract of the record to the Ministry of the Interior, which is entitled to transmit it to appropriate representative in the relevant country.

Archives

In Romania, all religions have pledged since 1829, to keep civil status registers in two copies and to forward the second sample each year to the municipal archive authorities. The Law from 1894 was stipulating that starting with 01.10.1895 the civil status duties are subject of the Austrian-Hungarian state authorities. Post-1895 records are held by the local registrar's office and are subject to modern-day privacy restrictions. In general, Romania has a privacy rule, which restricts the release of documents less than 100 years old to verified family or for official government use. All civil status records older than 100 years are transferred to the National Archive or its County Departments. These archives are open to the public and are governed by the Law of the National Archives No. 16 of 12.04.1996.

b) Legalization/Translation

The registry office does not accept documents which are not duly certified. In principle, the documents coming from foreign countries intended for use in Romania must be legalized by the respective foreign country or bear the Apostille where applicable. Romania has concluded treaties on the mutual abolishment of legalization requirements with Austria, Hungary, Slovakia and Croatia.

Documents in a foreign language must be translated into Romanian.

By Law no. 142/2004 the competency regarding the right to apply an Apostille has been transferred from the Ministry of Justice to the courts of appeal and from the Ministry of Foreign Affairs to the prefectures. The Prefect Offices place Apostilles on original birth, marriage and death certificates issued after 1996; on criminal record certificates issued in the previous 3 months, certificates that prove domicile and citizenship issued by the Ministry of the Interior, the Computerised Personal Register Service, and original marriage certificates endorsed by the Ministry of Culture and Religious affairs. The Courts of Appeal places Apostilles on documents issued by an authority or an officer under state jurisdiction, including those issued by the public ministry, a registrar or an officer of the court (study diplomas, court decisions, etc.); notarial documents, official statements, such as: applications for filing amendments, signed certifications on a private signature document, etc.

The fee for the Apostille certification issued by the prefect offices is 30,000 (for the application, plus 220,000 lei per document/Apostille (together 7,04 €). For urgent services an extra fee of 210,000 lei must be paid. For legal entities, the fee for Apostille is 30,000 lei for the application plus 435,000 per document. The Court of Appeals charges 7,500 lei for the application, plus 34,000 lei and one judicial stamp of 1,500 lei per document / Apostille.

c) Foreign relations

Some Romanian civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member, mostly to the diplomatic missions. Some Romanian civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States.

d) Consular Services

The Foreign Service of the Romanian Ministry of Foreign Affairs includes diplomatic missions, consular offices and cultural centres. According to the provisions of the Law no. 105/1992 regarding the regulations of the international private law, a person's civil status, capacity and family relationships are subject to the national law. The national law is the law of the state whose citizen the individual is; it regulates the status of the Romanian citizens, irrespective of whether their

residence place is within the county borders or abroad. In Romania the Law 119/1996 and the application methodological norms regulate the civil status regime.

Romanian consular officials assume limited duties of those which are reserved for registrars in their country. They do not issue civil status certificates except a marriage certificate. Romanian citizens can request the Romanian authorities to send them the extrajudicial documents that they need to take the necessary administrative steps in a foreign country. According to Law 677 / 2001 stating the individual's protection regarding the processing of personal data and also the circulation of this particular data, the request can be done only by the bearer of this document or by someone who is entitled to receive the document. Upon request by a Romanian citizen abroad and upon receipt of the Consular fees, the Consulate proceeds by sending the solicitation for the extrajudicial documents to Romania such as Civil Status documents.

Certificates of Birth, Marriage, and Death can be obtained by presenting the following documents:

- 2 copies of the application form –duly filled and signed,
- Romanian passport or the Romanian ID card,
- a photocopy of a Romanian civil Status document, if any.

The applicant may attach a registered, self addressed and stamped envelope to his application. The requested documents will be mailed back to the applicant in the self addressed envelope. Time for processing is approximately 120 days from the date of registration. The applicable consular fees must be paid prior to the application processing by cash or money order. In case of emergency, the above mentioned documents can be obtained by having a power of attorney sent to a person in Romania.

Marriage Abroad

The diplomatic missions and consular sections of Romania have the legal capacity to register marriage both between Romanian citizens and between a Romanian citizen and a foreign citizen, unless the state law of the latter opposes. To officially register or perform marriage in the embassy or consulate, Romanian citizens must present the following documents:

- declaration of matrimony signed by both spouses;
- Romanian passports or any other Romanian valid identity proof;
- birth certificates in the original;
- a signed declaration in personal script of each of the spouses, to state the current status of potential previous marriages;
- a copy of the divorce or marriage dissolution decision;
- death certificate of the late spouse;
- certificate of previous marriage with specific mention of dissolution;
- health certificate regarding the health condition of the two spouses with specific mention of their being clinically fit to contract marriage - the certificate is valid for 14 days from the issue date.

Foreign citizens must provide the following documents

- declaration of matrimony signed at the embassy;
- a valid identity proof;

- original birth certificate;
- a bachelor certificate issued by either the competent authorities or the diplomatic mission or consular office of the state to which the applicant is subject;
- a customary law certificate regarding the conditions of form and substance of the marriage contract according to the law state involved. Either the competent state authorities or the diplomatic mission or consular office may issue the certificate.

The marriage certificate will be officially delivered within 10 days from the date when the request and the other documents have been handed in.

Transcribing a foreign birth certificate

If the birth took part in a foreign country and was registered at the foreign authorities, the parents, if they are Romanian citizens, are obliged to apply for the foreign birth certificates in the Romanian birth documents at the last residence that they had within 6 months after their return into the country.

Required Documents:

- a copy of the identity card of the parent which solicits the foreign birth certificate transcription;
- the original birth certificate and a legal copy of it;
- a Romanian translation of the certificate , certified by a public Romanian notary;
- a legalized copy of the parents marriage- certificate ;
- residence certificate for the Romanian citizens which have the legal residence in foreign countries – released by the Office of Population Evidence
- own responsibility statement given at the notary, when at the mothers surname rubric is written her maiden name, which has to prove that she has the same surname as the father.

e) Law

Family Code of 29.12.1953 ((Official Journal of Romania, issues 01/54, modified and completed by Law 4/56, 779/66, 3/70, 174/74, 59/93, 29/90, 94/92, 25/97, 87/98, 23/99, 272/2004);

Civil Status Documents Act of 16.10.1996 (Law 119/96 Official Journal of Romania, issues 282/96, modified and completed by Law 23/99, 84/01, 50/04);

Decree No. 41 of 30.01.2003 on Acquisition and Change of Names; Nationality Act of 01.03.1991;

International Private Law of 22.09.1992; Adoption Act of 21.06.2004;

Urgency Ordinance 97/2005 (Official Journal of Romania, issues 641/2005) modified and completed by Law 290/2005.

f) eGovernment

Online Services for Citizens

Portal

The eGovernment portal e-guvernare was launched in September 2003, providing a one-stop shop to public services online and incorporating a transactional platform. Users can register for

interactive and transactional services. Links to all departments of central and local government are also included. Regarding services, there are 7 fully online interactive services and 200 administrative forms which can be downloaded, filled-in, signed and submitted electronically to the appropriate authority.

eIdentification

The National Person Identity System is a large project of the Ministry of Administration and Interior under development concerning the computerised record of civil status for all citizens. Modules include the Civil Information System, the Identity Card System, the Passport system, the Driving Licence and Car Registration system and the Personal Record System). Of those, the Civil Information System concerns issuance and renewal of civil information and documents for Romanian citizens, such as birth certificates, marriage certificates, death certificates and others.

Website

<http://www.mai.gov.ro/>

Civil Status Certificates

At present there is no online service concerning the civil status. It is expected, as part of the Knowledge-Based Economy project, that the recently initiated Civil Information System, itself part of the National Person Identity System, will allow issue and renewal of civil information and documents for Romanian citizens (birth certificates, marriage certificates, death certificates).

2. Birth

a) Registration of Birth

The birth of a child born alive must be declared within 15 days, the event of a stillbirth within 3 days. The birth certificate for the child born alive, as well as for the stillborn child, is issued within 24 hours. Generally speaking, a stillbirth is the product of a birth that shows no signs of life during and after the whole process of being born. It is also required the pregnancy to have lasted at least 28 weeks. The chief doctor or the doctors who assisted or acknowledged the birth are responsible for fulfilling the obligation to issue the medical certificate. When the birth occurred outside a healthcare institution, the family physician in the territorial range where the birth took place has the duty to acknowledge the birth of the child, upon the request of any person, within 24 hours and then draft and issue the medical certificate which acknowledges the birth of the child. In the case of a foundling, as well as of a child who was abandoned by his / her parents in other healthcare units, whose birth has not been registered, the obligation to take the legal steps stipulated by the law for the registration of the child's birth within 30 days belongs to the public social security service in whose administrative and territorial range the child has been found or abandoned. The forensic examination necessary for the registration of the child's birth is free of charge.

The parents, the doctor or the midwife are usually the persons who should declare the birth. In order to ensure that all births are declared, Romania requires the occupier of the house where the baby was born — or anyone who was present at the delivery or learnt of the birth — to declare the child if no-one else does so.

b) Documents

The documents to be presented for declaration of the birth are:

- Identity document of the person that declare the child

- Identity document of the mother of the child
- Marriage certificate
- Medical birth certificate
- Parents' declaration of agreement on the name if both parents have different names and there is an inconsistency between the medical certificate and the standard declaration.
- Decision on the names if the parents disagree or the first name is inappropriate
- Police record in case of abandoned child

c) Birth Certificate

The birth record indicates characteristics about:

- pregnancy duration
- medical assistance at the delivery
- legitimacy, born alive or stillborn, multiple or singleton and birth order
- child's name, sex, nationality, place and date of birth
- birth weight
- the parents' socio-economic status
- name, age, address, place of birth, address, nationality, occupation of the parents; marital status of the mother only

A transsexual can after gender reassignment alter the birth certificate.

d) Transcribing a foreign birth certificate

If the birth took part in a foreign country and was registered at the foreign authorities, the parents, if they are Romanian citizens, are obliged to apply for the foreign birth certificates in the Romanian birth documents at the last residence that they had within 6 months after their return into the country.

Required Documents:

- a copy of the identity card of the parent which solicits the foreign birth certificate transcription;
- the original birth certificate and a legal copy of it;
- a Romanian translation of the certificate , certified by a public Romanian notary;
- a legalized copy of the parents marriage- certificate ;
- residence certificate for the Romanian citizens which have the legal residence in foreign countries – released by the Office of Population Evidence
- own responsibility statement given at the notary, when at the mothers surname rubric is written her maiden name, which has to prove that she has the same surname as the father.

e) Recognition

In Romania, family relations are regulated by the Family Law Code, which came into force on 1 February 1954. Maternal affiliation arises from the fact of the birth (Art. 47, paragraph 1). Maternal affiliation is evidenced by the certificate establishing the birth (Art. 47, paragraph 2). Under the Family Law Code, maternal affiliation may be both recognised and contested, as well as established by means of a court decision, as provided in Articles 48, 49, 50 and 52. If the birth has not been recorded in the register of births, deaths and marriages or if the child has been entered in the register of births, deaths and marriages as having been born to unknown parents, the mother may recognise the child. Despite all this fairly detailed regulation, there has not been a single court case to establish or contest maternal affiliation in the entire period that it has been in force, almost 50 years.

A distinction is made between establishing the paternal affiliation of a child born in wedlock and that of a child born out of wedlock. Children born in wedlock benefit from the well-known presumption: *Pater is est que nuptiae demonstrant* (Art. 53, paragraph 1). Under the law, this presumed paternity in the person of the husband of the mother may be disclaimed subject to the conditions laid down in the Code (see Articles 53 and 54), i.e. only at the husband's request and within a time-limit of 6 months from the date on which the father became aware of the child's birth. For Children born out of wedlock, the Family Law Code provides that paternal affiliation may be established either by recognition or through legal proceedings, in the manner stipulated in Articles 56-60. Recognition shall be effected by notifying the registrar's office, either at the time of registering the birth or subsequently; recognition may also be effected by means of an officially recorded document or by will. The right to bring an action to establish paternity out of wedlock is vested in the child and it is brought on its behalf by the mother (even if she is under age), or by its legal representative. Such proceedings may be instituted within one year of the child's birth.

3. Marriage

The Government of Romania legally recognizes only civil marriage ceremonies that are performed in the city hall or the municipal office in the area where the Romanian citizen resides. There is no law elevating religious marriages to the same status as civil ones. However, Romanian ship captains can conduct legally recognized marriages between two Romanian citizens.

There is no legal recognition for same-sex partners.

a) Personal Requirements/Impediments to Marriage

Men that are 18 years old and women that are 16 years old can get married. For solid reasons, a marriage between a 15 year old woman and a man can be consented (Articles 4, 12, 13, 19, 20 Family Code). The consent is given by the executive committee of the County Council when the mayor comes to terms with the parents and after a physician's examination. The matrimony between straight line relatives and collateral relatives is forbidden. Marriage between close relatives (4th degree) may be granted by the executive committee of the County Council (Article 6 Family Code). Marriage with an adopted child may also be granted by the executive committee of the County Council (Article 7 Family Code).

b) Preliminary Procedure

According to Article 13 Family Code and Article 28 Civil Status Documents Law the marriage declaration, is made personally, by the future husband and wife before the local registrar, in writing (on a typified form) , when at least one of the future couple has the domicile or residence in Romania. Marriage will proceed within 10 days after publication if no written and documented opposition is registered until the end of the 10 days maximum period. The registrar decides on the opposition.

c) Certificate of no impediment

Foreigners must produce proof (tradition certificate) liberated by the Diplomatic Mission or of the Consular Office of his home country, which to result from that closing the marriage in Romania, there are respected the form and fond conditions scheduled by his/her national law. Diplomatic or consular institutions (e.g. of Germany) have to obtain a certificate of no impediment from the home country in order to issue such a tradition certificate. If such a certificate are not available in the country, the Romanian official will accept a notarized affidavit.

If a Romanian citizen intends to get married abroad he/she may have to produce - in addition to other documents - a Romanian certificate of no impediment. This certificate is not issued in civil status registration offices in Romania.

d) Marriage Ceremony

By law, the mayor or one of his representatives officiates at the marriage. Both future spouses and two witnesses must be present.

e) Documents

Documents to be presented for a marriage between two Romanian citizens are:

- the original identity card and one copy,
- the original birth certificate and one copy - if the owner has domicile or residence in a different county, he will have to present also a birth extract liberated by the public authority which keeps his birth certificate
- fiscal postmarks in total value of 5000 lei (EUR 0,15)
- the prenuptial medical certificate; valiant for 14 days from the liberation date
- the death certificate of a former spouse (when applicable)
- the original divorce sentence or a copy of it, with the mention that it is definite and irrevocable (when applicable)
- copies after the identity cards of two witnesses (18 year old persons , who have to be present during marriage ceremony)
- a record closed by the civil state officer and an interpreter when one of the future spouses is deaf - mute.
- the mayor agreement for the marriage before the 10 days term (beginning with the registration date) is completed (under justified circumstances)
- the approval from the County Council President, if there are some impediments resulted from the age conditions, natural relatives or adoption
- the Mayor approval for the marriage outside the City Hall, if the persons cannot be transported or if they are in detention.

Marriage if one of the husbands is a foreign citizen:

- the passport or another available trip document
- the birth certificate and a Romanian translation certified by a public Romanian notary

- prenuptial medical certificate liberated by a family doctor
- own responsibility statement that he is not married, legalized and translated in Romanian by a notary office
- proof (tradition certificate) liberated by the Diplomatic Mission of Consular Office of his home country, which to result from that closing the marriage in Romania, there are respected the form and fond conditions scheduled by his national law – legalized and translated in Romanian
- the definite divorce sentence (if applicable translated in Romanian and legalized by a notary
- the death certificate of the former spouses husband (if applicable) translated in Romanian and legalized by a notary
- the record closed together with an authorized interpreter, if the foreigner doesn't know the Romanian language
- fiscal postmarks in total value of 5000 lei (EUR 0,15)

f) Contents of the Declaration of Marriage (selected information)

The record on the marriage certificate indicates:

- marriage date
- place of marriage
- surnames before marriage
- level of education
- date of birth
- nationality
- marital status
- number of previous marriages

g) Divorce/Separation/Annulment

For starting a divorce procedure one must fill a “Petition” with the court of the last common domicile in Romania if at least one of spouses still resides in the jurisdiction of the court of last common domicile. If not, the “Petition” must be filled with the court of the defendant’s domicile if still in Romania, if not with the court of the plaintiff’s domicile. Judicial separation is not recognized by the Romanian legal system.

4. Name

a) Surname

A child is given the surname of the parents. If the parents have different surnames, the child is given by agreement of the parents, the surname of the father or the mother or a compound surname of both. The state has no right to interfere in this. In the absence of an agreement, the guardianship

authority decides which surname is given to the child. The first name and surname of a foundling is decided by the mayor.

b) Name Change

In Romania it is allowed to change both the first name and the surname, if there is a good reason.

The reasons on changing surnames are stipulated in Section 2 of the Decree on Acquisition and Change of Names.

Application for the change of name must be submitted in person to the local civil state service department, where the applicant resides. Afterwards extracts of the publication must be published in the Romanian gazette. The cost has to be borne by the applicant. Everybody can appeal against the change of name within 30 days. The written and founded objection must be filed at the local civil state service department, where the applicant resides. Within further 30 days the mayor provides notification about the application.

Legal provisions on gender change are in Article 44 of Law no. 119 of 1996 on the civil status documents and in Article 4 of Government Ordinance no. 41 of 2003 which provides that a person can request the competent administrative bodies (i.e. the president of the county council) to approve modification of first name following a court decision.

Required documents and Cost

In addition to the application for a name change duty stamps about 1 leu (EUR 0,30) the following documents must be presented:

- extracts of all civil status documents
- a copy of the Romanian gazette including the aforementioned publication
- criminal record
- fiscal record

Name Change upon Marriage

Upon contraction of marriage, both spouses may retain their pre-marital surnames, they also may choose the surname of one spouse as the common surname or the surname of one spouse may be added to the other spouse's pre-marital surname.

c) Name Change upon Divorce

A spouse who desires to keep the surname of the other spouse must give notice thereof upon registering a divorce. If no such agreement was registered, both spouses must resume their pre-marital surnames.

SE – Sweden

1. Civil Status Registration Service

Sweden's civil status records are based on a central population register. As with all population registers, Sweden's system is person based as it records, at a central place, all relevant changes to the civil status of a person occurring in Sweden.

All civil status acts are performed in Swedish language. Swedish in Sweden is considered the "main language" and its use is officially recommended for local and state government, but not actually

enforced by law. The Swedish alphabet is a twenty-nine letter alphabet, using the basic twenty-six-letter Latin alphabet plus the three additional letters Å / å, Ä / ä, and Ö / ö. Diacritics are unusual in Swedish. German ü is considered a variant of y and sometimes retained in foreign names. A diacritic may very exceptionally be seen in elaborated style. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-1.

Sweden has a population of 9,127,058 (2007) and is divided into twenty-one counties (län). Each county further divides into a number of municipalities or kommuner, making a total of 290 municipalities. On the account of the Swedish government, Ansvarskommittén is investigating the possibilities of merging the current 21 counties into circa 9 larger regions. Today two län (counties) in Sweden are officially called 'regions': Skåne and Västra Götaland.

a) The Population Register

The National Population Registration of Sweden contains the basic register of the population. It provides current information on who lives in the country and where they live. The National Tax Board is the administrative and responsible authority for the National Population Registration and it maintains the registers of the system by help of data processing. Population records are kept in special computerized registers and can be retrieved from them for use in various areas of society, e.g. for general elections, statistics, taxation, planning of schools and hospitals and payment of pensions and other benefits. There is therefore a quick and continuous reporting of information from the National Population Registration to authorities with responsibility for different social functions. In this way the Population Registration System becomes a basic register for society as a whole and an important means of directing rights and obligations to the correct person. The individual need not report changes of address etc. to numerous different authorities. Informing the National Population Registration is enough. On 01.07.1991 the local population registration was transferred from the parish administration to the local tax offices, supervised by the National Tax Board. An entirely new computerised system for population registration was launched in connection with the change. The new system included new data, e.g. relationships between adults and children and the date for most events. However, the dissemination of information (notifications) to different users was conducted with aid of the old notification system up to 1997 when the Tax Board put a new notification system, with partially new content, into operation.

b) Personal Identity Number

Each person who is entered in the National Population Registers must have a Personal Identity Number (PIN) as an identity code. A person who has been given a number will keep the same number for his/her whole life. This means that the personal identity number does not change e.g. if a person moves from or to Sweden. The personal identity number gives the date of birth of the person, a birth number, and a check digit. The sex is shown by the second last digit in the personal identity number, which is odd for men and even for women. The PIN in its current form dates back to 1967, but as long ago as 1947 a system based on date of birth and three-digit birth number was introduced. The PIN has become widely used as an identity code not only in National Population Registration but also in other administrative areas, e.g. for taxation, as a conscript number, for national insurance, health care, driving licence and passport registration, and in the education system. The PIN can be used as a search code in computerized registers and as a link when collating more than one register. One such form of linkage occurs when notification of changes is forwarded from the National Population Registration to other personal registers in the community.

c) Total Population Register

In 1968, Statistics Sweden established a register of the total population in Sweden in connection with the computerisation of parts of the National Population Registration System. The register was

named the Total Population Register (TPR). TPR contains most of the data found in the National Registration and also refers to the registered population in Sweden. In 1996, Statistics Sweden changed its technical platform for statistical production from a mainframe environment to a database-oriented client/server technology in a PC environment.

Statistics may concern the registered population and changes in the population (migrations, births, deaths, marriages, divorces and other changes) broken down by sex, age, civil status, etc. in counties, municipalities, parishes and smaller regional areas. Statistical data are produced for each month, quarter, half-year and year. TPR is also used as a data bank where supplementary data can be collected for other registers and surveys. The data used most in the TPR system are: personal identity number, place of residence (county, municipality, parish, real estate, address), name, sex, age, civil status, citizenship, country of birth and relationships (spouse, registered partner, children, parent, guardian).

In addition, there are databases from the old TPR system and databases that are used for support and temporary storage in the various production processes. The functioning of the system is based on daily updates with information on changes (notifications) in National Population Registration.

The Statistical databases in the TPR system store data at the individual level in several Statistical registers. The Statistical registers (Stock, Flow and Special Registers) are primarily intended to serve as a basis for population statistics, to provide sample frames for sample surveys, to serve as data banks where information can be collected by other registers or statistical products and to serve as a basis for commissioned work.

Stock Registers

Stocks, i.e. the population at a specific point in time (reference time), normally the last day in a month, are produced following the updating of the Production database with the last day of the subsequent month (break point).

(a) Special Registers

Special registers are the following:

- Residence Permit Register: Every year, new data is collected from the Migration Board's data system on persons who have received residence permits in Sweden. The data refers to the date and ground for settlement (reason for immigration).
- Multi-Generation Register: The Multi-Generation Register contains data on persons and their biological parents. For adopted persons, there is also information on the adopting parents. The register is carried out on persons who have been registered in Sweden at some time since 1961 and those who were born in 1932 or later. The link between children and biological parents can be used for such purposes as medical studies in which the kinship between different individuals plays a vital role. Information on adoption can be used in various types of social research.
- Personal Identity Number (PIN) Registers: A register that is primarily used for commissioned work is the Total PIN Register. The register contains all PINs that are included in any TPR register since 1968 and in any Population and Housing Census register since 1960. For each PIN there is information on in which register(s) the PIN can be found. The changes in PIN can pose a problem for longitudinal studies and processing (linking) different registers together. A PIN Change Register that contains all changes in PINs since 1968 has been created with a cross-reference from the old to the new PIN. It provides the possibility to tie the data on a person before the change of PIN to the data after the change.

- Old TPR Registers: In addition to the registers noted above, there are a number of stock and flow registers that originate from the old TPR system. Most of them start from 1968 while some extend back to 1961.

Registration

Each person resident in Sweden must be registered for population purposes. A person who moves into Sweden is registered if he or she intends to reside in Sweden for at least a year. Nordic country citizens may enter and stay in Sweden without formality. EU citizens are required to register with the Migration Board no later than three months after entering the country. EU citizen employees who have obtained a certificate from their employer may register over the internet. EU citizens with different residence purposes need to register by mail. In practice, registration of EU citizens with the Migration Board may be required even earlier for tax purposes. Third country citizens require a residence permit. A child who is born in Sweden is registered if the mother is registered for population purposes or if the father is registered and is also a legal guardian. One is registered where one resides. Under the Population Registration Act one is considered resident where one regularly – at least once a week – takes one’s nightly rest or similar rest. If applying this rule means that one can be regarded as resident in more than one place, then one is registered where one has one’s family. If a person has no family, the registration is determined by other circumstances, primarily the place of employment. The Population Registration Act also contains rules for registration in various special situations, such as when studying or receiving medical care. In cases of movement between the geographical areas covered by different tax offices, all information on the person moving is automatically transferred from the population records of the earlier office to the new one. A person moving abroad is deregistered if he intends to reside outside Sweden for at least one year. A person who dies is removed from the register. The fact that one is registered for population purposes, and where one is registered, is very important to many rights and obligations such as the right to child allowance and housing allowance and where one is assessed for tax. Extracts from the population records enable a person to substantiate his or her personal particulars and family situation in various contexts, e.g. for the distribution of an estate or in order to marry. Population registers have been kept in Sweden for a long time and the modern computerized registers contain references to the manual registers which were kept earlier. The population registration system therefore makes it possible to trace families a long way back into the past, a fact which is widely used by researchers and other interested persons. The individual has a duty to report certain particulars for inclusion in the population register himself. The majority of the particulars however are need not be notified but are sent into the tax office by other agencies.

Tax Authorities

There are today seven head tax authorities, each responsible for an area. Each area authority is directed by a committee and has a director who is the regional tax commissioner. The National Tax Board is based at Solna. The National Tax Board is the supervising authority of the tax authorities in the country and has the general duty of leading the authorities by allocating resources, setting up goals and guidelines and monitoring activities. It is also the responsibility of the National Tax Board to take measures to coordinate, rationalize and create uniformity in the administration. Another important task is that of issuing general advice and directives on implementation of the law. The number of people employed by the Tax Administration is falling. Over the last ten years the work force has been reduced by approximately 3000 permanent employees. In 2006 the combined administration had 11,415 permanent employees. Approximately 9000 worked for the tax authorities and the National Tax Board employed approximately 1100 people. Population registration occupies the equivalent of 614 full-time employees. Ongoing population registration takes place locally at each tax office. Activities are regulated by two acts, the Population Registration Act and the Population Registers Act. The Population Registration Act contains a

definition of the term Population registration and also states when and where a person has to be registered, when a change of address has to be reported and how a population registration decision may be appealed against. The act is supplemented by a population registration ordinance, which includes rules prescribing that certain other authorities should furnish the population registry with information concerning addresses. The Population Registers Act states which registers must be kept, the purpose of the registration, what they may contain and how one may search in them. The Act is supplemented by an ordinance on population registers which states among other things when information is to be transferred between the different registers. Population registration is also affected by other legislation, e.g. legislation on marriages and names. The tax office issues certificates relating to eligibility to enter into marriage on the basis of the population records and a person wishing to change his name may in certain cases do this by notifying the tax office, which will then make the relevant amendment to the population records. The principle of public access to official records is contained in one of Sweden's constitutional laws, the Freedom of the Press Act. The principle implies that any person is entitled to study official documents. In this way people are ensured a right of knowledge of the activities of the authorities and the opportunity of inspecting and discussing them. Some exceptions are made to the right of access with regard to particularly sensitive information as stated in the Official Secrecy Act. As far as population registration is concerned, the principle of public access means that everyone normally has the right to obtain information from the population registers. Under the Official Secrecy Act an exception is made if there is special reason to assume that the person to whom the information applies will suffer disadvantage from the divulging of the information. An example is information concerning the address of a person who feels threatened or harassed. Another provision of relevance to population registration is the Personal Information Act which contains general rules governing the automatic processing of personal information. It contains, for example, rules on the duty of the party responsible for the register to correct incorrect particulars in the register.

The Central Reference Register

A central reference register is kept for the whole country by the National Tax Board and is used to ascertain in which local population register a person is to be found and for the allocation of personal identity numbers. The central reference register contains the name and personal identity number of each person that has been registered since 1980 and also whether the person is registered for population purposes or deregistered and the local tax office within whose area he is or last was registered. For searching in the central reference register the personal identity number is used or, if this is not known, a combination of name, date of birth and sex. All tax offices have terminal access to the central reference register.

Local Tax Offices

Each area contains a number of local tax offices, where the majority of the business is done. This means that the tax office also functions as local population registration authority. There are altogether 113 local tax offices in the country. Each tax office keeps a local register of the population in its area of operation. The register contains both current and earlier information. The register also contains the date of amendment of the particulars, e.g. the date of change of address or date of marriage. In conjunction with the local population register an official record (daybook) is kept of incoming registrations, i.e. reports and information which may necessitate amendments to the population register. The daybook records when an item of information comes into the tax office, what the item concerns, who has dealt with the item and when this was completed. Access from terminals to a local population register is obtained from tax offices within the region where the register is kept. Search routines using the personal identity number as a search code make it possible to obtain many different combinations of personal particulars, such as the relations (spouse, children etc.) of a person, who is registered at a particular property and what names a

person has had. The work of population registration at the local tax office involves receiving information which is to be recorded in the local population register, checking that the information may lawfully be recorded and entering it in the register. The information may then be supplied to different users, either by the issue by the tax office of extracts from the register on paper directly to private individuals, or by automatic notification for larger users. The tax office where a person is registered decides on the amendment of particulars in the population register. Decisions on registration of change of address are taken by the tax office for the area to which the person moves. A person who is dissatisfied with the decision of the tax office on a population registration matter may appeal against it in court after a complaint at the tax authority was in vain.

Information and Documents

Information to the population registry must be given in writing. If a person fails to give a prescribed item of information, e.g. concerning the name given to a child, on time, the tax office may require him to supply the desired information. If the information is still not supplied, the person liable to provide it may be fined. With the exception of change of address, name of her/his child and, in certain cases, birth of the child, the individual does not need herself/himself to report the information which is to be kept in the population register. This information is instead reported to the tax office by other agencies. For example

- the person officiating at a marriage has to inform the tax office of the marriage and a corresponding requirement applies to courts which grant divorces;
- courts have to inform the tax office when they have decided on the paternity of a child, on adoption and on custody of a child;
- a doctor who has ascertained that a person has died has to inform the tax office of this; and
- the authority which arranges burial has to inform the tax authority of where the deceased has been buried.

The population registration system gives society simple access to basic information concerning the population. The information is communicated by means of

- extracts from the population register to private individuals; and
- automatic notification of authorities.

Extracts from the registers and certificates issued at the event are delivered by the tax offices to private individuals free of charge. Such extracts may be issued for numerous different purposes, e.g. court business, employment and marriage. The purpose determines which information from the register will be included in the extract. An extract can contain the total information concerning the person or only such information as is necessary. The extract carries a seal of the office which delivers it. A signature of the officer is affixed only if the extract must be presented abroad.

Application for extracts can be made:

- in person or by proxy
- by postal mail, fax or telephone
- online
- only postal mail if from abroad

Documents applied for in person, via telephone or fax will be delivered the same day. Documents applied for online will be delivered after a few days.

d) Legalisation/Translation

The tax office does not accept documents coming from foreign countries intended for use in Sweden unless they are legalized by the respective foreign country or bear the Apostille. Sweden has bilateral treaties with Austria and Denmark abolishing the need of legalisation. Sweden is also a party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, Parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party. Copies of documents are permitted, but such copies must be legalized or made of the original documents, which have the certification (Apostille) on it.

As of 1 January 2005, the Judicial Office at the Ministry for Foreign Affairs no longer issues Apostille stamps. After that date, only Notary Publics may issue Apostilles. The cost is 150 SEK (€ 16,27). All foreign documents must be translated into Swedish. However, under the Nordic Agreement, documents from other Nordic countries (Sweden, Denmark, Norway, Finland and Iceland) are not necessary as there is direct transmission of data. In addition, if necessary, citizens of these countries have the opportunity to present documents in their native language and use that language when interacting with official bodies in other Nordic countries without being liable to any interpretation or translation costs.

Since 1 January 2005, the Judicial Office at the Ministry for Foreign Affairs no longer issues Apostilles. Sweden has decentralised the issuance of Apostilles and designated all notaries public as Competent Authorities. There are approximately 250 notaries public in Sweden who are appointed by the local County Administrative Board (*Länsstyrelsen*). There is no centralised register of all notaries public. A comprehensive list is, however, published annually in the "*Sveriges Statskalender*". The *Statskalender* contains the full addresses of the Swedish administration, down to the level of individuals. The cost of a *Statskalender* is approximately 140 €. The publication is not available in electronic form. Contact details of notaries public may also be available from the relevant County Administrative Board.

An Apostille can be requested by postal delivery, delivery by courier or by hand delivery where the individual seeking the Apostille attends in person at the Office of a Notary Public (*notarius publicus*). A stamp or a printout is used. Copies are enclosed with the completed questionnaire. The Apostille will usually be stamped (or printed) directly onto the public document itself, after the signature, if there is enough space. Otherwise the Apostille is placed on a so-called allonge. The text of the stamp is in English or another foreign language spoken by the Notary Public in question (often German, French, or Spanish) The system used for the issuance of an Apostille is mechanical (including printout from a printer).

The total process from initial consultation to issuing of an Apostille generally takes no more than a day. Most public notaries are very flexible as regards times for appointment.

A Notary Public has the right to collect "a reasonable compensation" ("skälig ersättning") for services rendered, see the governmental ordinance SFS 1982:327, Förordningen om notarius publicus, 12 §. The cost for issuance of the Apostille vary from 150 SEK (€ 15,87) to SEK 250 (€ 26,44).

e) Archives

Archives collect and preserve original documents of organisations such as churches and governments. In Sweden there are several major types of repositories: National Archive, Provincial Archives, City Archives and Church parish offices. The National Archive of Sweden in Stockholm, which is open to the public, has a large record collection. Today, the National Archives has the supervision of all public records of the agencies of the central Government, while it delegates the

supervision of records generated by regional and local authorities to the regional archives. The regional state archives (Landsarkiven) were founded in the beginning of the 20th century, and are located in Uppsala, Vadstena, Visby, Lund, Göteborg, Härnösand and Östersund. They house records pertaining to their particular area, including church records, such as birth, marriage, and death records. The provincial archives are open to the public. The city archives in Stockholm keeps the records of Stockholm County, and the archives in Karlstad preserves the records of the county of Värmland. Church records were kept at the local parish of the church. A parish is a local congregation that may have included many neighbouring villages in its boundaries. In 1860 the government requested that ministers annually copy the birth, marriage, and death information in their registers onto special forms and send them to the Statistiska Centralbyrån (Central Bureau of Statistics) in Stockholm.

The Research Center SVAR (Svensk Arkivinformation) at Ramsele, which is part of the National Archive specializes in family chronicles and courses in genealogy. It provides research facilities in a Visitors' Center. The National Archival Database (NAD) is a nation-wide, comprehensive database and information system available on the Internet. It contains information about records from individuals etc.

f) Foreign relations

Swedish civil status registrars transmit information about civil status acts and changes of citizens of Denmark and Finland (and of nationals who were born in Denmark and Finland) that occur in the country directly to the authorities of the respective EU Member. Swedish registrars also transmit information about deaths of Italian citizens that occur in the country directly to the authorities Italy. Some Swedish civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States.

g) Consular Services

The Department for Consular Affairs and Civil Law at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Swedish citizens can obtain from Swedish foreign missions (86 Embassies, 22 Consulates-General and 368 Honorary consulates). Included in civil law issues are matters concerning: abducted children, the legalisation of documents, marriage abroad and international adoptions

Consulates or embassies usually do not arrange or officiate wedding ceremonies. The role of the Swedish missions abroad is normally to report changes in the status of Swedish nationals (birth, marriage, registered partnership, divorce, death) which have taken place abroad to the relevant tax authority in Sweden so that they may be entered into the population register registration system. This includes certifying and translating the relevant documents (in return for payment of a fee). Upon submission of a written application to the mission or to the Ministry for Foreign Affairs, the mission may request extracts from the population register or other documents concerning a person or an address in its consular district.

A marriage licence is issued for Swedish citizens and is intended for marriage before a foreign authority. Only authorisation to enter into marriage, and identity, of the Swedish citizen is checked. It is important that the information given about the prospective spouse is backed up by a document such as a copy of the passport. If a person marries abroad, he/she must inform the Tax Agency of this by, for example, sending them a copy of the marriage licence.

h) Law

Marriage Code SFS 1987:230 entered into force on 01.01.1988 (Äktenskapsbalk); Population Registration Act 1991:481 (Folkbokföringslag); Population Registers Act 1991:749

(Folkbokföringsförordning); Swedish Citizenship Act 2001:82 (Lag om svenskt medborgarskap); Act on Certain International Legal Relationships in respect of Marriage and Guardianship 1904:26(Lag om vissa internationella rättsförhållanden rörande äktenskap och förmynderskap); Act on International Paternity Questions 1985:367; Act on International Legal Relations Concerning Adoption 1971:796 (Lag om internationella rättsförhållanden rörande adoption); Children and Parents Code 1949:381 and 1998:319 (Föräldrabalk); Name Act 1982:670 (Namnlag); Swedish Names Regulation 1982:1136; Death Declaration Act 2005:130; Registered Partnership Act 1994:1117 entered into force on 01.01.1995 (Bet. (Parliament Standing Committee Report) 1993/94:LU28) amended by the Act (2000:374) which entered into force on 01.06.2000(Lag om registrerat partnerskap); Act on the Convention between Denmark, Finland, Iceland, Norway and Sweden on Population Registration 2005:268 (Lag om överenskommelse mellan Danmark, Finland, Island, Norge och Sverige om folkbokföring)

Current versions of the texts of the legislation are available at: <http://www.lagrummet.se> (Swedish and English)

Under Chapter 1, Section 1 of the Act on Certain International Legal Relationships in respect of Marriage and Guardianship, the capacity to marry before a Swedish authority is in principle to be established in accordance with Swedish law if either party is a Swedish national or is habitually resident in Sweden. Similar rules apply in the Nordic framework under Section 1 of the Order on Certain International Legal Relationships in respect of Marriage, Adoption and Guardianship (1931:429). Swedish private international law regards questions of name as belonging to the law of personal status. This means, for example, that the taking by one spouse of the other spouse's name is not classified as a matter of the legal effects of marriage in the personal sphere. According to Section 50 of the Personal Names Act, the Act does not apply to Swedish nationals who are habitually resident in Denmark, Norway or Finland; it may be concluded e contrario that it does apply to Swedish nationals elsewhere. Section 51 states that the Act also applies to foreign nationals who are habitually resident in Sweden.

Swedish substantive law does not distinguish between legitimate and illegitimate children, and Swedish private international law has not got specific choice-of-law rules for determining whether a child is to be regarded as born inside or outside wedlock, or whether a child can be legitimated subsequently. As regards the law applicable to the establishment of paternity, there are different rules for the presumption of paternity and for the establishment of paternity by a court of law. The presumption of paternity is governed by Section 2 of the Act on International Paternity Questions. This provides that a man who is or has been married to the mother of a child is deemed to be the child's father if that is the consequence of the law of the state in which the child became habitually resident at birth, or, where that law does not consider anyone to be the father, if it is the consequence of the law of a state of which the child became a national at birth. If the child's habitual residence at birth was in Sweden, however, the question will always be decided in accordance with Swedish law. If paternity has to be established in court, the court will apply the law of the country in which the child was habitually resident at the time of the judgement at first instance. Under Section 2(1) of the Act on International Legal Relationships in respect of Adoption, a Swedish court considering an application for adoption is to apply Swedish law. Section 2(2) directs, however, that if the application relates to a child under the age of 18, the court must consider whether the applicant or the child is connected with a foreign state by nationality, habitual residence or otherwise, and whether this can be expected to cause difficulty for the child if the adoption is not recognised in that country. As regards the legal effects of adoption, when a foreign adoption order is valid in Sweden the adopted child is regarded as the adoptive parent's child in a Swedish marriage for purposes of custody, guardianship and maintenance. In the case of succession, however, the law requires equal treatment of adopted children and the adoptive parent's own children only if the adoption took place in Sweden. If the adoption took place abroad, the adopted

child's entitlement to inherit will be considered in accordance with the law that generally governs entitlement to inherit, that is to say the law of the country of nationality.

A marriage is considered to be valid as to form if it is valid in the country in which it was celebrated (Chapter 1, Section 7, of the Act on Certain International Legal Relationships in respect of Marriage and Guardianship). In questions of divorce, Chapter 3, Section 4(1), of the Act on Certain International Legal Relationships in respect of Marriage and Guardianship directs that the Swedish courts are to apply Swedish law. Section 4(2) makes an exception if both spouses are foreign nationals and neither has been habitually resident in Sweden for at least one year. Swedish substantive law does not contemplate the legal institutions of legal separation or annulment of marriage, and there are no generally applicable choice of law rules that might apply to such cases. As far as Nordic countries are concerned, Section 9 of the Order on Certain International Legal Relationships in respect of Marriage, Adoption and Guardianship (1931:429) states that in cases of legal separation, the court is to apply its own law. Under Chapter 3, Section 1, of the Registered Partnerships Act, partnership between two persons of the same sex has the same legal effects as marriage. Chapter 3, Section 4, however, makes an exception in the case of the application of the Order on Certain International Legal Relationships in respect of Marriage, Adoption and Guardianship (1931:429).

i) eGovernment - Online Service for Citizens

Portal

Launched in October 2004, eGovernment portal 'Sverige.se' now provides links to services that are provided online. Since 1 January 2008, the Swedish Administrative Development Agency (Verva) has stopped administering 'sverige.se'. This assignment has not been handed over to another organisation. Therefore, the web portal was closed down at the beginning of March 2008.

Civil Status Website

<http://www.skatteverket.se/>

Civil Status Certificates

The National Tax Board is in charge of managing the National Total Population Register. Birth certificates can be ordered online. They are either downloaded directly from the Internet for users equipped with an eID, or sent by mail to the user's address as registered in the Population Register. Forms for ordering marriage and registered partnership certificates are available online, but have to be sent by mail.

2. Birth

a) Birth

Under the Population Registration Act all births which take place in Sweden must be registered with the tax offices. Birth occurring abroad to a national or permanent resident foreigner must also be declared to the tax authority. Normally the birth is registered in the population register when the child is registered. When the newborn child has been registered for population purposes, the tax office sends an extract from the register to the parents with the child's personal identity number. At the same time forms are sent for stating the name of the child. If the child's parents are not registered for population purposes, the birth is instead registered in the daybook of the tax office. This means that it is always possible for the parents to obtain a certificate which confirms that the birth of the child has been officially registered in Sweden. The birth must be reported to the tax office by the hospital where the child is born or by the midwife who assists with the birth within

one day. If the child is neither born in hospital nor with the assistance of a midwife the parents themselves must report the birth within a month. If none of these people made a birth declaration, the tax authority can force them to do. Late declarations are accepted but sanctioned with a fine.

Stillbirths will be entered into the Statistics Register. For a child medically recorded alive at birth but dying before registration, a birth and a death certificate is issued. All available information concerning a foundling is also registered by the tax authority.

b) Documents

- medical certificate
- excerpt from the population register
- identity card of father
- identity card of mother

If foreign documents (birth certificate) do not contain all the required details, the declaring person has to state them.

c) Birth Record

The birth record indicates characteristics about the child's sex, date and place of birth. Additional data are taken from the population register.

d) Recognition

The identity of the child's mother is recorded from the report of the birth. On request a certificate of maternal recognition is issued by the tax authority.

If the child's mother is married when the child is born, her husband is automatically considered to be the father of the child. This also applies if the mother is a widow and the child is born so soon after the death of her husband that it may have been conceived before his death. However, it is considered that a man who is divorced from the mother of a child when the child is born, is not automatically the father, even if the child is born shortly after the divorce. Instead, paternity must then be determined by an acknowledgement or by a judgement. (However, for children born before 1977, the rule is that also in this situation the husband should automatically be considered to be the father). Spouses are still married to each other during the period for reconsideration in some cases shall precede a divorce. The man in the marriage is hence also deemed to be the father of a child who is born during the period for reconsideration, even if, for example, the mother then lives together with another man. In a case where the mother's spouse shall be regarded as the father of a child, but there are reasons to assume that it is another man who is really the father of the child, both the lawful husband and the child have an opportunity to apply to a court in order to have the paternity issue determined judicially. If it is clear to all the parties involved that it is a man other than the mother's husband who is the father of the child, the paternity of the lawful husband may be revoked without having to go to court. It is then sufficient that the man who really is the father of the child acknowledges paternity and that this acknowledgement is approved in writing both by the mother and by her husband.

If the woman is unmarried, paternity must be specially determined by an acknowledgement or by a judgement before the father can be registered. This can be done by the father signing a written acknowledgement of paternity. Two persons shall witness the document. The Social Welfare Committee shall endeavour to establish who the father of the child is, and give him an opportunity to acknowledge the paternity. The mother of the child and the Social Welfare Committee shall approve an acknowledgement. If the child has attained majority (18 years), the acknowledgement

shall instead be approved by the child himself or herself. The social welfare committee may approve the acknowledgement only if it can be assumed that the person who has acknowledged paternity is the father of the child. In order to be able to assess the issue, the committee must, of course, obtain certain information from the mother and the father named about their relationship at the time the child was conceived. The Social Welfare Committee then informs the tax office of the acknowledgement. If the mother refuses acceptance, the biological father has a right to compel her through a legal proceeding. If the investigation of the Social Welfare Committee does not clearly identify someone as the father, or if the man who the committee considers is the father does not want to acknowledge paternity, it is necessary to have the matter considered by a court. Notice of the judgement is then sent to the tax authority by the court. The same applies if a court establishes that the mother's spouse is not the father of her child. The mother or the Social Welfare Committee normally conducts the child's action. The court shall ensure that the question of the paternity of the child is properly investigated. DNA tests shall be carried out with respect to the mother, the child and the man who may be the father of the child, if the latter requests it or there is reason to assume that the mother had sexual intercourse with more than one man during the period in which the child could have been conceived. The court shall declare a man to be the father if it is established that he had sexual intercourse with the child's mother during the period in which the child could have been conceived and, having regard to all the circumstances, it is probable that he fathered the child.

Activities involving assisted fertilisation are regulated by law. The provisions mean that insemination and in vitro fertilisation (fertilisation outside the body) may be performed on women who are married or cohabiting with a man, provided that the man has given his consent to the fertilisation. An insemination may be carried out with sperm either from the woman's husband or cohabitee or from another donor, that is sperm donation. In the case of fertilisation outside the body, the egg that is fertilised may be the woman's own or come from another woman, that is egg donation. If the egg is the woman's own it may be fertilised by the sperm of a man who is an outsider. Consequently, both the egg and sperm cannot come from outsiders. The man who has consented to assisted fertilisation shall be deemed to be the father if, having regard to all the circumstances, it is probable that the child was conceived by fertilisation. However, if the woman is not married when the child is born, paternity must be established by an acknowledgement or a judgement. In the case of egg donation, the woman who gives birth to the child is deemed to be the mother of the child. A person who has been conceived through assisted fertilisation with sperm or egg donation is entitled, provided he or she has attained sufficient maturity, to gain access to information about the donor recorded in the hospital journals. If anyone has cause to believe that he or she has been conceived by donation, the social welfare committee is under obligation to help in establishing whether there is any such information.

e) Cost

Recognition and registration of birth is free of charge.

3. Marriage

a) Marriage

Marriage is governed by the Marriage Code. Same-sex marriages are legal, termed as 'Partnership' and regulated by the Registered Partnership Act. Same-sex couples enjoy the rights of married couples with a few exceptions. Marriages in Sweden may take place either in a church or before a civil authority, same-sex-marriage are prohibited in church. The general principle in Swedish Private international law with respect to the possibility of entering into marriage before a Swedish authority is that the right to marry is tried for each of the future spouses individually, applying the law of the state of which he or she is a citizen (Art. 1 of chapter 1 of the Act on certain International

Legal Conditions regarding Marriage and Guardianship). For registered partnerships, Swedish law always applies. Originally the law stipulated that a partnership could only be registered if at least one of the partners was a resident Swedish national (Art. 2 of chapter 1 Registered Partnership). This provision has since been amended. The provision as it stands now says that at least one of the parties must either be a resident Swedish national (Art. 2(2) of chapter 1 Registered Partnership Act) or have been residing in Sweden for at least 2 years (Art. 2(1) of chapter 1). In addition, for the purposes of the Registered Partnership Act, Danish, Dutch, Icelandic and Norwegian citizens are treated as if they were Swedish citizens. Foreigners who are not resident or who have not been resident that long can still obtain this possibility by applying specially to the Government.

b) Personal Requirements

A person under the age of 18 may not marry without special permission. If the right of entering into matrimony is to be examined in accordance with foreign law, then, under the Act on Certain International Legal Relations Concerning Marriage and Guardianship, the rule is that permission from the county administrative board is required for a person aged under 15. Before the county administrative board takes a decision, the custodian of the minor and the social welfare committee in the municipality where the minor lives are given an opportunity to express their views. If the county administrative board grants permission for marriage, the custodian may appeal against the decision. It is not allowed for sisters and brothers (biological or by adoption) to marry each other (Art. 3(1) of chapter 2 Marriage Code). Half-brothers and half-sisters or adopted sisters and brothers may not marry each other without a special permission from the county administrative board (Art. 3(2) of chapter 2 Marriage Code). Parents and biological or adopted children are also not allowed to marry each other (Art. 3(1) of chapter 2 Marriage Act). A person who is already married or a registered partner may not enter into a new marriage while such marriage or partnership subsists. The same rules apply to partnership registration (Art. 3 of chapter 1 Registered Partnership Act). Divorced persons can re-marry without any waiting time.

c) Preliminary Procedure

Before a marriage may be entered into, the question of whether or not there are any impediments to marriage shall be considered and an application for a certificate of no impediment (hindersprövning) is necessary. Application for marriage in Sweden must be made by both prospective spouses in person or written at the Local Tax Administration ("Skatteförvaltningen") or the Swedish Social Insurance Agency "Försäkringskassan" where the bride or groom-to-be has permanent or temporary residence in Sweden. The certificate, which is issued after a check of the population register, is valid for four months and has to be shown to the person officiating at the marriage. If the parties have not been married within this time, marriage proceedings cannot be carried out without a new application. Application is approved or rejected by the tax authority only. On appeal against the rejected application the administrative court (Länsrätten) decides.

d) Documents

The bride and bridegroom must possess or arrange the following documents prior to their marriage so as to furnish on demand by the authority solemnizing the marriage at the time of marriage:

- Identity card or passport;
- certified copy or birth certificate, showing the completion of 18 years of age or consent of county administration;
- proof of being single;
- court consent for minor (if necessary);

- a certificate of no impediment (hindersprövning).

If previously married:

- a certified, notarized copy of the final decree of divorce, or
- a certified, notarized copy of the death certificate.

e) Certificate of no impediment

Every person who will marry in Sweden shall present a certificate of no impediment (Hindersprövning). However, if a person is not registered in any Swedish parish, and if such certificates are not available in the country, the Swedish official will customarily accept an affidavit by the person(s) in place of the "hindersprövning". The affidavit must generally be executed and sworn (or affirmed) to before the consular officer at the respective embassy of the foreigner. The notarial fee for the affidavit is vary from embassy to embassy. If it is inconvenient to have the affidavit signed at the embassy in Stockholm, it is suggested that it be signed before a Swedish notary public "notarius publicus", provided this is acceptable to the Local Tax Administration.

If a Swedish citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Swedish certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Swedish law and is valid 4 months. This certificate is issued by the tax office of the main place of residence free of charge or a diplomatic or consular institution abroad. For the issuance of a certificate of no impediment the consular fee is € 23,00. If no primary residence or domicile exists in Sweden the Swedish Ministry of Foreign Affairs is the competent authority. The certificate issued by a diplomatic or consular institution is not treated as a certificate of no impediment in all surveyed countries, for instance not in Germany.

f) Marriage Ceremony

A legally valid marriage can be performed at any place

- by a local district court judge (Art. 3(3) of chapter 4 Marriage Code);
- by any individual who has received special authorisation from the County administration to do so (Art. 3(4) of chapter 4 Marriage Code) or
- a person of another denomination awarded the right to officiate at marriages by the Swedish Legal, Financial and Administrative Services Agency.

The same goes for a legally valid celebration of a registered partnership (Art. 8 of chapter 1 Registered Partnership Act). Prospective spouses and two witnesses must be present in person. A marriage by proxy is not allowed. After the marriage has been performed the Local Tax Authority has to be contacted again with the document from the ceremony, in order to obtain the marriage certificate. The existence of a marriage contract must be declared and the existence is registered in the Äktenskapsregistret.

g) Church wedding

A legally valid marriage can also be performed either by a priest belonging to the Church of Sweden (Art. 3(1) of chapter 4 Marriage Code) or a priest or other official of certain other churches or religious organisations (Art. 3(2) of chapter 4 Marriage Code) that has obtained a special permit from the Legal, Financial and Administrative Services Agency to perform marriage ceremonies. Permission has been granted to some thirty different religious communities. A church wedding in the Church of Sweden (a Lutheran State Church) can be undertaken only if one or both parties to the marriage is/are registered with the Church of Sweden. Only a Swedish citizen or a foreign

resident of Sweden may be a member of the Church. A church ceremony is conducted in accordance with the rites of the religious community.

h) Contents of the Marriage Certificate

The record on the marriage certificate indicates:

- marriage date,
- surnames before marriage,
- home address, and
- dates of birth.

i) Marriage by foreigners

The Procedure for a civil marriage to be followed by foreigners as described above in procedure for marriage and the documents that are to be furnished may include the following

- A valid passport
- A birth certificate
- Proof of being free to marry: every person who will marry in Sweden shall present a certificate (hindersprövning) concerning his civil status in his home parish. However, if a person is not registered in any Swedish parish, and if such certificates are not available in the country, the Swedish official will customarily accept an affidavit. The affidavit must generally be executed and sworn (or affirmed) to before the consular officer at the respective Embassy of the foreigner. The fee for the affidavit varies from embassy to embassy. If it is inconvenient to have the affidavit signed at the Embassy in Stockholm, it may be signed before a Swedish notary public at the discretion of the Local Tax Administration.

If married before:

- marriage certificate of the previous marriage,
- evidence of termination of the previous marriage.
- if divorced, the divorce decree, which may have to state the date it became effective,
- if widowed, then the death certificate.

Documents must be in the applicant's legal name, or where the name has changed, affidavits to this effect need to be provided. The documentation must be presented in the form that is required (i.e. original or certified copies, with or without Apostille stamp), in the necessary language. The documents that are to be submitted vary from country to country (and often between states, districts and counties within a country).

j) Cost

The administration and ceremony fee differs between different areas and churches.

k) Divorce/Separation/Annulment

There are no rules governing separation or marriage annulment in Swedish law. A marriage can be dissolved in two ways: if one of the spouses dies or if a court makes a decree for divorce. The case is heard by the district court in Sweden within whose circuit one party is habitually resident. If neither of them is habitually resident in Sweden, the case is heard by Stockholm District Court. Art.

2 of chapter 2 Registered Partnership Act stipulates that the laws on divorces also apply to the dissolution of a registered partnership so that dissolution can be obtained by a court decision.

4. Name

a) Name

According to the Names Act, there are three types of name: First names – Middle names – Surnames. The Names Act applies to all Swedish, Finnish, Danish and Norwegian citizens living in Sweden. If the person is not a citizen of Sweden, Finland, Denmark or Norway but lives in Sweden, he/she can still report a name and change of name under Swedish law. The Names Act in Sweden provides that, a person has one surname and one or more first names. Sometimes a middle name is also used. Section 12, item 1, of the Names Act states that a newly formed surname must have a pronunciation and spelling and such linguistic form that it is appropriate as a surname in Sweden (under Swedish, Sami and Finnish linguistic usage - this is not stated in the law). Practice developed through decisions made by the courts affords immigrants and other national minorities an opportunity to amend or revert to their former name forms and the requirement concerning Swedish pronunciation and spelling has been relaxed. Matters are considered on a case-to-case basis. Nobility or academic titles are not registered.

A middle name is a name that a person can have to show association with a parent or a spouse who has this name as his/her surname. It can also be a previous surname of a person who has changed to the surname of his/her spouse or registered partner. Middle names are placed between the first name(s) and surname. The tax office should be notified of the middle name. A person who has a middle name can have it taken away at any time by making a notification.

b) First Name

The parents have a duty to submit on agreement a first name for the child within three months to the tax authority. The Tax Agency will send the form "Anmälan om förnamn" (Reporting a Given Name) to the child's legal guardian(s) after the birth has been registered. The notification should be made in writing. If the child is christened in the Church of Sweden, the notification can be made to the person officiating at the christening ceremony. Swedish legislation does not envisage a procedure for naming if both of the parents have not reached agreement. The tax authority may in certain cases refuse to approve a first name, for example if the name may be expected to lead to serious inconvenience to the child (§ 34 Name Act). No restrictions concerning the number of first names are established. The first name may be a gender neutral name and should not obviously sound like a surname. Social authorities or foster parents are entitled to choose the first name of a found or orphan child.

c) Surname

Children of parents with a shared surname acquire this surname at birth. If the parents have different names the child acquires at birth the surname of its most recently born sibling. A child who has no older siblings acquires that one of the parents' surnames that is submitted in writing within three months after the birth. If the parents do not submit a name within three months, the child automatically acquires the name of the mother. A child who has acquired a surname borne by only one parent may bear the other parent's surname as a middle name. If the father is not known, the child acquires the name of the mother.

Couples who marry must give notice of their name choice in writing to the Swedish Tax Agency or to the person performing the marriage ceremony not later than in conjunction with the ceremony. When contracting a marriage, spouses may either keep their own surname or they can decide to take the surname of one of them as their common surname. One spouse who has taken the surname of

the other as her or his surname may opt to also keep her or his own former surname as a 'middle name' (hyphenated). If they have chosen to keep each one their own surname, one of them may still take the surname of the other and use it as a 'middle name' (hyphenated). It is not possible for both spouses to use the surname of the other as a 'middle name'. The middle name is purely personal. It cannot be passed on to a spouse or to children. All these options are also available to registered partners. In case of re-marriage, the adopted name cannot be transferred to the new spouse.

Upon divorce or death if one of the spouses adopted the other spouse's surname when the marriage was entered into or during the marriage, the spouse has the right to revert to the surname that they last used before their marriage.

d) Name Change

Tax Office

Within certain limits it is possible to change one's name by informing the tax office. The Tax Authority is in charge of the population register in Sweden, and the applicant should apply to them when he/she wants to

- change, remove, or add a first name,
- change the order of first names,
- change the spelling of a first name without changing the pronunciation,
- add or remove an additional surname,
- change a surname after or during marriage or registered partnership, or
- take back a surname the applicant had when unmarried.

PRV - the Swedish Patent and Registration office

The Swedish Patent and Registration Office (PRV) is a government agency with offices in Stockholm and Söderhamn, where the department of Personal Names is located. The change of the surname through PRV's Personal Names Department is called an "administrative name change". This means that all previous surnames are erased, and if the applicant wants to change the name again or change back to the former name, he/she must apply again to the Personal Names Department. If the applicant wants to make changes other than changing, removing or adding one or more first names, he/she must apply to PRV and state why he/she wants to make the change. He/she must also apply to PRV if he/she wants to change all first names. In particular, the applicant can change the surname to an old family name. To be allowed to take an old family name, the name must have been used in the applicant's family in a directly descending line for at least two generations within the last hundred years as evidenced by civic register certificates, and excerpts from the birth and baptismal records which can be ordered from the parish registrar's office or provincial records office. Applicants may also apply to PRV to take a surname created from the father or mother's first name with a suffix of "son" or "dotter" (Swedish for daughter). The application must be submitted along with a civic registration certificate that states the father or mother's name. If the applicant wants to give a newborn child a surname made up of the first name with a "son" or "dotter" suffix, he/she must first register a surname with the Tax Authority and later apply to PRV to change the child's surname. Applicants may apply for the change of the spelling of the surname. Finally, applicants may apply to take an entirely new (invented) surname. A person cannot change the name to a name that causes offence or will lead to unpleasantness for the person who bears it. Nor can a person take a first name as a surname or vice versa. He/she cannot take a hyphenated name as a surname, nor names that begin with af, de, von or similar. The new name

must not be misleading to the public; it must not be possible, for instance, to confuse the name with the name of a railway station or a post office. In addition, PRV will approve as surnames, whether invented or not, names that can be easily confused with

- a surname that someone else legally bears or has the right to bear,
- a generally known surname that has been borne by a family that has died out,
- a generally known foreign surname,
- someone else's artistic or stage name that is generally known,
- a designation for a foundation, club, non-governmental (voluntary) organisation or any similar acronym,
- someone else's business name or brand that enjoys legal protection in Sweden, or
- a title of someone else's legally protected literary or artistic work.

The Personal Names Department has access to a list of all existing surnames - the surname register - and checks every proposed surname against that list. PRV thoroughly examines the applications. Invented names are compared with first names, other surnames, names of companies and brands, postal addresses and other lists. A language expert reviews the proposed names. If PRV has examined and approved the proposed name change, the decision is published and the public has an opportunity to file opposition to approval of the new name. Once PRV has finally approved the new name, the applicant will receive a name certificate and the Tax Authority is notified.

The appropriate form for application to the PRV can be obtained online at: <http://www.prv.se>

Rules pertaining to children under 18

Children under the age of 18 can always take a parent's surname through registration with the Tax Authority. If his or her parents have different surnames, the child may switch between the parents' surnames an unlimited number of times. If parents change their surname, their child does not automatically get the same surname. If parents want their children to also have their new name, they can include them on the application, but this does limit the children's opportunities to change their surnames in the future. After having been granted the new name, it is possible to register a change for the children with the Tax Authority. This does not limit the children's opportunities to change their names in the future. Children 18 or over must personally apply to the Tax Authority if they want to take their parents' new surname. If a child wants to change his surname to one that neither of his parents has or has had in the past, he or she must apply via PRV. The child's legal guardian/s must sign the application. Children age 12 or older must always personally sign the registration or application. If the child's name before the change was that of the non-custodial parent, the written consent of the non-custodial parent is required. If the parent does not give his or her consent, the name cannot be changed unless a court orders that the change of name is in the best interests of the child.

Adoption

Adoptees usually take their adoptive parents' surname. In connection with the adoption, a court may order that the adoptee may retain his or her old surname. The adoptee may also keep the name as an additional surname. Adoptees who keep their old names may have the adoptive parents' surname as an additional surname. By the way under Swedish legislation an adoption cannot be cancelled.

Foster Parents

Children under 18 may take the name of their foster parents. The foster parents must give their consent and a court must order that the change of name is in the best interest of the child. If that is the case, the change of name can be carried out through registration with the Tax Authority. If the applicant has received a surname through such registration, he or she may later in life change the name back to the surname he/she had before by carrying out a new registration with the Tax Authority. If the applicant is over 18, he/she must apply to PRV to take a foster parents' name.

Cost

Fees pursuant to Article 1 of the Swedish Names Regulation 1982:1136 (most recent wording 2004:133)

- Change of surname: 1,500 SEK (€ 162,68)
- Fee when more than one relative or related family files a joint application: 3,000 SEK (€ 325,35)
- Change of forename: 800 SEK (€ 86,76)

The easiest way to pay PRV for applications is via PlusGiro or bank giro. Payments from abroad regarding personal names: Bank address: SEB, S-106 40 Stockholm, Sweden. IBAN account number in Söderhamn: SE77 5000 0000 0543 9100 2396, BIC (SWIFT) address: ESSESESS

SI – Slovenia

1. Civil Status Registration System

The civil status registration system in Slovenia is person based.

The official language in Slovenia is Slovenian. Hungarian is an official language of 3 municipalities and Italian is an official language of 3 municipalities. The language uses a modified Latin alphabet, consisting of 25 letters. The Q W X Y Č, Ā, Ō, Ū and Đ letters are also used in foreign names. The writing itself in its pure form does not use any other signs, except, for instance, additional accentual marks. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-2 and ISO 8859-16.

Slovenia has a population of 2.009.245 (2007) and 14 regions. In 2006, Slovenia was divided into 210 municipalities, of which 11 had urban status. Slovenia has 58 administrative authorities dealing with matters of administration that have to be handled regionally. Pursuant to the Public Administration Act, the Ministry of the Interior performs tasks in the fields of public security and the police, internal administrative affairs and migrations. The internal administrative affairs activities are closely related to the state and its administration such as civil status of citizens (registers, personal name, registration of the population and public documents and protection of personal data). While until 1995 matters of births, marriages and deaths as well as matters of nationality were in the area of responsibility of the various municipalities, they are now a national responsibility.

a) The Register of Civil Status (RCS)

Since May 2005, an electronic register of births, marriages and deaths integrates three traditional book-based registers into one common database: book of births, marriages and deaths. According to the register law (27.03.2003) it contains all data on the life events of the citizens of the Republic of Slovenia such as birth, marriage and death, where the events took place, whether in Slovenia or abroad. The register also contains data on life events of foreign nationals, when they take place in

Slovenia. Personal status consists of all civil and legal administrative relationships that are governed by the state of which an individual is a citizen, and may be changed (such as change of name, establishment of paternity, adoption, divorce, acquisition and loss of nationality). Because complete personal status data is maintained for the citizens of the Republic of Slovenia, the Register of Civil Status also attempts to include events that occurred outside the state: birth, death and change of marital status. For foreign nationals, only the data on deaths, births and marriages that occurred in Slovenia are maintained in the register.

According to the latest estimations it will take until 2009 to copy all old data concerning birth, marriage and death of every living Slovenian to the electronic registers. After the process of copying, the entry in the original book is closed.

The RCS records the following data of Slovenian citizens:

- data concerning birth: last name, first name, sex, day, month, year, time and place of birth, nationality, personal identification number and permanent address;
- declaration concerning the name;
- declaration of paternity, ascertainment and challenge of maternity or paternity;
- adoption;
- change of name;
- change of the parent's name;
- extension or loss of parents' rights;
- guardianship;
- loss or recognition of legal competence;
- acquisition or loss of nationality;
- change of sex;
- data concerning marriage: day, month, year and place of marriage, data concerning the partners: first and last name, personal identification number, nationality, permanent address, last name after marriage;
- reversal of marriage or divorce;
- data concerning death: day, month, year, time and place of death;
- legal base of the record (type of document);
- corrections and changes of recorded data;
- data, terms and other technical data relevant for the registration.

The register records the following data about foreigners:

- data concerning birth: last name, first name, sex, day, month, year, time and place of birth, personal identification number; parents' data: last name, first name, personal identification number, nationality and permanent address (if documents show the relevant information);
- data concerning marriage (if marriage occurs in Slovenia): day, month, year and place of marriage; data of the partners: last name, first name, personal identification number, nationality, permanent address, last name after marriage;
- data concerning death (if death occurs in Slovenia): day, month, year and time of death;

- legal base of the record;
- corrections of the data;
- data, terms and other technical data relevant for the registration.

b) The Register of Permanent Population (RPP)

Also in May 2005 the electronic RPP has been revised. There has been a total population register in Slovenia for thirty years and since 1980 it is run as an electronic register. The database contains information about citizens of Slovenia, about individuals who have permanent or temporary residence in the Republic of Slovenia, about individuals who do not have a residence permit, but who are nevertheless entitled to certain rights - maybe for humanitarian reasons - or who have certain duties in regard to pension or tax, about individuals who have permanently or temporarily (for more than three months) left the Republic of Slovenia or have been removed from the register, as well as information about households and voters. The RPP is based on a personal identification number. In Slovenia it is called EMSO (enotna matična številka občana - consistent personal number of the citizen -PIN). Every Slovenian citizen and every foreigner who has a permanent or provisional address in Slovenia receives a personal identification number. Also, every child that is born in Slovenia receives a personal identification number at birth entered into the birth certificate.

PIN

The personal identification number consists of 13 digits. The first seven digits are the date of birth (two for the day, two for the month and three for the year). The next two digits are the numbers of the register. The tenth, eleventh and twelfth digit are a combination of the sex and the consecutively numbered persons who have been born on the same day. The numbers 000 to 499 are used for men, the numbers 500 to 999 for women. The thirteenth number is used for control and it is generated by a mathematical formula. The personal identification number used in Slovenia is called a telling identification, because it consists of the date of birth and a number that indicates the sex of a person. The personal identification number may be used in official documents and is used by all public authorities which are entitled to collect data about a person. The number is assigned electronically a few days after birth when the registrar enters the registration form at birth or at registration of address or residence permit for foreigners. Again, in addition to data concerning residents of Slovenia, in the future all data concerning birth, marriage or death of Slovenian citizens who live abroad will also be registered.

Interlink and Technology

There is link between the RCS with the RPP. The latter is the base for the establishment of the former. Within the modernisation of the RCS and RPP, both registers were transferred from a central IBM server and a hierarchical database, to an Oracle database and an IBM WebSphere application server. It was ensured that the Register of Civil Status operates concurrently with both the new and the previous Register of Permanent Population. To ensure compliance with security policies and legislation, access to data is divided into various levels, depending on whether the users are internal or external. The reliability of the solution and data security is compliant with all the security requirements defined by legislation. The Register of Civil Status and the new RPP services can be accessed through a web browser and security is maintained through the use of digital certificates and a Public Key Infrastructure.

An electronic register concerning nationalities, citizenship and foreigners has been set up. All registers are linked. Direct connection to all data sources such as maternity hospitals, hospitals and courts enables electronic registration of personal events, reducing the database refresh interval and the number of mistakes that would occur during manual data entry. By linking databases, the

number of issued certificates or written confirmation from the register has been reduced significantly, as individuals no longer need to personally present certificates, and data is electronically delivered as soon as a personal event is entered into the Register of Civil Status. Complete technological support enables any individual to receive copies of data and certificates at any administrative office or through electronic administrative services, no matter where he or she was born, has married or is living. The law concerning general administration acts makes it possible to apply for all personal documents (identity card, passport or driving license) and registration documents everywhere in Slovenia. All these administrative matters are independent of the permanent address of a person.

Under the new system, Slovenian citizens and residents hardly need to show any documents to administrative authorities. Rather, the registrars may look up and verify all data directly in the public registers. It is important to stress that certificates concerning birth, marriages and deaths issued for Slovenian citizens always show the latest data of the register. Therefore, a person whose first or last name has changed after birth will get a birth certificate with his or her present name. The birth certificate is therefore no proof of a person's name at birth for Slovenians.

The data concerning the civil status of foreigners is different. During their stay in Slovenia all civil status events occurring in Slovenia are registered and civil status changes occurring abroad may be registered in the population database if authorities are informed. But once these persons leave Slovenia the information is no longer updated. Such persons will only be able to obtain an individual birth, marriage or death certificate based on the original event occurring in Slovenia as opposed to the updated ones for Slovenian citizens.

c) Registry Offices and Staff

In Slovenia there are no separate registry offices. Changes of civil status are registered by the administrative authority (administrative office) responsible for the area in which the event occurred. Each authority may be responsible for several municipalities and may be divided into registry offices. These offices also perform tasks for various parts of the executive branch of power, e.g. registration of motor vehicles, issuing of work permits, etc. Thus, there are 58 administrative offices in Slovenia. Head of the administrative office is a superior officer who is, however, not allowed to issue direct orders regarding specific cases. Births, deaths or marriages of Slovenian citizens abroad are also recorded in the register of birth, marriages and deaths. The source of the record is the copy of the relevant foreign authority. If it is impossible to obtain such a copy, the administrative authorities may make an exception and record birth, marriage or birth if a person applies for it. In that case it is necessary to give evidence of the civil status. This is an innovation of the law that solves many problems. Often persons are able to show, for instance, documents that clearly give evidence of a person's death (record of the post-mortem examination, permission to transfer the body, medical evidence of death), but the death was not recorded abroad, either because foreigners are not recorded in the foreign registers, or the authorities have not been informed. All offices are equipped with computer technology, because the registration system is fully computerized. Although a work with folios is also possible.

Since 1995 civil status registrars are civil servants. Due to the aforementioned system the total number of individuals working as registrars cannot be provided but in Ljubljana's main administrative office 20 individuals are employed as civil status registrars. They receive a regular monthly salary which is calculated based upon the rank of the registrar, the education and professional competence. Registrars have support staff, but most of the work is carried out by the registrars themselves. Secondary or higher education is required in order to work as a registrar. New employees are recruited through public tender and applicants are selected based upon professional competence. Each registrar must pass a proficiency examination on administrative procedure. Advanced and further training is envisaged twice a year. Slovenian consuls do not exert the

functions of registrars. They may, however, receive declarations which they transmit to the competent authority of the place of residence in Slovenia or, in the absence of residence, in Ljubljana.

The Slovenian Association of Professionals in Home Affairs Administration has 626 members from all parts of Slovenia who are involved in activities of, inter alia, the section for population registration and public documents and the section for personal status and registry matters. It organizes professional meetings and conferences with the intention of educating members, participating in the development of its field of activity and promotion of both, the field of work of home affairs administration and the Association itself. With a view to participate in solving professional questions and giving initiatives for changes in related legislation the Association cooperates with government organisations, research and scientific institutions, related associations of other fields of work of government, as well as with associations and experts of this field of work from abroad. It organizes also meetings of members and professional excursions. It is a member of the European Association of Registrars, EVS.

d) Legal Authority and Appeals

Regarding matters of birth, marriage and death the administrative authorities decide for instance about the change of names or the establishment of nationality; they decide whether names of people, who died just after World War II are entered in the register of births, marriages and deaths. It is prohibited to modify data registered in the acts. However the registrar may correct a simple error. Other errors may be corrected only by a court decision. False acts can be corrected through the general administrative procedure via legal remedies (appeal, revision). The false act may be declared void or changed. The procedure and effects vary depending on the type of remedies and the type of false act. In order to update or revise a civil status act or registration, the applicant must file an application (in most cases on pre printed form) and present the required documents and data. In cases where the authority can access the data (usually electronically), the authority is obliged to acquire the required documents itself. Each procedure is slightly different regarding the required data and documents.

If a civil status act was registered and the data has been destroyed or is lost, a special reconstruction of lost data can be initiated.

The Ministry of the Interior supervises and inspects the administrative offices and is responsible for further training of civil status registrars. In terms of subject matters, the Ministry of the Interior decides about acquisition and loss of Slovenian nationality. It is possible to appeal against the decisions of registrars to the Ministry for the Interior. The decision of the ministry can be appealed to the Administrative Court (and then in some cases also to the Supreme Court).

e) Copies and Extracts

The information collected in the administrative offices is treated as personal data. Each person can access data regarding his own status. Otherwise authorities can access the register in different procedures. The system is set in a way that all data is compiled in electronic form, so direct link between records and archives is possible. Government offices can generally obtain specific data connected to their procedures. Private institutions do not have direct access to the register. Specific data can only be obtained if they have legal basis in each individual case. Online transmission of data exists. The following copies and extracts of the register of births, marriages and deaths are available:

- an extract regarding birth,
- an extract regarding marriage,

- an extract regarding death, and
- a certificate regarding civil status (also, a person can obtain an extract from the marriage register stating that he/she is not married).

The latter may be issued with all information concerning a person or with specified data. In areas where members of the Italian or Hungarian national minority reside, registrars shall be obliged to issue extracts and certificates from registers also in the Italian or Hungarian language.

Documents can be obtained on-line from a web site, <http://e-uprava.gov.si/>, if the applicant has a electronic digital certificate, available for permanent residents and for Slovenian citizens.

Slovenian citizens abroad who do not have an electronic digital certificate, may apply for the same in person at the nearest Embassy and can thereafter obtain a birth certificate through the web-site.

Other persons can obtain a certificate by appearing in person at the Embassy, or by giving power of attorney residing in Slovenia to obtain the same in person. General application by post or fax is not possible. In the application, a reason must be provided why the certificate is needed. All documents can be instantly obtained. If an application is filed electronically, the certificate is prepared within one day and sent by mail.

f) Fees

The declaration and the registration of civil status changes are free of charge. Copies and certificates of civil status acts are free of charge in some cases, e.g., for the first birth certificate. Consultation of the registers, although being public, is not free. Fees are set according to the Administrative Fees Act. In most cases a fee of € 1,06 for an application granting access to the records is charged. The fee for birth, marriage and death certificates is € 1,06. The fee can be paid cash, by wire transfer, postal money order or with a credit card. Duty stamps which can be purchased in places like tobacco shops can also be used until 01.09.2009.

g) Legalisation/Translation

The registry office does not accept documents, which are not duly certified. In principle, documents from foreign countries intended for use in Slovenia must be legalized by the respective foreign country or bear an Apostille. Copies of documents are permissible, but such copies must be legalized or made of the original documents, which have the certification (Apostille) on it. Pursuant to the General Administrative Procedure Act, foreign language documents must be translated into Slovenian in order to be used officially before an administrative authority. The translation must be accomplished by a court interpreter.

Slovenia has agreements with Austria and Hungary for the recognition of documents without any further legalisation requirements. Slovenia is a party to the (CIEC) Convention No. 16 of 8 September 1976 on the issue of (multilingual) extracts from civil status records, birth certificates, marriage certificates, death certificates, thus the respective documents from Austria, Belgium, Bosnia and Herzegovina, Croatia, France, Germany, Italy, Luxembourg, Macedonia, the Netherlands, Portugal, Serbia and Montenegro, Slovenia, Spain, Switzerland and Turkey are also exempt from legalisation.

In Slovenia the competent authorities for the issuance of Apostilles are the Ministry of Justice of the Republic of Slovenia (for certification of the authenticity of the signatures and seals of notaries, district judges, and court interpreters on public documents) and the District Courts (for all other certifications, such as the authenticity of the signatures and seals of notaries, notary candidates, judges (except district judges), state institutions, organisations and individuals, executing public powers of attorney and legal persons on public documents).

To obtain an Apostille a person must submit, either in person or by post, a written petition to the District Court or the Ministry of Justice. The original public document which is sought to be legalised must accompany the petition.

The Apostille is placed on the last page of the public document which is being legalised if such document can be re-issued and if there is sufficient space on the page. If the document cannot be reissued and only certified copies or duplicates can be issued (as is the case with Slovenian University degrees) or if there is insufficient space on the last page of the document, the Apostille is placed on an allonge. If a document has multiple pages, the Apostille is placed on the last page of the document or on an allonge which is attached at the end of the document. All the pages are then bound using official string, a state sticker is placed on top of the official string and an official stamp of the competent authority is placed on the sticker. The Apostille is written in Slovene. The system used is partly manual and partly electronic.

If a written petition for legalisation is filed in person with the Ministry of Justice, an Apostille is usually issued on the same day. If the petition is filed at one of the district courts, then the Apostille is typically issued the day after the petition is filed. If the competent authority has doubts about the authenticity of the document or if there are many public documents which need to be legalised, the process may take up to two working days. The Ministry of Justice charges administrative tax for the issuance of Apostille on public documents in accordance with the Act on administrative taxes. On 13 April 2007 the administrative tax for issuance of each Apostille amounts to € 1,06. The District Courts charge court tax for the issuance of Apostille on public documents in accordance with the Act on court taxes. On 13 April 2007 the court tax for issuance of each Apostille amounts from € 2,38 to € 4,76. The charge is paid by purchase of administrative stamps at any stationers. The stamps must be affixed to the petition.

h) Foreign relations

Some Slovenian civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of the respective EU Member. Some Slovenian civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States.

i) Consular Services

The Consular Division of the Ministry of Foreign Affairs protects the interests of the Republic of Slovenia, its citizens and legal entities abroad and does its work through a consular network of 51 embassies and consulates in Europe. The registration of civil status events is compulsory.

Slovenian consular officials do not draw up acts and do not hold registers of births, marriages and deaths. They however perform certain functions regarding civil status and make notice of events which have occurred in their district and concerning Slovenian nationals domiciled or remaining abroad. They are not authorized to conduct marriages but they can issue a single status certificate. Consular officials offer assistance to obtain civil status certificates (birth, marriage and death) for Slovenian citizens from civil status registries in Slovenia and the host country. A fee of € 18,00 is payable for procuring and issuing of civil status documents. Procuring civil status documents from the host country may be free of charge (e.g. Germany). The estimated issuing time is two to four weeks. Slovenian consular officials also assume the duty of notifying the changes of the address.

j) Law

Register law of 27.3.2003; Constitution of the Republic of Slovenia (Official Gazette RS, No. 33/91, ..., 69/04); Personal Name Act (Official Gazette of the Republic of Slovenia, No. 20/2006);

Nationality Law of 1991; International Private and Procedure Law of 30.06.1999; Law on Registered Same-Sex Partnership of 22.06.2005; Marriage and Family Relations Act of 26.05.1976 (Official Journal SRS, issues 15/76, 30/86 (20/88-1- corrected), 1/89, 14/89, Official Journal RS, issue 13/94, 82/94, 29/95, 26/95, 26/99, 70/00, 42/03-decision of Const. Court, 16/04, 69/04-UPB1), MFRA; Rules on Marriage Conclusion (based on 28a/2 MFRA) (Official Journal RS, issues 71/03, 131/04, 73/05), RMC;

Current versions of the texts of the legislation are available: <http://zakonodaja.gov.si> (Slovenian)

k) eGovernment - Online Services for Citizens

Portal

The eGovernment portal e-Uprava was launched in March 2001, re-launched in December 2003 and modernised in May 2006. The enhanced portal supports G2C, G2B and G2G interactions and offers various services to citizens, legal persons and public employees. The portal provides access to the Electronic Administrative Affairs application (EAA or Elektronske upravne zadeve - EUZ), which supports full electronic handling of administrative forms registered in a centrally maintained registry of procedures.

Civil Status Website

<http://e-uprava.gov.si>, <http://euz.gov.si/>, <http://upravneenote.gov.si/>

Civil Status Certificates

Every administrative office has its own web site. Birth or marriage certificates can be requested and obtained online through the Electronic Administrative Affairs application (EAA or Elektronske upravne zadeve - EUZ), which is accessible through the e-Uprava portal and supports full electronic handling of administrative forms registered in a centrally maintained registry of procedures. The application can be used by all residents equipped with qualified digital certificates valid in Slovenia.

2. Republic of Slovenia - Birth

a) Birth

All births are reported within 15 days to the registrar at the administrative office of the area in which the child was born (24 hours for a stillborn child). Delayed registration is an administrative offence with a prescribed fine of around € 200,00 for individuals and up to € 5000,00 for a legal person. Children born in a hospital or other healthcare institution must be declared by that institution. If the child is born outside a hospital or health-care institution, the parents or the medical personnel who assisted in the delivery must declare the child. Also any person who learns of the birth of a child is obliged to declare it if the parents or the medical personnel fail to do so. Identification documents need to be presented. The healthcare organisation registers the birth in writing; in other cases, the birth is registered by means of a doctor's or midwife's certificate, or by a verbal statement given by the person who first learned of the child's birth. When a Slovenian citizen child is born abroad, he or she must be entered in the register of births in Slovenia on the basis of an extract from the register of births of the competent authority of that country. Births are entered in the register of births. The registrar has to register the birth within 30 day starting from the declaration. Foreigners (resident or non-resident) are obliged to register a child if the child is born in Slovenia. The procedure is the same as in cases of Slovenian nationals, however the registrar gathers less data as in cases of Slovenian nationals, however the registrar gathers less data as in cases of Slovenian nationals. Foreign consulates are usually informed. A birth occurring on a vessel sailing under Slovenian flag or on an aircraft is registered based on the record of the ship's or aircraft captain. A foundling is registered based on the decision of the Social Work

Centre. The birth certificate of a found child is drawn up at the place of the discovery and indicates this place as the place of birth. Stillbirths are registered with the civil registration system. A child medically recorded alive at birth but who has died before registration is entered into the register and together with that the fact of death is also entered into the register. A birth and a death certificate are issued.

b) Birth Record

The birth record indicates characteristics about:

- child's name, sex, day, month and year of birth, place of birth;
- personal identification number;
- nationality;
- name of the hospital where the child was born;
- legitimacy, born alive or stillborn, multiple or singleton and birth order;
- the parents' socio-economic status;
- name, age, address, place of birth, occupation of the parents;
- marriage date of the parents.

The birth record also contains information on later events which modify the civil status of the person.

c) Recognition

Slovenian legislation does not envisage maternal recognition, but there is a possibility of a maternal recognition where the mother must prove the fact that she is the child's mother.

The registrar at the administrative office is entitled to receive the declaration of paternal recognition on production of some form of identification like passport or identity card. The mother is informed by the registrar and must acknowledge the recognition in order for it to become valid. If the mother refuses to acknowledge the declaration, the father has a right to file complaint in court within one year after the mother rejected his recognition of the child. Recognition can be cancelled through a court's decision. The child or the person who believes that he is the biological father of the child can file a complaint.

The recognition is free of charge and may affect the nationality of the child. In some cases after recognition the child might obtain Slovenian citizenship.

3. Republic of Slovenia - Marriage

a) Marriage

Only civil marriage has legal effect. Slovenia currently recognizes same-sex civil unions as of 23 July 2006.

b) Personal Requirements

Obstacles to marriage are regulated by Article 17-24 of Marriage and Family Law (MFL). According to this obstacles to a valid marriage are

- being under age (in Slovenia 18-year-olds become of age);

- the partners have not consented to marriage voluntarily (e.g. because they are for some reason mistaken or threatened);
- being severely mentally disabled or for other reasons unable to judge;
- the prior existence of another marriage;
- a guardianship prevents the marriage of guardian and ward;
- direct relationship between the parties being parent and child, siblings or half-siblings, an uncle and a niece, an aunt and a nephew, and also between children of siblings or half-siblings unless such relation has been created by adoption, except between adopter and adoptee.

The relevant Department of Social Security (Social Work Centre) may allow the marriage between children of siblings or half-siblings, between guardian and ward and between persons who are under age (Art. 23 MFL). In case of an under age marriage, parental consent is required as well. There is no legal age limit and no rule limiting marriage based on nationality or residence. Also a minimum residence requirement does not exist.

c) Preliminary Procedure

Both spouses have to file the application for marriage at their local administrative office, one spouse may be represented by proxy. The registrar then checks whether all conditions for a valid marriage are met according to the official register or the certificates of the parties involved (Art. 25 MFL). The conditions for a valid marriage have to meet the conditions of law in the native country of the person concerned (Art. 34). The form of marriage is regulated according to the law of the state in which the people marry (Art. 35).

A minimum of 14 days is required between application and marriage. Exceptions are possible when the future spouses present all the necessary documents together with the application.

If an application is rejected by the registry office official of the administrative unit, the applicant may appeal on the Ministry of Labour, Family and Social Affairs.

d) Documents

A Slovenian citizen only needs to show one document (an identity card, a passport or a driving license). No other documents are necessary. The registrar will obtain all other information.

A foreigner has to show the following documents:

- a birth certificate, not older than six months;
- a proof of nationality (identity card or passport);
- a confirmation that there are no obstacles to marriage according to the native country of the person willing to marry;
- for people from countries that allow more than one marriage: a confirmation that the person concerned is not married.

A certificate of no impediment will be accepted. The administrative authorities do not have to report the marriage to foreign authorities.

e) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in Slovenia.

If a Slovenian citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Slovenian certificate of no impediment. This certificate is not issued in civil status registration offices in Slovenia.

f) Marriage Ceremony

According to the law, the marriage ceremony has to be confirmed publicly and formally in the intended official rooms. In Slovenia marriages do not take place in the registries. Two witnesses must be present. If one or both partners do not speak or understand the required language (Slovenian, Italian, or Hungarian in certain areas) an interpreter must be present. Deaf or mute persons have a right to a free interpretation; foreigners must pay for the cost of translation.

The head of the administrative authorities can allow a marriage ceremony outside the official rooms in case the couple concerned applies and has important reasons that make the presence of the engaged couple impossible in the official rooms (Art. 28 MFL). Until lately, exceptions have been made only for ill or imprisoned persons. As more and more engaged couples wish to marry at other places: in famous buildings (e.g. the theatre, in castles), in inns, outside (near a water fall, in the mountains, on ships etc.), some of these marriages were allowed in the last years. In 2004, the minister of employment, family and social security has issued a directive that allows the administrative authorities to grant marriage outside the official rooms for other reasons. There are differences between the administrative authorities regarding this issue. Small registries with only one or two marriages each Saturday are able to marry couples outside their official rooms. In the area of Maribor's administrative authority there are about 500 marriages each year. Since last year there exist three official rooms for marriages: the town hall in the centre of Maribor, a hall in a building in a small community near Maribor and a hall in a very beautiful castle in the community of Race. A fourth location is hardly imaginable. Of course there are also exceptions in Maribor. There were marriages in the theatre. Since 2003 "marriages in the snow" have been organized at the bottom of Pohorje in the ice-skating stadium, where the slalom world cup takes place.

In the ethnically mixed area set out by law, marriage may be contracted only in the Italian or Hungarian language provided consent is given by both fiancés. Otherwise, marriage is contracted in both languages. It is also important to underline that the right to bilingualism or the use of one's own mother tongue is reserved exclusively to members of the Italian national community residing in the ethnically mixed area as defined. According to information by the City Municipality of Koper, there are very few marriages contracted exclusively in the Italian language or bilingually.

The administrative authorities can allow marriage by proxy (Art. 30 MFL). In that case however, only one of the couple can be represented by another person. The representative has to show a document proving power of attorney. This document has to show details about the person the represented person wants to marry. Marriage has to be performed three month after power of attorney has been given.

In Slovenia the registrar is not responsible for the marriage ceremony. He has to be present during the ceremony, but the head of the administrative authority is responsible, though he can delegate this responsibility to other people. Often these are famous people like a mayor.

g) Contents of the Declaration of Marriage

The record on the marriage certificate indicates:

- marriage date;
- place of marriage;
- surnames before marriage;

- surnames after marriage;
- level of education;
- home address;
- date of birth;
- place of birth;
- country of birth;
- nationality;
- marital status;
- date of divorce;
- number of previous marriages.

h) Cost

Application: € 3,55

Ceremony: € 28,36

Payments are accepted in cash or by credit card. The fee for the application is not refundable but the fee for the ceremony is.

i) Marriage abroad

In case a Slovenian citizen marries abroad by formal act and in accordance with the regulations of that country and providing this person also meets all conditions of Slovenian marriage law, the marriage will be recognized in Slovenia. Religious marriages will be recognized in Slovenia providing that in the country where the marriage occurred, such marriage is also legally recognized. The person concerned needs to show the relevant passage from the marriage record. In such a case it is not necessary to provide documents about the foreign spouse.

j) Divorce/Separation/Annulment

The Law on marriage and family relations of the Republic of Slovenia contains no legal term “legal separation”. If the marriage is annulled, it ceases to have effect from the day of the annulment. The application for divorce/ marriage annulment must be lodged to the district courts. Divorce is granted by the court upon application by one spouse or both claiming that the marriage has become unbearable (for whatever reasons) and a consultative discussion of the spouses carried out by the centre for social work.

4. Republic of Slovenia - Name

a) Name

Every person has to have first name and surname (Art. 2 Act of Names OJ n° 16/74, n° 28/81, n° 38/86 and n° 5/91). Contrary to most European countries the term “family name” is not used as the name does not have to reflect affiliation to a family. In Slovenia it is possible that the members of a family, mother, father and children have different names.

There are hardly any legal restrictions to the choice of names but the authority must prevent selection of names contrary to the child's welfare, e.g. vulgar names. The freedom of name selection is limited only by reasons of public morality, public safety and rights of other individuals. The first

name does not have to match the sex of the person. Invented names are allowed. There are legal restrictions concerning the length of names as it is not allowed for names to have only one letter, and the first name and last name must not consist of more than two words, each. In case the first name and surname consist of more than two words (four words in total) there has to be a statement as to which two words are to be used as first name and which two as surnames in legal documents (in official/legal use).

b) Name of the child

The complete name (first and surname) of a child is given by both parents (Art. 4) and must provide the name within 30 days after the birth of the child. They can decide on the surname of the child whether or not they are married. Accordingly the child can have a surname different from the parents' surnames. According to Art. 4, paragraph 2, the child will have the surnames of both parents or of one parent in case the parents do not decide differently. The Department of Social Security helps parents decide on the surname of a child in case the parents cannot agree or in case the parents are not known (Art.4 p. 3, Art. 6, p. 1). In cases where parents cannot decide on a child's name, a court decides the name. If both parents are dead or unable to act legally as parents, the guardian of the child will decide on the surname of the child in accordance with the Department of Social Security (Art.4 p. 5). The persons responsible for the naming have one month after the birth of the child to inform the registrar of the name. The child's trustee together with the Social Work Centre is responsible for choosing the name of a found or orphan child. Pen names, nicknames, nobility titles and academic titles are not registered.

Because stillborn are always registered, their first name may be registered, too.

c) Surname after marriage

Before the celebration of marriage, the partners can decide whether one spouse takes the name of the other spouse, whether they both keep their names or whether they both keep their names and add the name of the spouse or whether only one of them adds the name of the partner to their own name Art. 8). All combinations are possible and legal as long as they have a surname composed with a maximum of two words. A hyphen is not obligatory. If a Slovenian citizen who lives permanently abroad marries legally in that country and somebody of that country, he is allowed to choose a last name according to the laws of that country (Art. 8, p. 3).

d) Name Change

The change of a name (the first name, the surname or the whole name) is possible. By law every Slovenian citizen is entitled to change their name (Art.9, p.1). The applicants do not have to give reasons for the change of name. There are also no restrictions concerning the number of times a person may change his or her name. Only a person who has been legally convicted is not allowed to change his or her name until the penalty is executed or until there are no more legal consequences of the judgement (Art. 10). Applications are made to the administrative authorities of the place of residence (Art. 11). The authority will issue a document about the change of name and the change takes effect once the document is valid. If a Slovenian citizen, who is also citizen of another country, changes his or her name abroad according to foreign law, the change is not accepted by Slovenian authorities (Art 10, p 1 IPR Law). They have to apply in Slovenia for a change of name.

If family circumstances change, it is possible to change names by means of a declaration or an application to the administrative authorities. The name can be changed by means of a declaration in case of establishment of paternity, in case a child is adopted and also at marriage. If paternity is established for a child under age both parents decide on the name of the child. The declaration is

made by the parents on the documents of paternity. In case the child is older than ten years, it has to agree to a change of name (Art. 5).

The terms “legitimate” and “illegitimate” are not used in Slovenian law. Children are born inside or outside marriage. For the child there is no change of legal status by means of marriage. In the event of marriage the name of a child is not changed automatically, but only if the parents apply for it. A child born outside marriage can nevertheless carry the name of the father from the beginning, if the mother decides so. At an adoption the adoptive parents can change the surname of the adoptive child. If the child is not yet four they are also allowed to change the first name. Between the age of four and nine the child’s name cannot be changed. When the child reaches nine years of age his consent is obligatory for changing the name (Art. 7).

If parents are separated, the change of the child’s name can be applied for by the parent with whom the child lives or who has been given custody provided that the other parent agrees. Otherwise - if the parents do not agree - the Department of Social Security decides. The decision of the Department of Social Security has to be added to the application. It is not necessary that the other parent agrees in case their address is unknown or in case they are capable or in case they do not have parents’ rights (Art. 9, p.2). Since the selection or alteration of the surname is practically free, the widow/widower can either retain the marriage surname or return to the birth name. Upon divorce, former spouses can retain the marriage surname or file an application within six months to return to the birth or pre-marital surname.

Upon name change a new birth certificate is issued, but the former name is kept in the register. The original certificate is only replaced with the new one.

e) Minorities

The personal name of a member of the Italian or Hungarian national minority shall be entered in the Italian or Hungarian script and form, except if the member of the minority determines differently.

f) Cost

The fee for a name change is € 46,09.

SK – Slovakia

1. Civil Status Registration System

The civil status registration system in the Slovak Republic is event based.

The official language in Slovakia is Slovak. All civil status acts are performed in Slovak. Slovak uses a modification of the Latin alphabet. The modifications include four diacriticals placed above certain letters, the acute, the caron, the circumflex and the diaeresis. Slovak also has digraphs and unique letters. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-2.

Slovakia has a population of 5.400.998 (December 2007). As for administrative division, Slovakia is subdivided into 8 regions (in Slovak singular “*kraj*”, usually translated as regions, but actually meaning rather county). The regions are subdivided into 79 districts (in Slovak singular “*okres*”). The capital Bratislava is being divided into 5 districts and the city of Košice into 4 districts. A municipality (in Slovak “*obec*”) is part of a district. There are 2 928 municipalities in the state.

a) Registry Offices and Staff

Entries or changes in records in the Register (of Births, Deaths and Marriages) based on decisions of authorities or courts of another country shall be executed by Registry Office with the approval of District Office only.

The 974 Registry Offices operate under the municipal offices (it is expected that the number of the registry offices will decrease in near future to 197). Mayors of the municipalities appoint registrars and their vice-registrars to keep the register of births, deaths and marriages. If necessary due to the amount of work, the mayor appoints the chief registrar and the necessary number of registrars. Currently Slovakia has about 1250 registrars. Only Slovak citizens of legal age (18 years old), with good character can be appointed. In general, the registrars need to have a high school degree, pass specialized exam organised by the respective district office (in Slovak 'obvodny urad') in accordance with the Registers Act, and participate on further professional education to enhance his/her qualification. The Ministry of Interior of the Slovak Republic determines the level of necessary additional education to be taken by the registrars e.g. the registrars in Bratislava had 4 further trainings during the year 2007. The salary of civil status registrars is determined according to the tables stipulated by Act No. 553/2003 Coll. on remuneration of some employees performing work in public interest, as amended. Majority of civil status registrars are included in the eight salary class with minimum SKK 10,260 (€ 325,46) gross salary (excluding bonuses). The registrars receive a monthly salary. In comparison, civil status registrars are paid as other administrative clerks in the state/municipality administration or as teachers.

All offices are equipped with computer technology, however, the registration system is only partially computerized; part of records are still made in paper form, especially for back-up purposes.

The Ministry of Interior of the Slovak Republic and district offices perform control over civil status registry offices and directs the exercise of inspections performed by District Offices.

District Offices perform inspections of the keeping of Registers (of Births, Deaths and Marriages) within their district of jurisdiction at least once a year in connection with the Collection of Documents and may impose corrective measures if insufficiencies are discovered.

b) The Slovak Association of Registrars

The Slovak Association of Registrars (in Slovak: "Združenie matrikárok a matrikárov Slovenskej republiky") is working to facilitate the development of a professional qualification and provide training for those working in the Registration Service. Furthermore it promotes the recognition of professional-status of those working within the Registration Service, disseminates information and advice, provides a consultative body, actively seeks development opportunities, promotes opportunities for the exchange of views, responds to government consultations and organises seminars and conferences. The Slovak Association of Registrars is a member of the European Association of Registrars (EVS).

c) Special Register

National civil status acts are registered into the register of that office, in whose sphere of influence the case occurred. Acts occurring on the area, a ship or an airplane outside of the Slovak Republic, in a diplomatic agency of the Slovak Republic, or a place, which is not subject to force of a central state are registered on the basis of a notice of a Slovak citizen to the representation authority abroad or directly to the civil registry office into a special register kept by the Ministry of Interior of the Slovak Republic.

d) Civil Status Records

A Register of Births and a Register of Deaths is kept for every municipality; a Register of Marriages is kept as a sole register for the whole country. Registry Offices keep Collection of Documents. The latter includes documents serving entries, additional entries, additional records or amendments thereof in the Register (of Births, Deaths and Marriages). A collection of documents is established at the Registry Office for the current calendar year; the collection of documents is handed over to the district office (in Slovak: “*obvodný úrad*”) at latest by 28 February of the subsequent year. After 100 years period from the last entry recorded with the Register of Births, Register of Deaths and Register of Marriages, these Registers are handed over to the state archives.

e) Correction, Amendment and Cancellation of Civil Records

If the data concerning birth, entering into marriage, death and other civil status data pursuant to the Registers Act, stated in the register, the act or an official extract (“*uradny vypis*”), are in conflict with reality, the competent Registry Office shall execute correction based on the public deed, and shall issue a new act/official extract. The incorrect act/extract is cancelled. The corrections are made *ex officio* or upon the request of the affected person.

It is upon the request of the affected person and submission of relevant public deeds, that the registry office will update or revise the data in the register. In addition, courts, other state authorities, bodies of churches and physicians/doctors have a duty to send to the competent registry office notices on decisions, agreements, declarations or other facts, which affect the civil status, name or surname of a person and are the basis for entries into civil status registers, their modification or cancellation.

f) Access and Documents

The Registry Offices issue official extracts (birth, marriage and death certificates), confirmations and literal extracts. Official statements represent the state of affairs at the time of the execution. Confirmations are issued on the basis of special legislation as well as for the assertion of claims abroad. Literal extracts contain the original record with all later annotations. Copies of records in Registers (of Births, Deaths and Marriages) deposited at state regional archives are executed by the Registry Office in the district of the headquarters of the respective archives. The Registry Office shall issue an official extract or allow consulting the register and making extracts, to:

- a person to whom the entry in the register relates or to a member of his/her family (i.e., spouse, parents, children, grandchildren, sibs/siblings and their children, and also another close person that proves lawful interest);
- a person that takes care of a child based on a court decision under special laws (e.g., guardian, curator, adoptive parent);
- custodian instituted by a court;
- for official use by state authorities, municipalities and other institutions, if stipulated by a special law;
- for statistical purposes.

Government offices have full access to the data in the register. Private institutions have no access. In some cases, on-line transmission of data is possible.

Applications for documents can be made in person, by postal mail, in some cases by proxy through any third party and through Slovak consular offices abroad. An application by fax is possible provided that the applicant is authorised person and the administrative fee was paid.

Presentation of ID card or other documents is required. If the official extract is delivered via post, it must be sent by registered mail for personal delivery to the recipient. An official extract which shall be used in a foreign country, must be verified by the competent district office.

g) Cost, Payment, Time

The costs for access to the records are SKK 50 (€ 1,59) for each volume of register. Documents when issued to the persons under the jurisdiction of the issuing registry office, are free of charge. The administration fee for issuing duplicates (official extracts) deposited in the collection of deeds of the registry office (e.g., marriage certificate) is SKK 50. All costs must be paid by duty stamps. The duty stamps can be obtained at post offices, newspaper stands or at the Registry Offices.

If application for a document is made in person, the certificate is issued immediately. If application is made by mail or by fax it takes approximately one week. If application is made from abroad the document is issued within 30 - 90 days.

h) Legalisation/Translation

The Registry Office does not accept documents, which are not duly certified or bear the Apostille. The costs for an Apostille for civil status certificates is SKK 200 (€ 6,34), or SKK 500 (EURO15,86) for Apostille granted by the consular offices of the Slovak. Slovakia has treaties for mutual recognition of foreign documents without such requirements with Austria, Hungary, Croatia, Switzerland, Bosnia and Herzegovina, Slovenia, Italy, Belgium, Spain, France, Cyprus, Greece, Romania, Bulgaria, Poland, Czech Republic, Yemen, Macedonia and Mongolia.

Copies of documents are permitted, but such copies must be legalized or made of the original documents bearing the certification or apostille. All documents in a foreign language must be officially translated into Slovak made by a sworn translator, listed in the "List of sworn translators and interpreters" maintained by a court and affixed with the seal of the translator (except for documents issued in the Czech Republic).

In Slovakia the competent authorities for the issuance of Apostilles are:

1. The Ministry of Justice of the Slovak Republic ("Ministerstvo spravodlivosti Slovenskej republiky") and all Regional Courts ("Krajský súd") for public documents issued or certified by courts, notaries, huissiers de justice or other judicial officers; and translations executed by official (court appointed) translators;
2. The Ministry of Interior of the Slovak Republic („Ministerstvo vnútra Slovenskej republiky”) for public documents emanating from authorities within its jurisdiction with the exception of civil status certificates;
3. The Ministry of Education of the Slovak Republic („Ministerstvo školstva Slovenskej republiky”) for public documents emanating from authorities within its jurisdiction;
4. The Ministry of Health of the Slovak Republic („Ministerstvo zdravotníctva Slovenskej republiky”) for public documents emanating from authorities within its jurisdiction with the exception of documents issued by health facilities established by the Office of Regional Administration;
5. The Ministry of Defence of the Slovak Republic („Ministerstvo obrany Slovenskej republiky”) for public documents emanating from authorities within its jurisdiction;
6. The District Office (obvodný úrad) for extracts from registers of births, deaths and marriages (matrika), except for decisions concerning civil status; and documents issued by autonomous local authorities;

7. The Ministry of Foreign Affairs of the Slovak Republic („Ministerstvo zahraničných vecí Slovenskej republiky”) for any other public document issued in the Slovak Republic not specified above.

The applicant may ask for an Apostille in person or by registered letter. An Apostille is placed on side of the document where the verified signature or seal is situated. If this is not possible, an “allonge” is attached to these documents through the medium of tricolor, a small round seal and signature of employee who issues an Apostille. In a case of a set of public documents an Apostille will be placed on the page where verified signatures and seals are situated, usually on the last page of the public document. An Apostille issued is drawn up in Slovak language and translated into the English. The system used is mechanic. A request for an Apostille made in personam will be handled while one waits and a request for an Apostille made by a written form will be handled within 10 days.

The fee for the Apostille certification issued is SKK 200, or SKK 500 for Apostille granted by the consular offices of the Slovak.

i) Foreign Relations

Some Slovakian civil status registrars transmit information about civil status acts and changes of citizens of other EU Member States (and of nationals who were born in another EU Member State) that occur in the country directly to the authorities of that EU Member State which has concluded relevant bilateral agreements with the Slovak Republic regarding exchange of data registered with the registry offices. These countries are Italy, Cyprus, Greece, Romania, Belgium, France, Slovenia, Bulgaria, Hungary, Poland, Austria and Spain. . Some Slovakian civil status registrars receive information about civil status acts and changes of their own citizens from the aforementioned EU Member States. From some other non-EU countries, e.g. Croatia, Slovakia receives sometimes information about civil status acts and changes of their own citizens.

j) Consular Services

The Ministry of Foreign Affairs does its work through a global network of 67 embassies and consulates. The registration of civil status events is not compulsory. However, it is very often required with regard to other administrative acts. For example: if a Slovak woman gives birth to a child, she is not strictly required to register the birth in Slovakia but if she wants a Slovak passport for her baby, she must register the birth and herewith apply for the Slovak citizenship. Only then she may apply for a Slovak passport. A third-country national married to a Slovak citizen wants to apply for a residence permit for unification purposes. One of the documents required is a marriage certificate issued by the Special Registrar Office, i.e. the marriage must be officially registered in Slovakia first.

Slovak consular officials do not draw up acts and do not hold registers of births, marriages and deaths. They however perform certain functions regarding civil status and make notice of events which have occurred in their district and concerning Slovak nationals domiciled or remaining abroad. They are also authorized to conduct marriages. Consular officials offer assistance to obtain civil status certificates (birth, marriage and death) for Slovak citizens and citizens from other countries from civil status registries in Slovenia.

k) Law

Act No. 154/1994 Coll. on Civil Status Registers, as amended; Act No. 300/1993 Coll. on Name and Surname, as amended, Act No. 36/2005 Coll. on Family, as amended; Act No. 40/1993 Coll. on nationality, as amended; Act No. 145/1995 Coll. on Administrative Fees, as amended; Act No.

99/1963 Coll. on Civil Proceedings, as amended, and several Decrees executing certain provisions of the above mentioned acts.

Current versions of the texts of the legislation are available: <http://jaspi.justice.gov.sk> (Slovak)

l) eGovernment - Online Service for Citizens

Portal

The “portal.gov.sk” portal provides up-to-date information on public services offered by the state administration, self-governing regions and relevant independent organisations. In its present format, the site presents services around real-life situations and offers users the possibility to locate local public authorities that may be of use to them. The portal is an interim solution. A new central public administration portal, currently at the design stage (expected to be operating by the end of 2008), will offer more transactional e-services.

Website

<http://portal.gov.sk/>

Some Registry Offices in Slovakia have their own internet section on web sites of respective municipalities.

Civil Status Certificates

Currently only general information about civil status certificates is available.

2. Birth

In Slovakia, live births and stillbirths are registered in the Register of Births.

Competent to make records of birth is the Registry Office within the district of which the person in question was born. If the place of birth of a person cannot be ascertained, records are made by the Registry Office within the district of which the person born was found. The birth of a Slovak national abroad (e.g., persons who were born on a vessel or vehicle) is made into the Special Register administered by the Ministry of Interior of the Slovak Republic. The notification of the birth shall be made to the representation office of the Slovak Republic abroad, or to the registry office, where the Slovak national has his/her permanent residence, or had his/her last permanent residence, or to any other registry office in the territory of the Slovak Republic, if he/she had no residence in Slovakia. Documents proving the birth must be submitted when making the notification.

The liability to notify the Registry Office of births is with the physician who acted upon delivery or who provided medical care after the delivery; otherwise the liability is with one of the parents. The person who is liable to notify, must give notice within three business days of the day of the delivery. The mother can notify at a later point, as soon as she is able to make such a notification. The consequence for delayed registration of birth is a penalty of up to SKK 1000,00 (€ 31,72). If notification of the birth of a child is made orally, the person notifying must provide evidence for his or her identity and a marriage certificate if the latter is applicable. A medical certificate must always be presented.

Stillbirths are not recorded in the Register of Deaths. A child medically recorded alive at birth but dying before registration will be registered in the register of births, and subsequently in the register of deaths.

The birth of a found child is registered by the registry office, in the territory of which the child was found. The time, place and circumstances how the child was found, are recorded, as well the name and surname of the child determined by a competent court.

a) Birth Record

The birth record indicates characteristics about:

- child's name and surname, sex, place and date of birth;
- child's birth registration number, which is issued at birth by the Registry Office and recorded on the birth certificate. As this system does not provide a unique identifier (the numbers are repeated every century) it may be replaced by a different identifier in the near future;;
- birth order in case of multiple birth;
- multiple or singleton; live or stillbirth;
- name, surname, maiden name, date and place of birth, birth registration No., nationality of parents;
- agreement of parents on surname or court's decision, in case they have different surnames and are not spouses;
- date of record.

No fees are payable for registration of births and stillbirths.

b) Notifications

Notice of birth is given by the Registry Offices automatically to:

- the registry of inhabitants / registry of residence
- the foreign police (birth of a child with foreign citizenship or in case the mother is a foreign citizen)
- foreign consulates provided that the bilateral agreement with the respective state stipulates so (through their representative offices in Slovakia or the Ministry of Foreign Affairs of the Slovak Republic)
- the Statistical Office of the Slovak Republic
- the respective municipality.

In case there is no father recognized, the competent court is informed. In case 3 or more children are born at once, the Ministry of Work, Social Affairs and Family of the Slovak Republic is informed due to social benefits.

c) Recognition

The mother is the woman who has given birth. In case there are doubts on maternity it shall be established by the court.

If the child is born after the marriage is entered into and within 300 days of the breakdown of marriage, the mother's husband is presumed to be the father. When child is born to a woman that enters into her second marriage, however, and the period of 300 days has not expired from the breakdown of the previous marriage, the present husband is presumed to be the father of the child.

Otherwise, paternity is established on the basis of a statement by both parents before the registry office, by court ruling or on the basis of the decision of the respective court recognizing a foreign court decision relating to the paternity of a Slovak child. If the declaration is received by a court, it must inform the competent registry office thereof. Joint consensual declaration on paternity made by the parents is entered in the birth record and notified to the relevant birth register upon presentation of present ID card, passport or birth certificate by the father. A recognition of paternity can be revoked or cancelled by a relevant court decision on the basis of a petition filed by father, mother or their child (via selected custodian) within specified time periods stipulated by law. A paternal recognition may be challenged by civil proceedings petition filed by a child. Hypothetically, the extraordinary appellate review is possible, filed by the Attorney General of the Slovak Republic, provided that all statutory requirements were fulfilled.

The husband can deny his paternity before the court no later than 3 years after learning his wife gave birth to a child. (In several special cases also wife may deny the paternity.) Where paternity is not determined as above, and the mother does not move to establish paternity within the specified time, the court appoints a guardian to make such submission and represent the child. The court shall name a man the father of the child, if it is proven to the court that the man had sexual intercourse with the birth mother at a period falling between 180 and 300 days before the child's birth, unless his paternity is excluded on serious grounds. Blood tests are used as the basic scientific tool. DNA testing is possible, but not yet standard practice.

If the paternal recognition is made by declaration to the registry office, no fees are payable. If the paternity shall be determined by a court on the basis of a petition submitted by one of the parents, the court fee is SKK 2,000 (€ 63,44). If the child of less than 18 years of age submits the petition for determination of paternity to the court, he/she is acquitted from payment of the court fee.

3. Marriage

a) Marriage

The religious marriage has the same effects as civil marriage. There is no legal recognition for same-sex partnerships.

b) Personal Requirements/Impediments to marriage

Pursuant to section 11 of the Family Act (No. 36/2005 Coll., Family Act, as amended), “A minor may not enter into marriage. In exceptional cases, if it is in compliance with the social purpose of the wedlock, the court may allow a minor who has attained the age of 16 to enter into marriage.” The judicial practice views the pregnancy of the intending spouse as a material reason. Paragraph 2 of the same section stipulates that “no court shall render the marriage void and the marriage shall become legal if the husband or wife who entered into the marriage as a minor of 16 years of age or more, has attained the age of 18 or the wife has become pregnant”. Other impediments to marriage are:

- the existence of another marriage;
- a descending family relationship between siblings, including a family relationship established by adoption;
- a mental disorder resulting in the restriction of legal capacity;
- a declaration on the conclusion of marriage that was not made freely, seriously, distinctly and was not plainly expressed;
- a declaration on the conclusion of marriage that was made before a registry office which had no power to receive it or before incompetent mayor or member of municipal parliament or

which was made before a church authority or a religious community not registered in accordance with a specific provision, or if the declaration on the conclusion of marriage was made before a person not authorised to pursue the activities of a clergyman of a registered church or a religious community;

- a declaration on the conclusion of marriage which was made abroad before an authority not designed to do so or was made by a proxy without a valid authorisation.

c) Preliminary Procedure

The fiancés, prior to getting married, must file an application at the Registry Office or the religious authority; in justified cases, this may be done by just one of them. The personal appearance is not necessary. Where wedding before a church authority is concerned, Registry Office will certify the application for the competent church authority. The church authority at which marriage was performed is liable to mail the protocol of marriage to the competent Registry Office within three business days of the wedding.

Neither publication of banns nor a waiting period between application and marriage is envisaged. However, pursuant to the internal guideline No. 219191-2005/0100102 issued by the Ministry of Interior of the Slovak Republic; the registry offices shall inform the respective foreign police at least 14 days prior to the entering into marriage of a foreigner.

The case that an application for marriage is rejected is not regulated by law and general rules of administrative proceedings, are not applicable to the registry offices proceedings. The district offices and the Ministry of Interior of the Slovak Republic are supervisory authorities to the registry offices.

d) Documents

Before marriage, nationals of the Slovak Republic must present to the Registry Office competent for to the place of marriage the following documents:

- Certificates of Birth,
- Certificates of Citizenship,
- evidence of residency,
- Certificate of Death of the deceased spouse and/or Certificate of Marriage of the terminated marriage where a widower or a widow is concerned, or final decree of divorce where a divorced person is concerned, or final judgement on nullity of marriage,
- a document providing evidence for the birth number
- Persons of minor age and persons with limited legal capacity shall present a court judgement conferring the capacity to marry.

Certificate of Citizenship, evidence of residency and document providing evidence for the birth number may be substituted by an ID card. Nationals of the Slovak Republic with permanent residence in a foreign country have to present the documents issued by the competent authority of the respective foreign country.

A foreigner is always required to submit the following additional documents: certificate of capacity to marry, document providing evidence of residency, document providing evidence of civil status, document which serves to prove identity.

Certificates of capacity to marry in a foreign country are no more issued by any authority in the Slovak Republic.

In case life of one of fiancées is directly threatened, it is possible to substitute the documents by an affidavit of both fiancées that they are not aware of any impediments to their marriage. The respective registry office or the respective religious authority may waive the requirement to present documents, which can not be obtained without excessive obstacles. The period after which the required documents are no longer accepted as valid is six months.

e) Certificate of no impediment

Foreigners must produce a certificate of no impediment of the country of origin if they intend to marry in Slovakia. However, for foreigners from countries that do not issue such certificate, a confirmation issued by the competent authority of the respective country stating that that country does not issue any certificate of no impediment shall be sufficient.

Pursuant to the amendment to Act No. 154/1994 Coll. on Civil Status Registries, as amended, effective as of 1 February 2006, the Slovak Civil Status Registries do not issue certificates of no impediment. The registry offices only issue a confirmation that under Slovak law, the Slovak Republic does not issue any certificate of no impediment. The registry office competent to issue such confirmation is the one competent according to the applicant's permanent residence. It is free of charge and valid for unlimited time period.

f) Marriage Ceremony

In principle, the marriage takes place at the registry office; in case of a religious marriage, in a church or another suitable place according to the regulations of the particular church. If life of one of the partners is in danger, then the ceremony may take place anywhere. For a fee, the registry office may approve that the ceremony will take place in a place other than the registry office upon the request of fiancés.

Marriage is conducted by a mayor or a member of municipal parliament (both in the presence of a registrar) in case of civil marriage, or priest (his deputy) in case of religious marriage. At least two witnesses must be present.

Under Slovak law, state authorities must perform their functions in state language, i.e., in Slovak. The civil status registers are also maintained in Slovak language. Therefore, the marriage ceremony must also be held in Slovak. If a foreigner enters into marriage in Slovakia, the registry offices accept the presence of a sworn Slovak interpreter, and the ceremony is then held in Slovak and interpreted into the respective foreign language. In case of deaf persons, the ceremony must be interpreted by a spokesman for the deaf. He is appointed by the fiancées, who bear the costs.

At least one of them must be present; the other may be represented by a proxy under the statutory conditions. The Registry Office will authorise the marriage through a proxy on the basis of a joint written and reasoned application of the fiancés. A written power for the proxy, with notarized signature of the fiancé must be provided. Only a person of the same gender as the fiancé being represented can act as the proxy.

The written power shall include

- name and surname, maiden name, date and place of birth, domicile of the fiancé and the proxy,
- representation concerning the surname of the fiancés and their joint children, in both male and female form,
- representation of the fiancé that he/she is not aware of any restraints to enter into the marriage and that the fiancé knows the health state of her/his partner.

The marriage taking place on a vessel sailing under Slovak colours is registered in the Special Register, on the basis of a notification made at the Slovak representation office or at the respective registry office in the Slovak Republic, supported by the relevant document issued by the foreign authority confirming the marriage.

g) Contents of the Declaration of Marriage

The marriage record indicates:

- identification of the respective registry office which issued the certificate;
- day, month, years and place of marriage;
- day, month, year and place of birth of the couple;
- names, surnames, and birth names, if applicable, of the couple and their personal numbers;
- names, surnames, and birth names, if applicable, of the couple's parents;
- level of education;
- home address;
- agreement of parents on their surname and the surname of their children;
- date of issuance of such certificate, signature respective registrar and the seal of the registry office.

h) Cost

There is no cost for notice. The costs for ceremony depend on the type of ceremony – civil or religious ceremony. The costs are paid by stamp duties. The costs for registration of marriage vary depending on situation (respective registry office, persons entering into marriage, etc.):

- Permit to enter into marriage before other than the respective registry office between Slovak citizens – SKK 500 (€ 15,86);
- Entering into marriage before other than the respective registry office between Slovak citizens – SKK 500;
- Permit to enter into marriage out of office hours – SKK 500;
- Permit to enter into marriage outside the officially determined room – SKK 2000 (€ 63,44);
- Permit to enter into marriage before other than the respective registry office between a Slovak citizen and a foreigner or in case that both of them are foreigners – SKK 1000 (€ 31,72);
- Entering into marriage between a Slovak citizen and a foreigner SKK 2000;
- Entering into marriage between foreigners SKK 5000 (€ 158,60);
- Entering into marriage provided that none of the engaged couple does not have a permanent residence in Slovakia SKK 6000 (€ 190,33).

i) Divorce/Separation/Annulment

In the Slovak Republic, a marriage can be dissolved only by a court. Slovak law does not provide for legal separation. Petitions for divorce, marriage annulment or declaration to the effect that the marriage has never come into existence are filed at a district court in whose area of jurisdiction the spouses had their latest common residence in the Slovak Republic, if at least one of them resides in

the area of jurisdiction of the court. If no such court exists, the general court of the respondent has jurisdiction, or if no such court exists either, the general court of the petitioner.

4. Name

The issue of giving names and surnames is regulated by Act No. 300/1993 Coll. on Name and Surname, as amended. The name must be registered in Latin alphabet. Characters and diacritical signs to Latin letters which are not in use in the Slovakian language are recorded. A foreign first name may be registered; when being registered, the parents must provide assistance to the registrar with the correct spelling of the name. A foreign national may have a surname, which is in accordance with law or traditions of his/her country.

A person whose name is registered in the Registry Office in a language other than the Slovak language and who is subsequently issued with an excerpt from the Registry Office with the Slovak equivalent of the said name, may request an excerpt from the Registry Office stipulating the name in its original form.

If none of the parents is known, the court shall determine the name of a child based upon the petition of the municipality, which maintains the civil status register, in which the birth is to be recorded. Neither pen names, nicknames, nobility titles nor names for a stillbirth are registered. Academic titles are registered.

a) First Name

A child is given a first name by agreement of the parents, at the most, however, three first names including foreign names. In case that such an agreement was not made, the name of the person is determined by judicial decision. If one of the parents is not known, the name of the person is determined by the other parent alone.

The only other restrictions are that, the first name should show the gender of the child, should not be contrary to good morals or customs, defamatory or impersonal, the name of another sibling or the woman's name should not be given to a man and vice-versa. However, these restrictions do not affect names given in accordance with foreign traditions.

b) Surname

A person born on the territory of the Slovak Republic may have more than one surname, including foreign names; at the most, however, three surnames. After divorce or coming of age the person concerned can decide to continue one surname. A child is given the surname of the parents even if they are not married. If the parents have different surnames, the child is given the surname of the father or the mother or a compound surname upon their agreement. All children bear the same surname. In case the father is not known, the child is given surname of the mother at the time child is born. Also, the child is given the mother's surname at the time child is born, unless the paternity is determined.

Upon contraction of marriage, both spouses may retain their pre-marital surnames, may choose one of the partner's surnames as a joint surname or choose one's original surname together with the joint surname. A hyphen is not envisaged in Slovak legislation. If the prospective spouses decide that the surname of one of them will become their joint surname and the other will keep his/her original surname as the second surname, if the latter one has already a compound surname, he/she must decide, which of his/her original surnames he/she will keep.

A spouse who, on marrying, had taken the surname of the other spouse may notify the registry office within three months after the divorce that he/she is re-assuming his/her former surname. Following a judicial decision on marriage annulment, the declaration made by the spouses

concerning their common surname ceases to be valid and each spouse has to re-assume his/her former surname.

The adoptive parents have the right to change the surname of the adopted child by their common declaration, or they can determine to the child additional name, within six months following the decision on adoption. If the child is above 15 years old, his/her consent is required. If the adoption is cancelled (possible in exceptional circumstances), the adopted child will have again its previous surname.

Female surnames in Slovak language must be used with the corresponding ending according to the Slovak grammar. The female surname of a person other than Slovak nationality is written without the grammatical ending of Slovak declination, upon request of the parents or adoptive parents of a female child, of a woman upon registration of marriage or in connection with the registration of a decision to change the surname on other grounds.

c) Name-Change

In the Slovak Republic it is allowed to change both the first name and the surname. The entitled authority for registration and declaration is the (district) registry office. In absence of a residence, the appropriate authority is the municipal office of Bratislava I. A limit of name changes is not envisaged. For the change of name/surname of a minor over 15 years of age, his/her consent is required with his/her signature notarized. The procedure is available to Slovak nationals, to resident foreigners, and non-resident nationals.

The authorisation of the change of a first name is not required in the following cases:

- a foreign name is changed to its Slovak equivalent and vice versa;
- change of the name of a child after an adoption;
- name change in case of change of sex.

Authorisation for the change of surname is not required in the following cases:

- change of surname of a person in a married couple who do not have common surname, to a surname of his/her spouse; their children get their common surname even if they were not included in the application;
- at divorce;
- after reaching a lawful age, the change consisting in using only one of several surnames;
- registration of a surname of a woman not Slovak national without the Slovak declination;
- adjustment of the surname in accordance with Slovak grammar rules;
- change of surname of a child after an adoption;
- change of sex;
- change of surname of a minor whose parents entered into marriage after the child was born, to a surname used by their other children;
- change of surname of a minor child, whose father is unknown, to a surname determined for other children of the child's mother and her husband.

If the authorisation is not required, the change is registered in the civil status register upon a written declaration of the person, whose name/surname shall be changed, or his/her legal representative. In the event that the change is based on the change of sex, a medical report must be submitted together with the declaration. For the change of name/surname of a minor over 15 years of age, his/her

consent is required with his/her signature notarized. The civil registry office shall issue confirmation on the change of name/surname.

The change of name/surname should be authorised mainly if the name/surname is defamatory or if there are reasons of special consideration. If an authorisation for the change of name is required, it is the competent district office that shall grant the authorisation upon an application made by the respective person, accompanied with the documents (originals or certified copies) stipulated by law.

d) Cost

The cost for a name change depends on the situation and varies between SKK 100 (€ 3,17) and SKK 5,000 (€ 158,60).

UK_EW – England and Wales

1. Civil Status Registration System

Civil status registration in England and Wales is event based.

Where responsibility for civil registration has been devolved in Scotland and Northern Ireland, in Wales it still remains with the United Kingdom Government. Consequently, in Wales, as in England, the United Kingdom Government, and not the National Assembly for Wales has responsibility for civil registration under the Registration Acts. However, if any Regulatory Reform Order applies to Wales then there is a requirement to consult the National Assembly for Wales regarding this.

Currently the responsibility for the provision and administration of the registration service in England and Wales is divided between the Registrar General, local authorities and registration officers (Sections 1-4 of the Registration Service Act 1953, RSA 1953). There are over 7000 people working in the registration service.

The United Kingdom does not have a constitutionally defined official language. English is the main language and is thus the de facto official language. All civil status acts are performed in English.

In Wales, the Welsh Language Act 1993 requires English and Welsh to be treated equally throughout the public sector. All civil status acts are performed in English and/or Welsh.

The modern English alphabet consists of the 26 letters of the Latin alphabet. Diacritic marks are never used in the modern spellings of native English words, but may appear in foreign and loan-words. The apostrophe, while not considered part of the English alphabet, is used to abbreviate English words. In computing, several different coding standards have existed for this alphabet, ISO 8859-1 being one of them. Welsh is written in a version of the Latin alphabet traditionally consisting of 28 letters, of which eight are digraphs treated as single letters for collation. Welsh make use of a number of diacritics.

The General Register Offices for England and Wales, Northern Ireland and Scotland (GROs) are independent of each other, governed by separate legislation and accountable to different parts of the Government within the United Kingdom. Nonetheless, the GROs have a common purpose, many similar processes and within each jurisdiction, the local registration service is administered in partnership between the Registrars General (RG), the GRO and local government.

a) Registrar General and the General Register Office

Her Majesty the Queen appoints a Registrar General for England and Wales who exercises the powers and performs the duties conferred on the Registrar General by the statute. Since 01.04.2008 the General Register Office has become part of the Identity and Passport Service (IPS). IPS is an

Executive Agency of the Home Office and is responsible for handling passport applications from UK nationals.

The Registrar General and his officials are responsible for administering the Registration Acts, for England and Wales, including those relating to marriage. This includes advising registration officers, local authorities, and members of the public and others on the interpretation of the relevant Acts and regulations, and ensuring their consistent application. The Registrar General has responsibilities to appoint the local registration staff. Additionally, some of the Registrar General's officials have delegated authority to carry out statutory functions such as the issue of a licence for marriage or the granting of a reduction during the 15 clear days waiting period for marriage. The Registrar General and the General Register Office are funded by Central Government although some of the costs are offset by the income generated from the issue of certificates. Any place where records are held in the custody of the Registrar General is deemed to be part of the General Register Office. The General Register Office is situated in Southport, Merseyside and in London at the Family Records Centre.

b) Local Authorities

The provisions of the RSA 1953 apply to the following classes of local authority: County Councils, Unitary Authorities, Metropolitan Districts, London Boroughs, the Corporation of London and the Isles of Scilly. The RSA 1953 does not apply to other boroughs or to parishes. Local authority is divided into registration districts and sub-districts. There are 172 registration authorities divided into 349 districts. The RSA 1953 requires each local authority to appoint a "Proper Officer". Formally, the Proper Officer is responsible for the fixing of hours of attendance of registration officers, distributing business between them, and transferring superintendent registrars between districts. It is possible to confer powers on the Proper Officer for the supervision and administration of the registration service within the local authority. Each registration district shall have at least one Superintendent Registrar and each sub-district shall have at least one Registrar of births and deaths who may also be appointed to register marriages. Each Principal Officer (a superintendent registrar, or registrar of births and deaths) can appoint a deputy approved by the Registrar General, although the term "deputy"; is also used for officers that are not required to be appointed. The local authority must provide and maintain for each superintendent registrar a register office according to a plan approved by the Registrar General. The office does not necessarily have to be in the district that it serves. However, the Registrars of births and deaths are required to have an office in the sub-district that they represent.

Registrars

Registrars are appointed and paid by the local authority subject to the Registrar General's approval. Only the Registrar General has the power to dismiss the registrars. There are regulations that prohibit certain people, e.g. a person under going bankruptcy proceeding is prohibited from holding office of the registration officer. Superintendent registrars, registrars of births and deaths and registrars of marriages may each appoint one or more persons to act as their deputy in the case of illness or any unavoidable absence. A superintendent registrar or registrar of births and deaths has to send information about births, still-births, and deaths to the Registrar General if and when so requested. Registration officers have to submit their registration records for inspection by any person authorised by the Registrar General.

Quite recently registration officers and their deputies were independent statutory office holders with no employer. Civilly, they were held responsible for their own acts or omissions. Local authorities appointed, accommodated and paid registration officers, but they had not any power to dismiss them as they were not considered to be their employer. On 01.12.2007 all Registrars and Superintendent Registrars in England and Wales became employees of the local authorities

providing the registration service. This momentous change came about as a result of the Statistics and Registration Service Act 2007 following many decades of campaigning by the The Society of Registration Officers, which is a trade union representing officers of the vital registration service in England and Wales, and UNISON, the Public Service Union. The Society's future is under review and it is likely that it will be dissolved in 2008 and will be reborn again as a professional association with no trade union role, similar to the Association of Registrars of Scotland the represents the registration officers of Scotland.

There are about 1,750 full- and part-time registrars in England and Wales. Promotion in England and Wales is from assistant registrar to deputy registrar, then to registrar and superintendent. There are many opportunities to expand the basic duties of a registrar. Some, who like celebratory duties, learn how to officiate at naming ceremonies, civil funerals, renewals of vows ceremonies and citizenship celebrations. Others, who may prefer administrative work, may be specially trained to help people fill in nationality application forms for instance. In some rural places, registrars will work in small part-time offices where they will spend most of their time on basic registration duties and work alone. In others, registrars work in large city offices and become highly specialised in a particular area of work. There are both full and part-time opportunities but majority of posts require flexible working hours including some weekend and "on call" work. They may conduct or attend marriages in a wide variety of locations including hotels, castles, football clubs, hospitals and prisons. A driving licence and car are often required for this purpose. The starting full-time salary for registrars is around £15,000 to £16,000. A superintendent registrar can expect to earn around £17,000 to £25,000.

Those with extensive experience and responsibility may earn up to £40,000 a year for senior posts. There are no standardised minimum entry requirements for registrars in England and Wales, but most employers require a good level of education upto at least GCSE level including English and maths (and Welsh in Wales). Candidates are expected to demonstrate experience of dealing with a wide range of people. Computer literacy is essential. Assistant registrars must be at least 18 years and registrars over 21 years of age. There is no upper age limit for starting in this work and mature candidates may also be welcomed. Some people, including doctors, midwives, ministers of religion, funeral directors and anyone working in the life assurance industry, are not allowed to become registrars. Training is usually given on the job and includes detailed training in the registration law. A variety of methods may be used including distance learning.

c) The Association of Registration and Celebratory Services (ARCS)

The Association of Registration and Celebratory Services is working to facilitate the development of a professional qualification and to provide training for those working in the Registration Service. The ARCS has been working closely with the UK's largest awarding body offering academic and vocational qualifications to reach an agreement about the way forward, since the Registrar General's Cert of Competence in Registration Law and Practice' Exam finished in 2003. An agreement has been reached that the new qualification will be a BTEC National, delivered by ARCS. BTEC Nationals are designed to provide specialist work-related evidence-based qualifications in a range of sectors. The BTEC will provide opportunities for registration service employees to achieve a Level 3 qualification, which will be nationally recognised, but vocationally specific. For the registration service six units have been agreed, and it is envisaged to make them all mandatory. The headings for the core units are: Local Government and Registration Services; Births & Stillbirths; Deaths; Marriage & Civil Partnership; Citizenship; Discretionary Ceremonies & Services. Throughout all the units candidates will have the opportunity to apply aspects of IT in their work and will submit evidence to demonstrate how they meet customer care requirements. Furthermore ARCS promotes the recognition of professional-status of those working within the Registration Service, disseminate information and advice, provide a consultative body, actively seek

development opportunities, promote opportunities for the exchange of views, respond to government consultations, organise seminars and conferences and have an established member to the member forum on the website <http://www.arcs.uk.com>

d) Compliance and Inspection

The Registrar General has powers to intervene where a local authority is not meeting the minimum standards required by the legislation. These powers are very limited and are rarely used. The Registrar General is responsible for any disciplinary issues that arise from a statutory officer's performance. Books or records must be given up if required to a successor, to a superintendent registrar, or to the Registrar General. The Registrar General has appointed an Inspectorate to monitor and report on the performance of registration officers. In recent years, the emphasis has shifted from the conducting of checks and preparation of reports on individual officers to "service wide reviews"; that cover more strategic aspects of the service delivered by a local authority. The checks include finance and audit checks as well as all the service and compliance aspects that the post holder is responsible for. Local authorities have welcomed the change of emphasis and valued receiving an independent assessment. The Inspectorate does not undertake any work in relation to direct activities of the General Register Office.

e) Registers

The registers are covered by the Registration Acts: Births & Deaths Registration Act 1953 (BDRA 1953), Marriage Act 1949 (MA 1949) and Registration Service Act 1953 (RSA 1953)). The Registration Acts set out requirements for the safe-keeping of registers, depositing filled registers and the production and submission of certified quarterly copies. The MA 1949 also sets out the requirements relating to marriage notice books. The Registration Acts lay specific responsibility on the Registrar General, registration officers, holders of marriage registers and local authorities in relation to the keeping and maintenance of registers and records. The Registration Acts consolidated the provisions of the previous Acts dating back as far as 1837.

Registration Records

The actual form of the registrations is prescribed in regulations (Registration of Births and Deaths Regulations 1987 and Registration of Marriages Regulations 1986). The registers held locally are the legal records of the registration.

In January, April, July and October every registrar must make a copy of any entry created in their register in the previous quarter and send it to their superintendent registrar. Having checked the copies and any supporting documents for accuracy, the superintendent registrar forwards the copies and any documents to the Registrar General. The copied entries are collated, indexed alphabetically by quarter and microfilmed for certificate production.

As a result of these provisions, several copies of registration records are available. For births, deaths and marriages there are:

- the original paper registers (of births, stillbirths, deaths and marriages) kept by the superintendent registrar of the district where the events were registered;
- the quarterly certified copies (all events) and the adoption records held centrally by the General Register Office;
- electronic versions of births and deaths (since 1993) and limited information on marriages (since 1994) held by the General Register Office;

- one of the duplicate marriage registers held by the clergy, authorised persons, registering officers of the Society of Friends or secretaries of Synagogues. In some instances, marriage registers held by the Church of England have been deposited in diocesan record offices (usually local record offices) under the Parochial Registers and Records Measure 1978.

For civil partnerships, introduced on 5 December 2005, a civil partnership certificate can be obtained either locally from the registration authority covering the area where the partnership was registered, or centrally from the General Register Office.

When someone applies for a historic certificate locally the original paper registers have to be used to produce that document. Certificates of recent births and deaths are produced locally using the Registration Service Software. The quarterly certified copies held by the General Register Office have been filmed and it is the microfilm that is used to produce certificates. However, when there is a discrepancy or the film is unclear, the quarterly certified copies or the original local records are checked.

Marriage notice books are kept by the Superintendent Registrar of the area where the notices were given, along with the rest of their records. There are currently no legislative requirements about how these notice books should be kept. Indeed, in some instances, marriage notice books may have been destroyed. The information contained in an entry in a marriage notice book is, in the main, replicated in an entry of marriage. The additional information recorded in an entry in a marriage notice book could include details of who gave the notice, the district, county and the nationality of the parties to be married depending on when the notice was given. As not all notices of marriage result in a marriage, there is information in marriage notice books that is not recorded elsewhere.

The General Register Office maintains a record of adoptions made on the authority of courts in England and Wales in the Adopted Children Register. Adopted person(s) and birth relatives wishing to make contact with each other can register on the Adoption Contact Register. Overseas adoptions may, in some instances, be registered in the Adopted Children Register.

f) Overseas Records

The General Register Office also maintains "overseas records". This section includes various miscellaneous records on civil status events of British army personnel and other British citizen in the colonies, the Empire and abroad since 1627. Since 1949 overseas records include army records, birth, marriages and deaths registered by British consular officers abroad, and births and deaths on vessels, air-planes and oil and gas rigs.

In most countries, British citizens may – and are encouraged to – register births and deaths with the British consulate or with the consular department in London after their return. If registered, it is possible to obtain certificates about these events from the General Register Office in the future.

Foreign marriages and civil partnerships may not be registered, but it is possible to have a copy of the marriage or civil partnership certificate archived at the General Register Office.

g) Access

Indexes of records since 1837 may be researched and are available in various archives and libraries in the form of books or on microfiche or CD ROM. Using these indexes, sorted by registration office, year, and number, any person may order a copy of a certificate, for a fee.

The Adopted Children Register is not open to public inspection or search. At 18, an adopted person can apply for a certificate of their original birth registration at the General Register Office. Applicants are advised to see an adoption advisor before obtaining the required documents.

The General Register Office is currently in the process of digitising all records back to 1837 which will make research and access easier. This is also part of an effort to give out IDs to all British citizens and residents of the U.K.

h) Updating and correcting records

The BDRA 1953 allows for births, and in some instances still-births, to be re-registered to include the father's details if the parents are not married, if the parents subsequently marry or if the courts issue a declaration of parentage. Another type of re-registration is the adoption certificates. Re-registration creates a new entry that supersedes the original one. Re-registrations require the authorisation of the Registrar General. However, certain categories can be authorised locally without reference to the Registrar General where the responsibility has been delegated to the registration officers. More complex re-registrations (for example, those involving court orders) are dealt with centrally.

Applying for corrections of fact or substance can be a lengthy process. Even for the correction of minor errors, it is required to present evidence. After correction, the registration officers send a certified copy of the entry as corrected to the Registrar General. Even then, for corrections or changes after the completion of the certificate (the registrar has signed the entry) the certificate will not be fully changed. Rather, the entry will contain the full original information plus the corrected information. Any certificates that are subsequently produced will also show both the original information and the corrections (other than those made before the record is completed).

i) Complaints Procedure

A person can complain about any aspect of the service provided at Southport and any aspect of the service provided in London at the Family Records Centre. Complaints may be filed by telephone, letter, fax or email to the General Register Office. Complaints about the Family Records Centre (FRC) in London can also be made in person to the supervisor.

j) Sanctions and Penalties

The BDRA 1953 creates various kinds of offences for any person. The penalty for each offence is a fine or imprisonment. Section 38 gives power to the superintendent registrar to prosecute anyone for an offence under the Act committed within his district.

k) Certificates

Short and full certificates are issued. A short certificate shows the surname, forenames, date of birth, sex, place of birth (where known) and country or district of birth. A full certificate shows surname, forenames, date of birth, sex, place of birth (where known), parent(s) name(s), their address and occupation at time of registration. Full certificates are required for most legal purposes.

l) Apply

There are different ways to apply for certificates:

- Online from the GRO
- In person at the Family Records Centre or the local registration service
- By telephone
- By post
- By fax

The indexes to the Adopted Children Register are only available at the Family Records Centre in London.

m) Cost

Local registration service Fee

- Certificate of birth, death and marriage issued by a registrar: £3.50 (€ 5,15)
- Certificate of birth, death and marriage issued from a register deposited with a superintendent registrar: £7.00 (€ 10,32)
- First short certificate issued at registration of birth: free of charge
- First short certificate issued at registration of stillbirth: free of charge
- Short birth certificate issued by registrar: £3.50
- Short birth certificate issued from a register deposited with the superintendent registrar: £5.50
- Certificate of birth, death and marriage issued by a registrar for the purposes of certain Acts: £3.50
- Certificate of birth, death and marriage issued by any other person having care of the register, for the purposes of certain Acts: £7.00
- General Search of indexes held by superintendent registrar: £18.00 (€ 26,53)
- Baptismal certificate: £1.00 (€ 1,47)
- Entry in the marriage Notice book: £30.00 (€ 44,21)
- Registrar attending a marriage at a register office: £34.00 (€ 50,11)
- Registrar to attend a marriage outside a register office: £40.00 (€ 58,95)
- Superintendent registrar to attend outside his office to attest a notice of marriage or for a marriage ceremony at the residence of a housebound or detained person: £40.00
- Giving notice in advance of registering a civil partnership: £30.00
- Registering a civil partnership at a register office: £40.00
- Certification of a building as a place of worship: £28.00 (€ 41,26)
- Registration of a building for marriages: £120.00 (€ 176,85)
- Paid to the Clergy etc. for quarterly copies of entries in their marriage registers: £2.00 (€ 2,95)

Registrar General's Fees

- Stillbirth certificate: £7.00
- Licence for marriage: £15.00 (€ 22,11)
- Full certificate of birth, marriage, death or adoption by post / phone / fax: £11.50
- Full certificate of birth, marriage, death or adoption online: £10.00
- Full certificate of birth, marriage, death or adoption by post / phone / fax: £8.50

- Full certificate of birth, marriage, death or adoption ordered online: £7.00
- Short certificate of birth by post / phone / fax: £11.50
- Short certificate of birth (with GRO reference supplied) by post / phone / fax: £8.50
- Short certificate of adoption by post / phone / fax: £10.00
- Short certificate of adoption ordered online: £8.50
- Short certificate of adoption (with GRO reference supplied) by post / phone / fax / online: £7.00

Extra copies of the same certificate can be issued at the same time for a fee of:

- Full certificate of birth, marriage, death or adoption: £7.00
- Short certificate of birth: £7.00
- Short certificate of adoption: £5.50

Priority Service

- Full certificate of birth, marriage, death or adoption by post / phone / fax: £27.50
- Full certificate of birth, marriage, death or adoption ordered online: £26.00
- Full certificate of birth, marriage, death or adoption (with GRO index supplied) by post / phone / fax: £24.50
- Full certificate of birth, marriage, death or adoption (with GRO index supplied) ordered online: £23.00

Postal / Phone / Fax fees

- Short certificate of birth by post / phone / fax: £27.50
- Short certificate of birth (with GRO index supplied) by post / phone / fax: £24.50
- Short certificate of adoption by post / phone / fax: £26.00
- Short certificate of adoption ordered online: £24.50
- Short certificate of adoption (with GRO reference supplied) by post / phone / fax / online: £23.00

Family Records Centre (FRC) Fee (applications in person only)

- Full certificate of birth, marriage, death or adoption: £7.00
- Short certificate of birth: £7.00
- Short certificate of adoption: £5.50

Priority Service (24 hour service excluding weekends and Bank Holidays):

- Full certificate of birth, marriage, death or adoption: £23.00
- Short certificate of birth: £23.00
- Short (abbreviated) certificate of adoption: £21.50

Abandoned Children Register certificate Fee

- £5.50 within 28 days of entry being made
- £5.50 personal applications at the FRC
- £10.00 applications by post / phone / fax after 28 days

The Thomas Coram Register (also known as the Foundling Hospital Register)

- £5.50 per certificate

For applications made at either the FRC or online where the General Register Office index reference is supplied, an administrative charge of £3.00 (£19.00 if priority service selected) will be retained if the GRO index reference quoted is incorrect or the details and checking points quoted do not correspond to the entry. In both these cases, a certificate will not be produced.

The administrative charge for orders made by post, phone or fax is £4.50 (£20.50 if priority service is selected).

It is possible to pay for the certificates online. If ordering by post, phone or fax, cheques and postal orders are accepted. Payment from abroad should be by international money order, cheque or draft (payable in London) and should always be expressed in sterling. Payment can also be made by Visa, MasterCard, Solo, Delta or Switch. If applying at the Family Records Centre (FRC) or at the local registration Service payment by cash is accepted.

n) Legalisation/Translation

The registry office may require documents coming from foreign countries intended for use in the United Kingdom to be legalized or bear the Apostille. For documents from Cyprus, Malta, Ireland and the jurisdictions of the U.K., common law tradition does not require legalisation of documents. The United Kingdom is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. In addition, the U.K. has a bilateral treaty with Belgium abolishing legalisation.

The registrar has discretion to accept the documents without legalisation as evidence for the facts stated therein.

Documents in a foreign language must be translated into English by a sworn translator if the registrar is not able to understand the content.

In the UK, the department responsible for issuing Apostilles is the Foreign and Commonwealth Office (FCO) acting through the Legalisation Office in London.

The Apostille is in the form of an allonge securely glued to the document. The embossed seal of the Secretary of State is affixed in such away that its impression is apparent both on the Apostille and the document itself. The Apostille is affixed on (or on the reverse of) the page bearing the signature, seal or stamp which is being authenticated. The Apostille is issued in English and French. The information on the Apostille is completed electronically; the Apostille itself is affixed manually.

The Legalisation Office offers a same day service to applicants for Apostilles attending in person at its public counter. Postal applications can take up to three weeks for processing and additional delays can occur if they are particularly busy but an attempt is made to deal with postal applications within ten working days. Applications for Apostilles made by DX (Documentary Exchange) are generally dealt with by the close of business on the working day following their receipt by the Legalisation Office.

The current fee is £27 (€ 34,07) per document. Applications can be made by post or in person. No appointment is necessary. The applicant does not need to bring identification documents and anyone can present the documents on his/her behalf.

o) Foreign relations

The United Kingdom neither transmits information about civil status acts and changes of British citizens born in another EU Member State or of citizens of other EU Member States occurring in the U.K. directly to the authorities of that EU Member State nor receives information about civil status acts and changes of British citizens (or of citizens whose birth was registered in the U.K.) directly from the authorities of that EU Member State.

p) Consular Services

The Foreign & Commonwealth Office does its work through a global network of 261 embassies, high commissions and other diplomatic posts. British consular officials assume only limited duties to those of local registrars in respect of civil status matters and offer assistance to obtain civil status certificates for British citizens. They are not authorized to perform marriages. If British citizens live abroad or spend long periods of time overseas they may at some point need to register a birth or death with the British embassy or consular services of the FCO in London after their return. If registered, it is possible to obtain certificates about these events from the General Register Office in the future.

The consular services cannot register births which have occurred in the Republic of Ireland or any other part of the commonwealth. They also cannot register a birth if the parents were born overseas and are only British by descent. Nor can the consular services register the birth of a non-British child who has been adopted by British parents. To register a birth, a consulate or with the consular department in London the applicant will need to provide: the child's overseas birth certificate; mother's full British birth certificate (or Home office naturalisation or registration certificate if born outside of the UK); father's full British birth certificate (or Home office naturalisation or registration certificate if born outside of the UK); the parent's marriage certificate and a British Passport. The consular service requires presentation of the original documents and two legible photocopies of each. They can accept a certified copy of the applicant's passport but the bio-data page will need to be certified by a UK Solicitor or a notary public registered with the Law Society. If the applicant is a British man and his child's mother is foreign he can only apply for a Consular birth registration if the child was born on or after 1 July 2006. If the applicant is an unmarried woman who has had a child abroad and she would like the father's details recorded on the certificate, she will need to swear Statutory Paternity Declarations. The FCO does not accept personal callers at the London office and the applicant must post the documents to the FCO by mail. A stamped addressed special or recorded delivery envelope must be included so the FCO for the return of the documents and the applicant should receive the Consular certificate within 4 to 6 weeks. British citizens will be able to obtain certified copies of the certificate from the General Registry Office from the March of the year after registration. If the applicant need a copy before that time, he/she should submit a request to the FCO which will be forwarded to the relevant British embassy. The cost of registration, whether in London or at the Consulate abroad is £92.00 and the first and each additional copy of the certificate are provided at a cost of £59.00, each. The applicant can pay by postal order or banker's draft.

British citizens can register the death with the nearest consulate or the FCO Consular services department in London. Consular death registration is not a legal requirement but there are some benefits: an entry will be made in the death register by the British Consulate in the country concerned; the applicant will be provided with a British style death certificate and a record of the death will be held by the General Register Office in the UK. The applicant need to register the death

with the foreign civil authorities and obtain a full foreign death certificate before he/she can apply for consular death registration. The consular death certificate will not include a cause of death as many foreign death certificates do not include this detail. If the applicant is resident overseas he/she can apply for a consular death certificate from the nearest embassy or consulate. The consular services cannot register deaths which have occurred in the Republic of Ireland (or elsewhere in the commonwealth). If the applicant is resident in the UK he/she can apply for the registration through the Foreign & Commonwealth Office. All applications are dealt with by post because the FCO does not accept personal callers and it takes approximately 4-6 weeks for the applicant receive the consular death certificate. The current fee is £151 and it will cost the applicant £59 for each additional copy of the certificate obtained from the consular service. After March of the year following the registration, copies can be obtained from the General Register Office.

Foreign marriages and civil partnerships may not be registered, but it is possible to have a copy of the marriage or civil partnership certificate archived at the General Register Office. To deposit the respective documents the applicant must have been married in a foreign country, but not a commonwealth country and one of the spouses must be British. Depositing the marriage documents is not a legal requirement and there is no time limitation. After depositing the applicant can obtain certified copies of the documents without having to apply to the authorities in the country where he/she married and the marriage documents will become an official record in Britain.

Application is made through the nearest British embassy or consulate or at the FCO in London. After certifying the certificate, the consulate will then forward it onto the General Register Office (GRO). The GRO will write to inform the applicant that the documents have been deposited. The fee for this service is £34.

q) Law

Common Law and the Rules of Equity apply accordingly to the entire United Kingdom; Civil Partnership Act of 2004; Gender Recognition Act of 2004; British Nationality Act of 1981.

England, Wales

Domicile and Matrimonial Proceedings Act of 1973; Foreign Marriage Act of 1892; Foreign Marriage Order of 1970; Legitimacy Act of 1976; Marriage Act of 1949; Matrimonial Causes Act of 1973; Marriage with Foreigners Act of 1906; Children Act of 1989; Adoptions Act of 1976; Family Law Act of 1986; Family Law Reform Act of 1987; Matrimonial and Family Proceedings Act 1984; Human Fertilisation and Embryology Act of 1990; Birth and Death Registrations Act of 1953; Registration Service Act of 1953; Welsh Language Act of 1993; Freedom of Information Act of 2000; Data Protection Act of 1998; Parochial Registers and Records Measure of 1978; Adoption and Children Act of 2002; Adoption Act of 1999; Marriage Ceremony Act of 1996; Adoption and Children Act 2002.

Applicable Law

Courts in the United Kingdom having jurisdiction will apply the law of the forum (English and Welsh or Scottish law or the law of Northern Ireland) in almost every matter, especially with respect to parentage, child custody and parental responsibility, naming, or divorce proceedings. In proceedings for a decree of nullity, the laws of place of celebration or law of party's domicile will apply depending on the ground of nullity. Unless Council Regulation (EC) No 2001/2003 applies, a foreign divorce will be recognised if one of the parties was habitually resident, domiciled, or a national of that country at the time of the foreign proceedings.

Jurisdiction is based on Council Regulation (EC) No 2001/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the

matters of parental responsibility, repealing Regulation (EC) No 1347/2000, and on Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, both of which are also applied as far as cross-border situations between England and Wales and Scotland are concerned.

In terms of domestic law, the courts will have jurisdiction in family matters if one of the following requirements is satisfied: the spouses are habitually resident or domiciled in England and Wales, Scotland or Northern Ireland, respectively, the spouses were habitually resident in that country of the U.K. and one of them is still resident there now, the respondent is habitually resident, or the applicant was resident in the country for at least one year before the date of the application (or six months if the applicant is a national of a Member State). If none of the above is satisfied and no other Member State has jurisdiction, domestic law confers jurisdiction on the courts if at least one of the parties was domiciled in the country at the time of the commencement of the proceedings.

r) eGovernment

Online Services for Citizens

Portal

Launched in March 2004, <http://Direct.gov.uk> is the UK Government's citizen portal. It provides citizens with a single entry-point to online public services. In addition, the Scottish government maintains a website under <http://www.scotland.gov.uk>, the Executive of Northern Ireland maintains a website under <http://www.northernireland.gov.uk/> and the Welsh Assembly Government maintains a site under <http://new.wales.gov.uk>.

There is an effort to make as many county services available on-line as possible. In England, more than 600 different services are currently available on-line.

eIdentification infrastructure

The most generic central UK identification platform is the Government Gateway, which, launched in February 2001, is a central registration and authentication engine enabling secure authenticated e-government transactions to take place over the Internet. Users need to register with the Gateway in order to enrol for using online government services and subsequently transact securely with the government departments. The Government has laid down plans for the phased introduction of e-ID cards in the UK which is under way resulting in the availability of the eID-cards to the wider public by 2012.

Civil Status Website

England and Wales: <http://www.gro.gov.uk>

(Northern Ireland: <http://www.groni.gov.uk>, Scotland: <http://www.gro-scotland.gov.uk>)

Civil Status Certificates

The General Register Office (GRO) now offers the facility to order certificates online, which can be used to place orders using the GRO index reference and for certificates dating from 1900 up to 18 months before the request date where the exact details are known. The service is available in England and Wales only. The General Register Office (Northern Ireland) also has an online request facility, while for Scotland only the General Register Office provides information.

2. Birth

The law requires that the birth of every child born in England and Wales is registered by the registrar of births and deaths for the area in which the birth took place within 42 days.

a) Birth Registration

The legal responsibility for registering a birth falls primarily on the mother and, where he is married to the child's mother, the father. Other people qualified to act as informants include the occupier of the house or institution where the birth occurred (usually a hospital administrator), a person present at the birth or the person in charge of the child. Normally, an informant to the birth (usually a parent of the child) gives the information required to the registrar for the area where the birth took place. Alternatively, an informant can make a signed statement containing the details of the birth before any other registrar. This statement is then sent to the registrar of the area where the birth took place who records the information in the register.

In order to ensure that every birth is registered, avoidance of a birth being registered more than once and guard against fraudulent registrations, a registrar of births and deaths makes checks against birth lists produced by their local health authority under the National Health Service Act 1977.

The registrar completes a draft of the particulars that will form part of the birth record. Virtually all drafts are now completed electronically using Registration Service Software provided and maintained by the Registrar General. A small minority of drafts are completed using a paper draft entry form. The informant checks the draft, normally on screen, before the information is recorded by hand in the birth register. The draft also contains additional information for statistical purposes, both compulsory and voluntary, which is extracted later for processing. The entry in the register is signed by the informant and then signed and dated by the registrar. The entry is deemed to have been completed when signed by the registrar. Once the registration has been completed, a shortened form of certificate is issued free of charge to the informant. A full certificate containing all the information in the entry may be purchased on payment of a statutory fee. The registrar makes a copy of the entry in the register for checking by the superintendent registrar. Having been checked they are sent quarterly to the Registrar General for compilation of the central records.

If a birth is not registered within six weeks, the registrar has the legal power to write to a person qualified to register the birth reminding them of their legal obligation to register the birth and require them to provide the necessary information. In practice, liaison between the registrar and the hospital will often identify any case where there is likely to be a problem, such as where the mother is too ill to attend. In order for a birth to be registered more than three months after it takes place, the informant must first make a declaration of the details to be recorded in the birth register in the presence of a superintendent registrar. The declaration is passed to the registrar who enters the details in the register and the superintendent registrar must witness the registration. If the birth is to be registered more than twelve months after the date of birth, the authority of the Registrar General for the registration is required.

b) Documents and Information

The informer does not need to present any documents upon registration of the birth of a child.

However, the following information is usually necessary to properly register the birth of a child:

- date and place of birth; if the birth is one of twins, triplets etc, the time of each child's birth will also be needed
- sex of the child
- the forename(s) and surname in which it is intended that the child will be brought up

- mother's forename(s) and surname
- mother's surname at birth if the mother is, or has been, married, or has otherwise changed her name
- mother's date and place of birth
- mother's occupation at the time of the child's birth or, if not employed at that time, the last occupation
- mother's usual address at the date of the birth
- mother's date of marriage, if married to the child's father at the time of the birth
- mother's number of previous children by the present husband and by any former husband
- father's forename(s) and surname, (if his details are to be entered in the register)
- father's date and place of birth, (if his details are to be entered in the register)
- father's occupation at the time of the child's birth or, if not employed at that time, the last occupation, (if his details are to be entered in the register)

c) Births abroad

To register a birth which has occurred abroad with the British consulate or the consular office in London, the parents need to provide:

- child's civil foreign birth certificate
- mother's full British birth certificate (or naturalisation or registration certificate if born outside of the UK)
- father's full British birth certificate (or naturalisation or registration certificate if born outside of the UK)
- parent's marriage certificate
- British Passport

d) Still-births

A still-birth may be registered by giving information to the registrar of the area where it took place or by making a declaration before any other registrar who will forward it together with the other necessary documents to the registrar for the area where the still-birth occurred for recording in a still-birth register. Evidence of the still-birth, usually in the form of a medical certificate, must be produced before it can be registered. Once a still birth has been registered, the registrar issues a certificate for use by the burial or cremation authority. The registrar can issue a death certificate to the mother or to the father if his details appear on the registration and to siblings if the parents are deceased.

e) Registration of births and still-births In Welsh

Under the provisions of the Registration of Births and Deaths (Welsh Language) Regulations 1987 (SI 1987/ 2089) extended by the Welsh Language Act 1993 a birth and a still-birth that takes place in Wales may be registered in both Welsh and English provided the information is given to a registrar in Wales and the registrar is able to speak and understand the Welsh language. Bilingual registers and certificate forms are provided to Welsh registrars by the Registrar General for this purpose.

f) Birth Certificate

The information currently recorded in the birth or stillbirth register is:

- Registration district/sub-district and administrative area.
- Child – Date and place of birth/stillbirth (time if multiple live birth).
- Child – Name and surname in which the informant intends to raise the child (in case of stillbirth where given).
- Child – Sex.
- Child – Cause of death and nature of evidence that child was still-born.
- Father – Name and surname at date of child's birth/stillbirth (also previous names and aliases); Place of birth; Occupation.
- Mother – Name and surname at date of child's birth/stillbirth (also previous names and aliases); Place of birth; Occupation; Maiden surname (surname used at time of first marriage); Surname at date of last marriage if married more than once; Usual address.
Informant – Name and surname (if not mother or father); Qualification; Usual address.
- Date of registration, signature of registering officer and informant.

g) Changes

In principle a birth certificate cannot be changed and is not supplemented by later inscriptions or annotations. A birth certificate can be changed only in the following circumstances:

It is possible to have the child's new first names added to the birth register, provided the new first names were given either in baptism or by regular use within 12 months of the birth being registered. The new first names may be added to the birth record after 12 months, but it is necessary to provide documentary evidence that the new first names were in use within 12 months of registration. Upon re-registration, a new birth certificate can be purchased. A new full birth certificate will show both the original and the new first names.

Following a decision by the European Court of Human rights it is now possible for persons changing their gender to obtain a new birth certificate showing the new gender and name. After 2 years of living with the new gender and a successful application to the Gender Recognition Panel the birth certificate can be changed showing a different sex and a different name.

If the father recognises the child or if the parents have married each other since the birth was registered, the birth can be re-registered to show the child as a child of the father. The child's surname may be changed from the mother's surname to the father's surname (parents not married). Upon re-registration, a new birth certificate can be obtained.

Similarly, upon adoption, the adoptive birth certificate that is issued upon adoption will change the child's surname to that of the adopted family's surname upon application.

Other than those exceptions, there is a strict rule that the birth certificate will not be changed.

h) Recognition

Mother is the woman who has given birth to the child. Maternal recognition is not envisaged under the legislation of England and Wales.

Any man, major or minor, who claims himself the father of a child designed by natural procreation, can recognize paternity. The paternal recognition requires consent of the mother. The recognition can be conferred only by the registrar in a statement made by the father, at the moment of the birth

or later on, in the presence of the mother or with her written assent. If a court order states the recognition, the indication of the father in the birth certificate of the child could be made without the consent of the mother.

Information relating to the child's father is included in every case where the mother and father were married to each other when the child was born or conceived. If the mother and father were not married to each other, the father's details may be recorded only if:

- the mother and person acknowledging himself to be the father of the child are both present for the registration and request that the father's name be entered,
- the mother is the sole informant and has produced to the registrar a statutory declaration made by the person acknowledging himself to be the father of the child. The mother must also make a declaration in the prescribed form declaring the paternity of the child and requesting that the father's name be recorded in the register,
- the father is the sole informant and has produced to the registrar a statutory declaration made by the mother stating him to be the father of the child and he has also made a declaration in the prescribed form stating himself to be the father of the child,
- either of the parents is the sole informant and produces either a sealed copy of a parental responsibility agreement made between the parents in respect of the child or a certified copy of an appropriate court order. The parent who attends must also make a declaration confirming that the agreement or court order is still in force.

The birth may also be re-registered if the mother and father subsequently marry or the court issues a declaration of parentage.

3. Marriage

Currently the Marriage Act 1949 (the 1949 Act) provides for civil marriage, marriage according to Jewish and Quaker (the Society of Friends) customs, marriage according to the rites and ceremonies of the Church of England and the Church in Wales and marriage according to all other religious rites e.g. Catholic, Methodist, Muslim, in buildings that have been registered for this purpose.

a) Personal Requirements/Impediments to Marriage

Any two persons, regardless of where they live, may marry in England and Wales provided that:

- both persons are at least 16 years of age on the day of their marriage. Persons over 16 years and under 18 years of age require parental consent;
- they are not related to one another in a way, which would prevent their marrying (in cases of relationships by affinity some exceptions are possible);
- they are unmarried;
- they are not of the same sex;
- they are capable of understanding the nature of a marriage ceremony and of consent to marry.

A marriage is voidable, but it is possible for the marriage to continue if both spouses are content, in the following circumstances:

- That the marriage has not been consummated because of the failure of one of the spouses to be able to consummate it.

- That the marriage has not been consummated because of the refusal of one of the spouses to consummate it.
- That one of the spouses did not consent to the marriage properly, because they were under pressure and were forced to agree, were mistaken about the legal effects of the marriage, or were mentally incapable of appreciating the effects of the decision to marry.
- That at the time of the marriage one of the spouses was suffering from a mental illness of such a type as to make them unfit for marriage.
- That at the time of the marriage one of the spouses was suffering from venereal disease in a communicable form.
- That at the time of the marriage the wife was pregnant by some one other than the husband.

b) Notice of Marriage

Everyone who is intending to marry in England and Wales is required to give notice, in person, to their local superintendent registrar. In order to give notice, the bride and groom must have a usual residence in a registration district in England or Wales for seven consecutive days immediately preceding the giving of the notice. The information to be included in the notice in relation to the couple is:

- Name and surname of each party,
- age,
- marital status,
- occupation,
- address,
- period of residence in registration district,
- venue where the marriage is to take place,
- nationality and district of residence.

The person giving the notice must inform the superintendent registrar at this time if they need a registrar to attend their marriage in a registered building. They must also make and sign a declaration, in writing, confirming that:

- to the best of their knowledge and belief, there is no impediment to the marriage;
- the couple have had their usual residence in the registration districts mentioned in the notice for the preceding 7 days; and
- if one of the couple is between 16 and 18 years, the consent of their parent or guardian has been obtained.

This declaration must be signed in the presence of a registration officer who will also sign the notice. The registration officer may require from the person giving notice evidence of their name and surname, age, marital status and nationality. This power can apply equally to the person giving notice as well as to the person they are intending to marry, but only where the registrar or superintendent registrar considers there is sufficient reason to do so.

In practice, the Registrar General instructs registration officers to request documents from everyone to avoid discrimination. When someone is unable to produce documents, this, by itself, should not prevent the notice from being taken or the marriage proceeding itself. Once the notice has been

signed, the superintendent registrar is responsible for recording the information on the notice in a marriage notice book, together with the date on which the notice was signed and the name of the person who gave the notice. The marriage notice book was introduced in 1837 and largely replicates the Anglican Register of Banns. The marriage notice book must be open for inspection free of charge at all reasonable hours. The superintendent registrar displays the notice in his register office for the 15 clear days following the entry of the notice in the marriage notice book. The marriage cannot take place until the 15 clear days have passed, during which time objections to the marriage can be raised. The notice expires twelve months after the date of entry of the notice in the marriage notice book.

Marriages which are according to the rites and ceremonies of the Church of England and the Church in Wales that are preceded by ecclesiastical preliminaries. Members of other denominations may have additional requirements.

c) Documents

The couple that wishes to marry may be required to produce the following documents (or other evidence in the discretion of the registrar):

- proof of identity such as passport or birth certificate.
- if previously married or in a Civil Partnership before, the registrar will require proof of the termination of the earlier marriage or Civil Partnership such as a decree absolute of divorce, annulment or if the applicant is a widow or widower, the death certificate of the former spouse.
- if one of under 18 years of age, the written consent of the parents or guardian
- if marrying to a step-relative or an in-law, one needs to provide relevant death certificates and/or other documents requested by the superintendent registrar or minister.
- if the person wishing to marry is not a UK citizen, he/she may also need to produce other documentary evidence, such as travel documents, may also be required to demonstrate that he/she has met the necessary residency requirement.
- certificate of no impediment for foreigners having lived in the U.K. for less than 2 years
- if the person wishing to marry is not a UK citizen, he/she may be required to show residence permit or visa. Non-resident foreigners can only give notice of marriage at one of 76 designated register offices in England and Wales which both spouses must attend together.

If for any reason a person is unable to produce one of the required documents, he/she must state the reason. Documents in a foreign language usually have to be a certified translation in English.

d) Objection

Anyone can enter an objection against the issue of the superintendent registrar's authority either informally or through the entry of a caveat. An informal objection should be investigated by a superintendent registrar but it cannot prevent a marriage taking place unless the investigations reveal a lawful impediment to the marriage. A person who enters an objection on grounds which the Registrar General considers to be frivolous shall be liable for the costs of the proceedings before the Registrar General and for damages recoverable by the person against whom the objection was entered. Any decisions made in relation to caveats can be subject to a judicial review.

e) Superintendent Registrars Certificate

The superintendent registrar can issue an authority for marriage once the 15 day clear waiting period has passed, and provided that no lawful impediment to the marriage has been shown. (The 15 day waiting period can be reduced in exceptional circumstances on the authority of the Registrar General. The 1949 Act gives the Registrar General power to make regulations conferring this responsibility on superintendent registrars but this power has yet to be exercised.)

In practice, if the marriage is to be a civil ceremony, taking place in the district in which the notices of marriage were given, the superintendent registrar issues the authorities immediately prior to the ceremony. If the marriage ceremony is a religious one and/or taking place outside the district(s) in which the notices of marriage were given, the couple must collect the authorities from the registrar's office prior to the marriage ceremony. Alternatively, a superintendent registrar may agree to post out the authorities to save the inconvenience of another visit to the registrar's office. Once issued, the authority is valid for 12 months from the date on which the first notice was signed and entered in the marriage notice book. There is no fee for the issue of the superintendent registrar's certificate.

f) Certificate of no impediment

Everybody having lived in the U.K. for less than 2 years must produce a certificate of no impediment of the country of origin if they intend to marry in England/Wales, Northern Ireland and Scotland. In the absence of such a certificate without good reason shown it is not possible to marry in the United Kingdom. Upon good reason shown the registry office may admit that it can be substituted by an affidavit.

A British resident intending to marry outside the United Kingdom can give notice at a local registration office (in person) or at the British consulate abroad and obtain a certificate of no impediment which some civil registration systems abroad require as evidence of freedom to marry. If the applicant has not been issued with a certificate of no impediment in the UK, then he/she will need to be resident in the foreign country for 21 days during which time a notice of the intention to marry will be posted in the Consulate or Embassy building. On the 22nd day he/she will be issued with a certificate of no impediment. The certificate of no impediment, which is obtained in England, has no validity restriction unlike that issued by register offices in Scotland or Northern Ireland. If the certificate was obtained in Scotland it must be used within 3 months of its date of issue. The cost is in Scotland £8,50 (10,79 €), in England/Wales £30,00 (38,08 €) and in Northern Ireland £15,00 (19,04 €). For the issuance of a certificate of no impediment the consular fee is € 78,00.

g) Marriage ceremony

Marriages can normally take place in the following venues:

- Registrar's office – the office of the superintendent registrar.
- Approved premises – a building that has been approved for the purposes of civil marriage by the Local Authority of the area in which the building is situated.
- A building of the Church of England or the Church in Wales.
- Registered building – a building that has been registered for the purposes of religious marriage other than the Church of England or Church in Wales.
- Naval, military and air-force chapels.

- A hospital, if one of the partners is unable to leave, or any other place where one partner is seriously ill and not expected to recover, or the home of one of the partners if the partner is housebound, for example, has serious disabilities or is agoraphobic
- A prison, if one partner is a prisoner.

Jews and Quakers do not have to comply with the requirements to marry in one of the above venues or by the times set out above. For historic reasons, those marrying according to the rites and ceremonies of the Jews or Society of Friends can choose to marry anywhere, at any hour of the day or night.

There is no fee for the attendance of a superintendent registrar at a marriage ceremony in his or her office but a registrar is entitled to collect a fee of £34.

Couples can choose to have a civil ceremony in any registrar's office or approved premise in England or Wales, regardless of their district of residence.

Civil marriages in a registrar's office or approved premise must take place in the presence of a superintendent registrar and a registrar. It is usual for the superintendent registrar to officiate at a marriage ceremony although according to the law he or she only needs to be present. The bride and groom must say the words of declaration and contract to each other in English (or Welsh). The law precludes any religious elements being used at a civil marriage ceremony – it must be completely secular in nature. A marriage must take place in the presence of two witnesses.

h) Registration of Marriage

The law requires all marriages to be registered once they have taken place. Non-registration for any reason occurs occasionally and does not affect the validity of the marriage. Either a registrar or an Authorised Person must register marriages in registered buildings. The marriage entry contains the following information:

- Place of marriage.
- Date of marriage.
- Names and surnames.
- Sex.
- Age.
- Marital status.
- Occupation.
- Address at the time of the marriage.
- Father's name and surname and whether deceased.
- Father's occupation and whether retired.

Once a marriage entry has been completed, the bride and groom, their two witnesses, the person who has performed the ceremony and either the registrar, or an authorized person of the Society of Friends or other institution where the ceremony has taken place, must sign it to confirm that the details shown are correct. While the signing of the documents has no bearing on the validity of the marriage, the completion of the register signifies that a marriage has taken place and forms the public record of the occasion.

i) Marriage according to the rites and ceremonies of the Church of England and the Church in Wales

A marriage according to the rites and ceremonies of the Church of England and the Church of Wales can be preceded by either civil or ecclesiastical preliminaries. The ecclesiastical preliminaries which apply to Anglican church marriages do not involve the superintendent registrar. The first he or she would know of such a marriage would be on receipt of the quarterly certified copies of the register entries from the clergy.

j) Marriage and the Welsh language

In Wales, the notice form used contains text in both English and Welsh. The information provided by the couple can be supplied and recorded in English or in Welsh, depending on the wishes of the couple and provided that the person giving the notice and the registration officer who is taking the notice both understand the language. Where the couple live and give notice in Wales but choose to marry in England, generally the marriage ceremony, and the registration of it, will be in English. However, if the couple choose to marry in Wales, the marriage ceremony can be in English and/or Welsh, and the registration can be in English or English and Welsh.

k) Marriage in England or Wales, where one of the couple is living in Scotland

If a couple wishes to marry in England or Wales, and one of them lives in England or Wales and the other lives in Scotland, or in Northern Ireland, they can complete the preliminaries to their marriage partly in Scotland or in Northern Ireland respectively. A notice given in Scotland or in Northern Ireland is deemed to have been entered in a marriage notice book in England and Wales on the day on which it is given and the certificate subsequently issued has the same effect as one issued by a superintendent registrar in England or Wales. The other person who is living in England or Wales must give their notice of marriage to their local superintendent registrar in the usual way. Prior to the marriage, the couple must produce the superintendent registrar's certificate, issued in England or Wales, together with the certificate issued by the registrar in Scotland or in Northern Ireland. The marriage ceremony can then take place in accordance with the usual provisions.

There are also provisions if one of the couple is living in the Channel Islands, the Isle of Man or other country of the British Commonwealth so that the person living there can complete and obtain a registrar's certificate in advance at home. Similarly, if a couple wishes to marry in England or Wales, and one of the couple is living in England or Wales and the other is an officer, seaman or marine on one of Her Majesty's ships at sea, there is provision for them to complete the preliminaries for that half of the couple on board ship.

l) Marriage in a foreign country

If a British person wishes to marry a foreign national in a foreign country, they have to give notice of their intention to do so to either a superintendent registrar in England or Wales or to a marriage officer at the British Consul in the foreign country, under the provisions of the Marriage with Foreigners Act 1906 (the 1906 Act). The person giving the notice must make a declaration similar to the one made for a marriage in England and Wales.

Once the notice has been signed, the superintendent registrar or consular marriage officer is responsible for recording the information on the notice in a marriage notice book. They are also required to display the notice in their office for at least 21 days following the entry of the notice in the marriage notice book. After the 21 days has passed, the British person can apply to the superintendent registrar or consular marriage officer for a certificate confirming that there is no impediment to their proposed marriage.

This certificate is usually required for production to the foreign authorities as evidence that the British person named therein is free to marry. British citizens getting married abroad may be required to produce a Certificate of No Impediment by local authorities; this Certificate may also be issued by the registrar or by the consular officer.

m) Divorce/Separation/Annulment

In England & Wales the divorce law is contained in the Matrimonial Causes Act 1973. An application for divorce may be presented to any divorce court (either a county court or Principal Registry of the Family Division in London). Divorce is granted either on fault of the other spouse, (adultery, unreasonable behaviour or desertion) or on separation of two years (with consent) or of five years (without consent). In addition, the applicant must show a breakdown of the marriage and that the applicant can no longer live with the other spouse. The conditions for a judicial separation and marriage annulment are the same as those for a divorce.

4. Name

There is no legal or other provision on naming (neither first name nor surname) in England and Wales. At birth, the parents are asked for the name(s) in which it is intended that the child will be brought up. The parents may give their child any name (first name and surname) at their free choice. While the overall majority of the parents give the child the father's surname or the mother's surname, any other surname may also be given.

a) Name Change

Any person living in England and Wales aged 16 years and over can change the name to any name he/she choose simply by using their new name. This is known as changing the name by usage. With few exceptions, a person can have whatever name he/she chooses so long he/she is not changing the name for fraudulent purposes or to avoid an obligation or debt. There are no restrictions on how often a person can change the name.

If a person changes the name by usage, in many cases and after a while, such names are valid for the purposes of identification and may be used in passports, driving licences, medical and insurance cards, etc. The new names are also entered on the electoral roll. In some other cases the person may encounter difficulties when trying to get certain official documents and records changed. Government departments may ask for "documentary evidence" of the change of name. For most purposes, a statutory declaration is generally accepted as evidence of a change of name. Other evidence may include thing as simple as phone bills, or a letter from a respected person, such as a doctor, solicitor, minister, priest or MP. Further documents are:

- marriage certificate: allows a woman to change her surname to her husband's surname.
- civil partnership certificate: Allows one partner's surname to be changed to the other partner's surname.
- divorce or death certificate: usually allows a divorcee's surname to be changed to the surname before marriage or civil partnership.
- adoptive birth certificate: allows an adopted child's surname to be changed to the adopted family's surname.

To change the name for any other reason than above, a document is needed that provides evidence that the person has changed his/her name.

Certain documents that can never be changed because they are historical records of what has occurred at a particular point in time are: a birth certificate (with extremely few exceptions), an

adoptive birth certificate, a marriage certificate, civil partnership certificate and a decree absolute certificate. The name on a birth certificate issued in England or Wales can be changed in the following circumstances:

Changing a child's first name(s):

If the child's first name(s) should be changed, it is possible to have the child's new first names added to the birth register, provided the new first names were given either in baptism or by regular use within 12 months of the birth being registered. The new first names may be added to the birth record after those 12 months, but it is necessary to provide documentary evidence that the new first names were in use within 12 months of registration. Upon re-registration, a new birth certificate can be purchased. A new full birth certificate will show both the original and the new first names.

Changing a child's surname from the mother's surname to the father's surname (parents not married):

If the natural parents of the child were not married to each other at the time of the birth and the father did not attend with the mother to register the child, it is possible to re-register the birth at any time in the future to include the father's details and change the surname of the child to that of the father (only if both parents agree, otherwise a court order is required). Upon re-registration, a new birth certificate can be purchased.

Changing a child's surname from the mother's surname to the father's surname (parents married since birth):

If the natural parents have married each other since the birth was registered, the birth can be re-registered to show the child as a child of the parents' marriage. Upon re-registration, the child and mother's surname can be changed to that of the father and a new birth certificate can be purchased.

If a person has changed the gender and obtained a Gender Recognition Certificate (from 4th April 2005)

If a person is at least 18 years of age and has gender dysphoria and, has been living in the acquired gender for at least two years, the person can apply to the Gender Recognition Panel for a Gender Recognition Certificate, which will enable him/her to obtain a new birth certificate showing the new gender and name. The new birth certificate can be used as documentary evidence of the change of name.

b) Deed Poll

In order to formalize the change of name for the purpose of evidence, a deed poll or name changing deed can be drawn up. A Deed Poll is a formal statement to prove that a change of name and it provides the person with the necessary documentary evidence of the name by which he /she wish to be known. There may be cases when a deed poll is required. For example, some professional bodies require members to produce a deed poll as proof of any name change.

Although there are no laws in the United Kingdom relating to unsuitable names, there are restrictions for a Deed Poll.

An order for a Deed Poll is not accepted for a name that:

- is impossible to pronounce,
- includes numbers or symbols,
- includes punctuation marks

- is considered vulgar, offensive, blasphemous or unsuitable,
- may result in others believing the person has a conferred or inherited honour, title or rank, for example, a change of first name to Sir, Lord, Laird, Lady, Prince, Princess, Baron, Baroness, Count, Countess, General, Colonel etc.,
- does not include at least one forename and one surname.

If the person is under 16 years of age, one of the parents can apply for a Deed Poll on their behalf.

If the person is British citizen and resides in England, Scotland, Wales or Northern Ireland he/she can apply for a Deed Poll, which will be accepted as described. If the person resides in the Channel Islands or the Isle of Man, certain special requirements may have to be met. For example, the Jersey Passport Office requires Jersey residents to have the signing of their Deed Poll witnessed by a solicitor or notary public. British citizens residing abroad may need to meet additional requirements before the British mission will issue a new British passport.

Foreign nationals residing in Britain may also create a deed poll. Many common law countries accept name changes and deed polls, while most other countries do not. If the Deed Poll will be accepted, there may be special requirements, for example, the Irish Embassy requires its nationals to have the signing of their Deed Poll witnessed by a solicitor, while the Danish Embassy requires its nationals to have their Deed Poll legalised.

If the person is a foreign national and resides outside the UK, it is extremely unlikely that a Deed Poll issued in the U.K. will be effective changing the name for any official purpose.

It is not required to register a deed poll for its validity, but there is a possibility for Commonwealth citizens to have a deed poll "enrolled", i.e. lodged for safe keeping, in the Enrolment Books of the Supreme Court of Judicature under the Enrolment of Deeds (Change of Name) Regulations 1994. The procedure is slightly more formalized and includes an application, certain evidence and an official publication of the name change in the London Gazette.

UK_NI – Northern Ireland

1. Civil Status Registration System

Civil status registration in Northern Ireland is event based.

The Registration Service in Northern Ireland is a cooperation between the Registrar General's Office in Belfast and the 26 local district councils.

The United Kingdom does not have a constitutionally defined official language. English is the main language and is thus the de facto official language. All civil status acts are performed in English.

The modern English alphabet consists of the 26 letters of the Latin alphabet. Diacritic marks are never used in the modern spellings of native English words, but may appear in foreign and loan-words. The apostrophe, while not considered part of the English alphabet, is used to abbreviate English words. In computing, several different coding standards have existed for this alphabet, among them ISO 8859-1.

In Northern Ireland the Irish language is also used in the public sector, but civil status acts are not performed in Irish.

The General Register Offices for England and Wales, Northern Ireland and Scotland (GROs) are independent of each other, governed by separate legislation and accountable to different parts of Government within the United Kingdom. Nonetheless, the GROs have a common purpose, many

similar processes and, within each jurisdiction, the local registration service is administered in partnership between the Registrars General (RG), the GRO and local government.

a) The General Register Office (GRO)

The GRO in Northern Ireland is a branch within the Northern Ireland Statistics and Research Agency, which is part of the Department of Finance and Personnel. The main functions of the General Register Office (GRO) include the administration of the registration of births (live and still), deaths and marriages through the district registration councils, the formalities relating to marriage and conducting civil marriages, the maintenance of records and the production of certificates to applicants on request, and the preparation and publication of statistics.

The Registrar General for Northern Ireland is a civil servant and an officer of the Department of Finance and Personnel and is by law responsible for the Registration Service.

b) Local District Councils

The 26 registrars and 64 assistants of the local district councils are employees for registration purposes and act under instruction and the authority of the Registrar General.

c) Registration Records

The current framework for registration of births and deaths is set by The Births and Deaths Registration (Northern Ireland) Order 1976. Northern Ireland civil registration records are paper based. Most records are now also electronically captured but the signed paper record remains the legal record.

d) Overseas and other records

Registering of events relating to British citizens with British registering authorities is not compulsory and there is no automatic notification of every life event that occurs to a British citizen abroad. Yet there is a facility for people living abroad, in certain countries, who have a Northern Ireland connection, to arrange for a birth, death or marriage abroad to be recorded in a register held by the Registrar General in Belfast. Later, certificates may be issued from this register. In order to effect such registration, the event has first to be registered with the civil registration authorities of the country in question, after which they can apply to the British Consul (or High Commissioner in Commonwealth countries) to have a record of the event notified to the appropriate Registrar General in the UK. The British Consul or High Commissioner charges a fee for the service and the details are recorded in that consulate or office of High Commissioner. At the end of the year, the records are collected and sent to the Office for National Statistics (ONS) in Southport. The records are checked by ONS and then distributed to the appropriate Registrar General in the UK.

Various kinds of registers other than Consular and High Commissioner's returns are held by the Registrar General such as registers recording births and deaths at sea, or births, deaths and marriages of army personnel.

e) Updating and Correction of Records

Births can be re-registered to include the father's details if the parents are not married, the parents subsequently marry or if the courts issue a declaration of parentage. Re-registration creates a new entry that supersedes the original one.

For correction of errors and omissions in registration records, the original entry is annotated with the correct information. For all types of corrections, the entry contains the full original information plus the correction and this is shown on certificates that are subsequently produced.

f) Access

Computerised indexes and the registers are available for public inspection for a statutory fee, except for the records of stillbirths and of adoptions the access to which is subject to certain restrictions.

Current legislation enables the exchange of some data about births and deaths with certain prescribed bodies e.g. the Health Service. Other than that, information is not automatically passed on to all parts of the government and there is no provision for citizens to request that the Registration Service pass on such data to relevant government bodies or to request notification of births or deaths to public or private sector bodies.

Other than that, detailed information cannot be released unless it is in the form of a certificate or if appropriate legislative arrangements are in place. Any person may check the register and may subsequently purchase a certified copy for a statutory fee. Certificates are not proof of identity and contain a warning to that effect; they are simply a record of an event that has taken place, although people are required to present certificates for numerous purposes, for example, benefits, passports, driving licences etc.

Genealogists and family historians sometimes purchase a large number of certificates as part of their research.

g) Certificates

Full and in some cases short certificates are issued. A short certificate shows the surname, first names, date of birth, sex, place of birth (where known) and country or district of birth. A full certificate shows surname, first names, date of birth, sex, place of birth (where known), parent(s) name(s), the father's dwelling place and profession at time of registration. Full certificates are required for most legal purposes.

It is possible to apply for various kinds of documents concerning birth, death, marriage and adoption:

- in person by taking the application form to the General Register Office or the District Registrars' office.
- by post by forwarding the application and fee to the General Register Office
- by telephone, fax.

Online application is still under development.

Personal Applications are ready for collection or posting in three working days, all other applications are processed within seven working days of the application being received. If an extra fee is paid, personal applications will be ready within one hour.

h) Cost

- First short certificate issued at registration of birth: free of charge
- First short certificate issued at registration of stillbirth: free of charge
- Full certified copy of an entry of birth, stillbirth, marriage, adoption and death: £11.00 (€ 15,90)
- Additional copies: £5.50 each (€ 7,95)
- Short birth, stillbirth certificate: £11.00 (€ 15,90)
- Where an applicant can supply full particulars including the register entry number and date of registration the fee will be £ 5.50.

- Priority Certificate: £ 27.00 (€ 39,03)
- Statutory Purpose Certificate: £5.50 (€ 7,95)
- Civil Partnership Certificate (at time of registration) £5.50 (€ 7,95)
- Search only: £5.50 (€ 7,95)
- Notice of Marriage or Civil Partnership: £15.00 (each person) (€ 21,68)
- Solemnisation of Civil Marriage In Registrar's Office
 - Monday to Friday 9.00am to 5.00pm: £25.00 (€ 36,14)
 - Monday to Friday 5.00pm to 8.00pm: £87.00 (€ 125,75)
 - Saturday 9.00am to 5.00pm: £87.00 (€ 125,75)
 - Sundays, Bank Holidays and all other times(except those mentioned above): £125.00 (€ 180,68)
- Registration of Civil Partnership in Registrar's Office
 - Monday to Friday 9.00am to 5.00pm: £25.00 (€ 36,14)
 - Monday to Friday 5.00pm to 8.00pm: £112.00 (€ 161,88)
 - Saturday 9.00am to 5.00pm: £112.00 (€ 161,88)
 - Sundays, Bank Holidays and all other times(except those mentioned above): £150.00 (€ 216,81)

Certificates for Education & Social Security Purposes can be produced at a reduced fee. Proof from the Department of Education or Department of Health and Social Services must be included with the application.

Payment can be made by cheque, postal money order or credit card, or in cash upon personal applications.

i) eGovernment

Online Services for Citizens

Portal

Launched in March 2004, <http://Direct.gov.uk> is the UK Government's citizen portal. It provides citizens with a single entry-point to online public services. In addition, the Scottish government maintains a website under <http://www.scotland.gov.uk>, the Executive of Northern Ireland maintains a website under <http://www.northernireland.gov.uk/> and the Welsh Assembly Government maintains a site under <http://new.wales.gov.uk>.

There is an effort to make as many county services available on-line as possible. In England, more than 600 different services are currently available on-line.

eIdentification infrastructure

The most generic central UK identification platform is the Government Gateway, which, launched in February 2001, is a central registration and authentication engine enabling secure authenticated e-government transactions to take place over the Internet. Users need to register with the Gateway in order to enrol for using online government services and subsequently transact securely with government departments. The Government has laid down plans for the phased introduction of e-ID

cards in the UK which is under way with e-ID cards to become available to the wider public by 2012.

Civil Status Website

England and Wales: <http://www.gro.gov.uk> Northern Ireland: <http://www.groni.gov.uk> Scotland: <http://www.gro-scotland.gov.uk>

Civil Status Certificates

The General Register Office (GRO) now offers the facility to order certificates online, which can be used to place orders using the GRO index reference and for certificates dating from 1900 up to 18 months before the request date where the exact details are known. The service applies for England and Wales only. The General Register Office (Northern Ireland) also has an online request facility, while the General Register Office for Scotland provides information only.

j) Law

Common Law and the Rules of Equity apply accordingly to the entire United Kingdom; Civil Partnership Act of 2004; Gender Recognition Act of 2004; British Nationality Act of 1981;

Northern Ireland

Marriage Order of 2003; Adoption Order of 1987; Matrimonial Causes and Marriage Law (Ireland) Amendment Act of 1870; Registration of Marriages (Ireland) Act 1863; Marriage Law (Ireland) Amendment Act of 1863; Registration of Births, Deaths and Marriages Act 1955; Births and Deaths Registration Order of 1976; Marriage Act of 1983; Family Law Act 2001; Matrimonial and Family Proceedings Order of 1989; Adoption Act of 2001

Applicable Law

Courts in the United Kingdom having jurisdiction will apply the law of the forum (English and Welsh or Scottish law or the law of Northern Ireland) in almost every matter, especially with respect to parentage, child custody and parental responsibility, naming, or divorce proceedings. In proceedings for a decree of nullity, the laws of place of celebration or law of party's domicile will apply depending on the ground of nullity. A foreign divorce will be recognised if one of the parties was habitually resident, domiciled, or a national of that country at the time of the foreign proceedings.

Jurisdiction is based on Council Regulation (EC) No 2001/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, and on Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, both of which are also applied as far as cross-border situations between England and Wales and Scotland are concerned.

In terms of domestic law, the courts will have jurisdiction in family matters if one of the following requirements is satisfied: the spouses are habitually resident or domiciled in England and Wales, Scotland or Northern Ireland, respectively, the spouses were habitually resident in that country of the U.K. and one of them is still resident there now, the respondent is habitually resident, or the applicant was resident in the country for at least one year before the date of the application (or six months if the applicant is a national of a Member State). If none of these is satisfied and no other Member State has jurisdiction, domestic law confers jurisdiction on the courts if at least one of the parties was domiciled in the country at the time of the commencement of the proceedings.

2. Birth

A birth should be registered within 42 days by the Registrar in the district in which the birth occurred or in the district where the mother is usually resident. An informant (usually the parent of the child) gives the information required to the Registrar in person at the Registrar's office or at certain maternity hospitals on specified days. The legal responsibility for registering a birth falls primarily on the mother, and, where he is married to the child's mother, the father. Other people qualified to act as informants include any aunt, uncle, grandfather, grandmother, the occupier of the premises where the birth occurred, and a person present at the birth or the person in charge of the child.

There is no fee payable for the registration of a birth and a shortened form of certificate is issued free of charge. To ensure that every birth is registered, avoid a birth being registered more than once and guard against fraudulent registrations, the Registrar makes checks against lists provided by the Health Service. The Registrar makes weekly returns to GRO accompanied by the original signed paper copies, which are currently the legal records.

There is also a formal system for changing information recorded. Information relating to the child's father is included in every case where the mother and father were married to each other when the child was born or conceived. If the parents were not married the father's details may be recorded if the mother and father make a joint registration or produce a statutory declaration. A re-registration may be made later to include or alter the father's details.

A still-birth may be registered by giving information to the registrar of the area where it took place or by making a declaration before any other registrar who will forward it together with the other necessary documents to the registrar for the area where the still-birth occurred for recording in a still-birth register. Evidence of the still-birth, usually in the form of a medical certificate, must be produced before it can be registered. Once a still birth has been registered, the registrar issues a certificate for use by the burial or cremation authority. The registrar can issue a death certificate to the mother, or to the father if his details appear on the registration and to siblings if the parents are deceased.

a) Birth Certificate

The information currently recorded in the birth or stillbirth register and indicated on the long birth certificate is:

- Registration district and administrative area.
- date and place of birth (time if multiple live birth).
- name and surname in which the informant intends to raise the child
- sex of the child
- cause of death and nature of evidence that child was still-born
- baptismal name if added after registration of birth and date
- name and surname of each parent at date of child's birth as well as maiden surname and other previous names and aliases; rank or profession and dwelling place
- name and surname of the informant, qualification and residence.
- date of registration, signature of registering officer and informant.

The short birth certificate indicates only the child's name, surname, sex, date and district of birth.

b) Changes

In the United Kingdom, there is a general rule that once made, a register entry remains unchanged, and that there is no up-dating of the records. Thus in principle a birth certificate cannot be changed and is not supplemented by later inscriptions or annotations. A birth certificate can be changed only in the following circumstances:

Changing a child's first name(s)

It is possible to have the child's new first names added to the birth register, provided the new first names were given either in baptism or by regular use within 12 months of the birth being registered. The new first names may be added to the birth record after 12 months, but it is necessary to provide documentary evidence that the new first names were in use within 12 months of registration. Upon re-registration, a new birth certificate can be purchased. A new full birth certificate will show both the original and the new first names.

Following a decision by the European Court of Human rights it is now possible for persons changing their gender to obtain a new birth certificate showing the new gender and name. After 2 years of living with the new gender and a successful application to the Gender Recognition Panel the birth certificate can be changed showing a different sex and a different name.

Other than those two exceptions, there is a strict rule that the birth certificate may not be changed.

Changing a child's surname

If the father recognises the child or if the parents have married each other since the birth was registered, the birth can be re-registered to show the child as a child of the father. The child's surname may be changed from the mother's surname to the father's surname (parents not married). Upon re-registration, a new birth certificate can be purchased.

Similarly, upon adoption, the adoptive birth certificate that is issued upon adoption will change the child's surname to that of the adopted family's surname upon application.

c) Recognition

Mother is the woman who has given birth to the child. Maternal recognition is not envisaged under the legislation of Northern Ireland.

Any man, major or minor, who claims himself the father of a child designed by natural procreation can recognize paternity. The paternal recognition requires consent of the mother. The recognition can be received only by the registrar in a statement made by the father, at the moment of the birth or later on, in the presence of the mother or with her written assent. If a court order states the recognition, the indication of the father in the birth certificate of the child could be made without the consent of the mother.

Information relating to the child's father is included in every case where the mother and father were married to each other when the child was born or conceived. If the mother and father were not married to each other, the father's details may be recorded only if:

- the mother and person acknowledging himself to be the father of the child are both present for the registration and request that the father's name be entered,
- the mother is the sole informant and has produced to the registrar a statutory declaration made by the person acknowledging himself to be the father of the child. The mother must also make a declaration in the prescribed form declaring the paternity of the child and requesting that the father's name be recorded in the register,

- the father is the sole informant and has produced to the registrar a statutory declaration made by the mother stating him to be the father of the child and he has also made a declaration in the prescribed form stating himself to be the father of the child,
- either parent is the sole informant and produces either a sealed copy of a parental responsibility agreement made between the parents in respect of the child or a certified copy of an appropriate court order. The parent who attends must also make a declaration confirming that the agreement or court order is still in force.

The birth may also be re-registered if the mother and father subsequently marry or the courts issue a declaration of parentage.

3. Marriage

The Marriage (Northern Ireland) Order 2003 gives general information on the preliminaries, solemnisation and registration of marriages in Northern Ireland. It is possible to marry either by a civil ceremony or a religious ceremony.

A civil marriage, which may take place in a registration office or at an approved place, may be solemnised by a registrar or an assistant registrar who has been authorised by the Registrar General for that purpose. Religious marriages can be solemnised by a person, e.g. Minister, Priest, Pastor, who has been registered as an Officiant and who has been authorised by the Registrar General.

a) Personal Requirements/Impediments to Marriage

Any two persons, regardless of where they live, may marry in Northern Ireland provided that:

- both persons are at least 16 years of age on the day of their marriage.
- they are not related to one another in a way which would prevent their marrying, the forbidden degrees of relationship are stated in the Marriage (Northern Ireland) Order 2003, namely kin in the direct line, and in the lateral line between siblings, between aunt and nephew or uncle and niece, between adopted parents and children, and finally between step-parents and their children with certain exceptions, and between a person and that person's parent's or child's former spouse, unless both linking persons are deceased.
- they are unmarried and not in a civil partnership.
- they are not of the same sex.
- they are capable of understanding the nature of a marriage ceremony and of consenting to marrying.
- the marriage would be regarded as valid in any foreign country to which either party belongs.
- one of the parties did not freely consent to the marriage.

A voidable marriage is one that subsists until one of the parties to the marriage applies for a declaration of nullity. The only ground for a voidable marriage is that one of the parties is incurably impotent.

b) Notice of Marriage

Everyone who is intending to marry in Northern Ireland (apart from those marriages according to the rites and ceremonies of the Church of Ireland, Presbyterian or Roman Catholic Church that are preceded by ecclesiastical preliminaries) is required to give notice, in person, to their local registrar. Giving notice involves the completion by a registration officer of a form called a 'notice of

marriage'. Both parties must submit their completed marriage notice forms, relevant documents, declarations and fees to the Registrar of Marriages in the District where the marriage is to take place, to inform the Registrar of their intention to marry. They must also make and sign a declaration, in writing, confirming that to the best of their knowledge and belief, there is no impediment to the marriage.

Couples do not need to have been resident before getting married, provided they apply for notice from the General Register Office. The notices must be submitted early enough to enable the Registrar to be satisfied that both parties are free to marry one another. Normally notices should be with the Registrar about eight weeks before the marriage but if either of future spouses have been married before, notices should be with the Registrar ten weeks beforehand. The minimum period is fourteen days before the date of the proposed marriage. Only in exceptional circumstances will the Registrar General authorise a marriage to take place if fourteen days notice has not been given.

At some point prior to the date of the marriage the parties may be requested to attend at the Registrar's Office to finalise the arrangements, and/or collect the marriage schedule.

c) Documents

The couple that wishes to marry may be required to produce the following documents (or other evidence in the discretion of the registrar):

- proof of identity such as passport or birth certificate.
- if previously married or in a Civil Partnership before, the registrar will require proof of the termination of the earlier marriage or Civil Partnership such as a decree absolute of divorce, annulment or if the applicant is a widow or widower, the death certificate of the former spouse.
- if one of under 18 years of age, the written consent of the parents or guardian an order of a court dispensing with consent
- if marrying to a step-relative or an in-law, one need to provide relevant death certificates and/or other documents requested by the superintendent registrar or minister.
- if the person wishing to marry is not a UK citizen, he/she may also need to produce other documentary evidence, such as travel documents, may also be required to demonstrate that he/she has met the necessary residency requirement.
- certificate of no impediment for foreigners having lived in the U.K. for less than 2 years
- if the person wishing to marry is not a UK citizen, he/she may be required to show residence permit or visa.

If for any reason a person is unable to produce one of the required documents, he/she must state the reason. Documents in a foreign language usually have to have a certified translation in English.

d) Marriage Schedule

The Registrar will review all documentation to be satisfied that the parties are free to marry and then will prepare the marriage schedule. The Schedule cannot be issued more than seven days before the marriage. In the case of a civil wedding the Registrar retains the schedule until the date of the wedding, however, if a religious marriage is intended the schedule is issued to the parties, one or other of whom must collect it in person not more than seven days before the wedding. The schedule must be produced before the ceremony for the person performing the marriage who is then required to sign it with the couple and two witnesses. The Registrar then retains or must have the schedule returned within 3 days so that the marriage can be registered.

e) Marriage Ceremony

The civil marriage ceremony may be solemnised by a Registrar or a Deputy Registrar who has been authorised by the Registrar General for that purpose. Religious marriages can be solemnised by a person, e.g. Minister, Priest, Pastor, etc. who has been registered as an Officiant and who has been authorised by the Registrar General. The parties must arrange for two witnesses to be present at the marriage and to sign the marriage schedule. Witnesses must be 16 years of age or over.

f) Marriages can normally take place in the following venues:

- a Register Office
- a church of the Church of Ireland, Presbyterian or Roman Catholic Church
- a synagogue or any other private place if both partners are Jewish
- a place where one partner is seriously ill and not expected to recover
- the home of one of the partners if the partner is housebound, for example, has serious disabilities or is agoraphobic
- a hospital, if one of the partners is unable to leave or is detained there as a psychiatric inpatient
- a prison, if one partner is a prisoner.

Jews and Quakers do not have to comply with the requirements to marry in one of the above venues or by the times set out above. For historic reasons, those marrying according to the rites and ceremonies of the Jews or Society of Friends are able to choose to marry anywhere, at any hour of the day or night.

g) Registration of Marriage

The Registrar is responsible for the registration of all marriages. The layout and content of the marriage entry is prescribed by regulation and contains the following information relating to the bride and groom:

- Place of marriage.
- Date of marriage.
- Names and surnames.
- Sex.
- Age.
- Marital status.
- Occupation.
- Address at the time of the marriage.
- Father's name and surname and whether deceased.
- Father's occupation and whether retired.

Parties marrying by religious ceremony should ensure that the schedule, (which will be signed by the parties, two witnesses and the Officiant after the ceremony) is returned to the Registrar within 3 days either in person or by post.

h) Marriage in Northern Ireland where one party lives in England or Wales

As an alternative to the normal procedure of giving notice to a registrar in Northern Ireland, if a person residing in England or Wales intends to marry in Northern Ireland, the party should give notice of marriage to the superintendent registrar in the district of residence in England or Wales. The other person should, however, give notice in Northern Ireland in the usual way. The certificate for marriage obtained from the superintendent registrar in England or Wales should then be presented to the in Northern Ireland. The certificate by Superintendent in England or Wales is issued after seven days and further seven days must elapse before the certificate becomes valid for the purpose of marriage in Northern Ireland. Thereafter, and after twenty-one days from the date that notice was given, the registrar may issue his authority for the marriage provided that the party living in his district has also taken the necessary steps there.

i) Certificates Of No Impediment

A Northern Ireland resident intending to marry outside Northern Ireland can give notice at a registration office in Northern Ireland or at the British consulate abroad and obtain a 'Certificate Of No Impediment' (CONI) which some civil registration systems abroad require as evidence of freedom to marry. The procedure is similar to and involves almost the same steps as is needed to obtain a certificate for marriage.

j) Divorce/Separation/Annulment

In Northern Ireland the law relating to divorce is set out in the Matrimonial Causes (Northern Ireland) Order 1978. Petitions for divorce, judicial separation or nullity of marriage may be presented in either the High Court or in one of seven divorce county courts. However, if a respondent files an answer to a petition presented in a county court, the matter will be transferred to the High Court.

A petition for divorce may only be filed if the parties have been married for at least two years. Divorce is granted either on fault of the other spouse, (adultery, unreasonable behaviour or desertion) or on separation of two years (with consent) or of five years (without consent). The conditions for a judicial separation and marriage annulment are the same as those for a divorce except that the two year marriage requirement does not apply.

4. Name

There is no legal or other provision on naming (either first name and surname) in Northern Ireland. At birth, the parents are asked for the name(s) in which it is intended that the child will be brought up. The parents may give their child any name (first name and surname) at their free choice. While the overall majority of the parents give the child the father's surname or the mother's surname, any other surname may also be given. In recognition of linguistic diversity including the Irish language, Ulster Scots and the languages of the various ethnic communities, parents registering a birth can have their child's name registered in the language of their choice using English letter characters including also any inflexion marks particular to the language concerned.

a) Name Change

aged 16 years and over can change the name to any name he/she choose simply by using their new name. This is known as changing the name by usage. With few exceptions, a person can have whatever name he/she choose so long he/she is not changing the name for fraudulent purposes or to avoid an obligation or debt. Furthermore, there are no restrictions on how often a person can change the name.

However, if a person changes the name by usage, he/she will encounter difficulties when trying to get certain official documents and records changed. Government departments will ask for "documentary evidence" of the change of name. Documentary evidence is a term used to describe a document that will be accepted to effect a change of name. Such documents are

- Marriage Certificate: Allows a women to change her surname to her husband's surname.
- Civil Partnership Certificate: Allows one partner's surname to be changed to the other partner's surname.
- Decree Absolute Certificate: Usually allows a divorcee's surname to be changed to the surname before marriage or civil partnership.
- Death Certificate: Usually allows a widow's surname to be changed to the surname before marriage or civil partnership.
- Adoptive Birth Certificate: Allows an adopted child's surname to be changed to the adopted family's surname.

To change the name for any other reason than above, a document is needed that provides evidence that the person has changed his/her name. Certain documents that can never be changed because they are historical records of what happened at a particular point in time are: a birth certificate (with exceptions), an adoptive birth certificate, a marriage certificate, civil partnership certificate and a decree absolute certificate.

The name on a birth certificate issued in Northern Ireland can be changed in the following circumstances:

Changing a child's first name(s) who is under one year of age

If a child's first name(s) (but not surname) are changed within the first year of life, the change can be recorded in the birth register if an application is made within two years of the birth of the child. The application must be signed by everyone with parental responsibility for the child. When a certificate of the child's birth entry is subsequently issued, the new name is substituted for the name originally registered. If a change of first name(s) in infancy (ie a change of first name or a first name given within 12 months from the date of birth) has already been recorded no further change of forename(s) may be recorded before the child reaches 16 years of age.

Changing a person's first name(s) and/or surname who is two years of age or older

For persons aged two years and over an application can be made to change of first name(s) and/or surname recorded in the birth register. For a person under 16 years of age, the application must be signed by everyone with parental responsibility. In the subsequent issue of a birth certificate the original first name(s) and surname are shown in addition to the new names. Only one change of first name(s) and one change of surname(s) may be recorded for a child under 16 years of age. For persons 16 years of age and over one change of first name(s) and up to three changes of surname(s) may be recorded. A period of 5 years must elapse between successive changes of surname(s).

If a person is at least 18 years of age and has gender dysphoria and has been living in the acquired gender for at least two years, he/she can apply to the Gender Recognition Panel for a Gender Recognition Certificate, which will enable him/her to obtain a new birth certificate showing the new gender and name.

b) Deed Poll

In order to formalize the change of name for the purpose of evidence even more, a deed poll or name changing deed can be drawn up. A Deed Poll is a formal statement to prove that a change of

name and it provides the person with the necessary documentary evidence of the name by which he /she wish to be known. There may be cases when a deed poll is required. For example, some professional bodies require members to produce a deed poll as proof of any name change.

Although there are no laws in the United Kingdom relating to unsuitable names, there are restrictions for a Deed Poll.

An order for a Deed Poll is not accepted for a name that:

- is impossible to pronounce,
- includes numbers or symbols,
- includes punctuation marks
- is considered vulgar, offensive, blasphemous or unsuitable,
- may result in others believing the person has a conferred or inherited honour, title or rank, for example, a change of first name to Sir, Lord, Laird, Lady, Prince, Princess, Baron, Baroness, Count, Countess, General, Colonel etc.,
- does not include at least one forename and one surname.

If the person is under 16 years of age, one of the parents can apply for a Deed Poll on their behalf.

If the person is British citizen and resides in England, Scotland, Wales or Northern Ireland he/she can apply for a Deed Poll which will be accepted as described. If the person resides in the Channel Islands or the Isle of Man, certain special requirements may have to be met. For example, the Jersey Passport Office requires Jersey residents to have the signing of their Deed Poll witnessed by a solicitor or notary public. British citizens residing abroad may need to meet additional requirements before the British mission will issue a new British passport.

Foreign nationals residing in Britain may also create a deed poll. Many common law countries accept name changes and deed polls, while most other countries do not. If the Deed Poll will be accepted, there may be special requirements, for example, the Irish Embassy requires its nationals to have the signing of their Deed Poll witnessed by a solicitor, while the Danish Embassy requires its nationals to have their Deed Poll legalised.

If the person is a foreign national and resides outside the UK it is extremely unlikely that a Deed Poll issued in the U.K. will be effective changing the name for any official purpose.

It is not required to register a deed poll for its validity but there is a possibility for Commonwealth citizens to have a deed poll "enrolled" i.e. lodged for safe keeping, in the Enrolment Books of the Royal Courts of Justice in Belfast under the Enrolment of Deeds (Change of Name) Regulations as Amended 2005. The procedure is slightly more formalized and includes an application and certain evidence and an official publication of the name change in the Belfast Gazette.

UK_SC – Scotland

1. Civil Status Registration System

Civil status registration in Scotland is event based.

The main framework for the registration of births, deaths and marriages in Scotland is set by the Registration of Births, Deaths and Marriages (Scotland) Act 1965 and the Local Electoral Administration and Registration Services (Scotland) Act 2006. The Civil Registration Service is divided between the General Register Office in Edinburgh headed by the Registrar General and the local councils. The General Register Office for Scotland (GRO) is a Government Department

associated with, but not part of, the Scottish Executive and the Registrar General and his staff are part of the Scottish Administration, as defined in the Scotland Act 1998. The Registrar General and the staff of GRO remain part of the Home Civil Service and the statistical operations carried out by GRO form part of the Government Statistical Service (GSS). The Minister for Finance and Public Services Reform answers in the Scottish Parliament on matters relating to GRO, advised by the Registrar General. Under the Registration of Births, Deaths and Marriages (Scotland) Act 1965, the First Minister is responsible for appointing the Registrar General and for the Annual Report of the Registrar General to the Scottish Parliament.

The United Kingdom does not have a constitutionally defined official language. English is the main language and is thus the de facto official language. All civil status acts are performed in English. Marriages may be conducted in foreign languages provided the registrar conducting the proceedings speaks that language.

The modern English alphabet consists of the 26 letters of the Latin alphabet. Diacritic marks are never used in the modern spellings of native English words, but may appear in foreign and loan-words. The apostrophe, while not considered part of the English alphabet, is used to abbreviate English words. In computing, several different coding standards have existed for this alphabet, among them ISO 8859-1.

In Scotland the Gaelic Language (Scotland) Act 2005 gave the Scottish Gaelic language its first statutory basis, but civil status acts are not performed in Scottish Gaelic.

The General Register Offices for England and Wales, Northern Ireland and Scotland (GROs) are independent of each other, governed by separate legislation and accountable to different parts of Government within the United Kingdom. Nonetheless, the GROs have a common purpose, many similar processes and, within each jurisdiction, the local registration service is administered in partnership between the Registrars General (RG), the GRO and local government.

a) Registrar General and the General Register Office

The General Register Office for Scotland administers the registration of events such as births, deaths, marriages, civil partnerships, divorces and adoptions, and is responsible for the statutes relating to the formalities of marriage and conduct of civil marriage. In addition, the GRO takes the census of Scotland's population every ten years and prepare and publish demographic and other statistics for central and local Government, for medical research and for the private sector. The Registrar General has statutory authority to prescribe forms and set fees subject to the approval of the Scottish Parliament. He also has authority to give instructions and directions to registrars on the exercise of their functions.

b) Registrars

There are 32 local councils who employ a total of 900 full and part-time registrars distributed over 231 registration districts (RDs). All registry offices are equipped with computer technology. In Scotland, births, deaths and marriages are recorded in registers organised by 'registration district' and by calendar year - so that details can easily be found at a later date. Geographical subdivisions of Scotland are thus likely to feature in any future scheme for civil registration.

Registrars maintain and preserve registers of births, stillbirths, deaths, marriages and civil partnerships and may have support staff. They also conduct all civil marriages and civil partnership registrations. Registrars work in offices, although in some remote parts of Scotland, they may be based in their own home or local post office. They may conduct or attend marriages in a wide variety of locations including hotels, castles, football clubs, hospitals and prisons. A driving licence and car are often required. In some rural places, registrars will work in small part-time offices

where they will spend most of their time on basic registration duties and work alone. In others, registrars work in large city offices and may become highly specialised in a particular area of work. There are no standardised minimum entry requirements for registrars, but most local councils as employers require a good level of education. Candidates are expected to demonstrate experience of dealing with a wide range of people. Computer literacy is essential. In Scotland candidates need three S grades (1-3) including English. It is usual to take the examination of the Association of Registrars in Scotland and obtain a Certificate of Proficiency in the Law and Practice of Registration. Candidates are required to have at least two years' experience of registration before this award can be made.

Assistant registrars must be aged at least 18 and registrars over 21. There is no upper age limit for starting in this work and mature candidates may be welcomed. Members of certain professions including doctors, midwives, ministers of religion, funeral directors and anyone working in the life insurance industry, are not allowed to become registrars. Training is usually given on the job and includes detailed training in registration law. A variety of methods, including distance learning may be used. Advanced and further training is usually given e.g. when computer systems change or when new relevant legislation arises.

Assistant registrars may be promoted to registrar. Further progression is to chief and senior registrar, with responsibility for more than one office or council area. The starting full-time salary for assistant registrars is around £15,000 to £16,000. A registrar can expect to earn around £17,000 to £25,000. Those with extensive experience and responsibility may earn up to £40,000 a year for chief or senior posts. There are both full and part-time opportunities but most posts will require flexible working including some weekend and "on call" work. Payment differs from one Local Authority to another and also the payment structure. Part time Registrars may be paid by activity whereas fulltime staff is paid monthly and some pro rata if they also do other jobs within LA employment.

c) The Association of Registrars of Scotland (AROS)

The Association of Registrars of Scotland (AROS) is a professional organisation whose members are civil status registrars and assistant registrars. AROS works closely together with the Registrar General. It promotes training and education for its members and provides for examinations for the 'Certificate of Proficiency in the Law & Practice of Registration in Scotland'. In addition, it gives opinions to the Scottish Parliament on how new legislation might affect service. AROS is a member of the European Association of Registrars (EVS).

d) Registration Records

All births, stillbirths, deaths, marriages (both civil and religious) and civil partnerships occurring in Scotland must be recorded in registers. The records for marriages births and deaths are fully computerized, for Births, Deaths and Marriages from 1855 to 1992 there are hard copy records, which are thereafter stored on microfilm.

The local registrar keeps two registers of all of the births, marriages, and deaths registered in the district. The District Examiner annually examined the registers and sent one copy of the register to the Registrar General. The other copy remains with the local registrar. The Registrar General, General Search Unit, New Register House contains records of births, marriages and deaths from 1855 to the present; census and the Old Parochial Registers of the parish registers kept by the Presbyterian Church (Church of Scotland) from the time the church began keeping registers to the year 1855. The Registers of Civil Partnerships are compiled by district registrars and are included in the national indexes maintained by the Registrar General. The Registrar General maintains an all-Scotland index on computer for each of the three categories of events - births, deaths and marriages

and registers of adoptions and divorces a register of dissolutions of Civil Partnerships notified by Scottish courts.

Where a court makes an adoption order, the Registrar General annotates the entry in the register of births as well as making a separate entry in the adoption register. The information necessary to link the two entries is kept confidential. Where a court makes a divorce order, the entry in the register of marriages is not now annotated to show the marriage is ended.

e) Overseas Records

In some circumstances and in certain countries, someone with a Scots connection can arrange for a birth, death or marriage abroad to be recorded in a register held by the Registrar General in Edinburgh, who is thereafter able to issue an official copy in English, of the entry in the foreign register. The event has first to be registered with the civil registration authorities of the country in question, after which the foreign documents may be certified locally by the British Consul in that country (or High Commissioner in Commonwealth countries). At the end of each year, the records of the British Consul or High Commissioner are collected and sent to the General Registry Office to England and Wales in Southport. From there, records pertaining to Scots are sent to the Registrar General for Scotland. In addition, the Registrar General holds special registers pertaining to births and deaths on British-registered vessels and aircrafts, where it appears that one of the child's parents or the deceased person was usually resident of Scotland and service records of Army shows births, deaths and marriages of Scottish persons in military service abroad as well as war registers. Finally, the Registrar General keeps certified copies of certificates (with translations) relating to marriages of persons from Scotland in certain foreign countries according to the laws of these countries.

Currently the Registrar General creates a "Book of Scottish Connections" (BSC) and a searchable index to the BSC. Searches shall be permitted and copies of the records in the BSC shall be issued for a prescribed fee. The BSC will record the birth, death, marriage or divorce abroad of persons born in Scotland. Persons normally resident of Scotland whose parents or grandparents were born in Scotland.

f) Updating and Corrections

The general rule is that once made, a register entry remains unchanged. However, the Registrar General maintains a register of corrections etc in which amendments to the other registers can be entered. Some changes are possible:

- an error of fact in any register entry may be corrected
- a birth entry where the parents subsequently marry may be cancelled and replaced (re-registered)
- a marriage entry may be cancelled if the marriage was found or declared to be void.

There are some cases in which an entry is made in the register of corrections and a marginal note beside the original entry gives a reference to this. These include cases where:

- a court has made an order of parentage
- the subject of the entry has changed his or her name
- further information about a death has become available.

The law allows the Registrar General, in certain circumstances, to re-register the birth of a child and in some categories the Registrar General has delegated responsibility to the registration officers. A birth may be re-registered where the parents have subsequently married, paternity has previously been acknowledged by statutory declaration or a court decree and the child's father's details are

already recorded; or paternity has been shown in the Register of Corrected Entries, the applicant is the child's mother, she has parental responsibilities and is also the qualified informant; or the child has died, details are missing from the child's birth entry and the responsible parent wants to include either the father's details or the parents' marriage; or the child is still-born and the parents apply to re-register the child's still-birth to include either the father's details or the parents' subsequent marriage. Re-registration creates a new entry that supersedes the original one.

In the absence of a marriage record it is possible to prove the establishment of marriage if given proof is sufficient for the Registrar General and a declarator of marriage from a court, which can be accepted for certain types of marriages.

g) Access

Except for the registers of adoptions and of still-births, any member of the public, on payment of a fee, has a statutory right of access to the indexes to the registers and, on payment of a further fee, can buy an extract of an entry in the registers. Members of the public paying for access to the indexes to the registers are generally also allowed, by an administrative decision of the Registrar General, to inspect the registers. Consultation of the Registers of Births, Deaths and Marriages, the Register of Divorces and the Registers of Civil Partnerships is from digital images.

The 1965 Act already allows exchange of data concerning all births or deaths in Scotland with the National Health Service and deaths are notified to the Department for Work and Pensions as well as to local council tax departments. Other government offices or private institutions may obtain statistical data and any information the public can access.

h) Control

In general, the control of registration is administrative, not judicial. If a citizen or a government agency is not content with an act or decision of a registrar in the first instance they would refer the matter to the Registrar General or by complaint to the local authority in question depending on the nature of the issue. Ultimately judicial review may be available to the Court of Session. Complaints against a decision of the Registrar General can, in theory, be filed in court or can be made to the Scottish Parliamentary Commissioner for Administration (the Scottish Commissioner) through a Member of the Scottish Parliament.

i) Legalization/Translation

In theory the registry office does not accept documents, which are not duly certified or bear an Apostille.

The United Kingdom has a bilateral treaty with Belgium abolishing any kind of legalization. Between Cyprus, Malta, Ireland and the jurisdictions of the U.K., common law tradition does not require legalization of documents, this is also practice for most of the commonwealth. The United Kingdom is also party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

The copies of the documents are permitted, but such copies must be legalized or made of the original documents, which have the certification (Apostille) on it.

If an Apostille is needed for a document from England or Wales to be presented abroad, the request can be forwarded by the registry office to the Registrar General and Home Office. The cost is £27.00. A translation for foreign documents into English by a translator may be required if the

registrar is not able to understand the data content by himself. There is no protected profession of a certified translator in the UK and thus it mostly depends on proof of qualification and reputation.

In the UK, the department responsible for issuing Apostilles is the Foreign and Commonwealth Office (FCO) acting through the Legalisation Office in London.

The Apostille is in the form of an allonge securely glued to the document. The embossed seal of the Secretary of State is affixed in such away that its impression is apparent both on the Apostille and the document itself. The Apostille is affixed on (or on the reverse of) the page bearing the signature, seal or stamp which is being authenticated. The Apostille is issued in English and French. The information on the Apostille is completed electronically; the Apostille itself is affixed manually.

The Legalisation Office offers a same day service to applicants for Apostilles attending in person at its public counter. Postal applications can take up to three weeks for processing and additional delays can occur if they are particularly busy but an attempt is made to deal with postal applications within ten working days. Applications for Apostilles made by DX (Documentary Exchange) are generally dealt with by the close of business on the working day following their receipt by the Legalisation Office.

The current fee is £27 (€ 34,07) per document. Applications can be made by post or in person. No appointment is necessary. The applicant does not need to bring identification documents and anyone can present the documents on his/her behalf.

j) Certificates and Services

There is a statutory requirement for various officials to be notified of certain events (e.g. births to local public health authorities, deaths to local tax authorities). Otherwise, information is given by way of official extracts. Extracts for every record can be issued by every registry office and GRO. Certificates of adoption and stillbirth if not in the current year must be obtained from GRO. In most, but not all, cases the extract reproduces the information in the register as amended by any entry in the register of corrections. A birth or death certificate is even issued to a person living illegally in Scotland. Extracts from the registers are accepted in courts as evidence of the events to which they relate. Scotland neither transmits information about civil status acts and changes of Scottish citizens born in another EU Member State or of citizens of other EU Member States occurring in Scotland directly to the authorities of that EU Member State nor receives information about civil status acts and changes of Scottish citizens (or of citizens whose birth was registered in Scotland) directly from the authorities of other EU Member States.

There are different ways to apply for certificates:

- online from the GRO
- in person at the New Register House in Edinburgh or the local Registration Office where the event was originally registered
- by telephone to the New Register House
- by post
- by fax
- by proxy through any third party
- by power of attorney to a licensed attorney at law
- through consular offices of the U.K. abroad
- through consular offices of other countries in Scotland

k) Cost

Certificates

- Issue of an extract from a Birth, Death, Marriage or Civil Partnership Register: £8,50 (€ 10,78) in current year; other years £13,50 (€ 17,13)
- Issue of an abbreviated certificate from a Birth register within the current year of registration: £8,50
- Issue of an abbreviated certificate issued at the time of registration: free
- Issue of an extract following a General or Particular search £8,50
- Issue of an extract from a Birth, Death, Marriage or Civil Partnership Register: £8,50 or £13,50 if not current year
- or an abbreviated certificate from a Birth register out with the current year of registration: £13,50
- Issue of subsequent extract or abbreviated certificate out with the current year of registration: £8,50
- Issue of a Special Purpose certificate from the Birth, Death or Marriage (e.g. certificate of no impediment) registers : £8,50

Searches in the Indexes of the Statutory Registers

- A Particular Search made by a Registrar for a specified entry whether traced or untraced for each period of 5 years or part thereof: £5,00 (€ 6,34)
- A General Search with permission of the Registrar for the first hour or part thereof and for a second or subsequent hour or part thereof during the same day: £10,00 (EURO12,68)

Marriage and Civil Partnership

- Lodging Notice of Marriage or Civil Partnership Registration(for each notice): £26,00 (€ 32,97)
- Solemnisation of a Civil Marriage or Registration of a Civil Partnership: £46,50 (€ 59,01) (although a statutory fee, £45,00 (€ 57,06) may be charged in some registry offices)
- Addition Council charge for Saturday Civil Marriage or Civil Partnership Registration: £25,00 (€ 3,70) (may differ in different Local Authorities)

Registrars attendance fee for Civil Marriage or for Civil Partnership Registration in an Approved Venue

- Monday - Friday 10.00am - 4.00pm: £140,00 (€ 177,52)
- Monday - Friday 4.00pm - 5.00pm: £195,00 (€ 247,26)
- Saturday 12.00noon - 4.00pm: £195,00
- Sunday & Public Holiday on request: £270,00 (€ 342,36)
- Recording of Name Changes: £36.00 (€ 45,65).
For family applications, the fee is £36.00 for the first family member and £10.00 for each subsequent family member when applied for at the same time. The cost of a full birth extract

or abbreviated certificate is £13.00 (€ 16,48) with a further £8.00 (€ 10.14) payable for each additional extract ordered at the same time or £13.50/£8.50 in local offices.

Order made in person at New Register House

- Particular search to find the right entry, per entry: £3.00 (€ 3,80) for Edinburgh, £5.00 local offices
- Document fee, per certificate: £8.00 for Edinburgh, £8.50 local offices
- Fee for priority service, if requested: £10.00

Order by post, telephone or fax to New Register House or GRO

- Particular search to find the right entry, per entry: £5.00
- Document fee, per certificate: £8.00 / £8.50 local offices
- Fee for priority service, if requested: £10.00

Payment for certificates ordered online, by phone or by fax may be made with all major credit cards. If ordering by post Sterling cheque or British postal order is also accepted. If applying at the New Register House or at the local registration service, payment may also be made in Cash or by Travellers' cheque in sterling. All options may vary from office to office.

If application is made in person, the extract will be delivered in 10 to 30 minutes. If application is made by telephone, by mail, fax, e-mail or from abroad the extract will usually be sent by mail the same day.

l) Law

Common Law and the Rules of Equity apply accordingly to the entire United Kingdom; Civil Partnership Act of 2004; Gender Recognition Act of 2004; British Nationality Act of 1981.

Scotland

Marriage Act (Scotland) of 1977; Adoption (Scotland) Act of 1978; Law Reform Parent and Child (Scotland) Act of 1986; Registration of Births, Deaths and Marriages (Scotland) Act of 1965; Local Electoral Administration and Registration Services (Scotland) Act 2006; Adoption and Children (Scotland) Act of 2007; Public Registers and Records (Scotland) Act of 1948; Family Law (Scotland) Act of 2006; Freedom of Information (Scotland) Act 2002, Marriage (Scotland) Act 2002.

Applicable Law

Courts in the United Kingdom having jurisdiction will apply the law of the forum (English and Welsh or Scottish law or the law of Northern Ireland) in almost every matter, especially with respect to parentage, child custody and parental responsibility, naming, or divorce proceedings. In proceedings for a decree of nullity, the laws of place of celebration or law of party's domicile will apply depending on the ground of nullity. A foreign divorce will be recognised if one of the parties was habitually resident, domiciled, or a national of that country at the time of the foreign proceedings.

Jurisdiction is based on Council Regulation (EC) No 2001/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, and on Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and

enforcement of judgments in civil and commercial matters, both of which are also applied as far as cross-border situations between England and Wales and Scotland are concerned.

In terms of domestic law, the courts will have jurisdiction in family matters if one of the following requirements is satisfied: the spouses are habitually resident or domiciled in England and Wales, Scotland or Northern Ireland, respectively, the spouses were habitually resident in that country of the U.K. and one of them is still resident there now, the respondent is habitually resident, or the applicant was resident in the country for at least one year before the date of the application (or six months if the applicant is a national of a Member State). If none of these is satisfied and no other Member State has jurisdiction, domestic law confers jurisdiction on the courts if at least one of the parties was domiciled in the country at the time of the commencement of the proceedings.

m) eGovernment

Online Services for Citizens

Portal

Launched in March 2004, <http://Direct.gov.uk> is the UK Government's citizen portal. It provides citizens with a single entry-point to online public services. In addition, the Scottish government maintains a website under <http://www.scotland.gov.uk>, the Executive of Northern Ireland maintains a website under <http://www.northernireland.gov.uk/> and the Welsh Assembly Government maintains a site under <http://new.wales.gov.uk>.

There is an effort to make as many county services available on-line as possible. In England, more than 600 different services are currently available on-line.

eIdentification infrastructure

The most generic central UK identification platform is the Government Gateway, which, launched in February 2001, is a central registration and authentication engine enabling secure authenticated e-government transactions to take place over the Internet. Users need to register with the Gateway in order to enrol for using online government services and subsequently transact securely with government departments. The Government has laid down plans for the phased introduction of e-ID cards in the UK which is under way with e-ID cards to become available to the wider public by 2012.

Civil Status Website

Scotland: <http://www.gro-scotland.gov.uk> and local offices under the specific local authority website for the area.

Civil Status Certificates

The General Register Office (GRO) now offers the facility to order certificates online, which can be used to place orders using the GRO index reference and for certificates dating from 1900 up to 18 months before the request date where the exact details are known. The service applies for England and Wales only. The General Register Office (Northern Ireland) also has an online request facility, while the General Register Office for Scotland provides information only.

2. Birth

A birth which occurs in Scotland must be registered within twenty-one days by the Registrar. An extension to this period is possible on request. Three months is regarded as the absolute deadline. The consequence of a delayed registration can be a fine (£200).

The legal responsibility for registering a birth falls primarily on the mother, and, where he is married to the child's mother, the father. Other people qualified to act as informants include any aunt, uncle, grandfather, grandmother, the occupier of the premises where the birth occurred, and a person present at the birth or the person in charge of the child. Both parents can make statutory declarations to allow the birth to be registered if only one parent can go to the registrar's office. The parent who will not be coming to the registrar's office must sign the statutory declaration form in front of a Justice of the Peace or Notary Public. The parent who registers the birth must then sign the other form in the presence of the registrar.

Usually, the following documents should be presented to the registrar:

- Birth Registration Card or Form, delivered by the midwife
- marriage certificate (if the parents are married to each other)
- birth certificates of the parents.

If these documents are not available, the registrar will ask the informant for information on the full name given to the child, the date, time and place of birth; the parents' full names and occupations and mother's maiden name; the parents' date and place of marriage (if applicable); the parents' date and country of birth. There is no fee payable for the registration of a birth and for an abbreviated extract (i.e. excluding parentage details) of the birth entry. A full extract of the birth entry is available for a fee.

If birth occurs during journey on vessel or aircraft and the child is brought to any place in Scotland the birth is unless Registrar General otherwise directs deemed to have occurred there for the purpose of registration (13(4) Registration of Births Deaths and Marriages (Scotland) Act 1965). Birth abroad or to a Scottish national must not be declared to a registry office in Scotland. However, voluntarily it can be registered through the consular returns and then entered in to the register.

Stillbirth

The process for registering a stillbirth combines features of both birth and death registration. A stillbirth which occurs in Scotland must be registered within twenty-one days by the Registrar. Evidence of the stillbirth must be produced before it can be registered, usually in the form of a medical certificate of cause of stillbirth signed by a doctor or midwife who was present or who examined the stillborn child. If no doctor or midwife is able to sign the certificate, there is provision for the informant to make a declaration confirming that the child was still-born. The registrar issues a certificate for use by the burial or cremation authority.

a) Birth Certificate

The information currently recorded in the birth register is:

- Registration district and administrative area.
- Child – Date and place of birth/stillbirth (time if multiple live birth).
- Child – Name and surname in which the informant intends to raise the child (in case of stillbirth where given).
- Child – Sex.
- Child – Cause of death and nature of evidence that child was still-born.
- Father – Name and surname at date of child's birth/stillbirth (also previous names and aliases); Occupation.

- Mother – Name and surname at date of child’s birth/stillbirth(also previous names and aliases); Occupation; Maiden surname (surname used at time of first marriage); Surname at date of last marriage if married more than once; Usual address.
- Date & place of parents' marriage
- Informant – Name and surname (if not mother or father)
- Date of registration, signature of registering officer and informant.

b) Changes

In the United Kingdom, there is a general rule that once made, a register entry remains unchanged, and that there is no up-dating of the records. Thus in principle a birth certificate cannot be changed and is not supplemented by later inscriptions or annotations. A birth certificate can be changed only in the following circumstances:

Changing a child's first name(s)

It is possible to have the child's new first name(s) added to the birth register, provided the new first name(s) were given either in baptism or by regular use within 12 months of the birth being registered. The new first names may be added to the birth record after 12 months, but it is necessary to provide documentary evidence that the new first name(s) were in use within 12 months of registration. Upon re-registration, a new birth certificate can be purchased. A new full birth certificate will show both the original and the new first name(s).

Following a decision by the European Court of Human rights it is now possible for persons changing their gender to obtain a new birth certificate showing the new gender and name. After 2 years of living with the new gender and a successful application to the Gender Recognition Panel the birth certificate can be changed showing a different sex and a different name.

Other than those two exceptions, there is a strict rule that the birth certificate may not be changed.

Changing a child's surname

If the father recognises the child or if the parents have married each other since the birth was registered, the birth can be re-registered to show the child as a child of the father. The child's surname may be changed from the mother's surname to the father's surname (parents not married). Upon re-registration, a new birth certificate can be purchased.

Similarly, upon adoption, the adoptive birth certificate that is issued upon adoption will change the child's surname to that of the adopted family's surname upon application.

c) Recognition

Mother is the woman who has given birth to the child. Maternal recognition is not envisaged under the legislation of Scotland. Nevertheless a certificate of maternal recognition is issued on request.

Paternity is primarily established through a parental genetic link between the child and the putative father. This link can be shown by leading extrinsic evidence, such as the results of scientific tests, though more commonly it is established by relying on one of a number of presumptions that the law provides. In cases involving artificially assisted conception, paternity is deemed by the law from certain facts notwithstanding the acknowledged lack of any genetic connection.

Section 5(1)(a) of the Law Reform (Parent and Child) (Scotland) Act 1986 provides that a man shall be presumed to be the father of a child if he was married to the mother of the child at any time in the period beginning with the conception and ending with the birth of the child.

Any man, major or minor, who claims himself the father of a child designed by natural procreation can recognize paternity. The paternal recognition requires consent of the mother. The recognition can be received only by the registrar in a statement made by the father, at the moment of the birth or later on, in the presence of the mother or with her written consent. If a court issues a decree of paternity name and surname of the father may be recorded by the Registrar General by an appropriate entry in the Register of Corrections without the consent of the mother (S 18 (2) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965. After recognizing the child the father has full parental rights and responsibilities for the child. A recognition may be revoked or cancelled only after a Parental Responsibility and Rights Agreement has been signed and registered only through court proceedings

As with section 5(1)(a), this is only a presumption that can be rebutted. If the presumptions above do not apply or if the facts of paternity are nonetheless disputed, then the matter must be resolved by court proceeding. Evidence will take the form of proof that the man registered as the father is not genetically related to the child as his or her father.

Exceptions exist with regard to assisted reproduction, where DNA tests are not allowed or part of the proceeding but instead, there is a presumption of consent on the part of the husband, or otherwise on the part of the man who has taken part in the treatment proceeding.

d) Cost

Recognition is free of charge but if done by agreement there is a fee of £17.05 (€ 21,62) for the registration of the agreement.

3. Marriage

Arrangements for marriage preliminaries and the solemnisation of civil marriages are governed by the Marriage (Scotland) Act 1977. Under this regulation it is possible to get married either by a religious ceremony or by a civil ceremony. A religious marriage, which may take place anywhere, may be solemnised by a minister, clergyman, pastor, priest or other person entitled to do so under the Marriage (Scotland) Act 1977. A civil marriage, which may take place in a registration office or at an approved place, may be solemnised by a registrar or an assistant registrar who has been authorised by the Registrar General for that purpose. In Scotland marriage can also be officiated by a humanist (non-religious) celebrant, such weddings having the same legal status as civil and religious weddings. The couple is free to choose the location and nature of their ceremony.

a) Personal Requirements/Impediments to Marriage

Any two persons, regardless of where they live, may marry in Scotland provided that:

- both persons are at least 16 years of age on the day of their marriage.
- they are not related to one another in a way which would prevent their marrying, the forbidden degrees of relationship being stated in Schedule 1 of the Marriage (Scotland) Act 1977 as amended by the Family Law (Scotland) Act 2006, namely kin in the direct line, and in the lateral line between siblings, between aunt and nephew or uncle and niece, between adopted parents and children, and finally between step-parents and their children with certain exceptions, and between a person and that person's parent's or child's former spouse, unless both linking persons are deceased.
- they are unmarried and not in a civil partnership.
- they are not of the same sex.

- they are capable of understanding the nature of a marriage ceremony and of consenting to marrying.
- the marriage would be regarded as valid in any foreign country to which either party belongs.
- one of the parties did not freely consent to the marriage.

A voidable marriage is one that subsists until one of the parties to the marriage applies for a declaration of nullity. The only ground for a voidable marriage is that one of the parties is incurably impotent.

b) Notice of Marriage

Before a couple can marry, both parties must submit a marriage notice along with the appropriate fee to the registrar for the district in which the marriage is to take place. These marriage notice forms are available from any local registrar in Scotland or from the General Register Office for Scotland in Edinburgh where one can also download a copy of the form. They must be submitted a minimum of fifteen days and a maximum of three months before the ceremony, however four weeks is the recommended period (or six weeks if either party has been married before). The Registrar General in exceptional circumstances may grant an exception, e.g. for Army/Navy personnel on leave for very short time in war situation, life threatening illness and similarly grave situations. Once the notice has been signed, the registrar is responsible for recording the information on the notice in a marriage notice book, together with the date on which the notice was signed and the name of the person who gave the notice. The marriage notice book must be open for inspection free of charge at all reasonable hours. The period of notice allows time for anyone to raise an objection to it (on such limited legal grounds as set out in the Marriage (Scotland) Act 1977). Although the parties need not both attend personally at the registrar's office to hand in their marriage notice, at least one of them may be asked to attend there personally before the date of the marriage.

Documents

The couple that wishes to marry may be required to produce the following documents (or other evidence in the discretion of the registrar):

- birth certificate
- if previously married or in a Civil Partnership before, the registrar will require proof of the termination of the earlier marriage or Civil Partnership such as a decree absolute of divorce, annulment or if the applicant is a widow or widower, the death certificate of the former spouse.
- if one of under 18 years of age, the written consent of the parents or guardian an order of a court dispensing with consent
- The Family Law (Scotland) Act removed In-Law relationship as barrier to marriage under certain conditions. If marrying a step relative, each party has to sign a declaration obtainable from the registrar (step relatives can marry if both are 21 years of age or over at the time of the marriage and the younger party has not, before his or her 18th birthday lived in the same household as the other party and been treated by that person as a child of the family).
- proof of citizenship, if born before 1983 in the U.K., a British birth certificate is sufficient, otherwise a passport, or a parent's birth certificate; if the person wishing to marry is not a UK citizen, he/she may also need to produce other documentary evidence, such as travel documents, and residence permit or visa.

- certificate of no impediment for foreigners having lived in the U.K. for less than 2 years.

All documents except visa or residence permit are accepted without expiration period specified. If for any reason a person is unable to produce one of the required documents, he/she must state the reason and an affidavit may be acceptable. Documents in a foreign language usually have to have a sworn translation in English.

c) Marriage Schedule

The Registrar will review all documentation to be satisfied that the parties are free to marry and then will prepare the marriage schedule. The Schedule cannot be issued more than seven days before the marriage. In the case of a civil wedding the Registrar retains the schedule until the date of the wedding, however, if a religious marriage is intended the schedule is issued to the parties, one or other of whom must collect it in person not more than seven days before the wedding. The schedule must be produced before the ceremony for the person performing the marriage who is then required to sign it with the couple and two witnesses. The Registrar then retains or must have the schedule returned within 3 days so that the marriage can be registered.

d) Marriage Ceremony

The civil marriage ceremony may be solemnised by a Registrar or an Assistant Registrar who has been authorised by the Registrar General for that purpose. Religious marriages can be solemnised by a person, e.g. Minister, Priest, Pastor, etc. who has been registered as an Officiant and who has been authorised by the Registrar General. The parties, both present at the same time, must arrange for two witnesses to be present at the marriage and to sign the marriage schedule. Witnesses must be 16 years of age or over. The Registrar must be satisfied that the parties understand the procedure. If necessary an interpreter has to attend and the parties have to pay for the interpreter

e) Registration of Marriage

The Registrar is responsible for the registration of all marriages. The layout and content of the marriage entry is prescribed by regulation and contains the following information relating to the bride and groom:

- Place of marriage.
- Date of marriage.
- Names and surnames.
- Sex.
- Age.
- Marital status.
- Occupation.
- Address at the time of the marriage.
- Father's and mother's name and surname and whether deceased.
- Father's and mother's occupation and whether retired.

Existence of a marriage contract is not registered in the registry and spouses are not obliged to report it.

f) Marriage in Scotland where one party lives in England or Wales

As an alternative to the normal procedure of giving notice to a registrar in Scotland, if a person residing in England or Wales intends to marry either a person residing in Scotland or a person residing in England or Wales who has a parent residing in Scotland, he/she may instead give notice of marriage to the superintendent registrar in the district in England or Wales in which he/she resides. The other person should, however, give notice in Scotland in the usual way. The certificate for marriage obtained from the superintendent registrar in England or Wales should then be presented to the Scottish registrar.

g) Scottish Certificates Of No Impediment

A Scottish resident intending to marry outside Scotland can give notice at a registration office in Scotland and obtain a 'Certificate Of No Impediment' (CONI) which some civil registration systems abroad require as evidence of freedom to marry. The new electronic system of registration allows all connected registration offices to check the all-Scotland index of marriages and divorces (including digital images of the records). The local registrars must search the all-Scotland indexes before issuing the Certificate.

h) Divorce/Separation/Annulment

In Scotland a divorce must be obtained through the court. At the applicant's choice, an application for divorce may be made to either the Court of Session in Edinburgh, or to the local Sheriff Courts which is competent for the place of residence or domicile for the case. A proceeding may be filed in Scotland if,

- if both parties are domiciled in Scotland
- if the other party is habitually resident in Scotland
- if the parties were habitually resident in Scotland during the marriage and the applicant still resides there
- if the applicant has resided in Scotland for at least one year immediately before the application is made,
- if the applicant is domiciled in Scotland and has habitually resident there for at least six months immediately before the application is made.

For applications to the Sheriff Court it must also be shown that either party has lived at the current address in the Sherriffdom for at least 40 days before the date of the application, or that either parties has no known residence in Scotland, but did live at the address shown in the application for at least 40 days, ending not more than 40 days before the date of you signing the application.

Divorce is granted if marriage has broken down on irretrievably, which is proven either on fault of the other party in the case of adultery, unreasonable behaviour, such as physical abuse, or desertion) or on separation of one year (with consent) or of two years (without consent). In addition, there is the possibility of a divorce upon change of gender by one spouse. The conditions for judicial separation are identical to those for divorce.

4. Name

The Registrar is entitled to receive the declaration of naming of the child as part of the completion of the birth entry. There is no legal or other provision on naming (either first name or surname) in Scotland, but to be in accord with a general public policy rule the first name must not be objectionable. The Registrar may seek advice from GROS. First name and surname written in a language which uses a system of writing not based on the Roman alphabet must not be accepted for

registration purposes. In such cases only the English-version or translation or phonetic transliteration is entered in to the register. Gaelic or other non-English names based on the Roman alphabet can be registered in the following way:

- a non-English name on its own
- the English equivalent on its own
- a non-English name followed by the English equivalent

Regarding surnames, either spouse is able to preserve their own surname when they are married, choose one joint surname or retain the original surname and use the other surname as a suffix to or before the joint surname. A hyphen is not compulsory. The option has to be declared after the marriage. Similarly, they are entitled to retain their spouses' surname after divorce or death of one spouse. On Scottish legal documents it is normal for both a woman's maiden name and any married names that she has had to appear. The first name and the surname of a found or orphan child must be chosen by Director of Social Work within two months. Stillbirths may be assigned a first name and a surname. Nobility titles are registered.

a) Name Change

Any person living in Scotland aged 16 years and over can change the name to any name he/she chooses simply by using their new name. This is known as changing the name by usage. With few exceptions, a person can have whatever name he/she choose so long he/she is not changing the name for fraudulent purposes or to avoid an obligation or debt. Furthermore, there are no restrictions on how often a person can change the name.

However, if a person changes the name by usage, he/she will encounter difficulties when trying to get certain official documents and records changed. Government departments will ask for "documentary evidence" of the change of name. Documentary evidence is a term used to describe a document that will be accepted to effect a change of name. Such documents are

- Marriage Certificate: Allows a woman to change her surname to her husband's surname.
- Civil Partnership Certificate: Allows one partner's surname to be changed to the other partner's surname.
- Decree Absolute Certificate: Usually allows a divorcee's surname to be changed to the surname before marriage or civil partnership.
- Death Certificate: Usually allows a widow's surname to be changed to the surname before marriage or civil partnership.
- Adoptive Birth Certificate: Allows an adopted child's surname to be changed to the adopted family's surname.

To change the name for any other reason than above, a document is needed that provides evidence that the person has changed his/her name. Certain documents that can never be changed because they are historical records of what happened at a particular point of time are: a birth certificate (with exceptions), an adoptive birth certificate, a marriage certificate, civil partnership certificate and a decree absolute certificate.

The name on a birth certificate issued in Scotland can be changed in the following circumstances:

Changing a child's first name(s) who is under one year of age

If a child's first name(s) (but not surname) are changed within the first year of life, the change can be recorded in the birth register if an application is made within two years of the birth of the child.

The application must be signed by everyone with parental responsibility for the child. When a certificate of the child's birth entry is subsequently issued, the new name is substituted for the name originally registered. If a change of first name(s) in infancy (i.e. a change of first name or a first name given within 12 months from the date of birth) has already been recorded no further change of forename(s) may be recorded before the child reaches 16 years of age.

Changing a person's first name(s) and/or surname who is two years of age or older

For persons aged two years and over an application can be made to change of first name(s) and/or surname recorded in the birth register. For a person under 16 years of age, the application must be signed by everyone with parental responsibility. In the subsequent issue of a birth certificate the original first name(s) and surname are shown in addition to the new names. Only one change of first name(s) and one change of surname(s) may be recorded for a child less than 16 years of age. For persons 16 years of age and over one change of first name(s) and up to three changes of surname(s) may be recorded. A period of 5 years must elapse between successive changes of surname(s).

If a person is at least 18 years of age and has gender dysphoria and has been living in the acquired gender for at least two years, he/she can apply to the Gender Recognition Panel for a Gender Recognition Certificate, which will enable him/her to obtain a new birth certificate showing the new gender and name.

Changes of first name(s) or surname(s) may also be recorded if -

- A decree or certificate of change of first name(s) or surname(s) pronounced or granted by the Lyon King of Arms is produced
- A certified copy of a will, settlement or deed of trust containing a condition that the person concerned takes a first name(s) or surname(s) different from that in which his or her birth was registered is produced
- A male person who has married in Scotland and who has changed his first name(s) or surname(s) following his marriage, produces a decree or certificate pronounced or granted by the Lyon King of Arms
- An alternative first name(s) (but not surname(s)) is used where the registered first name(s) is a non-English first name(s), for instance a Gaelic name and the alternative first name(s) is the English equivalent. If the application is approved the alternative first name(s) so recorded will be shown on any birth certificate alongside the first name(s) as originally registered.

The completed application form and the fee should be sent to the General Register Office for Scotland. The current fee is £36.00 (€ 45,65). For family applications, the fee is £36.00 for the first family member and £10.00 (€ 12,68) for each subsequent family member when applied for at the same time.

HR – Croatia

1. Civil Status Registration System

The civil status registration system in Croatia is event-based.

The official language of the Republic of Croatia is Croatian. All civil status acts are performed in Croatian (Article 12 Constitution, NN. N° 41/2001). National minorities can equally use their own languages if they constitute at least a third of the population of the county (Article 12 Constitutional Act on the Rights of National Minorities, NN 155/2002). This is fully regulated with provisions of Law of usage of the language and letter of national minorities in Republic of Croatia, NN 51/2000.

For example, in certain towns of Istria, acts in addition are drawn up in Italian in accordance with the agreements of Osimo. Gaj's Latin alphabet is a variant of the Latin alphabet and is currently used as the only script of the Croatian standard languages. It consists of thirty letters. Croatian has the symbols ć, č, đ, š and ž, which are considered separate letters and also has one digraph including a diacritic, dž. Croatian Latin is the same as Serbian Latin and they both map 1:1 to Serbian Cyrillic, where digraphs map to Cyrillic letters ђ, љ and њ, respectively. The preferred character encoding for Croatian today is either the ISO 8859-2, or the Unicode encoding UTF-8.

According to the last population census in 2001, Croatia has a population of 4,437,460 and is divided into twenty-one counties, (županija) and the capital Zagreb's city district. A municipality is part of a county.

The Central State Administrative Office for Public Administration controls the legality of the work and the procedures in the field of citizens' personal conditions related to the keeping of state records on Croatian citizenship, electoral right, registers of births, marriages and deaths, decides in administrative matters regarding the change of personal name. It acts upon requests submitted by diplomatic and consular missions of the Republic of Croatia regarding the issuing of documents for citizens abroad and it carries out activities for the International Commission for civil status issues (CIEC). The Central State Administrative Office for Public Administration has eleven sub-units. One is the Department for Civil Status Issues, which organizes the registry office related activities, maintains files register and register of first and second instance procedures, determines the class number of the files, takes over the files for delivery and carries out the administrative technical processing of these files, files the documents upon the file number and maintains files record, carries out transcription, copying and multiplication of files, external and internal mail delivery to organisational units within the Ministry of Economy, Labour and Entrepreneurship, and headquarters of bodies within the Zagreb area and carries out other activities within its scope. The Personnel Services Section carries out activities related to employment and assignment of civil servants and civil service employees, prepares and maintains reports in the area of civil servants relations, carries out administrative and technical activities relating to state exams and training of civil servants, issues decisions and certificates with respect to status related rights of civil servants and civil service employees and carries out other activities within its scope.

a) Registry Offices and Staff

Local self-government in Croatia is organized through cities and municipalities. Currently, there are 245 Registry Offices in the 123 cities and 426 municipalities. 155 offices have regular opening hours and the others are open only on certain given working days (one, two or three days per week). These offices are holding the registers of 648 districts. The service is ensured by approximately 850 civil status officers, which are all civil servants. The registrars' training is very precisely regulated, with national regulations for a vocational examination and for the contents and the length of the training course. Diplomatic and consular officials are entitled to conduct and register marriages only. Requirements for employment in state administration are following:

- relevant education level
- relevant work experience
- health ability
- Croatian citizenship
- no prior criminal record

Their status, rights and duties are arranged by the Law on Civil Servants of 20.07.2005, and the amendments 2006, 2007 and 2008. State employees receive monthly pay which is determined by their level of education, work length and level of responsibility

b) Civil Records

Registrars keep the register of births, marriages, deaths of nationals and foreigners. A special citizens' register (book of nationality) is kept according to the first letter of the surname. The registers of births, marriages and deaths are kept in two original copies. The double is deposited in the appropriate State Administration Office within the county or city. It can be kept with automatic data processing which has to be identical to the original copy. The doubles from the consular marriage registers are transmitted to the Ministry of Foreign Affairs. Other acts occurring abroad are registered in the registry office of the last residence, failing this in the Central Register kept by the body authorized for carrying out general administration in the City of Zagreb.

A special register is kept on Croatian citizenship. In the register of citizenship all decisions relating to acquisition or loss of citizenship are recorded. It is kept in one specimen. The register of citizenship is kept by the Municipal Registrar's Office, while the register of Croatian citizens who reside abroad is kept by the respective diplomatic or consular office of the Republic of Croatia abroad as well. Persons born in the Republic of Croatia are registered in the Register of Citizenship kept by the Registrar's Office of the municipality of the place of birth of that person. Persons born abroad are registered in the Register of Citizenship kept by the Registrar's Office of the Municipality in which the person filing the petition for the acquisition or termination of Croatian citizenship resides. Persons who acquire Croatian citizenship and who do not reside in the Republic of Croatia are registered in the Central Register. The Certificate of Citizenship is a public document which serves to prove Croatian citizenship, and is issued by the Municipal Registrar's Office or the authorized diplomatic or consular office of the Republic of Croatia abroad. Croatian citizenship is evidenced by a valid identity card, military identity card or passport. A Croatian citizen, who does not have any of the aforementioned documents, can prove Croatian citizenship with the Certificate of Citizenship which is issued by the Municipal Registrar's Office, based on the records.

Croatian citizenship can be obtained by origin based on the documents proving parents citizenship, or based on decision of state administration office, when obtained by naturalisation. If the parents have different citizenship, citizenship of a child is entered upon an explicit request of one parent or joint request of both parents or a declaration of a parent that has reported the fact of child's birth. All subsequent acquisitions of citizenship will be entered into the book of nationality and the registrar as well stating the date it was obtained and grounds of acquisition.

All entries in the register must be verified individually by competent registrar as well as the book itself which is to state that the entries are identical to the originals and that extracts can be issued from it. The registrar that has verified the entry is responsible for verification and for the content of the document that is issued. If the registrar suspects the verity of the data, he is obliged ex officio to postpone the entry and check the correctness of the given information. He is entitled to use all available records in the country.

c) Access and Documents

The registers can be consulted by any person justifying a legal interest in the presence of a registrar. Application for copies can be made in person or by postal mail. They can also be made by proxy through the third party. If the application is made in person, the copies are issued on the same day. The waiting period for applications sent via postal mail is one to two weeks, depending of the work load of the registrar. In theory, the person applying must present an identification card or proxy or power of attorney form in original or other document proving his/hers interest for obtaining the

copy from the registry, but often this is waived if the registrar is otherwise convinced of the identity (e.g., by the address on the letter of request or payment).

The registry office issue integral copies of the birth record (Izvadak iz matice rođenih), of the marriage record (Izvadak iz matice vjenčanih) and of the death record (Izvadak iz matice umrlih). Integral copies are the reproduction of the original inscription including all later annotations without secret information. Furthermore, the office issues extracts of the birth record (Rodni list), of the marriage record (Vjenčani list) and of the death record (Smrtni list). Extracts state the most important information reflecting the civil status of a person at the time of the delivery. The third category of documents issued is certificates. Various certificates are issued:

- birth, marriage and death certificate
- life certificate (potvrda o životu)
- certificate of matrimonial competence
- certificate of citizenship (domovnica) and
- for a religious marriage, a special certificate (potvrda o ispunjenju pretpostavki za sklapanje braka u vjerskom obliku) stating that all conditions for marriage are met.

All documents are delivered to the person justifying a legitimate interest. The validity of all documents is in theory not limited. However, a copy of birth certificate which must be presented for marriage and the certificate issued by the registrar before the celebration of a religious marriage expires after three month. The cost for extracts and certificates is 20,00 kn in administrative stamps (€ 2,75) and for the certificate of ability to marry in church is 160,00 kn (€ 22,03).

Information about adoption is kept secret. An adult adopted child, an adoptive parent and a parent who has given consent for the adoption of a child will be allowed to inspect the files of subjects of adoption and the register of births of an adopted child. A minor adopted child may be allowed by a welfare centre to access adoption files and the register of births of adopted children, if the welfare centre determines that a sight of the adoption files and the register of births are in the child's interest. Under Family law, an adopted child has the right to be informed of his adoption. It is advised to inform the child before he/she turns seven, unless the adoption occurred after his/hers seventh birthday.

d) Correction, Amendment and Cancellation of Civil Records

Any error can be corrected locally by the registrar before he/she has signed the act. After establishment of the act, errors can be corrected on authorisation of the appropriate State Administration Office only.

Certificates are not amended at a later date but annotations in the margin of the certificates are used to establish a relationship between two civil status acts, or between an act and a court decision. The marginal annotation is a brief reference to the new act or decision on the margin of an act previously recorded or transcribed, changing the civil status of the person concerned.

An act can be cancelled locally by the registrar before he/she has signed the act. After establishment of the act, cancellation is possible on authorisation of the appropriate State Administration Office only. The cancelled act is crossed out. If the act is cancelled before it is signed, a remark is accomplished. After signing, a complementary note is carried out. If the applicant justifies a legal interest, the delivery of copies and extracts of a cancelled act is possible. Omitted, destroyed or lost acts are reconstituted by the State Administration Office, using the deposited copy. If both original acts are destroyed or lost, the State Administration Office will order the reconstitution of the register. The publication of the decision calls on the citizens to make statements or present evidence

for the reconstitution. If facts cannot be reproduced by the administrative procedure a courts decision must be induced.

All corrections and amendments must be verified by the registrar.

e) Archives

According to the Archives and Archival Institutions Act of 19.09.1997, public archives referring to personal data are available for consultation 70 years after their creation or 100 years after the person concerned was born. All entries older than 100 years are now being deposited in the Croatian National Archive. Archives are available for consultation before the anticipated period if such records have been intended for the public since their creation or if the person concerned agrees, or if his or her spouse, children or parents agree after his or her death. In 1945, all birth, marriage, and death records held by churches in Croatia were turned over to the civil authorities and were deposited with the općina (municipality, community city office). For small villages or places that did not have a city office - the općina would then be in the next largest village or town. The City Hall will have birth, death, marriage records from 1860 to the present. All birth and death records older than 1860 were turned over to the Croatian Historical archives, located at: Zadar, Dubrovnik, Rijeka, Zagreb, Pazin, Osijek and Split. All religious records have been collected in State Archives, located at: Varaždin, Zagreb, Pazin, Rijeka, Karlovac, Zadar, Split, Dubrovnik, Sisak, Slavonski Brod, and Osijek.

f) Legalisation/Translation

The registry office does not accept documents which are not duly certified or bear the Apostille.

Croatia is a party to the CIEC Convention No. 16 of 8 September 1976 on the issue of multilingual extracts from civil status records, birth certificates, marriage certificates and death certificates along with Austria, Belgium, Bosnia and Herzegovina, France, Germany, Italy, Luxembourg, Macedonia, the Netherlands, Portugal, Serbia and Montenegro, Slovenia, Spain, Switzerland and Turkey.

In addition, Croatia has concluded bilateral treaties with Austria, Bulgaria, Czech Republic, Cyprus, Hungary, Romania and Slovakia, abolishing legalisation, either of public documents in general, or of civil status documents.

The copies of the documents are permitted, but such copies must be legalized or made of the original documents, which have the certification or Apostille on it. All documents in a foreign language must be translated into Croatian by the authorized court interpreter. To enter a fact, based on a foreign ruling, a person must first submit the ruling to the Croatian home for recognition and then submit an application to the registrar to make an entry of e.g. divorce into the registry enclosing both foreign ruling and domestic decision of recognition.

Apostille certificates are issued by the municipal courts or the Ministry of Justice and Administration. The current fee is 30,00 CK (€ 4,15)

g) Foreign relations

Some Croatian civil status registrars transmit information about civil status acts and changes of citizens of EU Member States (and of nationals who were born in EU Member States) that occur in the country directly to the authorities of the respective EU Member. Croatian civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States.

h) Consular Services

The Consular Section at the Ministry for Foreign Affairs works with issues related to consular assistance and civil law. Consular assistance is the assistance that Croatian citizens can obtain from Croatian foreign missions. The registration of civil status events is compulsory.

Croatian consular officials assume only limited duties to those which are reserved for registrars in their country. They do not draw up acts and do not hold registers of births, marriages and deaths. Croatian consular offices abroad transfer the acts drawn up abroad to Croatia. The role of the missions abroad is normally to report changes in the status of nationals (birth, death) which have taken place abroad to Croatia. The consular officials offer assistance to obtain civil status certificates (birth, citizenship and death) for Croatian citizens from civil status registries in Croatia and the host country. They are also authorized to perform marriages. A fee of € 16,00 is payable for procuring of civil status documents. The estimated issuing time is six to eight weeks.

If a child, whose parent/parents are Croatian citizen, is born abroad, its birth should be registered in the Croatian Registry of Birth and the Croatian Book of Citizens. In the absence of residence in Croatia, the birth certificate can be drawn up on the last place of residence of one of the parents and if the parents were not born in Croatia in the registry office of Zagreb. The following documents should be submitted when applying:

- completed form of birth registration
- unabridged birth certificate and certified translation into Croatian;
- proof of parents' citizenship: valid Croatian passport and Certificate of Citizenship
- foreign residence permit (ID or passport).

If the other parent is a foreign citizen he/she should make a certified statement stating that he/she agrees the child be registered in the Croatian Registries.

i) Law

Law on the Registers of births, marriages and deaths of 25.10.1993; Law on the Personal Name of 22.10.1992; Family Act of 22.07.2003; Law on Croatian Citizenship of 06.10.1991; Same-sex Civil Unions Act 2003; Law on Civil Servants of 20.07.2005; Instruction for enforcement of Law on the Registers of births, marriages and deaths and registration of adoption 2008

j) eGovernment

Online Services for Citizens

Portal

HITRO.HR is a service of the Government of Republic of Croatia. Its creation started in 2005 and today it serves as link for quick communication of citizens and business subjects with the state administration, implemented by the Financial Agency. In 2005, The Croatian Personal Data Protection Agency (Agencija za zaštitu osobnih podataka) established the Central Database Registry on Personal Data. This was done in accordance with the regulations of the Law on the protection of personal data and the Ordinance on the management method and form for recording private data. The registry consists of a main database, subsidiary database and records. The informatisation process introduced in regional offices of bodies of state administration, applies to those areas relating to records on citizens' personal status. Registry offices in the Republic of Croatia keep national records on registries of births, marriages and deaths. Data on citizens' personal status are entered into local databases and are replicated into the central registry at the

Central State Administrative Office for Public Administration (SDUU - Središnji državni ured za upravu).

eIdentification

There is no specific eIdentification infrastructure, but the basis for its development is there. Registry offices in the country keep national records on registries of births, marriages and deaths. Data on citizens' personal status are entered into local databases and are replicated into the central registry at the Central State Administrative Office for Public Administration. The project is being carried out across the Republic of Croatia with a database of over 22 million entries. At the end of 2005, over 56% of data was transferred into digital form. In 2005, the Croatian Personal Data Protection Agency established the Central Database Registry on Personal Data. This was done in accordance with the regulations of the law on the protection of personal data and the Ordinance on the management method and form for recording private data. The registry consists of a main database, subsidiary database and records.

Website

<http://www.uprava.hr>

<http://www.mvpei.hr>

<http://www.dzs.hr>

<http://www.mzss.hr>

<http://www.hitro.hr>

Civil Status Certificates and Servants

Citizens' Personal Affairs Section of the State Administration Office in counties and Registry offices manage birth registration, marriage and death registration, and issue certificates from that register. Central authority is the State Administrative Office, which supplies the necessary online forms.

2. Birth

The birth of a child must be registered with the registrar at the place of the child's birth within 15 days from the day the child was born. The request for registration can be made orally or in writing. It is not needed to present the child. If a child is born in a medical institution, then the institution is obliged to send a written request for registration of a child's birth. If the child is born outside of a medical institution then the father of the child, the person in whose apartment the child was born, or, the mother (when she is able to do it) is obliged to report its birth. If they fail to report the birth within 30 days, the fact of birth will be made based on a decision in administrative procedure. Failure to report a birth of a child within the legal deadline is a misdemeanour which is sanctioned by a fine ranging from 5,00 to 150,00 €.

If a child is born in wedlock the parents (both need to be present when reporting the birth) must enclose their marriage certificate and proof of their nationality. If a child is born out of wedlock, the mother has to enclose her birth certificate and proof of nationality. When registering a birth of a child, the registrar will also make an entry of the child into the book of nationality, if he/she acquires nationality by origin. Birth of a child born on a vessel sailing or on an aircraft is registered in the registry of a place where mother's journey ended.

Stillborn children are to be reported within 24 hours. It is registered in the register of the births with a note mentioning that the child is stillborn. For the Child already deceased at the time of the birth the registrar draws up a birth certificate and a death certificate. Child's information entered into the

registry is same as for the living, with the exception of the personal name of the child which is entered only upon the explicit request of the parents. Parents are not free of cost for the registry, but they will be free of paying a fee for the entry in the registry of deaths.

The birth of a foundling is established by the official report noting its discovery which is entered into a registry of a place where the newborn is found. The official report indicates the name, address of the person who discovered the child, the place of the discovery, probable time of the birth and all circumstances relating to the discovery, sex, supposed age, if necessary particular physical marks, a description of clothing, the placement after the discovery, declarations of the witnesses and any other informed person. On the basis of official report, the social welfare organisation arranges with the registrar the birth registration. The birth certificate indicates first name, last name, sex, place, date and hour of birth. No fee is paid for the registry of birth of a foundling.

A birth may also be re-registered. Most frequently this occurred for children born in the period between 26th June 1991 to 3rd August 1995, or persons who cannot obtain the certificate due to the books being destroyed or taken out of Croatia and brought to Serbia. This also applies to the re-registration of marriages which were registered on the territory of former SAO Krajina. The request for re-registration must be submitted to the General Administration Office with all documentation, and if it is positively resolved and re-registration performed, documents can be obtained regularly. If the request is rejected (which is possible), one needs to file a claim to the Republican Ministry of Administration and commence a court procedure before the Administration court in Zagreb.

a) Birth Certificate

The birth certificate is the document issued by the Registrar, which certifies the birth. It indicates characteristics about:

- the child's first name, surname, sex, birthplace, nationality, date and time of birth
- birth order
- first name, surname, nationality, profession, residence, date and place of birth of the parents
- maiden name of the mother
- name of the declaring person
- number of the act
- date, name and signature of the registrar

Margin notes which may be added to the certificate include decisions concerning recognition, parental custody and court decisions relating to adoption. In the event of an adoption the registrar will enter into the register of births:

- for the adopted child: personal name, date and place of birth, citizenship, ethnicity, year and number of entry into the register of births, personal name and address of parents,
- for the adoptive parents: personal name, date and place of birth and address,
- the statement of whether the adoptive parents are entered or not entered as parents.

If the adopted child is older than twelve, its consent is required for the entry of adoptive parents as parents.

When a marriage is celebrated, the act of marriage is recorded in the marriage register. The registrar of the birth place of each of the spouses is informed of the marriage so that the marriage can be mentioned in the margin of their birth certificates. When the dissolution of marriage is pronounced, a copy of the judgement is sent to the registrar of the place in which the marriage was celebrated,

and to the birth place of the spouses, so that the divorce or annulment can be mentioned in all the relevant registrations. Decisions relating to the change of the first name or surname, the nationality, the legal capacity, presumed death and death are also mentioned; furthermore the PIN and the change of the first name or surname of the parents, the adopter or the guardian are also mentioned.

A transsexual may have the birth certificate altered after gender reassignment. He/she must submit medical documentation proving his sex change. The birth certificate is not re-issued but amended so there is record on the document of the change.

b) Birth abroad

If a child, whose parent/parents are Croatian citizens, is born abroad, its birth should be registered in the Croatian Registry of Birth and the Croatian Book of Citizens. In the absence of residence in Croatia, the birth certificate can be drawn up on the last place of residence of one of the parents; and if the parents were not born in Croatia, in the registry office of Zagreb. The following documents should be submitted when applying:

- completed form of birth registration
- unabridged birth certificate and certified translation into Croatian;
- proof of parents' citizenship: valid Croatian passport and Certificate of Citizenship
- foreign residence permit (ID or passport).

If the other parent is a foreign citizen he/she should make a certified statement stating that he/she agrees the child be registered in the Croatian Registries.

c) Recognition

The mother of a child is the woman that gave birth to it (Article 53 Family Act).

A child's father is deemed to be the mother's husband if the child is born during the duration of a marriage or during three hundred days from the cessation of the marriage. If maternity or paternity cannot be determined according to these rules, it will be determined by the acknowledgement of the parents or by court decision.

Acknowledgement of maternity and paternity, and the consent thereto, where necessary, may be effected in a record before a registrar, a welfare centre, or a court. A copy of the record will be supplied to the registrar at the place where the birth of the child was registered. Maternity and paternity may also be acknowledged in a will.

Acknowledgement of maternity will be entered into the register of births if the welfare centre competent according to the place of the child's birth has given its prior consent within 30 days. If the child is at least fourteen years old, the child's consent is also necessary for the acknowledgement of maternity. A child will give its consent before the welfare centre competent according to his registered residence or temporary abode. After obtaining the consent the registrar will enter the acknowledgement of maternity into the register of births.

For the entry of the acknowledgement of paternity, the consent of the child's mother is required. If the child is fourteen or over the child's consent too is required for the acknowledgement of paternity. If the child is fourteen or over and is capable of understanding the significance of the acknowledgement, the child's consent is also required.

The acknowledgement of the paternity of a conceived but still unborn child will produce legal effect if the child is born live.

If during the entry of a child into the register of births there are no data concerning the child's father, the registrar will acquaint the mother with the right of the child to know who his father is and with the procedures that must be undertaken for the fulfilment of this right. The mother may declare to the registrar in a record whom she considers to be the child's father. The registrar will inform the welfare centre competent for the registered residence or whereabouts of the mother and supply a copy of the mother's declaration.

If no mother, or father, has been registered, suit for the determination of maternity or paternity can be filed by the mother and the welfare centre until the child has reached the age of eighteen years, by the father within a year since receiving notification that the mother or the child have not consented to his acknowledgement, but by the latest until the child has reached the age of eighteen years, and by the child itself until it has attained the age of twenty-five. If the presumed mother or a father is not alive anymore the suit can be filed against his/hers successors within a year of death of the presumed mother or father or six months from the legal validity of the decision of inheritance.

The mother of a child or her husband may dispute the paternity of a child born during the duration of a marriage or during three hundred days from the cessation of the marriage within six months of the birth of the child. A man who considers himself the father of a child can dispute the paternity of another man person who has acknowledged the child to be filed within one year of the day of the entry of the acknowledgement of paternity into the register of births. Otherwise, any parent who has been entered into the register of births as the child's parent may dispute, and a person who considers him- or herself the child's parent can seek to have her own paternity or maternity established within a period of six months from the discovery of the fact that rules out or establishes the parenthood, and at the latest by the time the child has reached the age of seven years. A child may claim or dispute the maternity or paternity of the person entered into the register of births as his parent and can file suit up to the time the child has his twenty fifth birthday. After the child's death it is not permitted to dispute maternity or paternity.

It is not permitted to dispute maternity or paternity established by the ruling of the court.

It is also not permitted to dispute before the court maternity or paternity of a child conceived in a procedure of fertilisation with medical assistance and the consent of a donor. Exceptionally a mother's husband can dispute his paternity if the child is conceived with medical help with semen of another man without the husband's certified consent. A woman that gave birth to a child conceived by the egg of another woman can also dispute her maternity if the insemination occurred without her certified consent. The claim can be filed within six months from the day of the discovery, provided the child is below seven years of age. If they learned of it before the child was born, the claim can be filed within six months from the day the child was born.

3. Marriage

The Croatian Constitution recognises two kinds of family unions (marriage and common-law marriage) and prescribes that these shall be regulated by law. Accordingly, marriage is defined as the union of a man and a woman before the law. Marriage is contracted with the statement of consent of a woman and a man in a civil or religious form.

Common law marriage is defined as a union of an unmarried man and an unmarried woman living together for at least three years, or less if there is a child. There is no registration or other formal prerequisites for a common law marriage. Common law marriage creates property rights, and alimony rights at its dissolution, which is as informal as its creation and does not even require separation of residence. Common law marriage does not have any effects on matters of personal status.

The Same-sex Civil Unions Act passed in 2003 in practice extends the legal situation of the common law marriage to same-sex couples: the right to joint property and the right to support by a partner. There is no formal registration available.

a) Personal Requirements/ Impediments to Marriage

The general age of marriage is eighteen years. A person who has attained the age of sixteen may be allowed by the court to contract a marriage. A person deprived of his or her legal capacity or incompetent for judgement is not allowed to contract a marriage, unless the court determines that he or she is able to understand the meaning of marriage and its obligations and that the marriage is clearly in his or her best interest.

A marriage cannot be contracted by a person who is already married, between kin in the direct line, and in the lateral line between a sister and brother, a half-sister and half-brother, a child with a sister or half-sister or a brother or half brother of its parent, children of sisters and brothers and half sisters and half brothers. Exceptionally, for well-founded reasons, a court may allow the contracting of marriage between children of sisters and brothers and the children of half-sisters and half-brothers.

There is no legal residence requirement but the application for the wedding must be made in person and the procedure will take some time.

b) Preliminary Procedure

Application for a wedding in Croatia must be submitted personally by the future spouses to the registrar (known as the Maticar) in the municipality where the wedding will take place. Applications should be made between 30 and 45 days prior to the date of the wedding, and documentation sent at this time also. In exceptional cases when there are good reasons such as illness or journey the registrar can approve the contracting of marriage before the thirtieth and at the latest up to the ninetieth day from declaration of the intention to contract marriage. If the registrar determines that any of the preconditions for the contract of marriage have not been met, the applicants may submit an application to the competent office of general administrative affairs for the determination of whether they meet the preconditions for the contract of marriage. The competent office is bound to make a decision within a period of fifteen days of the receipt of the application.

When the registrar determines that the conditions for the contract of marriage have been met, he/she will take a declaration from the bride and the groom concerning the choice of surnames. The registrar will recommend to the future spouses that by the day of the contracting of the marriage, they should visit a marriage and family counsellor.

c) Documents

The future spouses will append to the declaration a birth certificate, and when it is necessary, at the request of the registrar, other documents as well. Depending on the nationality of the future spouses, the registrar may require the following information and documentation:

- Certificate of Citizenship, for Croatian citizens,
- proof of residence, when in Croatia from the Croatian authorities, and from the respective foreign authorities when residing abroad,
- legal identification in the form of passports,
- birth certificates (which must be no older than three months),
- for foreign parties, a Certificate of No Impediment issued either by the civil status registry of the country of origin, or by that country's Embassy. If the Marriage Officer has any doubt

about the accuracy or genuineness of the certificate, the couple may be called upon to make a sworn declaration before the Registrar of a District Court that they are single and have never been married before or are otherwise free to marry,

- for foreign parties, a Certificate of Custom & Law issued by the embassy of the applicants' country in Croatia stating that the Croatian marriage will be valid in the home country, that the passport is valid and that the applicant is indeed a citizen of the home country,
- divorce decree or death certificate, if previously married, and a declaration on oath (affidavit) that the party has not married again since then,

A Croatian citizen married abroad should apply for a marriage registration in the Croatian Registry of Marriage. He/she is obliged to enclose a proof of Croatian citizenship and a certified marriage certificate with its translation by the authorised court interpreter into Croatian.

d) Verification of Documentation

Croatian authorities require that the Certificate of No Impediment and the Certificate of Custom and Law must be certified at the Croatian Ministry of Foreign Affairs in Zagreb, who will verify that they were issued by the proper authorities.

e) Certificate of no impediment

Foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in Croatia. In practice foreigners may be requested to produce a certificate of no impediment issued either by the civil status registry of the country of origin, or by that country's embassy. If the Marriage Officer has any doubt about the accuracy or genuineness of the certificate, the couple may be called upon to make a sworn declaration before the Registrar of a District Court.

If a Croatian citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Croatian certificate of no impediment. This certificate is not issued in Croatia. Instead a statement of no impediment (potvrda o slobodnom bracnom stanju) is issued by the local registry office. The cost is € 2,75. This statement is not issued in a standard form, thus it may be not treated as a certificate of no impediment. So the situation is unclear.

f) Civil Marriage Ceremony

In the civil form, marriage is contracted before a registrar. Civil weddings do not have to take place in a registry office. Weddings can be held both indoors and outside. To contract marriage outside official premises, a special fee must be paid. Marriage is contracted in the presence of the future spouses, the registrar and two witnesses who must be full age and have legally capacity. If the couple being married do not speak Croatian a court appointed translator must attend the wedding at their expense.

The registrar will enter the marriage contracted into the register of married people. The woman, the man, the witness and the registrar will sign the entry into the register. Immediately after the entry of the contracted marriage into the register of married people, the registrar will hand the spouses a marriage certificate.

g) Registration of Marriage

The Registrar is responsible for the registration of all marriages. The layout and content of the marriage entry is prescribed by regulation and contains the following information:

- personal data about bride and groom: first name and surname, date and place of birth, PIN, nationality, citizenship, residence, date and place of contracting marriage and their agreement of surname after contracting of marriage
- first name and surname of parents of the spouses, first name, surname and residence of the witnesses, first name and surname of the official before which the marriage was contracted, first name and surname of the court interpreter, and first name and surname of the registrar

Additional entries can be the following:

- termination of marriage by death of a spouse, declaration of missing spouse deceased, annulment or divorce
- change of first name and surname of the spouses
- correction of the false entries

Existence of a marriage contract is not registered in the registry and spouses are not obliged to report it.

h) Religious Marriage

In a religious form with the effects of a civil marriage a marriage is contracted before a minister of a religious community that has specially arranged legal relations with the Republic of Croatia. Future spouses who wish to contract marriage in a religious form will obtain from the registrar competent for the place in which they wish to contract the marriage a certificate that they have meet the conditions for the contracting of marriage. Outdoor religious weddings are not possible, not even for an additional financial compensation. The future spouses are also obliged to attend a one week premarital course organized within the religious community.

In the certificate, the registrar will state that he has acquainted the future spouses with the personal rights and duties in marriage, with the possibility of arranging their property relations accordingly, and their consensual declaration concerning the choice of surnames. The certificate is good for three months from the day of issue. If the registrar refuses to issue the certificate there is no option of further appeal. But there have been no registered cases of invalid refusal so far. The registrar will warn the bride and the groom that the wedding certificate from the government registrar is evidence that their wedding, which has been contracted in religious form, has the same effects as a civil marriage. The minister of the religious community in front of whom the marriage is contracted in the religious form will deliver the registrar a document, which has been signed by the wife, husband, the witnesses and the minister of the religious community in which he confirms that the marriage has been contracted. The document is delivered to the registrar within five days of the day of the contracting of the marriage. The registrar is bound to enter a marriage contracted in a religious form in the register of married persons in a period of three days of the day of receipt of the document. Immediately after the entry of the marriage contracted into the register of married the registrar will hand the spouses a marriage certificate.

4. Name

Croatian citizen can use at most two first names and two surnames. If a person has more than two first names and two surnames, he/she must give a statement stating which two first names and surnames he/she will use in Croatian legal affairs. By this statement a person does not change his/her identity, but states that such a shortened name will be used only for Croatian legal affairs. Pen names and nicknames are not registered in the official documents, nor are nobility or academic titles.

a) First Name

Within two months from the date of birth, the parents of a child are obliged to jointly choose the first name of the child and register the name at the register of birth. If only one of the parents is known or alive, he/she determines the name. If the parents cannot agree on the first name for the child, if both are not known or not alive or cannot exercise their parental rights, or if they are unknown, the child will be given the first name by the competent guardianship authority. If the name is given later than two months from the date of the birth, the entry will be made based on the decision of the competent state administration office.

Adopted parents determine the first name of the adopted child. They can also determine his nationality. If the adopted child is older than twelve, its consent is needed for a change of his first name and his nationality. If the social welfare determines that it is in the child's best interest, the adopted child can retain the first name he was given prior to the adoption.

The first name and surname of a foundling is decided by the social welfare organisation.

There are no further requirements for the first name. The first name does not have to be widely recognized or reflect gender of the child.

b) Surname

A child is given the surname of the parents. If the parents have different surnames, the child is given the surname of either parent, by agreement of the parents. If the parents cannot agree on the surname for the child, if they are not alive or cannot exercise their parental rights, or if they are unknown, the child will be given the surname by the competent guardianship authority or the person entrusted with the guardianship with the prior consent of the competent guardianship authority. Again, the persons authorized to choose the surname for the child are obliged to notify the Registrar within two months from the date of birth. Upon contraction of marriage have the following options:

- both spouses may retain their pre-marital surnames;
- the spouses may choose the surname of one spouse as the common surname;
- the spouses may take both surnames as common;
- each spouse may add the surname of the other spouse in any order.

A spouse who decides to resume his or her pre-marital surname must give notice thereof within six months after divorce/annulment to the local registrar. The declaration is entered in the registry.

The adopted child acquires the common surname of the adoptive parents. If the adoptive parents do not have a surname in common, the surname of the adopted child will be determined in accordance Law on the Personal Name. An adopted child may retain surname that it had before the adoption, or may add to its surname the surname of the adoptive parent, if the welfare centre decides this is in the interest of the child.

c) Name Change

Upon recognition of a child by the father, the parents may jointly choose a new name for the child before the child turns 18; in this case the parents make a statement for the registrar's record, which is then the basis for registration along with the record of acknowledgement of paternity. If the child is over 10, the child must give its consent personally.

According to the provisions of the Law on the Personal Name, every person has the right to change his or her personal name, including the under-age child. The under-age child may change his or her name at the request of the parents or adoptive parents; if they cannot agree, the consent is given by

the competent guardianship authority. If the child is over 10, the child must give its consent personally.

The application must contain the reasons for the change and the proposed new name must justify the change. It must also contain a certificate stating there are no criminal prosecutions pending against him at present along with proof of citizenship, birth certificate and proof of residence. The administrative authority considering the application is to publicly announce on its billboard, that such application has been submitted, together with the old and the proposed new name. Every citizen has the right to object to it within 30 days from the public announcement, stating the reasons for which he or she believes the change of the name should not be approved. The justifications for the citizens' objections are surveyed by the administrative authority, when deciding on the application. If the application is found to be justified, the change of the personal name is approved, provided that the administrative authority determines that the new name is not contrary to the rules and customs of the society the person in question lives in. The process of changing a name usually takes from 2-3 months. After the change, a person is not permitted to submit an application for a new change of name for the next 5 years.

d) Cost

Person submitting it must pay 70,00 kn (€ 9,64) in stamps for administration costs.

e) Minorities

The members of national minorities are entitled to use their names and surnames in the language that they use and to have them formally recognised for them and their children through entry in a register of births and other official documents pursuant to law (Article 9(1) of the Constitutional Law and Constitutional Act on the Rights of National Minorities, NN 155/2002). According to the Law on Personal Name, each person is obliged to use his or her name and surname, and is entitled to change his or her personal name for justifiable reasons.

TR – Turkey

1. Civil Status Registration System

a) Civil Status Registration Services

The civil status registration system is person based, and combined with a state-wide electronic network.

Turkish is the official language of Turkey. All civil status acts are performed in Turkish. The Turkish alphabet is a variant of the Latin alphabet used for writing the Turkish language, consisting of 29 letters, a certain number of which (Ç, Ğ, İ, İ̇, Ö, Ş, and Ü) have been adapted or modified for the phonetic requirements of the language. Turkish uses a G with a breve (Ğ), two letters with a dieresis (Ö and Ü, two letters with a cedilla (Ç and Ş), and also possesses a dotted capital İ. As is the case for other languages using the Latin alphabet, the number of sounds in Turkish language is more than the number of letters in the national alphabet. That is, some letters (e.g., k, m, n, g) are used for representing two or more different sounds. Besides, Turkish vocabulary contains many words, which were originally derived from Arabic and Persian languages. As opposed to Arabic and Persian, Turkish vocals all have the same value. In other words, there is no distinction of “short” and “long” vocals. In the Turkish alphabet, short and long vocals are represented with same letters, using a breve (^) where necessary. Similarly, the Turkish alphabet has no Q, W or X. Instead, these are transliterated into Turkish as K, V, and KS, respectively. Notwithstanding, Turkish alphabet is easy to read, and there is no difficulty in teaching Turkish alphabet at school or

as a foreign language. The Turkish alphabet, in its present status, is convenient to write all Turkish words including those of Arabic or Persian origin. Personal names of Arabic, Persian origin (e.g., Muhammed, Cem) or Kurdish names (e.g., Baran) can be easily written and read with the Turkish alphabet. In computing, several different coding standards have existed for this alphabet, among them: ISO 8859-3 and ISO 8859-9.

Turkey has a population of 70.586,256 (2007) and is subdivided into 81 provinces for administrative purposes. Each province is divided into districts, which totals to 892 districts. The districts are further subdivided into 3.225 municipalities (belediye), 16 metropolitan municipalities (büyükşehir belediyesi) and 34.475 villages or rural municipalities (köy). The number of municipalities will be decreased to 2105 from 3225 after the 2009 local elections. Each district bears the responsibility of the civil status registration and, therefore, there are 892 registry offices. Each municipality has a marriage office. According to the Civil Code and Civil Registry Services Act of 2006, mayors and village headmen (muhtar) have the authority to celebrate the marriages. After the celebration, couples have to declare their marriage and register with the district directorate of population. Marriage registry offices and muhtar (village headman) are liable to keep the marriage records.

b) Central Public Registration Administration System (Mernis)

Mernis, which is maintained by the Ministry of the Interior, transfers all the identification information to electronic environment and permits immediate updates and changes in the identification information from the 892 registry offices. The system uses the family as a population record base. It contains the records of approximately 100 million live and dead people who are recorded in the civil status register.

Each Turkish citizen receives a unique ID-number of 11 digits which does not contain any information. The ID-Number is also same and linked to the Tax-ID. The ID-Number allows sharing of "Mernis" information between all other ministries and public entities under the identity sharing project of the Ministry (KPS). Mernis project aims to increase the quality of public services for nationals as well as decreasing the paper-work. In addition, it helps to remove problems that arise from name similarity, which is fairly common in Turkey and provides a faster and secure data collection and protection of the nationals.

With respect to changes in civil status, such events can now be electronically maintained into the records by the General Directorate where the person resides. Mailing and paper-work becomes unnecessary. Population and life statistics can be collected in real-time and submitted to the competent institutions. Legal inspections on civil status records can be carried out automatically and operations can be monitored by the General Directorate in real-time, so districts can be notified of any mistake. If still necessary for any reasons, extracts of records and identity cards can be obtained within one day.

c) Registry Offices and Staff

The nearly 5000 registrars (nüfus memuru) work under the dependence of the General Directorate of Population and Citizenship Affairs of the Ministry of Interior (Nüfus ve Vatandaşlık İşleri Genel Müdürlüğü). The General Directorate is a centralised structure, responsible for keeping population registers such as births, deaths and other civil status events. However collecting population statistics is the duty of Turkish Statistical Institute (TURKSTAT). The General Directorate of Population and Citizenship Affairs branches into the country through the office of the district directorate of population (DDP). Senior registrars are head of the district registry offices and are appointed by the Minister of the Interior. The other registrars are civil servants appointed by the provincial governor who have no support staff. After a training period, the registrar has to pass an exam to receive the

status as a registrar. Furthermore, every two or three years the General Directorate organizes advanced training to inform the registrars of new regulations. Most of the newly started registrars are university graduates. The monthly salary of a new started registrar is around YTL 900,00 (€ 458,06). A senior registrar or district director can expect to earn around YTL 1500,00 (€ 763,44). The salary is similar to a teacher's salary. Other officers of civil status are:

- diplomatic and consular officials
- mayors, who celebrate marriages or delegate this function to special marriage officers
- muhtars (village headman that govern villages and are elected by its residents). Muhtars can celebrate marriages and can draw up birth, marriage and death certificates to be submitted to the district registry office
- civil servants of the General Directorate of Population and Citizenship, who are entitled to celebrate marriages as well
- ship captains, who may issue birth and death certificates for the births and deaths at sea
- military medical chiefs, who may issue death certificates of soldiers died during military operations.

Under special circumstances the following persons are additionally entitled to draw up death certificates: certain hospital staff, people especially designated in prisons, military bases, boarding schools or factories and persons especially designated for deaths occurring during natural disasters. In rural areas, if the delivery occurs in a hospital, the hospital should issue the birth certificate. But for a home delivery the certificate might be issued by the nurse from the primary health care centre.

All registry offices are equipped with computer technology. Registrars work with the Mernis and the ID Sharing computer system but still keep documents in hard copy. Registrars keep the family registers and the special registers. Moreover, they can receive declarations concerning recognition; deliver identity cards, the international family record books and issue certificates and extracts of the family register and vital statistics. Control and monitoring of the registrars falls within the competence of administrative authorities (Inspectors of the Ministry for the Interior, general managers, provincial governors (vali), district officers (kaymakam) and Directors of the provincial offices of GDPCA and the GDPCA). Disciplinary complaints against a registrar must be filed with the provincial governor or district officer. If the dispute cannot be settled, local administrative court of first instance will decide. Family courts may be competent for family records as well. The provincial governors and district officers, whose decisions are open to judicial review, are entitled to impose sanctions or disciplinary procedures.

d) Civil Records

District registry offices keep special registers of Turkish nationals at the place where the event occurred (registers of births, marriages, deaths, divorces, removal, corrections and other events, such as adoption, recognition, change of sex etc.). The family register book is kept at the "place of origin" of the family. The Mernis project provides all the data available in all the registry offices in the country. All registers are kept in double and saved in Mernis system. The double of the special registers is transmitted to the registry office, which maintains the family register. One specimen of the family register is preserved by the Ministry for the Interior in Ankara.

Since 25.04.2006, foreigners having a residence permit of more than six months in Turkey have the obligation to register their civil status events in a special register for foreigners. Foreigners department of Police issues residence permit to the foreign nationals and their records is kept in Mernis and an ID number is issued for foreigners by the General Directorate of Population and Citizenship Affairs. Other foreigners have no obligation to inform the national registration service.

However, if they do so, declarations are registered in a special register for foreigners but are not transmitted to the family register. Civil status acts drawn up abroad by the diplomatic and consular authorities are sent to the Ministry of the Interior and to the registry office, which maintains the family register.

e) Access

Only the Director of the General Directorate of Population and Citizenship, the registrar and the General Inspector of the Ministry for the Interior can consult the family and special registers. However, information requested by the services of military recruitment or judicial authorities can be given directly by the registrar. Other institutions need the authorization of the provincial governor or the district officer. The public nature of civil status documents shall be ensured by the issue of copies or extracts. These documents shall be issued to judicial authorities and government offices and to the person concerned or his or her spouse, parents, guardian or duly authorised representative and his ascendants and descendants and to his relatives up to second degree upon their request. Mernis project and the related project ID Sharing System (Kimlik Paylasim Sistemi) allows public departments and entities to access the records on computer base.

f) Correction, Amendment, Cancellation of Civil Records

Only the family register can be corrected. Clerical errors, missing data and omissions can be corrected by the registrar or the Ministry of the Interior. In all other cases correction must be ordered by a court (Art. 38 of Population Services Act of 2006). Any suit filed for correction of age, first name or family name or other records shall be examined by a civil court at first instance at the place wherein the plaintiff has his usual abode in presence of the public prosecutor and the senior registrar or the registrar. However, family matters shall be brought before family courts. Birth and death shall be proven by means of records in the birth records registry. Where no record has been entered in the registry or it is found that existing records are not correct, any evidence may be submitted to prove the fact. If any change has occurred in sex after birth, then the records in the birth registry shall be revised provided that such change documented by a medical report issued by a committee of physicians.

The family register only is amended at a later date. Notes (kenar şerhi) and annotations (açıklama) in margin are accomplished. Annotations have the value of simple information. Marginal notes are registered in a special column envisaged for this purpose and relate to marriage, recognition, legitimation, death, acquisition and loss of nationality, cancellation, correction, divorce, adoption and the change of name or sex. A transsexual can after gender reassignment alter the birth certificate. The birth certificate is reissued in the reassigned sex of the transsexual person. These marginal annotations to the family registration records have been fully integrated into the electronic record system.

Annotations can be cancelled by the registrar himself. Civil records can be cancelled on the decision of the civil court at first instance or family courts. Nationality inscriptions are cancelled on decision of the Council of Ministers on petition of the Ministry for the Interior only. Contents of the family register are crossed out and a marginal note is accomplished. On request the registry office delivers a copy or an extract of the cancelled record. The reconstitution of a cancelled or lost record is made by using a copy of the double stored records. If the two originals are destroyed or lost, the record can be reconstituted through an administrative decision if the interested party provides documentary evidence or by court order, in the case of insufficiency of provided documents. Omitted records can be compensated by a decision of the court at first instance or by a notarial act.

g) Documents

The registry offices issue certificates at the event and upon request for the residents of the respective district (some documents may be obtained from any registry office):

- copies and extracts of the family register
- the international family record book
- identity cards (nüfus cüzdanı). The Turkish Identity Card issued contains more information than ID cards contain in other countries. In addition to the name, date and place of birth, the ID card contains the name of the parents, marital status, religion (which may be removed upon request), blood-group, and precise details on the place of registration and the registration number. For most practical purposes in Turkey, an additional birth certificate is not required.

Application can be made by the person concerned or his or her spouse, parents, guardian or duly authorised representative and his or her ascendants and descendants and to his or her relatives up to second degree as well as by public departments. A person may request information through the Acknowledgement Act. Application may be filed in person, by proxy through any third party, by power of attorney to a licensed attorney at law, through consular offices of Turkey abroad or through foreign consular offices in Turkey. Applications to consular offices of Turkey abroad can be made in person or by mail. It is also possible to access some of documents online. The information may be sent by e-mail or by mail upon request.

The applicant must present an ID, proxy or a certificate stating the relation with the person concerned, but online information may also be available and persons can obtain simple copies without going to registry offices. The registry office will not request an address certificate and ID certificate anymore after June 2008. There is a circular announced on this issue by the Prime Minister so the registry office must access and provide these documents through the Mernis and ID Sharing System.

Extracts and copies are free of charge and are valid for six months. There are charges on ID renewal and to receive family record book. ID renewal charge is 2.50 YTL (€ 1,27) and family record book is issued for 28 YTL (€ 14,25). All documents are delivered in Turkish language or in a multilingual form. The fees must be paid in cash in Turkish Lira.

If application is made in person, it depends to the type of document or certificate but the delivery takes mostly less than 20 minutes. However, some important documents or certificates take maximum one day to be issued. Records registered before 2003 which have not been updated since, have not all been transferred to Mernis and it may take more than a day to issue those certificates. Registry offices do not deliver certificates through e-mail or fax. If a request is received by any court, it may take one week to send the document back. However, the registry offices provide information or simple copies through e-mail and post under the Acknowledgement Act. Then, it takes less than one day for the registrar to respond. If the application is made from abroad the delivery may take up to a month due to the postal service.

h) Legalization/Translation

The registry office does not accept documents, which are not duly certified or bear an Apostille. In these situations, applications are not rejected but asked to complete the documents. Turkey has concluded bilateral treaties for mutual recognition of foreign documents without such requirements with Austria and Hungary.

Turkey is also a party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Under this Convention, Parties undertake to

exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party.

In addition, contrary to other CIEC-Member States, Turkey has ratified almost every CIEC Convention, including CIEC Convention No. 16 of 8 September 1976 on the issue of (multilingual) extracts from civil status records, birth certificates, marriage certificates, death certificates.

Copies of the documents are permitted, but such copies must be legalized or made of the original documents, which have the certification or apostille. All documents in a foreign language must be translated into Turkish. If the translation is made by a private translator, the translation must be verified by notary or the Turkish Consulate in the country; if it is made by an official translator in Turkey, verification by notary is not necessary.

Documents originating in Turkey may be authenticated with the Hague Apostille Convention Apostille certificate in provinces by the Governor, Deputy –Governor, the Director of Juridical Matters, in towns by the Vice-Governor (administrative documents) or the Presidencies of the Judicial Commissions where the high criminal courts exist (judicial documents).

There is no fee payable for the Apostille, but some offices may ask for a “donation” of € 2,00 to € 5,00 €.

i) Foreign relations

Some Turkish civil status registrars transmit information about civil status acts and changes of citizens of EU Member States (and of nationals who were born in EU Member States) that occur in the country directly to the authorities of the respective EU Member (e.g. Germany). Turkish civil status registrars receive information about civil status acts and changes of their own citizens from some EU Member States.

j) Consular Service

The Republic of Turkey is now represented by 164 missions throughout the world. These missions comprise of 94 Embassies, 11 Permanent Missions to international organizations and 59 Consulate Generals. The registration of civil status events is compulsory.

The consular registry section, which is a part of all Turkish embassies and consular offices abroad, performs the same functions as registry offices in Turkey. The representations transfer the acts drawn abroad to the Ministry of the Interior, which manages the archival deposit and arranges for the information to be transferred to the registration office at the place of origin of the citizen. The role of the Turkish missions abroad is normally to report changes in the status of Turkish nationals (birth, adoption, recognition, marriage, divorce, death) which have taken place abroad to the relevant authorities in Turkey so that they may be entered in the family register. This includes certifying and translating the relevant documents. The diplomatic and consular officials are also authorised to celebrate marriages between two Turkish nationals and a Turkish national and a foreigner, if allowed by the consular treaty with the host country. In order to conduct research in State Archives, outside Turkey, applications should be submitted to an Embassy or Consulate General of the Republic of Turkey. The main documents issued by the consular section to Turkish nationals living abroad are the following:

- identity cards and passports
- recognition, adoption, death, marriage and birth certificates (ID card)
- certificate of no impediment
- international family record books

- Certification of applicant's ability to speak Turkish (a certificate will be issued by this Consulate General upon a successful interview of the applicant)

Furthermore the consular section delivers copies and extracts from the family register to Turkish citizens and to former Turkish citizens.

Following the marriage abroad by a foreign public authority, Turkish nationals have to inform the Consulate General of the marriage within one month after the marriage. For the registration of marriage at the Consulate General, following documents have to be produced:

- marriage certificate, translated into Turkish and a photocopy
- ID card of Turkish spouse and a photocopy
- Family registry document of Turkish spouse which shows that he or she was single when the marriage was celebrated
- if the other spouse is a foreign national, a full birth certificate of the foreign national and a photocopy, and a copy of the foreign nationals passport, his/her father's and mother's name and his/her religion must also be communicated to the Consulate in writing
- postal fee

If the applicant fails to register the marriage with Turkish Consulate within a month following the ceremony, he/she will in theory be liable to pay a fine.

k) eGovernment

Online Services for Citizens

Portal

'e-Devlet Kapisi' is to be Turkey's first eGovernment gateway and is under construction.

eIdentification infrastructure

The MERNIS Central Population Management System, operational since January 2003 assigns a unique ID-number for about 120 million Turkish citizens, both alive and deceased, which can be used in many eServices. It allows computerised birth certificates and transactions on them. In collaboration with *Mernis* there are other projects under construction such as ID Sharing System (KPS) allows other state departments to access the Mernis data. It is expected to increase the quality of public service given to citizens and to decrease the paper-work and to save time in public services.

Website

<http://www.nvi.gov.tr>

Civil Status Certificates

Information on the necessary procedures to obtain certificates is provided. More advanced services through the MERNIS system are to be provided in the near future.

l) Law

Turkey has adopted a new law for the Population Services Code in 2006 in order to use the technology in public services and to provide a more secure data protection. Another aim for the adoption of new law is to harmonize the European standards in to national system.

Population Services Code (Law No: 5490, Date of Ratification: 25.04.2006), Turkish Nationality Code (Law No: 403, Date of Ratification: 11.02.1964, Law No: 2383, Date of Ratification: 13/02/1981, Law No: 3540, Date of Ratification: 20.04.1989, Law No: 4866, Date of Ratification: 12.06.2003), Surname Act (Law No: 2525, Date of Ratification: 21.06.1934), Turkish Civil Code (Law No: 4721, Date of Ratification: 22.11.2001), Code of International Private and Procedural Law (Law No: 5718, Date of Ratification: 27.11.2007), Adoption and Acceptance of Turkish Letters Act (Law No: 1353, Date of Ratification: 01.11.1928); Turkish Civil Code (Law No. 4721, Date of Ratification 22.11.2001); The Constitution of the Republic of Turkey (Law No. 2709, Date of Ratification 07.11.1982).

By-Law on Application of Population Services Code (By-Law No: 11081, Date of Ratification: 29.06.2006), Marriage By-Law (By-Law No: 85-9747, Date of Ratification: 10.07.1985), ID Sharing By-Law (By-Law No: 11249, Date of Ratification: 16.11.2006), Marriage By-Law (By-Law No: 85/9747, Date of Ratification: 10.07.1985).

The following pieces of legislation were repealed with the above mentioned new laws and amendments: General Birth Registration Code (Law No: 1543, as amended by the Statutory Decree no.572 of 24.02.1972), repealed; Birth Records Code (Law No. 1587, Date of Ratification: 05.05.1972, Law No. 3080, Date of Ratification: 15.11.1984, Law No. 3669, Date of Ratification: 13.10.1990), repealed; Regulations on the Institutions, Duties and Functions of Population Registration Services (Official Gazette: 03.05.1977.No. 15926); Turkish Nationality Code (Law No. 403, Date of Ratification: 11.02.1964, repealed).

Current versions of the texts of the legislation are available: <http://www.nvi.gov.tr>

2. Birth

Births are to be reported to the civil registry office within thirty days. Births are reported by the parents or, in case of their absence or unavailability, by the grandparents, brother or sister of child, guardian or tutor in oral or with an official document proving the birth. If a child is born in Turkey, the competent authority is district registry (population) office. If a child is born abroad, the declaration shall be made to a Turkish consular office abroad within sixty days. If declaration is delayed, in practice no penalty is imposed. However, for the ID card (Nüfus) which is usually issued free of charge, a fee of around € 20 may be charged.

Foreigners, holding a residence permit and temporarily living abroad do not have the right to declare the births to Turkish consular offices. If no medical certificate can be presented, oral declaration is sufficient to register the birth without any witness requirement.

Birth notifications submitted later than one month and those persons not covered by official population censuses shall be registered under the order of the highest local administrative authority. There is an obligation to report the births at the maternity hospitals, prisons, and penitentiaries in ships, trains and aircraft.

Despite these strict measures on civil registry, there are still a number of children in rural areas who are not registered. When registration offices are informed about the existence of adults or children older than one year but not yet registered, these offices are authorized to summon such adults, parents and legal guardians of children or their secondary kin or others in charge of care or the muhtar to give their statements about such adults or children. Persons mentioned above are obliged to apply or make statements to birth registration offices within thirty days after summons. If the registration of birth is made after expiration of the legal deadline and child is under the age of six, the date of declaration may be considered as the birth date. Persons in charge of orphanages, child placement institutions and other similar facilities as well as parents and other persons related to children placed in such institutions shall check identity cards of children and adults placed or

working in these institutions and inform birth registration offices to ensure the registration of those lacking these identity documents. Security personnel shall refer, together with relevant files, those people who can not prove their identity during security controls or any other procedure to registration offices. School principals shall inform local birth registration offices about children applying for school enrolment without birth registration document. Public or private organisations, agencies and enterprises shall ask for identity cards of those whom they are going to employ and inform registration offices about those applying for work without any registration document with full information and addresses of such persons.

Stillbirths are not registered. For a child medically recorded alive at birth but dying before registration a birth certificate and a death certificate is issued. In case of a found child the Social Services and Child Protection Department fills out a form and states the name of the mother and father (if they are unknown, the Department states a name for the mother and the father). Furthermore the police or hospital staff may fill in the form.

Birth registration of all children is retained by the civil registries to which they are addressed. The declaration is deemed to have been duly made when the birth certificates together with certified identity documents of the concerned persons are delivered by mail.

a) Birth Certificate

The birth registration indicates characteristics about:

- the child's first name, surname, sex, birthplace, birth date and time
- religion (persons may have their religion removed from the register of families and may have the religion section of their birth certificate left blank)
- singleton or multiple birth
- birth order
- the parent's first name, surname and nationality

The birth certificate is not updated but annotations concerning events and decisions affecting the status of a person are made in the family register. A transsexual can after gender reassignment alter the birth certificate. The birth certificate is reissued in the reassigned sex of the transsexual person.

b) Recognition

The mother of a child is the woman by whom it was born (Article 282 of the Civil Code). So the birth certificate must bear the mother's name, which is sufficient to establish maternal affiliation in accordance with the maxim *mater semper certa est*. A maternal recognition and the issuance of a maternity certificate are not envisaged under the Turkish legislation. However, if a woman is not married and the child has no real mother in the civil status records, then in practice maternal recognition is possible but there is no clear provision in the legislation. An unmarried woman can have her new-born baby registered as her child or recognize a child. However, Turkey is a party to CIEC Convention No. 6, and if maternal recognition is necessary to meet the requirements of the law of another, the mother may make such a declaration before the Turkish registrar.

c) Paternity

Children who are born during a valid marriage of the mother or within 300 days after its dissolution or within 300 days after her husband's death are considered to be her husband's children. The presumption can be challenged in court by the husband, and if he is deceased by his heirs, and by the man who claims to be the father, and further by the child.

Paternity may be voluntarily acknowledged on written request at:

- any Civil Status Registration Office;
- at the courthouse or
- at a Notary Public (deed or will).

The acknowledgement of paternity does not require the consent of the child or of its legal representative or the mother but they will be informed. If the person to be recognized is over 18 years of age, a permit has to be granted by Ministry of the Interior for the recognition.

The recognition is not effective as long as the paternity of another man exists. The declaration is forwarded to the proper civil registrars on the father's and the child's place of residence. Voluntary recognition can be refuted by the man in case of mistake, deception or harassment, and by the mother, the child, its heirs, the public attorney, and the tax authority and by any other person having a legitimate interest.

Such claims by an adult is to be filed within one year after receiving knowledge of the facts that may warrant such paternity claim or challenge, and at the latest within five years after the birth of the child; the claim of the child may be filed until one year after attaining adulthood. The father of a child can also be established by a judgement on application of the mother within one year after birth of the child; and by the child within one year after attaining adulthood.

At marriage, the spouses have to make a declaration about their common children to the registrar; such declaration shall automatically establish paternity of the new husband for the children. Paternity thus established may be challenged by the heirs of the parents, by the child, and by the public attorney.

Paternal recognition of an incestuous child is prohibited.

3. Marriage

All marriages in Turkey must be performed under the authority of the Turkish Civil Code and by the mayor, muhtars (village headman), civil status registrar (if authorized) or certain authorized public officials to be legally recognized.

If authorized by the host country, Turkish consular officers may perform marriages. If authorized by their own legislation, consular officers of foreign countries in Turkey can act as a marriage registrar if the marriage is between two citizens of that country.

Article 143 of Turkish Civil Code states that a religious ceremony can be done only after the civil marriage. There is no legal protection for a partnership depending on religious ceremony without civil marriage. There is no legal recognition for same-sex partners. A Turkish and a foreign national or two foreign nationals of different countries can get married only by the authorized Turkish registrar for civil marriages in Turkey. Muhtars are not authorized to solemnize marriage, which a foreigner is involved.

In order to obtain the required marriage license, marriage registrars can directly correspond with the related consulates or they can obtain necessary documents through the Turkish Ministry of Interior. If one of the spouses is a Turkish citizen, couples may apply to register their marriage in Turkey through the Turkish consulate to obtain a family record book (Evlilik Cüzdanı) from Turkey and have their registry information updated. This way, the non-Turkish spouse will also be added to the family registry (nüfus kütüğü).

a) Personal Requirements

The minimum age for getting married is 17 with permission by the parents, otherwise 18. The court may grant waiver from the parent's permission and under exceptional cases and circumstances, the court may grant a person to marry at the age of 16.

Only those persons who have sufficient mental capacity to make fair judgements are allowed to marry. Mental illness is, therefore, a bar to marriage. A marriage cannot be contracted between kin in the direct line, and in the lateral line between a sister and brother, between uncle and niece, aunt and nephew, between a spouse and the kin of the other spouse in the direct line if that marriage has ended, and between adoptive parents and their adoptive children, and their kin in the direct line on either side. Anyone has the right to challenge the nullity of these marriages.

A second marriage can not be entered into unless the first is terminated. Women who have been previously married may not remarry within 300 days of the final date of divorce or the death of her husband, unless a child is born. Upon application, waiver is granted by the court if the woman is not pregnant or if she intends to marry her former husband.

b) Preliminary Procedure

Application for a marriage is made to the marriage registrar (who is serving under the municipalities and not in district population offices) at the place of residence of one of the parties to the marriage; therefore one of the two should have a legal residence in Turkey although there is no formal requirement as to the duration of that residence. The date of the application and of the marriage ceremony shall not be the same. Therefore, the minimum waiting period is one day.

The couple shall jointly apply to the marriage registrar orally or in writing on a marriage declaration form (evlenme beyannamesi) If couple is located in different cities, they may apply for marriage separately with presenting their documents. Application by proxy is also accepted. In towns with a city council, the mayor or a civil servant designated by the mayor officiates as registrar, in villages the muhtar. Foreign nationals are not allowed to apply to the muhtars for marriage. Application shall be made to marriage registry offices of municipalities.

Answers must be recorded on the Turkish language form in Turkish. Each person should complete two original copies of this form in ink. After affixing the pictures, the marriage declaration must be certified by the marriage registrar. During the marriage processing, it is required that one of the applicants is permanently resident in the registrar's district.

Anyone may object to marriage until one day of the celebration of marriage on the basis of incapacity of marriage or marriage restrictions. The marriage registrar informs the parties about the objection and gives a ten day time limit to deliver evidences or documents. If the marriage celebration is cancelled by the registrar upon examination, couples have the right to bring the matter before court.

c) Documents

The following documents need to be presented for the procedure:

- identity card with a photograph of the holder or a copy
- residence certificate (no older than two weeks), unless residence is known to the registrar.

(However a circular, dated 21.05.2008 with number of 2008-8, published by the Prime Minister regulates that public departments or entities, have the access to ID Sharing System, shall not ask residence certificate in public services.)

- four copies of "Marriage Declaration" signed by both persons who plan to marry

- birth certificate or passport for foreign nationals with at least 3 months validity, or a document as birth certificate issued and approved by local authorities or by the consulate
- health report (medical certificate) by a designated medical clinic as determined by the Turkish Bureau of Marriages that there are no obstacles against the marriage, the medical examination includes applicant's blood type and that the applicant has no contagious diseases, the medical examination is subject to a fee. This rule also applies the marriages celebrated by Turkish Embassies or Consulates. Unlike this rule, if the couple is married before foreign authorities, then they do not have to present a medical examination to register their marriage in Turkey.
- six passport size photographs of the persons who plan to marry (front view, 2x2 inches) taken in appropriate clothing as prescribed by laws, wearing no headgear, showing the face and the forehead in full from the front, women may have their photograph taken wearing a scarf provided that the photo shows the face and the forehead
- if divorced, the family book of the previous marriage with the annotation that the marriage has been cancelled, or an extract from the family registry showing that the marriage has been cancelled, or a copy of the divorce decree,
- if widowed, the spouse's death certificate, previous marriage certificate
- a waiver by the family court for a woman who wishes to marry before the end of the waiting period of 300 days after a divorce or the death of her previous husband, a divorce decree may also state a specific waiting period for the parties to marry again
- if either of the spouses has children, a document (e.g. divorce decree) showing status of child custody
- certificate of consent from the parents or guardians (if one or both parties are under 18 years of age), certified by a competent authority
- in case of a foreigner, a certificate providing proof of legal capacity to marry issued by the state of origin, or by the consulate.
- This certificate shall be issued by Birth Registration Offices on the basis of family log records and shall include the individual's detailed personal record and impediments to marriage, if any. The marriage officer shall have these documents submitted by the birth registration office which the individual concerned is registered with, to be kept in the file of the individual concerned. In the case of foreign citizens, a certificate providing proof of legal capacity to marry shall be accepted if issued by authorized central authorities or local representative offices of the State concerned and if duly certified. Such documents should indicate that the individual concerned is unmarried or that there is no impediment to marriage.
- four postage stamps.

Resident foreigners have to present additionally a statement of residence from Foreigners Police Office and a certificate of no impediment from their Embassies or Consulates or from their country's competent department stating their civil status. Non-resident foreigners additionally have to present a statement, approved by police, stating the place where they stay (such as from hotel).

d) Certificate of no impediment

Foreigners must produce a certificate of no impediment from their embassies or consulates or from their country's competent department if they intend to marry in Turkey. In practice when such a certificate cannot be produced it can be issued by the Foreigners Police Office.

If a Turkish citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Turkish certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Turkish law and is valid for 6 months from issue. The certificate can be obtained from the registry office free of charge or the diplomatic or consular representations abroad for € 13,00.

e) Marriage Ceremony

Only civil marriages performed by authorized marriage officers are allowed in Turkey. The applicants need to be present at the ceremony in person at the same time. Marriage by proxy is not allowed.

It is possible to marry just about anywhere in Turkey, provided it is not a religious site or place of cultural heritage unless those have a separate part for ceremonies. However, the future spouses may be able to acquire a permit subject to a fee, for the use of certain historical sites. At least two witnesses who are not close relatives must attend the marriage ceremony. If one of the parties to be wed does not speak Turkish, an interpreter/translator will be required. Once the ceremony has been performed a Marriage Certificate and a family record book will be issued.

f) Family Record Book

At marriage, a marriage certificate is in the form of a book. As Turkey is party to the CIEC Convention No. 15 of 12 September 1974 introducing an international family record book, this book is issued on a form which contains the translation of each category into languages. Parties to this Convention are Greece, Italy, Luxembourg and Turkey. No charge is made for issuing the international family record booklet.

The international family booklet is accepted without legalisation in the territory of each of the states parties, but usually also in the states which are party to CIEC Convention No. 16 of 8 September 1976 on the issue of multilingual extracts from civil status record. The booklet contains the original particulars and subsequent annotations appearing in the civil status records concerning the marriage of the spouses, the birth of the children of the marriage and the death of the spouses and of those children.

g) Cost

The fee for the marriage at the marriage bureaus is 32 YTL (€ 16,29), the fees for ceremonies elsewhere and at different times vary depending on the town and location and range between 35 YTL and 350YTL (€ 17,81 to 178,14). The cost for a family record book is 28 YTL and 4 YTL for filing cost (€ 16,29 together).

h) Divorce/Separation/Annulment

According to the Civil Code, a person can present a case for divorce. The competent court for a divorce or separation case is the Family Court. However, where there is no such court, then the Court of First Instance is the competent court (Asliye Hukuk Mahkemesi) in the region of domicile of either one of the spouses or in the last place where they lived together for at least six months (Article 168 CC).

Divorce may be sought for specific grounds of fault of the other spouse, on the ground of irretrievable breakdown, or on mutual consent. In the case of a divorce action, the judge has the authority and has the power given by Civil Code to decide on legal separation of the partners for limited time instead of divorce decree.

4. Name

At birth the child receives a first name and surname. The Code on Adoption and Application of New Turkish Letters of 1928 applies for the letters to be used for writing personal names. According to the Code, all the public departments and private entities have to use the Turkish alphabet and all documents issued by these authorities must contain only the letters to be found in the Turkish alphabet. Foreign letters, non-existent in the Latin alphabet are registered using the sound valued in Turkish. Neither pen names, nicknames nor nobility or academic titles are registered.

The General Directorate of Social Services and Child Protection or the police force or hospital staff is entitled to assign a first name and surname to a found or orphan child.

a) First Name

The first name is given to the child by the person or persons having parental custody. If the parents are not married, the mother has parental custody. If the parents are married, they have joint custody and both parents have to choose the first name together. The family court may change custody in the interest of the child. If there is no agreement among the parents, a judge decides about the first name of the child.

The repealed Civil Registration Law required that the name given to a baby by its parents must not run contrary to the national culture, ethical rules and traditions or constitute an offence to public sensitivity. Those restrictions have been removed by the new laws. A limit on the number of first names assigned to the child is not envisaged in the legislation either. Due to the existence of a large number of gender neutral names, the first name must not compulsory reflect gender of the child.

A first name should not be contrary to public morality (By-Law on Application of Population Services Code, No:11081, Date: 29.06.2006). However, if a name is contrary to public morale, the registrar shall accept the demand with a reservation note in the registry book. The General Directorate of Population and Citizenship Affairs may bring an action against the parents, if it considers that the name given to child constitutes a breach of another persons name, of public morale, or the child's welfare.

The adopting person can choose a new first name for the adopted child.

b) Surname

If the parents are married, the child bears the family name of its father. All children born in wedlock bear the same name. If the parents are not married or the father is unknown, the child bears the family name of its mother, and the mother bears a double name following a previous marriage, the child bears the mother's maiden name. When a father has officially recognized the child, and the mother has accepted the recognition, the child is assigned the father's surname.

The adopted child takes the surname of its adoptive parent or parents. Names of parents are registered to child's records as father and mother, if child does not have mental capacity. If the adoption is cancelled, the child gets its previous surname back.

Upon marriage, the woman takes the name of her husband. Upon application to the registrar responsible for the wedding, she may continue to use the name she was using before the marriage in front of her husband's family name, if she had been using two names before the marriage this right

applies only to one of these names. If the marriage is cancelled or declared as non-existent, spouses retrieve their pre-marital surnames.

Upon divorce, woman's surname automatically reverts to the one she had before her marriage. If that surname is not her maiden name and if she wishes to revert to her maiden name, she may do so with the judge's permission. If she wishes to retain her ex-husband's surname, she needs to prove to the judge that this is in her best interest and will not be to the detriment of the ex-husband. The ex-husband's surname cannot be transferred to a new spouse.

c) Name-Change

According to Article 26 of the Civil Code any individual may request to change either the first name or the surname due to legitimate and good reasons. No limitation is based on residence or nationality of the applicant. Minor children need the consent of the parents. Any change in a person's name shall be registered with the appropriate registry office and promulgated. Any person who has suffered as a result of a change in another person's name may file a claim against such change within one year from the date when he was notified thereof. A person may change the name only once in a lifetime.

A decision of the court of first instance is required for a name change. The public prosecutor and the civil status registrar have to attend the hearing. They state their opinion about the request. The name change is published, if the court considers that publication is necessary. The registry office and the public prosecutor must be informed, in case of a minor child and also the guardian of the child.

d) Minority Names

Lausanne Agreement of 1923 contains the rules to be applied to minorities in Turkey, and according to that all the minorities have the right to keep their names and surnames. Turkish citizens of Kurdish, Circassian and Laz ethnical origin (who are not a minority, legally speaking) can also have registered Kurdish, Circassian and Laz names for their children in the civil status registry. Turkish Courts, including the Court of Cassation, have ruled that, Kurdish, Laz, Circassian and other non-Turkish language names commonly used in Turkey are also part of the national culture. In the past (before the latest legislative developments) there could be difficulties in the registration of some rarely used Kurdish and Christian names in the civil status registry. Presently, the law and practice is liberal after the amendment of new Population Services Code in 2006 and European Union Accession process. Current regulation is that the parents can register any name for the child provided that the Turkish alphabet is used (e.g., "Muhammed" but not "محمد"). This applies also for Kurdish names containing the sounds "q, w and x", which must be spelled with "k, v and ks".

e) Cost

The range of the cost is 50 to 1.000 YTL (€ 25,45 to 508,96) depending on notification, duration of the action, professional representation, etc.

CH – Switzerland

1. Civil Status Registration System

The current Swiss civil registration system is person based.

Switzerland has four official languages: German, French, Italian and Romansh. Civil status acts are performed in German, French and Italian.

Switzerland has a population of 7.507.000 (2006) and is divided into twenty-six cantons. It is further divided into a total of 2790 Municipalities (sometimes called communities or communes, after the French/Italian names) being the smallest government division in Switzerland. While many have a population of a few hundred citizens, the largest cities such as Zürich or Geneva also have the legal status of municipalities. A variety of structures and terminology exists for the sub national entities between Canton and Municipality, loosely termed districts (i.e. Urban Administration Districts) of which there are a total of 159 districts.

Originally, almost every municipality had its own registry office so that Switzerland had 1750 municipal registry offices. After the administrative reform process of the civil status registration system, started in 2001, the responsibility for the civil status registration has changed and is now achieved by cantonal General Registry Offices responsible for special civil status registration districts (Zivilstandskreise, Arrondissements de l'état civil, Circondari dello stato civile). These districts are different from the aforementioned political districts and comprise one or more territorial municipalities or municipalities of origin within the cantons. The centralisation is not finished yet and the implementation will last for 01.01.2009.

a) INFOSTAR (Informatisiertes Standesregister, registre informatisé de l'état civil)

Until the end of 2004, civil status data was kept by the register office in traditional civil status registers, such as family registers. Since 1 January 2005, all civil status data is recorded using the electronic personal civil status register (Infostar). Persons whose civil status data has not been transferred to Infostar, will be issued a printed copy from the traditional family register (family certificate). Persons whose data is recorded in Infostar will receive a registered civil status document.

The Swiss Governance operates a central data base. The data collection for the cantons, however, takes place decentralized in the cantons. INFOSTAR processes civil status events occurring abroad or in Switzerland and judicial or administrative decisions, such as:

- births
- marriages, registered partnerships
- deaths, absence
- gender reassignments
- declarations and decisions concerning first names and surnames
- child relationships and
- dissolutions of marriage
- decisions concerning citizenship (Citizenship derives from the affiliation to a community (Bürgerort) or a canton (Heimatort) and thus expresses Swiss nationality)

The processed data provide a basis for:

- the Swiss citizens' personal and family status (issuance of civil status documents)
- the proof of the canton of origins' citizenship and thus Swiss nationality
- the effective operation of the inhabitants' and aliens' registration of the municipalities
- the issuance of identity papers (ID cards, passports etc.)
- custodial measures

- the identification of legal heirs
- the burials
- the military examination
- the population statistics
- genealogical research and scientific survey

b) Registry Offices and Staff

The Federal Office of Justice (Bundesamt für Justiz, L'Office fédéral de la justice, L'Ufficio federale di giustizia) as an agency of the Federal Department of Justice and Police (Eidgenössisches Justiz- und Polizeidepartement, Département fédéral de justice et police, Dipartimento federale di giustizia e polizia) is responsible for the supervision of the register of births, marriages and deaths. The Federal Civil Registry Office (Eidgenössisches Amt für das Zivilstandswesen, Office fédéral de l'état civil, Ufficio federale dello stato civile) is an organisational unit of the Federal Office of Justice and the supreme supervisory authority when it comes to the preparation and performance of marriages and keeping Switzerland's civil status records and the adoption register. It is responsible for legislation in these areas, in addition to drafting manuals for the cantonal civil status registry authorities (General and Special Registry Offices and supervisory boards) charged with implementing federal law and for the Swiss diplomatic missions abroad. The Federal Civil Registry Office performs inspections of the registries, prepares advisory opinions and drafts positional statements pertaining to civil status to be submitted to the Federal Supreme Court. It also supervises the exchange of civil status documents with foreign authorities. The Swiss civil status legal advisory board (Eidgenössische Kommission für Zivilstandsfragen; Commission fédérale pour les questions de l'état civil; Commissione federale per le questioni dello stato civile) gives advice to the federal authorities as far as legislature, points of law, instructions and recommendations are concerned.

Each canton has installed a cantonal supervisory board (administrative authority or, in little cantons, legal authority) charged to supervise, control and inspect the work of the registrars and to file a management report to the Federal Civil Registry Office every two years. The cantonal supervisory boards also authorize the transcription of foreign civil status documents as well as the celebration of marriages of non-residents.

Currently (11.09.2007) Switzerland has 238 General Registry Offices (Zivilstandsamt, office de l'état civil, ufficio di stato civile) responsible for the 452 civil status registration districts but each municipality is bound to support a marriage office. Some cantons have formed Special Registry Offices (Sonderzivilstandsamt, office de l'état civil spécialisé, ufficio di stato civile speciali), which register certain events. These offices are responsible for the entire or several cantons. The approximately 700 registrars are specially trained civil servants and appointed by the cantonal government, following local authority recommendation and are assisted by clerks. They must be competent Swiss citizens and must have a recently created specific diploma (In 2005 the first exams took place). The cantons have the responsibility for organizing the basic training, supplemented regularly by advanced training.

The Swiss Civil Status Association (Schweizerischer Verband für Zivilstandswesen, Association Suisse des officiers de l'état civil, Associazione svizzera degli ufficiali di stato civile) and its 12 cantonal sub-units conduct basic and advanced training and organise information and specific symposia. The Association is a member of the European Association of Registrars (EVS).

City magistrates can be appointed as supplementary registrars. The performance of civil status acts and the behaviour of registrars can be the subject of appeal. Proper authority is the cantonal

supervisory board. Against the decision of the cantonal supervisory board, legal action can be filed at the Federal Court.

The General Registry Offices provide two types of services:

- the registration of any event that effects someone's personal or family status
- the provision of certificates for the urban region including individual or family certificates

c) Civil Status Records

All civil status records from the hitherto existing registers of births, marriages, deaths and child acknowledgements and from the family register as a collective-register will be transferred into INFOSTAR within the next years. General Registry Offices record births, marriages, deaths, absence, legitimation, changes of name and sex, restrictions of legal competence, adoptions, dissolution of marriages, child acknowledgements, registered partnerships and citizenship of Swiss citizens. All civil status events are recorded by the General Registry Office responsible for the event location unless the registration is assigned to a Special Registry Office. Special Registry Offices may record civil status events occurring abroad for people without Swiss citizenship and decisions of legal and administrative authorities (e.g. divorce) within the canton. In case of medically assisted human reproduction, data on the sperm donor are held at the Federal Civil Registry Office and are made available to children conceived using this process. Foreign decisions and documents concerning Swiss citizens are recorded by the Special Registry Office or supervisory board of the canton of origin. Foreign decisions and documents concerning people without Swiss citizenship are recorded by the responsible General or Special Registry Office of:

- the canton of origin of the person directly affected. If the person is a citizen of several cantons registration takes place in the canton, where the supervisory board, which issued the decree, is settled;
- the canton of the event location, if further registration will be necessary (e.g. marriage or registered partnership);
- the canton of residence of the foreign person if the registration deploys no effect to a Swiss citizen;
- the canton of birth, if the decision or declaration refers to the name, sex, filiation or nationality of a foreigner born in Switzerland.

d) Correction and Amendment of Civil Records

Simple erroneous acts can be corrected on order of the cantonal supervisory authority. In the other cases, correction is ordered by a court. Marginal notes and annotations are no longer used; rather INFOSTAR provides updated civil status records.

e) Access

The legal basis for the practice of releasing information from the birth, marriage, and death registers is the Swiss federal civil registration ordinance (ZStV) of 28.04.2004, which is a supplement to and execution decree for the Swiss Civil Code. Data can be released to private parties who can prove an immediate interest worthy of protection if the individuals directly concerned are obviously no longer able to procure the data themselves (ZStV Art. 59). The same holds for researchers doing scientific research unrelated to individuals as well as to researchers doing personal research, namely genealogical research (ZStV Art. 60). Since civil status records are considered confidential, the civic authorities take appropriate security measures (ZStV Art. 82).

The regional registry offices provide written information based on register extracts and open older registers for examination for a fee. The information must be related to details concerning the civil status of the individual making the request, or the family and given names, the cantonal and municipal citizenship, and the vital statistics (location and date of birth, marriage, and death) of the individual's own ancestors (parents, grand- parents, great-grandparents, and great-great-grandparents), data about the individual's own descendants (children, grandchildren, great-grandchildren, and great-great-grandchildren), and finally data concerning the current records of the individual's spouse (but not those of former spouses).

Only the courts and the supervisory authorities can consult the registers directly. Exceptionally and for serious reasons, other authorities and private individuals, in particular the person concerned, can consult the register (closed less than 100 years ago) on authorisation delivered by the cantonal supervisory board. It should be noted that authorisations to consult the registers are generally granted for genealogical and scientific research, but not for business (for example the search for heirs). Upon request, the registry office opens older registers (i.e. those that were closed 100 years ago or earlier). The consultation takes place under the supervision of the registrar.

The fee for an official confirmation (e.g. insertion of answers in the pages of a questionnaire) is CHF 30 (€ 18,15) per sheet. For details taken from the register showing all family members of one family a fee of CHF 25 (€ 15,13) plus CHF 5 (€ 3,03) per every family member will be charged. The document may be written by computer, typewriter or have been photocopied. The fee for allowing the personal viewing of the registers is CHF 120 (€ 72,61) for six months or CHF 200 (€ 121,21) for one year. In cases where personnel of the registrar's office assist in the research, a fee of CHF 40 (€ 24,20) per half hour will be charged (advice regarding the techniques used in registration, the organisation of the register, interpretation of entries in old official language, etc).

f) Archives

The national registration of people's civil status was introduced in 1876. Since then, civil status registers list births, marriages and deaths. Church records are the most important source of people's civil status for the time before 1876. There is no uniform procedure for archiving the church records and civil status registers. In some cantons they are centrally managed after 120 years in the cantonal government archives, while in others, church records are still held by church offices. The government archive maintains a list of birth, marriage, and death registers that can be viewed in the form of microfilm copies in the government archives. There are also data protection conditions attached to government archive services and inspection possibilities. Civil status records of lateral lineage in births, marriages, and deaths registers closed less than 100 years ago can only be inspected by the individual making the request upon obtaining approval from the Citizenship and Civil Status Section. There is no charge for inspecting the microfilms of birth, marriage, and death registers in the government archives. However, for the use of the microfilm readers there is a charge per half-day or full-day of CHF 10,00 (€ 6,05) or CHF 20,00 (€ 12,10) respectively. The government archives provides information in person or in writing about which birth, marriage, and death registers can be viewed and accepts reservations for the microfilm readers. The government archives will not retrieve data from the birth, marriage, and death registers for private or for professional researchers. Only in exceptional cases will it provide written information about entries in the registers if it concerns a single individual and the research required takes less than a quarter of an hour.

g) Documents

Registry Offices issue various extracts and short extracts (certificates) from the central database as well as integral copies if that register has not yet been transferred into INFOSTAR. Certificates include the three main national languages but can be also obtained in other languages.

The following certificates are issued:

- Birth certificates (Geburtsschein, acte de naissance, atto di nascita),
- Marriage or Registered Partnership Certificate (Eheschein, Ausweis über den registrierten Familienstand; acte de mariage, certificat relatif à l'état de famille enregistré; atto di matrimonio, certificato relativo allo stato di famiglia registrato)
- Death Certificate (Todesschein, acte de décès, certificato di morte)
- Certificate of Capacity to Marry (Ehefähigkeitszeugnis, certificat de capacité matrimoniale, certificato di capacità al matrimonio)
- Civil Status Certificate (Personenstandsausweis, certificat individuel d'état civil, certificato individuale di stato civile)
- Certificate of Origin (Heimatschein, l'acte d'origine, atto di origine)
- The Paternity Recognition Certificate, taken from the Paternity Register, shows where and when the filiation between father and child was declared. The Paternity Recognition Certificate can be obtained
- Family Certificate (Familienschein, l'acte de famille, atto di famiglia) or Registered Civil Status Document

These certificates can generally be obtained by post, fax or e-mail by returning the application form or over the counter at the General Registry Office of the place of the birth, on production of ID or of a family record book.

On request a special certificate stating the time of birth (Geburtszeitschein, attestation de l'heure de la naissance, documento che attesti l'ora della nascita) is issued.

The death certificate contains the particulars of the deceased and details when and where the death took place. It does not indicate the cause of death. This document is issued as proof of death for administrative purposes. It must not be confused with the death certificate issued by the doctor called, which is kept for internal use.

The certificate of capacity to marry is issued on an international form (with text in several foreign languages). It certifies that there is no impediment to marriage to a particular person under Swiss law. The Swiss civil registrar will only issue such a certificate if the bride or bridegroom is a Swiss national. The certificate is valid for six months and can be obtained from the registry office at Swiss place of residence or the registry office for the place of origin, if resident abroad.

The civil status certificate summarizes an individual's detail: surname, first name(s), place and date of birth, sex, status, place of origin, surname(s) and first name(s) of parents. This multilingual document provides proof of an individual's right of citizenship and, therefore, their Swiss nationality.

The certificate of origin is taken from the General Register and details the holder's specific rights of citizenship. This document remains valid as long as there is no change in the holder's status. The local authority (the cantonal office of the population) holds the act of origin of individuals from another canton as long as they reside in their jurisdiction. By law, this document must remain within Switzerland at all times and should be returned to the commune when a Swiss citizen leaves the country for an extended period of time. Its loss must be declared. The certificate of origin can be obtained from the General Registry Office of the commune of origin, on production of ID or of a family book.

Married couples with joint children can request a family record document containing information about themselves and about their joint children at the register office. The family record document is used as documentary evidence in dealings with the administrative authorities (residents' registration office, register office, passport office, tax authorities, etc.) Unmarried parents and their children as well as non-joint children can obtain a personal civil status certificate. The family certificate is taken from the Family Register and proves the relationship existing between family members and the rights of citizenship of an individual, at the time the document was issued. It details all the relevant information about the holder, their spouse and their children, but does not mention the place of residence.

h) Cost

All certificates (Swiss or international form) are subject to a fee (fixed rates set by federal law) plus delivery charges: CHF 15,85 for Switzerland, CHF 22,30 for Europe

Birth, Marriage, Death, Family, Civil Status and Paternity Recognition Certificates and Certificates of capacity to marry or of origin: CHF 25,00 (€ 15,14).

Registered Partnership Certificate: CHF 30 (€ 18,16) basic plus CHF 10,00 (€ 6,05) per each additional individual other than the holder or their parents

Certificate stating the time of birth: CHF 10,00 (€ 6,05)

Family Record Book: CHF 40,00 (€ 24,22)

Family Certificate or Registered Civil Status Document: CHF 25,00 basic plus CHF 5,00 (€ 3,03) per each additional individual other than the holder

Other written information, statement or affirmation: CHF 30,00 (€ 18,16)

Integral copy from the closed special registers: CHF 40,00 (€ 24,22)

Integral copy from the closed family register: CHF 40,00 (€ 24,22) basic plus CHF 5,00 (€ 3,03) per each additional individual other than the holder

i) Time

Civil status events are usually registered within four days and the same applies to the preliminary procedure and the celebration of marriage. The preliminary procedure in connection with a marriage of foreigners usually takes two or three weeks (without the time required for document-verification by the consular service, if any). Foreign documents may be examined by the consular service or the civil status authority in specialised laboratories. Documents from the registers are usually issued within five days.

j) Legalisation/Translation

The registry office does not accept documents which are not duly certified or bear an Apostille.

Switzerland is party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers. Switzerland is also a member of the International Commission on Civil Status Conventions (CIEC) and has ratified CIEC Convention No. 16 on the issue of multilingual extracts from civil status records of 8 September 1976 along with Austria, Belgium, Bosnia and Herzegovina, Croatia, France, Germany, Italy, Luxembourg, Macedonia, the Netherlands, Portugal, Poland, Serbia and Montenegro, Slovenia, Spain and Turkey. In addition, Switzerland has bilateral agreements with Austria, Belgium, Czech Republic, Germany, Slovakia and Italy abolishing the requirement of legalisation either for public documents in general or for civil status documents.

Copies of documents are permitted, but such copies must be legalized or made of the original documents, bearing the certification (Apostille). Foreign language documents must be translated into German, French or Italian.

In Switzerland the competent authorities for the issuance of Apostilles are the Federal Chancellery and the cantonal State Chancelleries. The prices vary from 15 to 30 Swiss francs (9,21 € to 18,42 €).

k) Foreign relations

Swiss civil status registrars transmit information about civil status acts and changes of citizens of to certain EU Member States (and of nationals who were born in EU Member States) that occur in the country directly to the authorities of the respective EU Member (e.g. Austria, Germany and Italy). Swiss civil status registrars receive information about civil status acts and changes of their own citizens from the aforementioned EU Member States.

l) Consular Services

The Federal Department of Foreign Affairs coordinates Switzerland's foreign activities on behalf of the Swiss government. Currently, there are worldwide only five representations abroad which perform duties of the registry offices (Baghdad, Beirut, Cairo, Damas and Teheran). Once in a year these representations transfer the acts drawn abroad to the Federal Department of Foreign Affairs which manages the archival deposit for federal files. The role of the Swiss missions abroad is normally to report changes in the status of Swiss nationals (birth, marriage, registered partnership, divorce, death) which have taken place abroad to the relevant cantonal supervisory board in Switzerland so that they may be entered into the electronic civil status registration system (INFOSTAR). This includes certifying and translating the relevant documents (in return for payment of a fee). The supervisory board of the canton of origin will be responsible for Swiss nationals abroad. For Swiss citizens abroad obtaining Swiss civil status documents from the appropriate Swiss authority, no fee is charged.

Foreign authorities do not automatically notify the Swiss authorities of the birth of a child of Swiss nationality (except for Austria, Germany and Italy in most cases). For a birth to be recorded in the Swiss civil status register, the parents should send the original birth certificate to the Swiss embassy or consulate in the country where the child was born. The birth certificate should be authenticated and translated into one of the official languages of Switzerland (by the embassy or an officially approved translator) and must not have been issued more than six months previously. The embassy then forwards the document, usually free of charge, to the cantonal civil status supervisory board which forwards it to the registry office of the parent's place of origin in Switzerland to have the birth entered in the register. Children born abroad, one of whose parents is a foreign national, may lose Swiss nationality at the age of 22 unless they have registered or been registered (notification in writing) with the Swiss authorities. If the parents are unmarried, in addition to the birth certificate they should also send the embassy an acknowledgement of paternity certificate (if such a document exists). If one of the parents is a foreign national, they should also send a copy of the foreign national's passport as well as documents showing his or her marital status.

Acknowledgement of Swiss nationals abroad can only be made at the Swiss representations.

When at least one of the spouses is Swiss, a marriage celebrated abroad may be acknowledged and recorded in the Swiss civil status registers. To this end, the couple must notify the Swiss embassy or consulate in the country where the wedding took place, or the cantonal civil status supervisory board of the couple's place of origin of their marriage. Once the marriage has been recorded, the register office of the place of origin issues the couple with a family record book. The documents required for recognition of a marriage should be no older than six months and, where applicable, should be translated, authenticated and even checked at the married couple's expense. Marriages

celebrated abroad are not recognised if the couple married abroad in order to sidestep an invalidity clause under Swiss law (e.g., a marriage between a father and his adopted daughter is not recognised in Switzerland). Marriages celebrated abroad between foreigners residing in Switzerland are not recorded in the Swiss civil status register but are generally recognised by the immigration authorities for the purposes of family reunification.

m) eGovernment

Online Services for Citizens

Portal

The Swiss Portal www.ch.ch is a joint project on the part of the Confederation, the cantons and the municipalities. The national portal is maintained by the e-Government Section of the Federal Chancellery, which answers directly to Vice Chancellor. The information portal provides users with electronic access to all information and services from the Swiss authorities via a guidance system classified according to individual circumstances which leads them to the right federal, cantonal or municipal agency. The information portal started regular operation in January 2005.

eIdentification

The concept of a population PIN arose in 2001 from the finding that numerous Confederation e-government projects were concerned with the introduction of personal identifiers and that the cantons and municipalities would not accept an uncoordinated introduction and multiplication of personal numbers by the Confederation. On the basis of the second consultation, the Federal Council commissioned the EDI in 2004 to draw up a federal Law on a Personal Identifier for the Population (BPING) for the area covered the registers of residents, civil status, foreigners and refugees. The BPIN is identical to the so-called STAR number, which is maintained in the electronic civil status registration system (INFOSTAR).

Civil Status Certificates

Various application forms and online request of civil certificates are available.

n) Law

Article 33 and 39 till 49 as well as Article 90 and the following of the Swiss Civil Code of 10.12.1907 (Zivilgesetzbuch, ZGB; Code civil suisse, CC; Codice civile svizzero, CC); Swiss Federal Civil Registration Ordinance of 28.04.2004 (Zivilstandsverordnung, ZStV; Ordonnance sur l'état civil, OEC; Ordinanza sullo stato civile, OSC); Article 7, 14, 37, 38 and 122 of the Swiss Constitution of 18.04.1999 (Bundesverfassung, BV; Constitution fédérale de la Confédération suisse, Cst; Costituzione federale della Confederazione Svizzera, Cost); Swiss Nationality Act of 29.09.1952 (Bürgerrechtsgesetz, BüG; Loi sur la nationalité, LN; Legge sulla cittadinanza, LCit); Swiss Consular Code of 24.11.1967 (Reglement des schweizerischen diplomatischen und konsularischen Dienstes, RdkS; Règlement du Service diplomatique et consulaire suisse; Regolamento del servizio diplomatico e consolare svizzero); Article 14 of the Swiss Jurisdiction Code of 24.03.2000 (Gerichtsstandsgesetz, GestG; Loi sur les fors, LFors; Legge sul foro, LForo); Article 32 of the Swiss Federal Code on Private International Law of 18.12.1987 (Bundesgesetz über das Internationale Privatrecht, IPRG; Loi fédérale sur le droit international privé, LDIP; Legge federale sul diritto internazionale privato, LDIP); Swiss Reproductive Medicine Act of 18.12.1998 (Fortpflanzungsmedizingesetz, FMedG; Loi fédérale sur la procréation médicalement assistée, LPMA; Legge sulla medicina della procreazione, LPAM); Swiss Federal Civil Registration Fee Ordinance of 27.10.1999 (Zivilstandsgebührenverordnung, ZStGV; Ordonnance sur les

émoluments en matière d'état civil, OEEC; Ordinanza sugli emolumenti in materia di stato civile, OESC); Swiss Consular Fee Ordinance of 29.11.2006 (Verordnung über die Gebühren der diplomatischen und konsularischen Vertretungen der Schweiz; Ordonnance sur les émoluments à percevoir par les représentations diplomatiques et consulaires suisses; Ordinanza sulle tasse delle rappresentanze diplomatiche e consolari svizzere); Reproductive Medicine Ordinance of 04.12.2000 (Fortpflanzungsmedizinverordnung, FMedV; Ordonnance sur la procréation médicalement assistée, OPMA; Ordinanza sulla medicina della procreazione, OMP); Swiss Federal Registered Partnership Act of 18.06.2004 (Partnerschaftsgesetz, PartG; Loi sur le partenariat, LPart; Legge sull'unione domestica registrata, LUD); Register Adjustment Act of 23.06.2006 (Registerharmonisierungsgesetz, RHG; Loi sur l'harmonisation de registres, LHR; Legge sull'armonizzazione dei registri, LArm); Article 56 of the Maritime Navigation Act of 23.09.1953 (Seeschiffahrtsgesetz, SSG; Loi fédérale sur la navigation maritime sous pavillon suisse, LNM; Legge federale sulla navigazione marittima sotto bandiera svizzera, LNM); Article 4 of the Maritime Navigation Ordinance of 20.11.1956 (Seeschiffahrtsverordnung; Ordonnance sur la navigation maritime, Ordinanza sulla navigazione marittima); Articles 18-20 of the Aircraft Commanders Duties Ordinance of 22.01.1960 (Verordnung über die Rechte und Pflichten des Kommandanten eines Luftfahrzeuges; Ordonnance sur les droits et devoirs du commandant d'aéronef; Ordinanza su i diritti e i doveri del comandante d'aeromobile)

Current versions of the texts of the legislation are available:

<http://www.admin.ch/dokumentation/gesetz/index.html> (German, French and Italian)

Various Cantonal Civil Status Registration Ordinances (As a result of the fundamentally federalist structure in Switzerland, the organisation of the cantonal procedure in the civil status legal field is not uniformly regulated); Instructions and circular letters of the Federal Department of Justice and Police and the Federal Civil Status Office; Legal Advice from Federal Civil Status Office published monthly in the Civil Status Journal (ZZW) of the Swiss Civil Status Association

2. Swiss Confederation - Birth

In Switzerland, births must be reported within three days of the delivery to the register office of the place of birth, or, if the mother herself registers the birth, as soon as she is able to do so. Late declarations are accepted but sanctioned with a fine. If the delay is more than six months decision is made by competent supervisory authority.

The birth is then recorded in the birth register. In addition, children of Swiss parents are also recorded in the family register of their place of "origin". The registration of birth should be made in person by the legal father (i.e. the man married to the mother, or the father who has acknowledged or will acknowledge the child to be his), the mother, the doctors in charge or any other person who has witnessed the delivery. The registration may also be made by proxy, which means that the doctor and hospital can authorise a person working at the hospital to be responsible for the registration. The parents themselves may authorise a third party to register the birth. With a proxy the register office should be informed in writing of the name of the person authorised to register the birth.

If a birth takes place in hospital or in a private clinic, the institution concerned is required to give notice of the birth in writing to the register office of the place of birth. The mother should have provided the institution in advance with the documents required for registering the birth. The father may make the registration himself by submitting a certificate from the hospital confirming the birth. If the father is not married to the child's mother, he can only register the birth if he has acknowledged the child as his prior to birth or if he does so upon registration. Births occurring on a Swiss vessel or a Swiss aircraft can be declared by the ship's captain or the aircraft commander.

In case of a stillbirth the registrar draws up a birth certificate indicating a reference to the death. It is allowed to give the stillborn child a first and a surname and to request that it be entered into the family record book. A birth certificate and a death certificate are drawn up for the child alive at birth but dead on declaration. In case of a foundling the cantonal authority informs the registry office and allots to the child a surname and first names. The registrar records the place, the date and the circumstances of the discovery, the sex, the supposed age and the distinguishing marks of the child.

a) Documents

The register office requires various documents depending on the marital status of the parents and their nationality.

Married parents who are Swiss nationals

If the parents are married and of Swiss nationality, they should submit to the register office of the place of birth the family record book or family certificate and the certificate of domicile.

Married parents who are foreign nationals

If the parents are married and of foreign nationality, they should submit the family record book, marriage certificate, the certificate of domicile, passport and the identity card (residence permit).

Unmarried parents where the mother is a Swiss national

If the mother is not married to the father of the child and both are a Swiss national, they should submit the mother's certificate of civil status, certificate of domicile, and acknowledgement of paternity certificate (if the child was acknowledged by the father before birth).

Unmarried parents where the mother is a foreign national

If the mother is not married to the father of the child and is a foreign national, they should submit a birth certificate, a document showing the civil status (e.g. an individual certificate of civil status, a divorce decree or the death certificate of a husband), a certificate of domicile, the passport, and the identity card – residence permit.

b) Birth Record

The birth record indicates characteristics about:

- the declaring person's name, occupation and residence
- the place, date and time of the birth, sex, the surname and the first name or names of the child
- multiple or singleton birth
- information (valid at the time of birth) on the parents - surname, first names, age, date of birth, place of origin and place of domicile
- if the parents are not married, surnames and first names of the maternal grandparents and, if the child is recognized by his father, of the paternal grandparents
- in case of foreigners, in addition their nationality

A transsexual can after gender reassignment alter the birth certificate. The birth certificate is reissued in the reassigned sex of the transsexual person.

The registration of birth (and death) is free of charge but a birth certificate is subject to a fee.

c) Recognition

Mothers do not need to acknowledge their children since the parent-child relationship follows from the birth itself. However, the maternal recognition by a foreign mother is allowed in Switzerland when the legislation of the home country requires such an act following the model contained in the relevant CIEC-Convention of 12 September 1962.

As for fathers, the parent-child relationship follows from one of the following cases:

- if the mother is married at the time of birth, the husband is deemed to be the child's father without an acknowledgement being necessary. Even if another man claims to be the child's biological father, he may not dispute the husband's paternity relationship. A husband wishing to dispute his paternity has to go to court to contest the presumption of his own paternity;
- if the mother is unmarried at the time of birth, the man who believes he is the father must expressly acknowledge the child. If another man has already acknowledged the child, it is possible to dispute the acknowledgement.

Acknowledgement may be made through a statement to the register office (of the place of origin or of domicile of the person acknowledging the child, the place of origin or of domicile of the child's mother or of the place of birth or the place where the child usually lives). The acknowledgement is then recorded in the acknowledgement of paternity register and in the family register which holds details of both the father and the mother. It is not necessary to prove that the man is actually the child's biological father in order to have the acknowledgement recorded in the register.

Documents

A number of documents have to be submitted to the register office when acknowledging a child. A (Swiss) father or mother should submit: their individual certificates of civil status or family certificates (issued within the last six months), proof of domicile and an identity document. The child's birth certificate issued within the previous month should also be submitted. A fee will be charged for the acknowledgement.

Disputing an Acknowledgement

Any interested party may dispute an acknowledgement of paternity, in particular the mother, the child and, in some cases, the acknowledging party. In order to dispute an acknowledgement he/she has to go to court and prove that the acknowledging party is not the child's father.

Cost

The disposition and registration of paternity are fee-paying services. Fee: CHF 60,00 (€ 36,33) The Paternity Recognition Certificate is also subject to a fee.

3. Swiss Confederation - Marriage

A religious marriage ceremony may only take place after the civil wedding (ZGB Art. 97 Para. 3). Same-sex couples can register a union. The official title in German of the same-sex union is "Eingetragene Partnerschaft," meaning "registered partnership." The couples have nearly the same rights and protections as heterosexual couples, except e.g. taking the same surname. Same-sex marriages formed outside Switzerland (e.g. in the Netherlands, where this is allowed) will be acknowledged as civil unions.

a) Personal Requirements

As regards capacity to marry, a person may not contract marriage before the age of 18 (CC, art. 94), and the consent of the minor's legal representative is required for betrothal (CC, art. 90 (2)). Neither must be already married. Persons subject to guardianship orders must obtain the consent of their legal representative. The law prohibits marriage between (half-)brothers or (half-)sisters, between a person and his or her parent (natural or adoptive) or grandparents, and between a person and his or her spouse's child (even if that marriage has been annulled). An authorisation of marriages between uncle and niece, aunt and nephew, father-in-law and daughter-in-law (ex-wife of the son), mother-in-law and son-in-law (ex-husband of the daughter) is possible.

b) Preliminary Procedure

If one or both of the engaged couple (Swiss or foreign) reside in Switzerland, the application for marriage should be filed with the Registry Office in their place of residence (or one of the two). If neither resides in Switzerland, the application must be filed by them or by a competent Swiss intermediary, with the Registry Office where they intend the marriage to take place. The engaged couple have to submit the necessary documents to the registrar. The register office for the place of residence in Switzerland or for the place where the wedding is to take place then issues the marriage application form. Once the engaged couple have filled in, chosen the future surname and signed the form and submitted a number of other documents, they make a personal statement (by appointment only) to the registrar (or to the Swiss consulate, as the case may be) to the effect that they do, in fact, meet all the requirements for getting married. The registrar reviews the marriage application and notifies the engaged couple in writing whether or not the marriage can go ahead. Registrars are required to verify that the conditions for a marriage are satisfied and will refuse to celebrate it if they are not.

The obligation to check the capacity to marry may be backed up by the forwarding of files concerning the preparations for mixed marriages to the supervisory cantonal authority. This power is used by almost all the cantons whenever the marriage is international in character. Unlawful residence is not an obstacle to marriage, it may in practice trigger a thorough examination of the marriage papers and in particular a request for verification and authentication of the foreign documents by the Swiss representation in the country of origin. A marriage may be celebrated not less than ten days (this deadline may be shortened in case of imminent death) and not more than three months after notice has been given that the preparatory procedure has been completed.

c) Documents

Swiss nationals, whether unmarried, widowed or divorced must submit:

- personal civil status certificate (issued by the registry office of the town of origin);
- residence certificate (issued by the residents' registration office);
- passport or identity card;
- birth certificate (certified copy) showing the names of the parents (this certificate may be issued at most six months before the planned marriage);
- if previously married, a certified copy of the final divorce decree, or death certificate if marriage ended due to death of spouse.

Foreign nationals must submit, in addition:

- residence permit;

- documents issued by the foreign state showing a person's birth, gender, name, parentage, civil status and nationality or an affidavit stating that he is free to marry;
- civil registry papers (with information about marital status, divorce decree or death certificate of deceased spouse);
- passport or proof of citizenship, recognised refugees and asylum seekers need to produce a newly issued certificate of their refugee or asylum-seeker status instead of a passport or proof of citizenship.

The required documents must not date back more than six months at the time of submission and must be written in or translated into one of the national languages of Switzerland. Depending on the country of origin, the Swiss authorities may also request that the marriage papers are verified in the country of origin. Verification may take considerable time and may incur fees which are payable in advance to the registry office. Foreign nationals who do not meet the above-mentioned requirements may nevertheless be allowed to get married according to the national law of either of the betrothed. Such authorisation is issued by the Cantonal Registry Supervisory Authority of the place where the marriage is to be celebrated and its cost varies as a function of the complexity of the case (CHF 50,00-300,00; € 30,27-181,63)

d) Certificate of no impediment

Resident foreigners have no legal obligation to produce a certificate of no impediment of the country of origin if they intend to marry in Switzerland. Non resident foreigners must produce a statement issued by the foreign state showing that the marriage will be recognized. Foreign nationals who do not meet this requirement may nevertheless be allowed to get married according to the national law of either of the betrothed. Such authorisation is issued by the Cantonal Registry Supervisory Authority of the place where the marriage is to be celebrated and its cost varies as a function of the complexity of the case (CHF 50,00-300,00; € 30,27-181,63)

If a Swiss citizen intends to get married abroad he/she may have to produce - in addition to other documents – a Swiss certificate of no impediment. This certificate is confirmation that he/she has met all marriage requirements according to Swiss law and is valid for 6 months from issue. The certificate can be obtained from the registry office at Swiss place of residence or the registry office for the place of origin, if resident abroad. Switzerland has a bilateral agreement with Germany and Austria on the issuance of the certificate of no impediment. According to this agreement the application for the issuance may be filed with the registry office competent for the place of residence in Germany or Austria. The application is afterwards transmitted to the competent Swiss registry office. The cost is CHF 25,00 (€ 15,14).

e) Marriage Ceremony

The registrar celebrates the marriage after completion of a preparatory procedure during which he checks the identities of the future spouses and makes sure that the conditions of marriage are satisfied. If they are not or if there is still some doubt concerning the authenticity of the documents produced by the future spouses, the registrar must refuse to celebrate the marriage, notifying the engaged couple in a formal decision that indicates the means of appeal.

The marriage ceremony can take place in the registry district of the applicants' choice (ZGB Art. 97 Para. 2). If the future spouses do not wish to get married in the community they live in, this community will issue a marriage authorisation once the preparation process has been concluded and then they can get married in the commune of their choice.

The civil wedding is a public ceremony held in the marriage room of the general registry office or the municipal marriage office in the presence of two witnesses chosen by the engaged couple. If one

of the betrothed cannot travel, the marriage may exceptionally be celebrated in another place (hospital, home of the betrothed etc.). It cannot be held on a Sunday or a public holiday. The spouses and witnesses sign the marriage register. Upon completion of the ceremony, the registrar issues the family record book or registered civil status document and, if the spouses so wish, the marriage certificate that is required for a subsequent religious wedding. A family record book is issued only to newlyweds domiciled in Switzerland.

f) Contents of the Marriage Record

The record on the marriage certificate indicates:

- marriage date, and place
- first names
- surnames before marriage
- surnames after marriage
- home address
- date and place of birth
- country of birth
- marital status
- number of children
- the surname, first names and the residence of the witnesses
- the surname, first names as well as the place and date of birth of the common children
- in case of a foreigner also the nationality

g) Cost

All costs can be waived if the future spouses reside in the respective canton.

Preparatory procedure before marriage: CHF 60,00 (€ 36,33) (together) or CHF 40,00 (€ 24,22) (separately)

Ceremony:

- CHF 50,00 (€ 30,27) during the opening hours
- CHF 100,00 (€ 60,54) off opening hours
- CHF 50,00 Ceremony in another language
- CHF 20,00 (€ 12,11) For the provision of witnesses (per witness)

In accordance with the new federal rates, the nominal cost of a marriage celebration (CHF 50,00) will rise incrementally depending on the number of administrative actions required such as the verification of documents and the creation of a family book. The global amount will vary from CHF 150 (€ 90,82) for a Swiss couple, to more than CHF 400 (€ 242,17) for a foreign couple.

h) Divorce/Separation/Annulment

A petition for divorce must be filed with the court appointed by the canton of domicile of either spouse. Divorce may be filed by consent if the parties have agreed on the consequences of the divorce (Art. 111, 112 Swiss Civil Code) or, in the alternative, after separation of more than two

years (Art. 114). The two year separation requirement may be waived for good reason shown (Art. 115). The court informs the civil status registrar at the spouses' place of origin so that the divorce can be recorded in the register.

4. Swiss Confederation - Name

In Switzerland, children receive one or more first names and one surname.

a) First Name

The parents may give any first name (one or more) as it is not likely to damage the interests of the child. Names that cause confusion regarding identity or that lead to misunderstandings related to the sex of the person are not allowed.

b) Surname

According to Swiss law, children take the family surname (Art. 270 ZGB). A child of parents who are not married to each other bears its mother's surname at the time of its birth. An adopted child receives the surname of the adopting parents. It is not possible for children to have a double surname in Switzerland. Titles are not registered.

c) Name Change

Surname upon Marriage

A proposal changing the law providing gender equality is currently under discussion in parliamentary proceedings. Under current Swiss law, the husband's surname becomes the family name (Art. 160 Swiss Civil Code). Both husband and wife bear forthwith his surname. Their children will also bear this surname. The bride may, prior to the marriage, file a declaration with the civil status registrar or a Swiss consulate to the effect that she wishes to have the surname which she has been using before her marriage placed before the family name (without hyphen). If she is already using a double name, she may only use the first part of that name. Certain historical family names consisting of two or more parts are considered as a single name and not as a double name.

On special application and for good reasons shown, an application may be filed with the cantonal government before the wedding that the family wishes for the bride's surname to become the family name under Article 30, Section 2 of the Swiss Civil Code. If application is granted, the wife's surname becomes the family name and the husband may file a declaration to the effect that his former surname be placed before the new family name. It is also possible to use the pre-marital name after the family name using a hyphen in practice. This double-barrelled name is not official, but may still be entered in a passport or identity card if desired. Registering a partnership does not affect the partners' legal surnames. As an expression of solidarity, the couple may use a joint surname in their everyday lives, i.e. they may choose to hyphenate their two surnames. This is not an official name that is entered in the register of births, marriages and deaths, however. Changing the surname upon marriage is free of charge. If the declaration is made after the preliminary procedure is completed, the fee is CHF 50,00 (€ 30,27).

Surname upon Divorce

Upon divorce the spouse who has changed surnames retains the name acquired upon marriage except if he or she expresses the wish to return to the original surname or the surname prior to marriage. The fee for changing the surname upon divorce is CHF 50,00 (€ 30,27).

Surname upon Special Declaration

In case of marriage or its dissolution bi-national couples and foreigners may, upon special declaration, bear the name prescribed by the law of their native country (Articles 14 ZStV, 37 (II) IPRG). In this case, the name registered in Switzerland will be the same as that registered in the native country. Written request must be filed directly with the General Registry Office or the cantonal supervisory board. Request can also be transmitted to the appropriate authority by the consular service. The fee for the special declaration is CHF 50,00 (€ 30,27).

Changing the First Name or Surname

A name change (either first name or surname) requires the approval of the respective cantonal supervisory board within the canton of residence, if there are important reasons for the change, according to Article 30 of the Swiss civil code. According to the case law of the Swiss Federal Supreme Court, such requests must be granted only if the petitioner shows that he suffers substantially from his present name, e.g., if it is the same as that of a notorious criminal.

Required documents regarding change of names:

- written application indicating the cause that justifies the change
- civil status certificate, not older than six months
- certificate of posting
- written consent of a minor (10 years or older)
- written consent of the other parent in case of divorce
- foreigners in addition to the aforementioned:
 - birth certificate and marriage certificate (when married), divorce decree (when divorced)
 - residence certificate
 - copy of passport and alien identification card
- Documentary evidence that certifies, as appropriate, the common use of the proposed first name or any other circumstance on which the request is based.

Cost

The fee for a positive decision is CHF 300,00 (€ 181,38). If the request is denied the fee is CHF 500,00 (€ 302,30). In case of changing the surname a further fee for every minor amounting to CHF 50,00 (€ 30,27) is charged.

d) Minorities

The right of every person belonging to a national minority to use their surnames and forenames in a minority language has been guaranteed in Switzerland since 1907 by the Civil Code. The right to one's surname is also protected by Article 8 of the European Convention on Human Rights. However, only Roman script is accepted in the registers of marriages, births and deaths.

Treaties

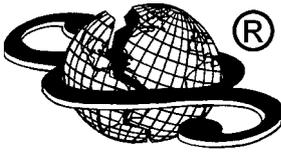
As an overview, the states have concluded the following multilateral treaties that involve abolishment of legalisation, transmission of information between the Member States on civil status matters or other relevant treaties:

Table: Multilateral Conventions on Legalisation of Documents

	Multilateral Conventions on Legalisation of Documents									
	ICCS No. 1 (1)	ICCS No. 2 (2)	ICCS No. 5 (3)	HCCH (4)	CE (5)	ICCS No. 12 (6)	ICCS No. 16 (7)	ICCS No. 17 (8)	ICCS No. 20 (9)	ICCS No. 22 (10)
	Paris	Luxembourg	Rome	Hague	London	Rome	Vienna	Athens	Munich	Basel
AT	27.09.1956	26.09.1957	14.09.1961	05.10.1961	07.06.1968	10.09.1970	08.09.1976	15.09.1977	05.09.1980	03.09.1985
BE	01.10.1965	01.10.1965		13.01.1968	10.07.1973	08.02.1976	30.07.1983	01.07.1982	01.10.1985	01.08.1987
BG	08.03.1975	12.06.1966	16.09.1967	09.02.1976			02.07.1997			01.06.1987
CY				29.04.2001						
CZ				30.04.1973	14.08.1970					
DE	23.12.1961	24.12.1961	24.07.1965	16.03.1999	25.09.1998					
DK				13.02.1966	19.09.1971		18.07.1997		01.11.1997	
EE				29.12.2006						
ES				30.09.2001						
FI				25.09.1978	11.09.1982		30.07.1983	01.05.1981	01.06.1988	01.08.1987
FR	15.03.1958	03.01.1960	29.07.1963	26.08.1985						
GR			22.07.1979	24.01.1965	14.08.1970	08.02.1976	16.01.1987	01.08.1982		01.03.1987
HU				18.05.1985	23.05.1979	21.02.1987				
IE				18.01.1973						
IT	07.12.1968	07.12.1968	05.08.1981	09.03.1999	09.03.1999					
LT				11.02.1978	19.01.1972	05.08.1978	30.07.1983	01.03.1982	01.07.1985	01.10.1989
LU	20.05.1960	13.07.1960		19.07.1997						
LV				03.06.1979	30.06.1979	10.08.1983	30.07.1983	01.11.1981	01.02.1985	
MT				30.01.1996						
NL	15.03.1958	03.01.1960	29.07.1963	03.03.1968						
PL				08.10.1965	10.10.1970	31.07.1977	26.04.1987	01.05.1981	01.02.1985	01.03.1987
PT				14.08.2005	12.04.1995		01.11.2003	01.06.2003		
RO	27.02.1982	27.02.1982	04.07.1984	04.02.1969	14.03.1983		30.07.1983	01.02.1985	01.02.1985	
SE				16.03.2001						
SI	31.12.1992			01.05.1999	28.12.1973					
SK				24.01.1965			31.12.1992			
UK				18.02.2002						
HR	22.10.1993			24.01.1965	14.08.1970					
TR	16.07.1958	14.03.1963	21.07.1965	24.01.1965			22.10.1993			
CH	12.11.1958	01.12.1960	29.05.1964	29.09.1985	23.09.1987	02.05.1976	30.06.1985	01.08.1987	01.06.1989	
				11.03.1973	20.11.1970		18.04.1990		01.06.1990	

Notes to the table:

- 1** Convention concerning the issue of certain extracts from civil status records to be sent abroad
- 2** Convention concerning the issuance free of charge of copies of civil registration documents and the waiver of legalisation requirements relating thereto
- 3** Convention on the extension of the competence of authorities qualified to receive acknowledgements of children born out of wedlock
- 4** Convention abolishing the requirement of legalisation for foreign public documents
- 5** European Convention on the abolition of legalisation of documents executed by diplomatic agents or consular officers
- 6** Convention on legitimation by marriage
- 7** Convention concerning the issue of plurilingual extracts from civil status records
- 8** Convention waiving legalisation of certain certificates and documents
- 9** Convention on the issue of a certificate of capacity to contract marriage, and appendices
- 10** Convention concerning international cooperation in administrative assistance to refugees
- 11** Convention abolishing the legalization of documents in the Member States of the European Communities



von Freyhold, Vial & Partner Consultants
- wissenschaftliche Berater und Gutachter -

Facilitating Life Events

Part II: Synthesis Report

Final Report

for the European Commission,

DG JLS - Directorate-General for Justice, Freedom and Security

on the project No JLS/2006/C4/004

relating to a comparative study on the legislation of the Member States of the European Union on civil status, practical difficulties encountered in this area by citizens wishing to exercise their rights in the context of a European area of justice in civil matters and the options available for resolving these problems and facilitating citizens' lives.

Contact:

von Freyhold, Vial & Partner Consultants

Mindener Str. 51

D-28205 Bremen

Tel.: +49.421.434 99086

Fax.: +49.421.434 0909

study@civilstatus.eu

by: Dr. Birgit Feldtmann, Hanno v. Freyhold, Dr. Enzo L. Vial, Oliver Bühler

Bremen, October 2008

Part II: Synthesis Report

A. Concepts of Civil Registration

A person's status can be defined as his/her legal situation. Status is therefore bound to the person, as the shadow is to the body. It is the legal image of the person. Civil status registration plays a key role in governmental processes. It is an important service, which touches everyone at some time in their lives.

Civil status registration is all about assigning an abstract identity to a natural person. With registration at birth, the documentation of a name is assigned to the person for future administrative use. That name as it is assigned, is artificial. The person could just as well have any other name and would still be the same physical person. In social life, persons need not necessarily be addressed with the name which is noted in the registries. But for administrative use, abstract identification is of utmost importance.

With abstract identification being so important for administrative purposes, in turn it becomes of paramount importance for the citizen to be properly registered, to have an abstract identity in order to be able to participate in social, political, and economic life. Without proper identification, it is not possible to participate, in modern life the person is no longer "whole", and notwithstanding physical presence that person would simply not exist or be recognized for a number of purposes.

For both purposes, obviously, it is very important both for the administration and for the citizens that the abstract registration of a person is free of errors at all times.

Also civil status registration does have more to it than abstract administration. While in theory the assigned identity is abstract, in practice for most persons it is not. Rather, citizens and society do assign emotional values and status to many events which are registered. For most citizens who marry, marriage is more than a simple bureaucratic act of registration. First names of children are often selected with emotional attachment. Belonging to a family and having this properly registered with seals and stamps and being able to show that this is the case by being allowed to bear a common name, is important to many citizens. Also, many citizens take pride in their family tradition and wish to show this pride through their name, and to prevent others who do not belong to the family from using that name.

A civil registration system records the occurrence of certain events such as birth, death, marriage and partnership, divorce, annulment, separation, parental relation and adoption, change of name and legal capacity in accordance with the legal requirements of a country. These events are related to an individual from birth to death and all changes in civil status which may occur in between the individual's lifetime. Some of these changes of civil status, such as birth and death (and, to a degree parenthood and descent), are natural events, the others are social events. They all have in common that the law has decided to record and register these events (as opposed to other events) in registers for administrative and other legal purposes and in order to enable citizens to give and have evidence of their social status. Today, some jurisdictions have combined the registration of these events with other administrative information, but most jurisdictions have not. Nevertheless, there is a certain set of occurrences which is commonly defined as changes to "civil status" in all EU Member States (and most if not all other nations) which has developed historically.

The United Nations defines civil status registration as the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population as provided through decree or regulation in accordance with the legal requirements of a country. Civil status registration is carried out primarily for the purpose of establishing the legal documents

provided by the law. These records are also a main source of vital statistics but there is no single agency within the United Nations responsible for helping countries set up and manage civil status registration. According to the WHO civil status registration is the way by which countries keep a continuous and complete record of births, deaths and the marital status of their people in order to provide the basis for individual legal identity. A lack of civil status registration systems can partially be compensated by surveys, sample registration and surveillance sites. These provide some useful information, but they give an incomplete picture of population size and needs. And they certainly cannot give individuals the basic human right to a legal identity that stems from civil status registration. Therefore it is a major challenge to build executable and citizen-friendly civil registration systems.

Civil status registration ensures the civil status of every person and protects individuals and society as a whole. It is concerned with the recording of life events commencing when people are born, when the birth is registered and ending when the death is registered. In between those events, civil status registration affects people during their lives both directly, as in the case of getting married, or indirectly, when certificates are required for many of the services that are available in the society such as getting a passport or claiming social welfare. All surveyed states have systems for registering births, marriages and deaths as it is recognised that accurate and comprehensive recording of key life events is essential to the State. Civil status registration records create a basic, continuous source of information about the population. Apart from providing a record of vital events in relation to persons living in the State, these records also satisfy the need for evidence, which has a bearing on rights, entitlements, liabilities, status and nationality. The gathered information is used along with other data sources for many purposes such as medical research into the causes of and prevention of disease.

To sum up, civil status registration, therefore, has many uses and benefits for the individual citizen, society and the State.

It

- strengthens the civil status of every person and establishes the identity as individuals and as members of society;
- provides certificates requested by Government Departments and Agencies in support of applications for services;
- is a source of statistical information on population and social trends;
- moreover, enriches the cultural identity by providing a key source of information for genealogists and family historians and for future generations to explore and use. There is also a growing interest in family research. The records held by the civil status registration services provide a source of information for people tracing their family history and in compiling their family trees.

Almost everyone will need to use the civil status registration service at some time. It is therefore important that complete and accurate records are kept. The preservation of civil status records even increases in importance each year. Prior to World War II, birth records were needed infrequently. Today a birth record is virtually 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 and for many other uses. The death record also serves many important purposes. In order for families to transact business after the death of a relative, a death record is required. It is used as a basis for statistical compilation of death trends and causes, public health planning, proof for life insurance claims, survivors' social security and veterans' benefits, public assistance claims for widows and dependent children, obtaining burial-

transit permits, and other purposes. Foetal death records provide useful data as to causes of foetal death and they may also be of value to the family. Marriage and dissolution of marriage records prove rights to insurance, pension, military allowances, establish legitimacy status, citizenship, indicate legal change of name, and provide information of interest to public health, social welfare, demography, and sociology professionals.

B. Statistical Relevance of the Issues

The study specifically aims at cross-border situations. In this connection it would be useful, if the statistical relevance was known. Eurostat does not specifically publish data on cross-border civil status events, and full information covering all aspects of this study, is available neither at EU level nor at the level of the Member States.

However, sporadic, Member States have published statistical data which is relevant to the object of the study. By using this information, and extrapolating from the same it is possible to draw a good picture of the situation in statistical terms.

First of all, the target groups need to be defined. The majority of civil status registrations with cross-border aspects are likely to be immigrants, therefore a view at the migration statistics may be useful. Yet, for the purpose of this study, the migrant population needs to be further differentiated:

- a. some of these migrants are citizens who have migrated and settled in another Member State than the Member State in which they were born and whose nationality they still have,
- b. another group of migrants has – in the meantime – attained citizenship of the host Member State and are no longer mentioned as non-nationals in the statistics, but in the event of a civil status registration may still have to produce foreign certificates,
- c. a third group was born in the host Member State, but has the nationality of the country of the parents' origin, all certificates these citizens may obtain or have to produce would normally be "domestic" from the perspective of the host Member State, but in some Member States they may still be treated differently under the law upon civil status registration by virtue of their (foreign) nationality,
- d. others again have returned to their country of origin, but not without having a civil status event occurring during their foreign residence, with (foreign) certificates that may have to be produced in their country of nationality.

The second group would be "civil status tourists", who either

- e. voluntarily go into another Member State for a life event (e.g., "marriage tourism", "hospital and medical services tourism"), or
- f. accidentally have a civil status event occurring away from their residence while travelling.

To these groups persons must be added who become subject to a cross-border situation by virtue of a relation, such as, for example, the father whose child is born to a mother of foreign nationality or whose child is born abroad or persons whose relative dies in another Member State.

General statistical figures of non-nationals living in the Member States have been published by Eurostat and according to official national statistics and Eurostat estimates, the total number of non-nationals living in the EU amounts to around 25 million or 5.5% of the total population (Source: STAT/06/64 Date: 19/05/2006, Eurostat, Statistics in focus, Population and social conditions, 8/2006, "Non-national populations in the EU Member States"). These statistical figures show that generally there are more non-nationals residing in the old Member States (EU15) than in the new Member States and that at between 1/2 and 2/3 of these non-nationals are from third countries, the

largest group of these likely to be from Turkey. However, this figure would only cover groups a. and c. and does not give direct information about the relevance of civil status events.

What might be interesting is therefore the number of residents in the Member States **born** abroad, independent of their nationality. Some data is available about this population as shown in the following table (compared with the proportion of non-national population in these Member States):

Statistical Table: Resident population born abroad					
<i>Member State</i>	<i>Born abroad</i>	<i>of Total</i>	<i>Born in EU</i>	<i>of Total</i>	<i>non-nationals</i>
dk	427.972	7,9%	109.071	2,0%	5,0%
es	5.140.165	11,6%	1.170.297	2,6%	6,6%
lv	367.434	16,1%	34.714	1,5%	22,2%
it	222.000	6,6%	24.304	0,7%	1,0%
nl	1.732.379	10,6%	357.702	2,2%	4,3%
at	1.236.282	14,9%	420.017	5,1%	9,4%
pl	1.254.198	3,3%	248.539	0,7%	1,8%
si	227.463	11,3%	26.933	1,3%	2,3%
fi	187.910	3,6%	64.734	1,2%	2,0%
se	1.175.200	12,9%	418.454	4,6%	5,3%
Median		9,9%		2,2%	6,0%
by Population	11.971.003	8,9%	2.874.765	2,1%	
Source: own calculation based on data by Eurostat					

Accordingly, on the average and with the exception of Latvia, the number of residents **born** abroad seems to be about 50% higher than the number of non-nationals. This figure would therefore cover groups b. and d. above.

According to other estimates by the European Commission, there are 2.2 million marriages per year in the EU of which 350,000 are transnational, which amounts to about 16%, and there are around 900,000 divorces per year, of which around 170,000 or 16% are international (Source: Commission Press release IP/06/997 of 17. July 2006).

This information is confirmed by data from national statistics: in Denmark, in 18% of the marriages at least one partner has foreign citizenship, in Austria this proportion is 23%, in Germany 16,5%. Of the latter, in 11,5% only one partner was foreign, the other was German, and in 5% of the marriages, both partners had foreign nationality. Again, these figures concern nationality, only. In terms of cross-border marriages as far as the place of birth is concerned, only the Italian national statistics provide the information that in 14% of the marriages, one of the spouses (independently of their nationality) had their place of birth abroad (source: own calculations based on data by the National Statistics Offices).

Accordingly, for the purpose of the study, the figure of 16% must be raised so that in at least 20% of the marriages (440,000) foreign documents should play a role.

As to births, according to German national statistics, in 121,000 out of 670,000 births, the child's mother had foreign nationality, corresponding to 18% of births (Source: Statistisches Bundesamt, Geburten in Deutschland, 2007). The same statistical information for the children's fathers is not

available, because there is a high statistical figure of births in which the father's nationality is not known or not recorded at birth if the children are born out of wedlock. But if the statistical figures related to marriages between Germans and foreign nationals are applied, at least another 9% of children are born to a German mother but to a father of foreign nationality, making a total of 27% or 180,000 births in which at least one parent has a foreign nationality. Again, if the above figures relating to residents born abroad are applied, there may be a significant proportion of children whose parents are of German nationality but have been born abroad.

Similar figures are available from Italy: in Italy, out of 544,000 births, in 68,000 cases the child's mother had foreign nationality, corresponding to 12,5% of births. The father had foreign nationality in 56,000 births (10%). Again, the slightly lower figure may be attributed to births in which the father was not known at the time of birth so that nationality could not be recorded. Discounting births in which both parents had foreign nationality, in roughly 15% of all births at least one parent had foreign nationality (Source: Istituto nazionale di statistica, Rilevazione degli iscritti in anagrafe per nascita, 2005). Much lower figures are available from Hungary, where in about 2,6% of births the mother had foreign nationality. These figures pretty much correspond to the proportion of non-national population in these Member States, in that the proportion of births in which one at least one parent has foreign nationality or was born abroad is about twice as high as the proportion of non-nationals in these Member States. Accordingly, if the EU has a non-national population of about 5,5%, then at least 10% of the births in the EU would have a cross-border implication.

With 5.3 million births annually in the EU, more than 500,000 foreign documents of parents which are processed by civil status registrars every year in connection with the registration of births alone, and, as mentioned, another 440,000 in connection with marriages.

Divorces are not directly registered as civil status events, they are issued in court (or by an administrative office in some Member States). Thereafter, however, in many Member States, divorces are notified to the civil status registrars at the place of marriage and at the place of birth of each spouse. With 170,000 transnational divorces, a fair proportion may be couples who were married in the same Member State and many spouses may have been born in the same Member State as the one in which the divorce takes place. Nevertheless, a significant number of notifications should be necessary.

As a result one may state that in most Member State a very significant proportion of civil status registrations are dealing with cross-border situations.

Of special interest might be the issue of "marriage tourism". Communes in various Member States do advertise that they offer romantic facilities and opportunities for marriage. From a different perspective, Denmark is known in Germany as a "heaven" for bi-national German couples who wish to marry because in Denmark a Certificate of no Impediment is not required, making it much easier to marry if one spouse is a non-national in Germany.

According to Statistics Denmark, there are 36,576 marriages annually, of which 30,066 are between Danish spouses, and in 6,510 cases at least one spouse is a non-Danish national (17,8%). However, out of these, a total of only 80 marriages are between one German spouse and one foreign citizen other than a Dane. Compared to 160 marriages between a German and a Danish citizen, and 36 marriages among Germans, this figure may be comparatively high and may contain up to 90% "marriage tourists". However, the total number is negligible. Within Europe, evasion of law does not appear to be a significant source of "marriage tourism". Accordingly, the German government was "not concerned" about this issue upon parliamentary questioning (BT Drs. 14/4295). In Scotland, where Gretna Green was famous in the past and in literature as a place for runaway marriages, changes to the law have made these less common.

According to statistics by the General Register Office for Scotland (GROS), out of 29,898 marriages, a total of 225 marriages were exclusively between citizens of EU Member States other than the U.K. and Ireland. There are no extreme figures for any other combination of foreign countries, either. A similar situation is found in Prague, where up to 250 weddings by wedding tourists are held every year, in Lapland, where 130 marriages of wedding tourists are held. And according to the Venice office of statistics, out of 1,557 weddings in Venice, 379 were between spouses both of which were residents of other EU Member States, 42 marriages between spouses resident in America spouses and 4 marriages between Asians. Thus, while marriage tourism does exist and may be interesting in its generating revenue for certain Communes, the overall numbers are negligible in comparison to all marriages. The bulk of transnational situations in civil status registration derives not from wedding tourism, but from effects of migration.

However, there is one notable exceptions for an entirely different reason: in Cyprus, out of annually 12,617 marriages, 7,365 are among foreigners, which is almost 60%. Out of these, about half of the couples are from Israel, and the other half is from the Lebanon.

C. Prior Studies and Initiatives

In the past several organisations have prepared studies on the national civil status registration services and have worked towards establishing standards, definitions and classifications in order to bring about greater uniformity. In addition, some agencies have published international accompanying commentaries, handbooks or guides in the field of civil status registration in order to facilitate civil status registrars' duties and responsibilities when it comes to cross-border problems. Some of them are briefly summarized and estimated below.

a) United Nations

The International Programme for Accelerating the Improvement of Vital Statistics and Civil Registration Systems was endorsed by the United Nations Statistical Commission at its twenty-sixth session in 1991. The purpose of the Programme is to encourage countries to design and carry out long-term reforms using their own resources, to strengthen their civil registration and vitals statistics system.

As part of its work, the United Nations Statistics Division issued the Principles and Recommendations for a Vital Statistics System, Revision 2, which was adopted by the Statistical Commission at its thirtieth session, in 1999. The original principles and recommendations for a vital statistics system, Principles for a Vital Statistics System: Recommendations for the Improvement and Standardisation of Vital Statistics, were adopted by the Statistical Commission in 1953 and were primarily designed as guides for countries whose vital statistics were already based on a civil registration system or which were planning the adoption of this form of system. The first revision of the principles and recommendations, Principles and Recommendations for a Vital Statistics System, Revision 1 was adopted by the Statistical Commission in 1970 and issued in 1973 reflecting the experience of developing countries that recognized the need to develop the capacity to measure levels and trends in fertility and mortality even in the absence of complete and accurate civil registration systems. The Principles and Recommendations for a Vital Statistics System, Revision 2 is a guide for national governments in establishing and maintaining reliable civil registration systems for legal documentation on events throughout the lifetime of individuals like birth, changes in marital status, and to death. It provides technical guidance on standards, concepts, definitions, and classifications for civil registration and vital statistics to further increase international comparability of data. It takes developments in technology and computing into account that can greatly enhance civil registration. This book is complemented by the seven-volume series Handbooks on civil registration and vital statistics systems, which is available in all six official

languages of the United Nations. Each of the Handbooks contributes specific procedural recommendations for an effective design and operation of the various aspects of effective civil registration and vital statistics systems:

- Handbook on Civil Registration and Vital Statistics Systems: Management, Operation and Maintenance of 1998; this Handbook provides guidance to countries for the improvement of their civil registration and vital statistics systems as well as background and specifications for developing and establishing civil registration and vital statistics systems in countries that do not yet have such systems in place. The Handbook deals with essential components of structure, management, operation and maintenance functions to handle the entire range of vital events-live births, deaths, foetal deaths, marriages and dissolutions of marriage- from the civil registration and the vital statistics perspectives. It also covers forms, data collection, record processing, storing and editing of information, issues of security, the issuing of certificates, the functional relations between the civil registration system and the vital statistics system, the legal and administrative requirements and the daily operational and maintenance activities to ensure completeness, timeliness and accuracy.
- Handbook on Civil Registration and Vital Statistics Systems: Preparation of a Legal Framework of 1998; this handbook shows how to develop a comprehensive legal framework for a civil registration system that supports its juridical function, its role as a source of continuous vital statistics, and its use by other agencies such as the health ministry, electoral rolls, identification services, population registers, pension funds, which depend on accurate registration data. The handbook will assist country experts in preparing a civil registration law to conduct complete, accurate and timely registration of vital events (live births, foetal deaths, marriages, divorces, legal separations, annulments of marriage, deaths, adoptions, legitimations, recognitions).
- Handbook on Civil Registration and Vital Statistics Systems: Developing Information, Communication of 1998; this handbook provides guidance to countries in designing and conducting information, education and communication activities to support national civil registration and vital statistics systems. It covers development of a communication action plan for community workshops and meetings and for media, and special techniques to reach target groups and less privileged populations and those who live in rural areas. It also discusses resource mobilisation, development of the time frame, required resources, and identification and mobilisation of human resources.
- Handbook on Civil Registration and Vital Statistics Systems: Policies and Protocols for the Release and Archiving of Individual Records, of 1998; this Handbook is a comprehensive guide for countries in designing policies on confidentiality of individual information on vital records and the adjunct statistical forms. It also offers methods to permanently store and protect vital records.
- Handbook on Training in Civil Registration and Vital Statistics Systems of 2002; this Handbook provides guidance in developing national capability to operate and maintain, in a coordinated manner, the fundamental systems of civil registration and vital statistics. It contains course material, consisting of 23 modules that can be adapted to conduct an effective and comprehensive training on the essentials of civil registration and vital statistics systems. The modules addresses a range of issues related to the establishment, operation and maintenance of reliable civil registration and vital statistics systems.
- Handbook on Civil Registration and Vital Statistics Systems: Computerization, of 1998; this Handbook provides guidance to national authorities for the development of data processing

systems for civil registration and vital statistics systems. It focuses on advance planning for computerisation and proposes options for countries to consider, including model organisational structures for computerisation. It examines the framework, goals and purposes of computerisation of civil registration, looks at the interfaces between civil registration, the vital statistics system and other governmental agencies, and enumerates some of the major decisions and problem areas that should be anticipated.

- Handbook of Vital Statistics Systems and Methods, Vol. I, Legal, Organizational and Technical Aspects, and Vol. II, Review of National Practices; this Handbook supersedes the Handbook of Vital Statistics Methods published by the United Nations in 1955. It provides up-to-date guidance to countries in implementing international recommendations adopted by the United Nations on vital statistics systems. Volume I addresses issues emerging when in running and coordinating comprehensive civil registration and vital statistics systems and their coordination. Volume II, published in 1985, reviews national practices in civil registration and vital statistics systems and methods.

The work of the United Nations is primarily based on the results of a study of national practices, which was conducted during the period 1976 to 1979 and which covers national civil registration systems and vital statistics methods of, as far as continental Europe is concerned, 37 countries. Only 24 of these countries are part of this study, because some of them do not exist any more (e.g. Yugoslavia, Union of Soviet Socialist Republics, the German Democratic Republic) or are not part of the European Union (e.g. Norway and Albania).

b) CIEC

The Commission Internationale de l'Etat Civil (CIEC), the International Commission on Civil Status, is an international intergovernmental organisation, which was founded in September 1948/1949 and has its seat in Strasbourg. The CIEC currently has sixteen member States (Austria, Belgium, Croatia, France, Germany, Greece, Hungary, Italy, Luxembourg, the Netherlands, Poland, Portugal, Spain, Switzerland, Turkey and the United Kingdom). Cyprus, Lithuania, Slovenia and Sweden have observer status. The CIEC aim is to facilitate international co-operation in civil-status matters and to improve the operation of national civil-status departments. To this end, it keeps a documentation on legislation and case-law setting out the law of the member states, provides those states with information and expertise, carries out legal and technical studies, prepares publications and drafts conventions and recommendations. Since 1948, the CIEC has adopted 32 multilateral conventions, which are legally binding instruments, and 9 recommendations. The objective of the conventions is either to harmonise the substantive law of the member states in civil status matters or to facilitate the functioning of civil status across frontiers, notably by means of multilingual documents, thereby simplifying formalities for persons living abroad. As part of its documentation work, the CIEC has produced, among several comparative studies on specific topics and various reports, a large volume entitled *Guide pratique internationale de l'état civil* (International practical Guide on Civil Status), a study of comparative law in the field of civil status.

After nearly 60 years we must constitute that the CIEC efforts of harmonisation were not a complete success the national authorities obviously have restrictions when it comes to implementing changes into their civil status registration service. In the last 23 years only four states have acceded to the Commission, the United Kingdom in 1996, Poland in 1998, Croatia and Hungary in 1999, of which only Poland has ratified three Conventions. Croatia, and Slovenia, as an observer, and the other states from former Yugoslavia have acceded to or declared their succession to two conventions that had been ratified by that State. Four of the last six conventions are either not in force or have been ratified only by two members. Also none of the other conventions was

signed or ratified by all of the first twelve member states. The International Practical Guide covers only fourteen members, and the studies on Croatia and the United Kingdom still have to be completed. Unfortunately, none of the guides provides up-to-date information. Furthermore, French being the CIEC official language, most guides exist in a French version.

c) EVS and the National Registrars Associations

The Europäische Verband der Standesbeamtinnen und Standesbeamten, (EVS), the European Association of Registrars, was founded in Noordwijkerhout (Netherlands) in May 2000. EVS members are the civil status registrar associations from Belgium, Germany, Italy, the Netherlands, Poland, Austria, England, Scotland, Switzerland, the Slovak Republic and Slovenia. The central aim is the mutual exchange on the developments in its field of activity (law on civil status, marriage-, family-, nationality- and related laws). To this end, EVS drafts experts' reports on envisaged civil status amendments in Europe and comparative studies of national laws and the mutual exchange thereof. EVS also organises professional meetings and conferences with the intention of educating members and exchanging experiences. Information on the work of EVS and recommendations adopted on an annual conference are published. With a view to participating in solving professional questions and giving initiatives for changes in related legislation, EVS co-operates with the CIEC.

In most of the surveyed countries, a national civil status registrars association exists, in addition to the aforementioned in Hungary, Estonia, Spain, Bulgaria and Romania. The major task of the associations and their sub-units is the organisation and performance of basic and advanced training and information and specific symposia. Some of them also participate in the development of new legislation. For example, the Association of Registrars of Scotland (AROS) appeared several times before the Scottish Parliament to give its opinion on how new legislation will affect the service. AROS has been contributed towards a workable and customer friendly registration system. Generally, there is at least one working group meeting per year to consider changes in legislation, new technology or new working practices. New technology is usually developed with the assistance of AROS members and subsequently piloted by them to ensure that the system works well.

As a professional organisation, EVS gathers and represents the views of its members and of the participants at its annual conferences and is quite active in this respect. At the annual conferences, personal connections between individual registrars or their organisations are built and developed, which facilitates international cooperation in civil status matters. However, the financial and human resources of EVS are quite limited, and so is the regional and practical scope of activities. Neither EVS itself, nor any of its member associations are designed to develop and distribute expert knowledge, to push the harmonisation of civil status registration law and practice of all European states in civil status matters, or to systematically facilitate the functioning of civil status across frontiers. The practical use of EVS is limited to personal connections between individual registrars or their organisations which are built and developed at annual conferences.

d) Eurostat

Eurostat, the Statistical Office of the European Communities, has the task to provide the European Union with statistics on European level. By harmonising statistics from the European statistical system (ESS) to a single methodology, the statistics are made comparable. As said in Article 4 of the Commission Decision of 21. April 1997 on the role of Eurostat as regards the compilation of Community statistics: "Within the Commission, Eurostat (...) is in charge of the implementation of the Community statistical programme". In particular, the role of Eurostat within the European Statistical System is the following: The ESS is the operational partnership between the national authorities and Eurostat for the compilation of Community statistics. As such, Eurostat leads the work in the sense of initiating the legislation, coordinating the roles of national authorities,

establishing in collaboration common methods and standards. A Eurostat publication of 2003 entitled “Demographic statistics: Definitions and methods of collection in 31 European countries” aims to describe and compare the systems used to collect demographic statistics, definitions of main vital events and the methods used to compute demographic indicators in 31 European countries. It has been compiled from information supplied by the national statistical institutes and is partly based on a 1994 publication entitled “Definitions and methods of collecting demographic statistics in the European Community countries”. The publication inter alia gives information on statistics on births, abortions and fertility indicators, describes death statistics and describes statistics on marriages, marriage indicators and types of living arrangements other than marriage. Comparisons between countries have to some extent been standardised. This unfortunately results in a certain uniformity and impoverishment of the information initially available for the countries.

The publication provides mostly reliable information on the surveyed topics and as a statistical study is a good basis on the content of birth and marriage declarations and some specific civil status registration matters such as the registration of divorces and the time limit for birth registration. The study commissioned by Eurostat and carried out by Statistics Netherlands with the assistance from the National Statistical Institutes of each of the 31 countries concerned can neither present the content of legal provisions and the organisational structures of the civil status registration services nor give suggestions to harmonise the substantive law of all European states in civil status matters or facilitate the functioning of civil status across frontiers.

e) Civil Status Handbooks

Finally, a number of international civil status handbooks exists which have been edited by private or semi-private publishing houses for the use of registrars, judges, administrators, and lawyers. Most prominently, in the German speaking area, two accompanying commentaries have been published for many years: Bergmann/Ferid/Henrich, *Internationales Ehe- und Kindschaftsrecht mit Staatsangehörigkeitsrecht* and Brandhuber/Zeyringer/Heussler: *Standesamt und Ausländer*. Both are loose-leaf-collections which summarize the national legislation on family law and related fields as well as civil status laws. The sheer volume of these works is impressive. Bergmann/Ferid attempts to cover all jurisdictions of the world and has more than 14.000 pages in 20 volumes. Even the shorter commentary by Brandhuber/Zeyringer/Heussler which is directed more at the needs of civil status registration has more than 2.300 loose leaf pages in three volumes. Unfortunately, despite many attempts and the use of loose-leaves, these works are seldom up to date. For example Bergmann/Ferid/Henrich currently (01.2008) states the legal situation in Italy and Lithuania as it was in 2000, in Estonia and Ireland as it was in 1999 and in Cyprus as it was in 1981.

In Belgium, the Vanden Broele publishing house covers the family law of roughly 120 states in telegraphic style in a volume of 500 pages (available in French, and in Flemish). Yet again, the publication is in many parts out of date.

D. Civil Status Registration Systems

1. Administrative Structure

A civil registration system is designed to record vital events that occur among a population. All surveyed countries have legal provisions to ensure that vital events are recorded. Government legislation defines the type of vital events that must be registered, the time requirements for registration, the designated person or office who is responsible for registration and the place where the registration is to be made. The establishment of civil registration systems varies among the Member States as can be seen from the following table:

Table 1.: Administrative Structure of Civil Status Service

Subnational Level			National Level
	Type of Offices	Number of Offices	
AT	Municipal Registry Offices	1126	Ministry of the Interior(1)
BE	Municipal Councils in partnership with regional government for Brussels region	about 600	Ministry of Justice
BG	Municipal Registry Offices	265	Citizen Registration Directorate General of the Ministry of Regional Development and Public Works
CY	Municipal Registry Offices	not stated	Civil Registry and Migration Department of the Ministry of the Interior
CZ	Municipal Registry Offices	1224	Ministry of the Interior
DE	Municipal Registry Offices	5203	Federal Ministry of the Interior (1)
DK	Municipal Registers	not stated	Ministry of Interior Affairs and Health's Central Office of Civil Registration
EE	Municipal and County Vital Statistics Offices	242	Vital Statistics Department of the Ministry of the Interior
ES	Municipal Judiciary Registry Offices	9000	Directorate General of Registries and Notaries of the Ministry of Justice
FI	District Registry Offices	25	Population Register Centre of the Ministry of the Interior
FR	Municipal Registry Offices	about 36.000	Ministry of Justice
GR	Municipal Registry Offices	not stated	Ministry of Justice
HU	Municipal Registry Offices	3157	Ministry of the Interior
IE	Health Boards	40	General Register Office
IT	Communal Registry Offices	not stated	Ministry of the Interior
LT	Municipal Registry Offices	60	Ministry of Justice
LU	Municipal Registry Offices	116	Ministry of Justice
LV	Municipal Registry Offices	530	Civil Registration Department of the Ministry of Justice
MT	X	none (2)	Directorate General, Land and Public Registry Division of the Ministry for Justice and Home Affairs
NL	Municipal Registry Offices	about 450	Ministry of Justice
PL	Municipal Registry Offices	2299	Citizens Matters and Migration Department of the Ministry of the Interior
PT	Municipal Registry Offices	326	Institute of Registries and Notariat depending on the Ministry of Justice
RO	Municipal Civil State Service Departments; County Civil State Services	not stated	Ministry of the Interior
SE	Local Tax Offices	113	National Tax Board
SI	Regional Administrative Offices	58	Ministry of the Interior
SK	Municipal Registry Offices	974	Ministry of the Interior
UK_EW	District Registry Offices	172	General Register Office of England and Wales (part of the Office for National Statistics)
UK_SC	District Registry Offices (Councils)	32	General Register Office of Northern Ireland
UK_NI	District Councils	26	General Register Office of Scotland
HR	Municipal Registry Offices	245	Department for civil status issues of the Central State Administrative Office for Public Administration
TR	Municipal Registry Offices	892	General Directorate of Population and Citizenship Affairs of the Ministry of Interior
CH	Cantonal Registry Offices	238	Federal Civil Registry Office as an organisational unit of the Federal Office of Justice

Notes:

1 Responsible only for registration legislation

2 Malta has two Central Registry Offices

The juridical function of civil status registration is to register the occurrence of acts and events that constitute the source of civil status. The civil status events and the corresponding ones that all countries are concerned with and are that registered by their civil status registration service include live births, marriages, deaths, adoptions, paternal recognitions, naming and changes of name. In the following the recommended definitions of the United Nations or the World Health Organisation are used. However, a number of countries still rely on their own national definitions, which might slightly differ, from the UN or WHO ones (otherwise the national definition is stated).

Accordingly, the various registers in the various jurisdictions are in general similar, but differ in detail and in the organisational structure. Three different types of registration systems exist in Europe, namely

- event-based registration systems
- person-based registration systems, and
- central population registers.

a) Event-based Registration

An event based registration system records all relevant changes to the civil status of a person occurring in the respective country at the place, where the event occurred, only. Accordingly, the civil status registers are maintained on a regional level. Event based registration exists in Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Germany, Spain, France, Greece, Hungary, Italy, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, the United Kingdom and Croatia. In Cyprus, civil marriages are recorded in an electronic central register held by the Ministry of Justice and in Austria the local registry offices are linked with the Central Register of Residents using its database. In Belgium, Bulgaria and the Netherlands, the local registry offices are linked with a population register using those databases. Malta has a central government database which links the information of various documents and registries. The General Register Offices in the United Kingdom maintain three computerized central files kept on a non-permanent basis.

The regional civil status registers are paper-based, computerized or computer-assisted. Portugal, Spain, and the United Kingdom provides computerized registration only. The civil status registers of Belgium, the Czech Republic and the Netherlands are either paper-based and computerized.

The registers are supervised, inspected and co-ordinated by either a national agency responsible for civil status registration or by a government agency other than a national civil registry. In Austria and Germany the Ministry of the Interior is exclusively responsible for registration legislation.

All the aforementioned countries, except Belgium, Bulgaria and the United Kingdom, have an additional national civil status register or central file, which assumes supra-regional tasks, e.g. by recording the data concerning civil status of nationals remaining abroad.

b) Person-based Registration

A person-based registration system records all relevant changes to the civil status of a person occurring in the respective country at a central place. Under this arrangement various kind of data is collected at the local level and supplied to a central national civil status register. A person-based registration system has been introduced in the Republic of Ireland, Slovenia, Turkey and Switzerland. The civil status registration administration operates a central electronic database, which automates and connects all civil status registration authorities throughout the country. The recording of specific events recorded is automatically notified to the national register on a permanent basis. With the introduction of electronic registers and the creation of life event databases, the paper-based registration of individual events has been transformed and it is possible

to link all life events pertaining to a person, thus creating a single life record. The data collection for the country is still decentralized in the local registry offices (in Ireland in the Health Boards). In Slovenia the local registry offices are linked with a population register using those databases.

In Slovenia the national register is administered by the Ministry of the Interior, in Turkey by the General Directorate of Population and Citizenship Affairs of the Ministry of the Interior and in Switzerland by the Federal Civil Registry Office as an organisational unit of the Federal Office of Justice while in Ireland the General Register Office is the administrative and responsible authority for the National Civil Status Registration.

In all countries with decentralized person-based registration, the network of local registry offices is directly controlled and administered either by a central authority mandated exclusively for civil status registration administration or by a government agency other than a national civil registry. It coordinates the work, defines the data to be collected, establishes standards for data handling and generates the individual's unique identification number, which is one of the key elements for easy reference to the civil status files.

In Switzerland, a pilot system for a central database was finalized in 2003 and some months later, the system was deployed throughout Switzerland. The system was fully operational by 31 December 2004. The costs were estimated at more than SFR 10.000.000 by Switzerland. With Switzerland being very developed and having a comparatively small population size, one might expect very high costs for the introduction of a similar system in a country with a large population and a less developed infrastructure than Switzerland.

c) Population Register

Population registers are based on an inventory of the inhabitants and their characteristics such as for example sex and the facts of birth, death and marriage, and the continuous updating of this information. It is person-based as it records all relevant changes to the civil status of a person occurring in the country at a central place, but it goes beyond person based civil status registration. A population register is an individualized data system, that is, a mechanism for continuous recording and or coordinated linkage of selected information pertaining to each member of the resident population of a country, making it possible to provide up-to-date information about the size and the characteristics of the population. Thus, they are the result of a continuous process, in which notifications of certain events, recorded originally in different administrative systems, are automatically and instantly notified to the to a population register on a permanent basis. The method and sources of updating cover all changes, so that the characteristics of individuals in the register remain reliable. A system of population register has been introduced in Denmark, Sweden, Finland, Estonia, Lithuania and Latvia.

The main function of the population register is to provide reliable information for the administrative purposes of government. The registers are also useful for other administrative purposes, such as for developing personal identification. Register information is also utilized for issuing documents. In Denmark, Finland and Estonia the populations register is administrated by the Ministry of the Interior. The population registers in Lithuania and Latvia are administrated by the Ministry of Justice while in Sweden the National Tax Board is the administrative and responsible authority for the National Population Registration.

The population registers operate on a national level and stores current data of the resident population in various files at a national government office which oversees the network of local population register offices. The various kinds of data are collected at the local level and supplied to the central file on a permanent basis. The main task of the population register is to meet the information demands of the central administration and to supply data in a centrally coordinated way. This is often done in the central office of the population register, for example in Finland in the

Population Register Centre. The central office is administratively and technically responsible for the network of local population registers. Like in countries with person-based registration it coordinates their work, defines the data to be collected, establishes standards for data handling and generates the individual's unique identification number, which is one of the key elements for easy reference to the population files. In those countries with a population register where demographic statistics are based on information from the population register, the register authorities collect the necessary data when updating the register.

It is presumed that a central computerized population register operates better in countries with small population size. Although it might not be impossible to control the information flow in a centralized -computerized population register in a country with a large population, it might be very complex and costly.

The distribution of the registration systems among the EU Member States and their general structure can be seen from the following table:

Table 2.: Civil Status Register

	Computerized Population Register	Computerized National Civil Status Register	Civil Status Registers on the Subnational Level									Other National Civil Status Register or Central File
			paper- based	compu- terized	computer- assisted	Birth Register	Marriage Register	Death Register	Family Register	Other Registers	Double Stored	
AT	no	no (22)	yes	no	yes	yes	yes	yes	no	no	yes	yes (23)
BE	no	no (21)	yes	yes	X	yes	yes	yes	no	yes	yes	yes (7)
BG	no	no (21)	yes	no	yes	yes	yes	yes	no	yes	yes	no
CY	no	no (15)	yes	no	yes	yes	yes	yes	no	no		
CZ	no	no	yes	yes	X	yes	yes	yes	no	no	yes	yes (9)
DE	no	no	yes	no (1)	yes	yes	yes	yes	yes	yes (3)	yes	yes (5)
DK	yes	X	X	X	X	X	X	X	X	X	X	X
EE	yes	X	X	X	X	X	X	X	X	X	X	X
ES	no	no	no	yes	X	yes	yes	yes	no	no	no	yes(8)
FI	yes	X	X	X	X	X	X	X	X	X	X	X
FR	no	no	yes	no	yes	yes	yes	yes	no	no	yes	yes
GR	no	no	yes	no		yes	yes	yes	no	yes	no	yes (6)
HU	no	no	yes	no	yes	yes	yes	yes	no	no	no	yes (16)
IE	no	yes	no	yes	X	yes	yes	yes	no	no	yes	no
IT	no	no (19)	yes	no	yes	yes	yes	yes	no	yes	yes	yes (20)
LT	yes	X	X	X	X	X	X	X	X	X	X	X
LU	no	no	yes	no	yes	yes	yes	yes	no	no	yes	yes (2)
LV	yes	X	X	X	X	X	X	X	X	X	X	X
MT	no	no (24)	yes	yes	X	yes	yes	yes	no	no	no	yes (25)
NL	no	no (21)	yes	yes	X	yes	yes	yes	no	yes	yes	yes (4)
PL	no	no	yes	no (10)	yes	yes	yes	yes	no	no	no	yes (11)
PT	no	no	no	yes	X	yes	yes	yes	no	yes	no	yes (12)
RO	no	no	yes	no	often	yes	yes	yes	no	no		
SE	yes	X	X	X	X	X	X	X	X	X	X	X
SI	no	yes (14) (21)	X	X	X	yX	X	X	X	X	X	yes
SK	no	no	yes	no	yes	yes	yes	yes	no	no		yes (18)
UK_EW	no	yes (26)	no	yes	X	yes	yes	yes	no	yes	yes	no
UK_SC	no	yes (26)	no	yes	X	yes	yes	yes	no	yes	yes	no

	Computerized Population Register	Computerized National Civil Status Register	Civil Status Registers on the Subnational Level									Other National Civil Status Register or Central File
			paper-based	computerized	computer-assisted	Birth Register	Marriage Register	Death Register	Family Register	Other Registers	Double Stored	
UK_NI	no	yes (26)	no	yes	X	yes	yes	yes	no	yes	yes	no
HR	no	no	yes	no	yes	yes	yes	yes	no	yes	yes	yes (17)
TR	no	yes	yes	yes	X	yes	yes	yes	yes	yes	yes	no
CH	no	yes (13)	X	X	X	X	X	X	X	X	X	no

Notes:

1 Electronic registers are permitted as of 01.01.2009 and required as of the year 2014; it is left to the discretion of the federal states to establish additional central registers at federal-state level.

2 In the town of Luxembourg a special register on divorce is maintained, if the marriage was conducted abroad

3 Registered Partnership Registers are maintained by the registry offices in 9 of 16 federal states

4 The Hague municipality holds a central register in which are registered the court decisions concerning the annulment of marriage and registered partnership, divorce, judicial separation, the dissolution of registered partnership; consular registers are held in double and one copy is deposited in the central files

5 The service of the civil status I in Berlin records the data concerning civil status of German nationals remaining abroad, by holding the registers of the legal declarations of presumption of death and by preserving a collection of acts and documents of the civil status coming from the former Eastern areas of Germany

6 The civil status acts drawn up abroad are preserved by the civil status service in Athens

7 The Ministry of Foreign Affairs holds the data of civil status events of Belgian nationals occurring abroad if registered with the Belgian consular offices

8 The diplomatic and consular officials keep the consular registers, a double of which is sent to the Central Registry Office in Madrid

9 The special registry office in Brno records births, marriages and deaths which occur on a ship, an airplane or territory outside of the Czech Republic, including diplomatic agencies of the Czech Republic and places which are not subject to the powers of any particular state.

10 Electronic registers in addition to paper registers is envisaged by § 17 of an implementing regulation of 26.10.1998

11 Acts drawn up abroad are send to the registry office of Warsaw-Center

12 Conservatoria dos Registos Centrais in Lisbon is the central registry office where births, deaths, marriages, divorces of Portuguese nationals born, dead, etc. out of Portugal are registered

13 All civil status records from the hitherto existing registers of births, marriages, deaths and child acknowledgements and from the family register as a collective-register should be transferred within the next years into the central registry

Notes:

- 14** All civil status records from the hitherto existing registers of births, marriages, deaths should be transferred up to 2009 into the central registry
- 15** Civil marriages are recorded in an electronic central register held by the Ministry of Justice
- 16** Special register in the town hall of Budapest records births, marriages and deaths of the Hungarian citizens abroad, births, marriages and deaths of the stateless people residing in Hungary and births of the foreign citizens adopted by a Hungarian
- 17** Acts occurring abroad are registered in the registry office of the last residence, failing this in the Central Register in Zagreb
- 18** The acts occurring on the area, a ship or an airplane outside of the Slovak Republic, in a diplomatic agency of the Slovak Republic, or a place, which is not subject to force of a central state are registered on the basis of a notice of a Slovak citizen in the civil registry office into a special register kept by the Ministry of the Interior; Authority for registration and declaration of a change in absence of a residence is the municipal office of Bratislava I
- 19** Article 10 Law Nro. 396/2000, entered into force on 31.03.2001 envisages a national electronic civil status register but by now it has been not been established
- 20** The Registry of Citizens Residing Abroad (AIRE) holds the data of Italians living abroad
- 21** The local civil status registration offices are linked with a population register using those databases
- 22** The local civil status registry offices are linked with the Central Register of Residents using its database; furthermore data of civil status documents are stored directly in the CRR by offices; once these data are stored, a person does no longer need to enclose these documents for further electronic processes with public authorities; CRR also serves the request of civil status certificates
- 23** The registry office in Vienna (first district) assumes supra-regional tasks, in particular by recording the data concerning civil status of Austrian nationals abroad or refugees and stateless people, whose usual place of residence is in Austria and of births and deaths occurring on an Austrian vessel. Furthermore the registry office holds the registers of the legal declarations of presumption of death and is responsible for ascertaining the legal proof of marriageability and any possible impediments to marriage and for the issue of the certificate of no impediment if neither of the future spouses have or ever had a (usual) residence in Austria. Finally the registry office is in case of a name change also competent for persons who had never their residence in Austria
- 24** The Common Database System of the Government concerns persons and their addresses and is linked with the registry offices
- 25** The Central Registry Office in Valletta holds the data of civil status events occurred abroad and are registered in Malta
- 26** The General Register Office maintains a computerized central file on a non-permanent basis

2. Local Civil Status Registration

Regardless of the type of national civil status registration and its administration, the actual registration work is carried out by about 125.000 registrars distributed among about 80.000 local registry offices, some with additional employees. For purposes of supervision and administration, there may be registry offices established as intermediary between the national administration and the local offices. The registration area is part of the territory of a country and is entrusted to a local civil status registrar for the recording of vital events occurring therein. Some countries have set up additional registry offices in hospitals or other facilities. A local civil status registrar is an official charged with the responsibility for civil status registration and for recording and reporting information on vital events. This public attestor is authorized by law to register vital events occurring within his jurisdiction and to represent the legal authority of government in the field of civil status registration. As registrars have direct contact with the informant they are the basis of the civil status registration system. In most countries, their function is performed by a person especially designated for the job. There the civil status registrar is known as either the registry officer, the civil state officer, the civil registrar, the district registrar or other titles. The function can also be performed by the mayor, the alderman, the village headman, the communal prefect or president, the town councillor, a judge, a lawyer, a tax officer, the clergy etc. and their deputies, assistants or other civil servants or municipal officials.

Not all registrars are full-time employees. In many countries the local civil status registrar does not have enough registration activities to fully occupy his time. They may be private registrars or public registrars which are therefore assigned to additional duties. Their registration work is carried out along with the other responsibilities that they may have as judge, justice of peace, mayor, civil servant or tax officer. The registrars receive a regular monthly salary but not all of them are explicitly paid as a registrar. Part time registrars may be paid by activity and some registrars are paid pro rata if they also do other jobs within the employment. With respect to the issue of whether the act to be registered is in conformity with the laws in effect, it is essential that the registrar is familiar with the regulations related to civil status registration. The registrar must be able to exercise a critical legal judgement on the matter, because he has the decision-making power to accept or deny registration and to review and screen the declarations and documents used as a basis for entering data on an individual's civil status in the register. Despite the broad powers given to the registrar, most countries have not stipulated precise regulations for the professional training. Basic training is often given on the job and an advanced training is only infrequently given. Also a set of registration manuals containing detailed instructions to assist the registrars in carrying out their work efficiently is rarely prepared. In most of the countries a nationwide professional association of civil status registrars is established though for the purpose of exchanging views.

The following table provides an overview of the type of registrars administering civil status registrations in Europe:

Table 3.: Type of Registrar

	Type of Registrar	Number of Registrars (2)	Precise regulations for the professional training as registrars stipulated (1)
AT	local civil status registrar	approx. 6000	no
BE	mayor or alderman respectively the deputy mayor or deputy alderman or a lay judge	approx. 600	no
BG	mayor respectively municipal administration officials	approx. 1000	no
CY	prefects and presidents of the communal authority	not stated	no
CZ	local civil status registrar	approx. 2000	yes
DE	local civil status registrar	approx. 30.000	yes
DK	clergy and church officers (3)	not stated	no
EE	local civil status registrar	approx. 300	no
ES	judge of first instance or justice of the peace	not stated	yes
FI	local civil status registrar	not stated	no
FR	mayor or deputy mayor, a town councillor or a communal civil servant	approx. 36.000	no
GR	mayor or the president of the community respectively their deputies or authorized local civil servants	not stated	no
HU	local civil status registrar	approx. 10.000	yes
IE	local civil status registrar	188	no
IT	mayor respectively municipal employees	not stated	yes
LT	registrar, the head of local district councils and mayor	60	yes
LU	mayor or alderman respectively their deputies or other civil servants	116	no
LV	local civil status registrar	approx. 600	no
MT	central legal and registry officer	not stated	yes
NL	local civil status registrar	approx. 900	no
PL	mayor or president of the community and their assistants	approx. 3740	no
PT	lawyer	approx. 1000	yes
RO	mayor respectively the deputy mayor or other officials of the own authority	not stated	not stated
SE	local tax officers	approx. 1100	no
SI	local civil status registrar	approx. 90	yes
SK	mayor or deputy mayor	approx. 1250	yes
UK_EW	local civil status registrar	approx. 1750	no
UK_SC	local civil status registrar	approx. 900	no
UK_NI	local civil status registrar	26	no
HR	local civil status registrar	approx. 850	yes
TR	local civil status registrar or muhtar (village headman)	approx. 5000	yes
CH	local civil status registrar	approx. 700	yes

Notes:

- 1 In case "no" is stated, a short specific training maybe given by local authorities and with the chance of advanced trainings the appointed civil servant exercises the functions as a registrar
- 2 without support staff
- 3 With particular regard for South Jutland, it should be noted that the registration of names and newborn citizens in this part of the country is not carried out by ministers of the Danish National Church, but by municipal registrars

No matter who the local civil status registrars are, their basic duties and responsibilities are very similar among all countries. Yet sometimes there are functional differences. For example, a registrar might be responsible for the registration of marriages but not for conducting them. The duties and responsibilities assigned to civil status registrars include the following:

- Making the primary entries for vital events and authenticating them with a signature
- Ensuring compliance with registration laws and the integrity of the register
- Taking custody of the records
- Issuing certifications or copies of the records
- Preparing statistical documents based on the registration record and transmitting them to the compiling agency
- Conducting civil marriages.

The multitude of different functions, for which civil status registrars are competent in Europe can be seen from the following table:

Table 4.: Competency of Registrars

	Event-based registration	Person-based registration	Family-based registration	Population Register	Birth	Birth dead on declaration	Stillbirth	Registration of Guardianship	Registration of Legitimation yes/no/no Provision in Legislation
	yes/no	yes/no	yes/no	yes/no	yes/no	yes/no	yes/no	yes/no	
AT	yes	no	no	no	yes	yes	yes	no	yes
BE	yes	no	no	no	yes	yes	yes	no	no provision
BG	yes	no	no	no	yes	yes	yes	yes	no
CY	yes	no	no	no	yes	yes	no	no	yes
CZ	yes	no	no	no	yes	yes	yes	no	no provision
DE	yes	no	yes	no	yes	yes	yes	no	no provision
DK	no	yes	no	yes	yes	yes	no	no	no provision
EE	no	yes	no	yes	yes	yes	yes	no	no
ES	yes	no	no	no	yes	yes	no	no	no provision
FI	no	yes	no	yes	yes	yes	no	no	no provision
FR	yes	no	no	no	yes	yes	yes	no	yes
GR	yes	no	no	no	yes	yes	yes	no	no provision
HU	yes	no	no	no	yes	yes	no	no	no provision
IE	no	yes	no	no	yes	yes	yes	no	yes
IT	yes	no	no	no	yes	yes	yes	no	yes
LT	no	yes	no	yes	yes	yes	yes	no	no provision
LU	yes	no	no	no	yes	yes	yes	no	yes
LV	no	yes	no	yes	yes	yes	yes	no	yes
MT	yes	no	no	no	yes	yes	yes	no	yes
NL	yes	no	no	no	yes	yes	yes	no	no provision
PL	yes	no	no	no	yes	yes	yes	no	no provision
PT	yes	no	no	no	yes	yes	yes	yes	no provision
RO	yes	no	no	no	yes	yes	yes	no	no provision
SE	no	yes	no	yes	yes	yes	no	no	no provision
SI	no	yes	no	no	yes	yes	yes	yes	no provision
SK	yes	no	no	no	yes	yes	yes	no	no provision
UK_EW	yes	no	no	no	yes	yes	yes	no	yes
UK_SC	yes	no	no	no	yes	yes	yes	no	yes
UK_NI	yes	no	no	no	yes	yes	yes	no	yes
HR	yes	no	no	no	yes	yes	yes	yes	yes
TR	no	yes	yes	no	yes	yes	no	no	no provision
CH	no	yes	no	no	yes	yes	yes	no	yes

	Maternal Recognition yes/no on request	Declaration of Paternal Recognition yes/no	Registration of Paternal Recognition yes/no	Acceptance of Paternal Recognition yes/no/ exclusive	Registration of Exposure and Withdrawal of the Parental Force yes/no	Found/ orphan yes/no	Baptism yes/no	Religion yes/no/on request	Religious Disaffiliation yes/no/ exclusive
AT	no	yes	yes	no	no	yes	no	yes	no
BE	yes	yes	yes	yes	no	yes	no	no	no
BG	yes	yes	yes	no	yes	yes	no	no	no
CY	no	yes	yes	yes	no	yes		yes	no
CZ	no	yes	yes	yes	no	yes	no	no	no
DE	no	yes	yes	yes	no	yes	no	on request	exclusive/no (Länder)
DK	no	yes	yes	yes	no	yes	yes	no	yes
EE	no	yes	yes	yes	no	yes	no	no	no
ES	yes	yes	yes	yes	no	yes	no	no	no
FI	no	yes	yes	yes	no	yes	no	yes	yes
FR	yes	yes	yes	no	no	yes	no	no	no
GR	no	no	yes	yes	no	yes	yes	yes	no
HU	no	yes	yes	yes	no	yes	no	no	no
IE	no	yes	yes	yes	no	yes	no	no	no
IT	yes	yes	yes	yes	no	yes	no	no	no
LT	no	yes	yes	yes	no	yes	no	no	no
LU	no	yes	yes	no	no	yes	no	no	no
LV	no	yes	yes	yes	no	yes	no	no	no
MT	no	yes	yes	yes	no	yes	yes	yes	no
NL	no	yes	yes	yes	no	yes	no	no	no
PL	no	yes	yes	yes	no	yes	no	no	no
PT	yes	yes	yes	no	yes	yes	no	no	no
RO	yes	yes	yes	yes	no	yes	no	no	no
SE	no	no	yes	yes	no	yes	no	no	no
SI	no	yes	yes	yes	yes	yes	no	no	no
SK	no	yes	yes	yes	no	yes	no	no	no
UK_EW	no	yes	yes	yes	no	yes	no	no	no
UK_SC	no	yes	yes	yes	no	yes	no	no	no
UK_NI	no	yes	yes	yes	no	yes	no	no	no
HR	yes	yes	yes	yes	yes	yes	no	no	no
TR	no	yes	yes	no	no	yes	no	no	no
CH	no	yes	yes	yes	no	yes	no	no	no

	Registration of Incapacitation/ Restriction of Legal Competence	Declaration of Change of Name (First Name)	Declaration of Change of Name (Surname)	Registration of Change of Name (First Name)	Registration of Change of Name (Surname)	Registration of Trans Gender Recognition	Registration of Adoption
	yes/no	yes/no/exclusive	yes/no/exclusive	yes/no	yes/no	yes/no	yes/no
AT	no	exclusive	exclusive	yes	yes	yes	yes
BE	yes	no	no	yes	yes	yes	yes
BG	no	no	no	yes	yes	yes	yes
CY	no	yes	yes	yes	yes	yes	no
CZ	no	exclusive	exclusive	yes	yes	yes	yes
DE	no	exclusive	no	yes	yes	yes	yes
DK	no	yes	yes	yes	yes	yes	yes
EE	no	no	no	yes	yes	yes	yes
ES	yes	exclusive	yes	yes	yes	yes	yes
FI	no	exclusive	exclusive	yes	yes	yes	yes
FR	yes	no	no	yes	yes	yes	yes
GR	no	no	no	yes	yes	yes	yes
HU	no	no	no	yes	yes	yes	yes
IE	no	exclusive	exclusive	yes	yes	no	yes
IT	yes	no	no	yes	yes	yes	yes
LT	no	no	no	yes	yes	yes	yes
LU	no	no	no	yes	yes	yes	yes
LV	yes	exclusive	no	yes	yes	yes	yes
MT	no	no	no	yes	yes	yes	yes
NL	no	no	no	yes	yes	yes	yes
PL	no	exclusive	exclusive	yes	yes	yes	yes
PT	yes	exclusive	exclusive	yes	yes	yes	yes
RO	no	exclusive	exclusive	yes	yes	yes	yes
SE	no	exclusive	yes	yes	yes	yes	yes
SI	yes	exclusive	exclusive	yes	yes	yes	yes
SK	no	exclusive	exclusive	yes	yes	yes	yes
UK_EW	no	exclusive	exclusive	yes	yes	yes	yes
UK_SC	no	exclusive	exclusive	yes	yes	yes	yes
UK_NI	no	exclusive	exclusive	yes	yes	yes	yes
HR	yes	exclusive	exclusive	yes	yes	yes	yes
TR	no	no	no	yes	yes	yes	yes
CH	yes	exclusive	exclusive	yes	yes	yes	yes

	Nationality	Change of Address	Civil-Marriage Ceremony	Registration of Civil Marriage	Civil Marriage Abroad Registration	Registration of Marriage Contracts	Registered Partnership (different sex)	Notification Ending of Registered Partnership (different sex)
	yes/no	yes/no	yes/no/ exclusive	yes/no	yes/no/on request	yes/no/ on request	yes/no/ no provision in legislation	yes/no
AT	yes	only Vienna	exclusive	yes	on request	no	no	no
BE	no	no	exclusive	yes	yes	yes	exclusive	yes
BG	yes	yes	exclusive	yes	yes	no	no	no
CY	no	no	exclusive	yes			no	no
CZ	no	no	yes	yes	on request	yes	no	no
DE	yes	no	exclusive	yes	no	no	no provision	no
DK	no	yes	exclusive	yes		no	no provision	no
EE	yes	yes	exclusive	yes	yes	no	no	no
ES	no	no	yes	yes	yes	on request	no	no
FI	yes	yes	yes	yes	yes	yes	no provision	no
FR	no	no	exclusive	yes	yes	no	no	no
GR	yes	no	no	yes	yes	no	no	no
HU	yes	no	exclusive	yes	on request	no	no provision	no
IE	no	no	exclusive	yes			no	no
IT	no	no	exclusive	yes	yes	yes	no	no
LT	yes	yes	exclusive	yes	yes	no	yes	no
LU	yes	no	exclusive	yes	on request	on request	exclusive	yes
LV	yes	yes	exclusive	yes	yes	no	no provision	no
MT	no	no	exvlusive	yes		yes	no provision	no
NL	no	no	exclusive	yes	yes	yes	exclusive	yes
PL	no	no	exclusive	yes	on request	no	no	no
PT	yes	no	exclusive	yes	yes	yes	no provision	no
RO	yes	no	exclusive	yes		no	no	no
SE	no	yes	no	yes			no provision	no
SI	yes	yes	no	yes	yes	no	yes	yes
SK	yes	no	exclusive	yes	yes	no	no provision	no
UK_EW	no	no	exclusive	yes	no	no	no provision	no
UK_SC	no	no	exclusive	yes	no	no	no provision	no
UK_NI	no	no	exclusive	yes	no	no	no provision	no
HR	yes	no	exclusive	yes	yes	no	no	no
TR	yes	yes	exclusive	yes	yes	on request	no	no
CH	no	no	exclusive	yes	yes	no	no provision	no

	Civil Marriage (same sex) Ceremony	Civil Marriage (same sex) Registration	Same Sex Marriage Abroad Registration	Civil Marriage Abroad Registration	Same-Sex Registered Partnership	Registration of Registered Partnership (same sex)	Reg. Partnership Abroad Registration	Notification Ending of Registered Partnership (same sex)	Declaration of Divorce
	yes/no/ exclusive	yes no	yes/no		yes/no/exclusive	yes/no	yes/no	yes/no	yes/no/ exclusive
AT	no	no	no		no	no	no	no	no
BE	exclusive	yes	yes		exclusive	yes	yes	yes	no
BG	no	no	no		no	no	no	no	no
CY	no	no	no		no	no	no	no	no
CZ	no	no	no		yes	yes	no	no	no
DE	no	no	no		yes/no (Länder)	yes/no (Länder)	no	no	no
DK	no	no	no		L.p.a. / exclusive	yes		yes	yes
EE	no	no	no		no	no	no	no	yes
ES	yes	yes	yes		yes/no (Länder)	yes	yes		no
FI	no	no	no		yes	yes	yes	no	no
FR	no	no	no		no	yes	yes		no
GR	no	no	no		no	no	no	no	no
HU	no	no	no		no	no	no	no	no
IE	no	no	no		no	no	no	no	no
IT	no	no	no		no	no	no	no	no
LT	no	no	no		no	no	no	no	no
LU	no	no	no		exclusive	yes	yes		no
LV	no	no	no		no	no	no	no	no
MT	no	no	no		no	no	no	no	not allowed
NL	exclusive	yes	yes		exclusive	yes	yes	yes	no
PL	no	no	no		no	no	no	no	no
PT	no	no	no		no	no	no	no	yes
RO	no	no	no		no	no	no	no	no
SE	no	no	no		court/p.p.w.s.a.	yes		no	no
SI	no	no	no		yes	yes	no	yes	no
SK	no	no	no		no	no	no	no	no
UK_EW	no	no	no		exclusive	yes	no	no	no
UK_SC	no	no	no		exclusive	yes	no	no	no
UK_NI	no	no	no		exclusive	yes	no	no	no
HR	no	no	no		no	no	no	no	no
TR	no	no	no		no	no	no	no	no
CH	no	no	yes/ reg. Partners.		exclusive	yes	yes	no	no

	Registration of Divorce	Divorces Abroad Registration	Declaration of Judicial Separation	Registration of Separation	Declaration of Marriage Annulment	Registration of Marriage Annulment	Deaths	Absence	Presumed Dead
	yes/no	yes/no/on request	yes/no / no provision in legislation	yes/no/on request	yes/no / no provision in legislation	yes/no/on request	yes/no	yes/no	yes/no
AT	yes	on request	no provision	no	no	yes	yes	no	yes
BE	yes	yes	no	yes	no	yes	yes	no	yes
BG	yes	yes	no provision	no	no	yes	yes	yes	yes
CY	yes		no provision	no	no	yes	yes	no	yes
CZ	yes	on request	no provision	no	no	yes	yes	no	yes
DE	yes	yes	no provision	on request	no	yes	yes	no	yes
DK	yes		yes	yes	no	yes	yes	no	yes
EE	yes	yes	no	no	no	yes	yes	no	yes
ES	yes	yes	no	yes	no	yes	yes	yes	yes
FI	yes	yes	no provision	no	no provision	no	yes	no	yes
FR	yes		no	yes	no	yes	yes	yes	yes
GR	yes		no provision	no	no	yes	yes	yes	yes
HU	yes	on request	no provision	on request	no	yes	yes	yes	yes
IE	yes		no	yes	no	yes	yes	no	yes
IT	yes	yes	no	yes	no	yes	yes	yes	yes
LT	yes	yes	no	yes	no	yes	yes	yes	yes
LU	yes	on request	no	yes	no	yes	yes	yes	no
LV	yes	yes	no provision	no	no	yes	yes	yes	yes
MT	no	yes	no	yes	no	yes	yes	yes	yes
NL	yes		no	yes	no	yes	yes	no	yes
PL	yes	on request	yes	yes	no	yes	yes	no	yes
PT	yes	yes	yes	yes	no	yes	yes	no	yes
RO	yes		no provision	no	no	yes	yes	no	yes
SE	yes		no provision	no	no provision	no	yes	no	yes
SI	yes		no provision	no	no	yes	yes	no	yes
SK	yes	yes	no provision	no	no	yes	yes	no	yes
UK_EW	yes	no	no	no	no	yes	yes	no	yes
UK_SC	yes	no	no	no	no	yes	yes	no	yes
UK_NI	yes	no	no	no	no	yes	yes	no	yes
HR	yes	yes	no	no	no	yes	yes	no	yes
TR	yes	yes	no	no	no	yes	yes	yes	yes
CH	yes	yes	no	no	no	yes	yes	yes	no

3. Foreign Relations

In most Member States currently the respective registrars are notified of these registrations and events by the other registrar or institution, but only when such registrar is within the Member State and otherwise only randomly, often depending on where the event occurs and if the citizen reports it properly to the Consulate or other authority.

The obligation to the registrar to give notice of certain events, namely marriage or death, directly to the registrar of the place of birth within eight days, is also subject of CIEC Convention No. 3 on the international exchange of information relating to civil status, Istanbul 4 September 1958, to which Germany, Austria, Belgium, Spain, France, Italy, Luxembourg, the Netherlands, Poland, Portugal, and Turkey are parties. In practice, however, it has been reported that registrars often do not provide such notice to their foreign colleagues. Besides, the Convention covers only a limited number of States.

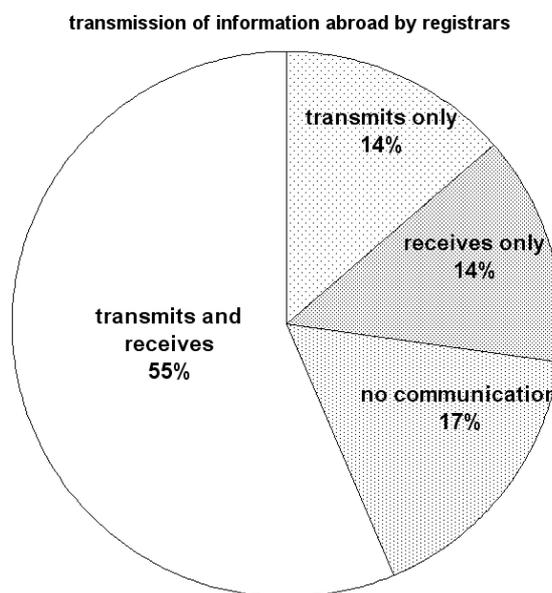
In addition, many Member State record civil status events when they occur to their citizens abroad, irrespective of their place of birth, or even to their permanent residents. It may therefore be considered an additional obligation to inform the authorities of the Member State whose citizen or permanent resident the person concerned is.

In practice, therefore, there is little connection or communication between the civil registry offices of the EU Member States. Information about civil status acts and changes of foreign citizens that occur in another EU Member State are rarely transmitted to the foreign authority even if it is known that the other State requires such information or if relevant bilateral agreements regarding exchange of data registered with the registry offices exists. A few countries (e.g. Ireland, Malta and the United Kingdom) neither transmits information about civil status acts and changes of their citizens born in another EU Member State or of citizens of other EU Member States occurring in the country directly to the authorities of that EU Member State nor receives information about civil status acts and changes of their citizens (or of citizens whose birth was registered in the country) directly from the authorities of that EU Member State. All civil registry offices receive information of their own nationals from abroad only on a random basis, and of nationals of other Member States, who may have been born in the other Member State, in even fewer cases. Accordingly there exists a lack of information exchange between the EU Member States.

In a survey, 103 registrars in all 32 jurisdictions were asked if in practice they transmit or receive information about civil status changes occurring to (or from) the authorities of other Member States.

Table 5.: Registrars transmission and receiving information

Registrars transmitting or receiving information to and from other Member States			
change information	receive	do not receive	total
do transmit	56%	14%	70%
do not transmit	14%	17%	30%
total	70%	30%	100% (103)



The Table shows that, more than half of the registrars do send and receive transmissions about civil status changes in and to other Member States, whose nationals these citizens are or where they have been born. Several registrars noted that, their transmission and receipt of information relates to deaths only. Also, interestingly, several registrars informed us that they never received information from other Member States despite treaties to the contrary. At the same time, about a fifth of the registrars (in 8 out of 32 jurisdictions) never send or receive information about changes in other jurisdictions.

However, these figures are obviously misleading. After all, if about a third of the registrars do not transmit any information to other Member States at all, then the others cannot receive information from them. Even for those registrars that do transmit and receive information, this is only the case with respect to and from specific other Member States, as based on certain bilateral or multilateral treaties and even the only partially and without full reliability.

4. Consular System

Each country has its own compulsory civil status registration of registrable civil status event occurring in that country, so there is a legal obligation to register with the local civil status registration service, and some events, such as marriage or certain declarations which are registered, even take their origin at the registration office.

Matters concerning the civil and marital status (events and associated legal acts) of nationals occurring while living or travelling abroad affect the consular service as it relates to the registration function. To ascertain such effects, each country's domestic legislation and how it regulates the duties entrusted to its consular staff abroad as well as any reciprocal directives that may exist between the country of origin and the country of accreditation need to be considered. In some countries, the law gives certain consular officials identical duties to those of local registrars in respect of registration, updating and maintenance of the civil registry, for example:

- to participate in the creation of records e.g. by performing and authorizing civil marriages held abroad by subjects of the country of origin, and to make entries, on the strength of the declarations submitted, directly into a consular register, where a copy of the registration document will be stored and from which a duplicate will be transmitted to the competent authority in the country of origin;
- to make entries on the basis of documents of civil status events registered in the host country, into a consular register;
- to forward declarations and documents to be registered in a register in the country of origin,
- to receive formal notice of authorities of the host country concerning citizens of the consular office, to be transmitted to a register in the country of origin,
- to issue certified copies of records kept in a register in the country of origin or in the consular register attesting the civil status of an individual,
- to assist as intermediary and as place of payment for citizens to obtain documents and certificates from the country of origin.

In other countries consular officials assume only limited duties of those which are reserved for registrars in their country, or offer assistance on certain issues only. In a few countries consular officials assume neither duties of those which are reserved for registrars in their country nor do they offer assistance on certain issues. In practice, in some of the latter countries assuming duties of those which are reserved for registrars or offering assistance on certain issues may vary from one consular representation to another (optional exercising).

Foreign civil status documents are often requested by authorities or courts of the country of origin, or any other country of residence, to prove changes in personal status that have occurred abroad. Should any difficulties, linguistic or otherwise, arise in procuring such documents from another country which make direct contact with the issuing authority in the foreign country impossible, in some member states the document may be acquired via the responsible consular office of the country of origin.

Where consular officials are authorized, either as part of their civil status related activities, or exclusively, to transmit data for the entry to the competent authority so that formal registration can take place, such activity invariably requires that certification of the earlier entry in the local civil status register is presented, itself a foreign document. Consular officials may be empowered by statute to certify documents or authenticate signatures or manual signs, transcripts or copies for the purposes of the law of the country of origin. Not every consular office has a consular official empowered to undertake all certifications. A signature or manual sign may be authenticated by being acknowledged or executed in the presence of a consular official. The person whose signature or manual sign is to be authenticated may be obliged to appear in person. Translations and translators' certifications of the foreign document may be not authenticated by consular officials, although, if the relevant conditions are met, it may be possible for the signature of the translator to be authenticated, should this be necessary. Such an authentication would not however certify the accuracy of the translation. Translating documents is not one of the usual tasks of the consular offices. However, confirm the correctness and completeness of a translation is a task which some consular offices undertake.

Consular work is about touching people's lives in a thousand different ways and involves a variety of activities. The consular services deal with events that have a personal impact. In a fast-changing world, growing demands are being placed on the consular service. More EU residents are travelling abroad every year and there are more EU Member State nationals living abroad than ever before. And since May 2004, when 10 new countries with smaller consular networks than for example the

British, French, Spanish or German joined the EU, more European citizens have been entitled to seek their consular services. Also, public expectations have risen and have led EU citizens to expect higher levels of consular service.

With limited resources, it may be difficult to accommodate the needs of an ever-growing number of EU citizens abroad and at the same time raise the standards of consular assistance available to people. As part of the solution, the EU consular network should improve the information and advice available to the public (web pages, call centre). The consular network of the Member States has also set clear limits on what the consular service can and cannot do for people who request consular assistance.

In respect of civil status matters the following table provides an overview of the duties entrusted to the consular officials abroad, as based on the legal framework as confirmed by a direct questionnaires to several consular officers of every State and at different consulates.

Table 6.: Consular System Overview: Duties concerning the Civil Status of Citizens abroad

Embassies and Consulates of:	No civil status duties	Exercise Optional	Registration of Births		Marriage Performance (1)	Registration of Other Civil Status Changes		
			voluntary	compulsory		voluntary	compulsory	Performance
AT	0	0	X	0	0	X	0	0
BE	0	0	X	0	X	X	0	0
BG	0	0	X	0	X	X	0	X
CY	0	0	X	0	0	0	0	0
CZ	0	0	X	0	0	X	0	0
DE	0	0	X	0	0	X	0	X
DK	0	X	0	0	0	0	0	0
EE	0	0	X	0	X	X	0	X
ES	0	0	X	X	X (2)	X	X	X
FI	0	0	X	0	0	0	0	0
FR	0	0	X	X	X	0	0	0
GR	0	0	X	X	X	X	0	0
HU	0	0	X	X	X (2)	0	0	0
IE	0	0	X	0	0	0	0	0
IT	0	0	X	X	X	X	X	0
LT	0	0	X	0	X	X	0	0
LU	X	0	0	0	0	0	0	0
LV	0	0	X	0	X	X	0	0
MT	0	0	X	0	0	X	0	0
NL	0	X	X	0	0	X	0	0
PL	0	0	X	0	X	X	0	X
PT	0	0	X	X	X	X	X	0
RO	0	0	X	X	X	X	X	0
SE	0	X	0	0	X (2)	0	0	0
SI	0	0	X	X	0	X	X	X
SK	0	0	X	0	X	X	0	0
UK	0	0	X	0	0	X	0	0
HR	0	0	X	X	X	X	X	0
TR	0	0	X	X	X (2)	0	0	0
CH	0	0	X	0	0	X	0	X

	Issuance of Birth Certificates		Issuance of other Certificates	Assistance to own nationals obtaining Certificates from			Assistance to foreign nationals obtaining Certificates from the	
	to own nationals	to foreign nationals		the Home Country (Birth Certificates)	the Host Country (Birth Certificates)	other Certificates	Home Country	Host Country
AT	0	0	0	X	X	X	0	0
BE	0	0	X	0	0	0	0	0
BG	X	0	X	X	X	X	X	0
CY	X	0	0	X	0	X	X	0
CZ	0	0	0	X	X	X	0	0
DE	0	0	0	X	X	X	0	0
DK	0	0	0	X	0	X	X	0
EE	X	X	X	X	0	X	X	0
ES	X	X	X	X	X	X	X	0
FI	0	0	0	X	0	X	X	0
FR	X	0	X	X	X	X	X	X
GR	0	0	X	X	0	X	0	0
HU	0	0	X	X	X	X	X	X
IE	0	0	X	X	X	X	X	0
IT	0	0	X	X	X	X	X	0
LT	X	0	X	X	X	X	0	0
LU	0	0	0	0	0	0	0	0
LV	X	0	X	X	X	X	0	0
MT	0	0	0	0	X	0	X	0
NL	X	0	X	X	0	X	0	0
PL	0	0	X	X	X	0	X	0
PT	X	0	X	X	X	X	X	X
RO	0	0	X	X	X	X	X	0
SE	0	0	X	X	0	0	X	X
SI	0	0	0	X	X	X	0	0
SK	0	0	X	X	0	X	X	0
UK	X (3)	0	X	0	X	X (4)	0	0
HR	0	0	0	X	X	X	0	0
TR	0	0	X	0	0	X	0	X
CH	0	0	X	X	X	X	X	0

Notes (to the Table):

- 1 between own citizens only
- 2 some embassies or consulates only
- 3 if born in the host country
- 4 from the host country only

Consular officials of Luxembourg are authorized by the Ministry of Foreign Affairs to fulfil civil status tasks but, in practice, they generally do not exert the functions of a civil status registrar. The consular network of Denmark, the Netherlands and Sweden assume neither duties of those which are reserved for registrars in their country nor do they offer assistance on certain issues but in practice some Danish, Dutch and Swedish consular officials offer assistance to obtain civil status certificates and a limited number of heads of Dutch embassies and consulates-general also issue civil status certificates. Therefore, certificates are not always available from a Danish, Dutch and Swedish embassy or consulate.

The consular officials of Bulgaria, Estonia, France, Italy, Lithuania, Latvia, Portugal, Spain and Turkey assume the same duties of those which are reserved for registrars in their country.

The consular officials of Belgium, Croatia, Cyprus, Greece, Hungary, Ireland, Malta, Poland, Romania, Slovenia, Slovakia and the United Kingdom assume limited duties of those which are reserved for registrars in their country and offer with the exception of Belgium assistance to obtain civil status certificates. The consular officials of Austria, the Czech Republic, Germany, Finland and Switzerland generally do not exert the functions of a civil status registrar.; they transfer the acts drawn up abroad to the competent authority in the home country and offer assistance to obtain civil status certificates.

Consulates or embassies usually do not arrange or officiate wedding ceremonies. Nevertheless diplomatic missions and consular sections of Belgium, Bulgaria, Estonia, France, Greece, Hungary, Italy, Lithuania, Latvia, Poland, Portugal, Romania, Sweden, Slovakia, Spain, Croatia and Turkey have the legal capacity to conduct marriage between two of their own citizens and sometimes between an own citizen and a foreign citizen, unless the state law of the latter or a diplomatic agreement with the host country opposes. However, it must be taken into account that the consular services may not solemnize marriages in all embassies or consulates (e.g. Hungary, Spain, Sweden and Turkey).

Any person requiring consular assistance in civil status matters may contact the consular network abroad of most of the surveyed countries either in writing, in person or by telephone.

Filing an application by telephone is not possible in the embassies or consulates of Belgium, Bulgaria, Cyprus, the Czech Republic, Greece, Hungary, Lithuania, Romania, Slovakia, Croatia and Turkey. The consular network of Italy accepts applications by telephone in exceptional cases only. Filing an application by postal mail is not possible in the embassies and consulates of Greece. The consular network of Cyprus and Turkey accept applications by postal mail in exceptional cases only.

In order to obtain the consular assistance in civil status matters persons are requested to prove their identity by providing for example a copy of the passport and/or identity card. However, some particularities must be taken into account. A proof of citizenship is required by the consular network of the Czech Republic, France and Malta. A proof of majority is requested by the consular network of Greece and in order to obtain consular assistance from the Polish consular network the applicant must state a legal interest. Any other documents to be presented vary according to the case.

5. Legalization of Civil Status Documents

In general, civil status registry offices in Europe do not accept documents, which are not duly legalized.

In principle, documents coming from foreign countries intended for use in another country must be legalized (authenticated) by the respective foreign country. An "authentication" is a governmental act by which a designated public official certifies to the genuineness of the signature and/or seal and the position of the person/official who has executed, issued, or certified (a copy of) a document.

Normally, there are two options to get documents authenticated. The first option involves authentication by the Ministry of Foreign Affairs of the state in which the document has been issued and afterwards authentication by the consular authorities (embassy or consulate) of the receiving state. The responsible person at the Ministry of Foreign Affairs and his or her signature is usually known to the consulate in that country, so that authenticity can be confirmed.

The official at the Ministry of Foreign Affairs may not know in person, or have on file, the name and signatures of all registrars in his country and may not be able to certify genuineness directly. For this reasons, in many cases, internal procedures require a chain of additional seals and signatures before the document even reaches the official at the Ministry of Foreign Affairs. The signature and seal of the registrar might be authenticated by his or her superintendent registrar, whose signature might be authenticated by an head of department at the regional authorities and only then, the document is sent to be authenticated by the official at the Ministry of Foreign Affairs.

The second option is slightly different: after authentication by the Ministry of Foreign Affairs of the country in which the document has been issued it is then forwarded to the embassy of the issuing country, and from there to the Ministry of Foreign Affairs of the receiving country.

To shorten this procedure, all EU Member States, and all other states subject of this study are party to the to the 1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents. The convention stipulates that signatory countries agreed to mutually recognize each other's public documents if they have a special seal and stamp on it, the "Apostille". An apostille (French for "certification") therefore is a form of internationally recognized notarisation and ensures that public documents issued in one signatory country will be recognized as valid in another signatory country. The sole function of the apostille is to certify the authenticity of the signature on the document in question; the capacity in which the person signing the document acted; and the identity of any stamp or seal affixed to the document. The apostille either must be attached as an annex to the official document ("allonge") or placed on the document itself by means of a stamp. An apostille is solely issued upon request.

The Apostille is issued by a designated authority in the issuing state which is on file at The Hague. This may, or may not be the Ministry of Foreign Affairs, in many countries there are several authorities designated and formally authorized to issue the Apostille. Once the Apostille is attached, these documents need no prior legalisation by an embassy or consulate or be sent through the consular system, but they can be used directly.

In all surveyed countries except Finland the Civil Status Registry Offices are not the competent authority for the issuance of the apostille. In the United Kingdom, upon application, the documents and the application for the issuance may be transmitted by the Registrar Generals of England and Wales, Scotland and Northern Ireland to the the Foreign and Commonwealth Office (FCO) acting through the Legalisation Office in London. The Republic of Ireland will facilitate the acceptance in foreign countries of public documents executed in Ireland by authenticating the seals or signatures of officials the General Register Office. Sometimes, on special request and as a favour, a civil status registrar may also be so kind as to forward the document to the authority that issues the Apostille.

But in general, it is necessary to first obtain the document from the registration office, and in a separate step, the Apostille needs to be applied for.

Costs of apostilles vary significantly. In some of the surveyed countries, such apostilles are issued free of charge or for a fee of less than € 5,00, in some others fees can be as high as almost € 34,07. Average costs are at around € 10,72. Some Member State do not issue the Apostille without personal appearance at the respective office, causing extreme burden and cost on the citizens concerned. The practices are shown in the following Table:

Table 7.: Apostille for Civil Status Documents

	Cost	Competent Authority for the Issuance	Processing Time	Personal Appearance Required (1)
AT	16,40 €	Regional Authority	immediately	no
BE	10,00 €	Ministry of Foreign Affairs	immediately up to 10 days	no
BG	5 to 7,50 BGN (2,56 € to 3,83 €)	Ministry of Foreign Affairs	24 hours up to 3 days	yes
CY	1,17 €	Ministry of Justice and Public Order	immediately	no
CZ	100 CZK (4,22 €)	Ministry of Foreign Affairs	no information available	no
DE	10,00 € to 20,00 €	Regional Authority	immediately up to 2 weeks	no
DK	165 DKK (22,11 €)	Ministry of Foreign Affairs	immediately up to 4 days	no
EE	230 EEK (14,70 €)	Ministry of the Interior	same day up to 10 days	no
ES	free	Regional Authority	same day up to 3 days	no
FI	9,00 €	Civil Status Registry Office	immediately	no
FR	free	Regional Authority	1 to 6 months	no (2)
GR	free	Regional Authority	immediately	no
HU	5500 HUF (23,74 €)	Ministry of Foreign Affairs	1 day	yes
IE	20,00 €	Department of Foreign Affairs	immediately up to 1 day	no
IT	free	Regional Authority	immediately	yes
LT	1,00 to 20,00 €	Ministry of Foreign Affairs	24 hours up to 5 days	yes
LU	1,00 €	Ministry of Foreign Affairs	2 up to 4 days	no
LV	5 LVL (7,11 €)	Ministry of Foreign Affairs	48 hours up to 10 days	yes
MT	12,00 €	Ministry of Foreign Affairs	immediately	yes
NL	16,00 €	Regional Authority	1 hour up to 6 weeks	no
PL	60 PLN (18,72 €)	Ministry of Foreign Affairs	immediately up to 9 days	no
PT	free	Regional Authority	24 to 48 hours	yes
RO	250.000 Lei (7,04 €)	Regional Authority	no information available	yes
SE	150 to 250 SEK (15,87 € to 26,44 €)	Regional Authority	1 day	no
SI	2,38 € to 4,76 €	Regional Authority	same day up to 2 days	no
SK	200 SKK (6,58 €)	Regional Authority	immediately up to 10 days	no
UK	£27,00 (34,07 €)	Foreign and Commonwealth Office	same day up to three weeks	no
HR	30 CK (4,15 €)	Regional Authority or Ministry of Justice	no information available	yes
TR	free	Regional Authority	no information available	no
CH	15 to 30 SFR (9,21 € to 18,42 €)	Regional Authority	no information available	no

Average amount: 10,72 €

Notes (to the Table):

- 1 of the applicant or a representative
- 2 only some regional authorities accept application by postal mail

The Apostille is therefore making matters much easier, but it is still an obstacle. It is still an extra stamp and seal that needs to be obtained and in many cases there may still be an additional authentication (or more) necessary between the authority issuing the document (such as the civil status registrar) and the authority issuing the Apostille. It also often means delay if the documents have to be sent back and forth.

For this reason, many European States have concluded bilateral or multilateral treaties abolishing the need of any type of further certification of a document, either for all public documents in general, or for civil status documents only.

Firstly, a number of states are party to the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers signed at London on 07 June 1968, currently in force in Austria, Cyprus, Czech Republic, France, Germany, Greece, Ireland, Italy, Liechtenstein, Luxembourg, Moldova, The Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. Under this Convention, Parties undertake to exempt from any legalisation documents or certificates executed by diplomatic agents or consular offices of a Party. This way, at least, such documents can be used directly and need to be legalized by the Foreign Ministry of the issuing state, then by the embassy or consulate of the receiving state.

Several Member States are party to the Convention abolishing the Legalisation of Documents in the Member States of the European Communities (Brussels, 25 May 1987), which has been ratified by Belgium, Denmark, France, Italy, Ireland, Latvia, and Cyprus, and abolishes legalisation for all public documents.

Various states are members of the Commission Internationale de l'État Civil (CIEC; International Commission on Civil Status) and have ratified treaties of this organisation, most notably CIEC Convention No. 16 Convention on the issue of multilingual extracts from civil status records signed at Vienna on 5 September 1980 which is currently in force in Austria, Belgium, Croatia, France, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland, Slovenia, Poland and Turkey, and in addition in Serbia, Montenegro, Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia. It provides not only for the abolishment for birth certificates, marriage certificates, and death certificates, but for multilingual certificates in several languages which can be filled in and understood in these states without translation. The list of the current CIEC treaties can be found at <http://www.ciec1.org/ListeConventions.htm>, and an overview table of ratifications at <http://www.ciec1.org/SignatRatif.htm>.

Finally, and most importantly, many States have concluded bilateral treaties with other States abolishing legalisation requirements. The following table gives an overview of the relationship between the jurisdictions which were subject of this study. Several States in this table may have more than one treaty in force. In this case, only that treaty is mentioned, which is "strongest" in that it frees more documents, and especially more civil status documents, from the requirement of legalisation. Therefore, as an example, where two States have ratified the London Convention on Diplomatic Documents, the Brussels Convention on (all) Public Documents and the CIEC Vienna Convention (on specific civil status certificates) mentioned above, only the Brussels Convention is noted in the table:

Table 8.: Legalisation

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Abolishment of legalisation treaty status

AT	yes	AT		x		x		x		x		x		x		x		x		x
BE	yes	Bilateral Treaty	BE			x		x		x		x		x		x		x		x
BG	yes	Bilateral Treaty			BG			x		x		x		x		x		x		x
CZ	yes	Bilateral Treaty				CZ				x		x		x		x		x		x
CY	yes	CE ¹	1987 Convention	³ Bilateral Treaty	CE	CY				x		x		x		x		x		x
DE ⁴	yes	Bilateral Treaty	Bilateral Treaty		CE	CE			DE					x		x		x		x
DK	yes	Bilateral Treaty	1987 Convention			1987 Convention	Bilateral Treaty	DK								x		x		x
EE	yes					°°							EE							x
ES	yes	ICCS 16/17 ²	ICCS 16/17		CE	CE	ICCS 16													ES
FI	yes	Bilateral Treaty																		Nordic Agreement
FR	yes	Bilateral Treaty	1987 Convention		CE	1987 Convention	Bilateral Treaty	1987 Convention												ICCS 16/17
GR ⁵	no	ICCS 8,12,14,CE	ICCS 5,8		CE	Bilateral Treaty	Bilateral Treaty													ICCS 5,6,7,10,CE
HU	yes	Bilateral Treaty			Bilateral Treaty	Bilateral Treaty	Bilateral Treaty													
IE	no	CE	1987 Convention		CE	1987 Convention	CE	1987 Convention												CE
IT	yes	Bilateral Treaty	1987 Convention		CE	1987 Convention	Bilateral Treaty	1987 Convention												ICCS 16/17
LT	yes																			Bilateral Treaty
LU	yes	Bilateral Treaty	ICCS 16/17		CE	CE	Bilateral Treaty													ICCS 16/17
LV	yes		1987 Convention			1987 Convention		1987 Convention												Bilateral Treaty
MT	yes																			
NL	yes	ICCS 16/17	ICCS 16/17		CE	CE	ICCS 16													ICCS 16/17
PL	yes	Bilateral Treaty	ICCS 16/17		Bilateral Treaty	CE	CE	ICCS 16												Bilateral Treaty
PT	yes	ICCS 16/17	ICCS 16/17		CE	CE	ICCS 16													ICCS 16/17
RO	yes	Bilateral Treaty																		
SE	yes	Bilateral Treaty			CE	CE	CE													Nordic Agreement
SI	yes	Bilateral Treaty	ICCS 16/17																	ICCS 16/17
SK	yes	Bilateral Treaty	Bilateral Treaty		Bilateral Treaty	Bilateral Treaty	Bilateral Treaty	ICCS 16												Bilateral Treaty
UK_EW	yes	CE	Bilateral Treaty		CE	CE	CE													CE
UK_SC	yes	CE	Bilateral Treaty		CE	CE	CE													CE
UK_NI	yes	CE	Bilateral Treaty		CE	CE	CE													CE
HR	no	Bilateral Treaty	ICCS 16/17		Bilateral Treaty	Bilateral Treaty	Bilateral Treaty	ICCS 16												ICCS 16/17
TR	yes	Bilateral Treaty	ICCS 16/17		CE	CE	ICCS 16													ICCS 16/17
CH	yes	Bilateral Treaty	Bilateral Treaty		Bilateral Treaty	CE	Bilateral Treaty													ICCS 16/17

Abolishment of legalisation treaty status

AT	x	x	x	x	x	x	x	x	x	x	x
BE	x	x	x	x	x	x	x	x	x	x	x
BG	x	x	x	x	x	x	x	x	x	x	x
CZ	x	x	x	x	x	x	x	x	x	x	x
CY	x	x	x	x	x	x	x	x	x	x	x
DE	x	x	x	x	x	x	x	x	x	x	x
DK	x	x	x	x	x	x	x	x	x	x	x
EE	x	x	x	x	x	x	x	x	x	x	x
ES	x	x	x	x	x	x	x	x	x	x	x
FI	FI	x	x	x	x	x	x	x	x	x	x
FR		FR	x	x	x	x	x	x	x	x	x
GR*		ICCS 5,12,CE	GR	x	x	x	x	x	x	x	x
HU	Bilateral Treaty	Bilateral Treaty	Bilateral Treaty	HU	x	x	x	x	x	x	x
IE		CE			IE	x	x	x	x	x	x
IT		ICCS 16/17	ICCS 5,8,12,14,15;CE	Bilateral Treaty	1987 Convention	IT	x	x	x	x	x
LT							LT	x	x	x	x
LU		ICCS 16/17	ICCS 6,8,12,13,14,15,CE			ICCS 16/17		LU	x	x	x
LV		1987 Convention			1987 Convention		Bilateral Treaty		LV	x	x
MT						Bilateral Treaty				MT	x
NL		ICCS 16/17	ICCS 5,6,7,8,10,12,14,CE			ICCS 16/17		ICCS 16/17			
PL	Bilateral Treaty	ICCS 16/17	Bilateral Treaty	Bilateral Treaty		ICCS 16/17	Bilateral Treaty	ICCS 16/17	Bilateral Treaty		
PT		ICCS 16/17	ICCS 5,8,10;CE			ICCS 16/17		ICCS 16/17			
RO				Bilateral Treaty							
SE	Nordic Agreement	CE	CE			CE		CE			
SI		ICCS 16/17		Bilateral Treaty		ICCS 16/17		ICCS 16/17			
SK		Bilateral Treaty	Bilateral Treaty	Bilateral Treaty		Bilateral Treaty					
UK_EW		CE	CE		n/a ⁶	CE		CE		n/a	
UK_SC		CE	CE		n/a	CE		CE		n/a	
UK_NI		CE	CE		n/a	CE		CE		n/a	
HR		ICCS 16/17		Bilateral Treaty		ICCS 16/17		ICCS 16/17			
TR		ICCS 16/17	ICCS 15,25,CE	Bilateral Treaty		ICCS 16/17		ICCS 16/17			
CH		ICCS 16/17	ICCS 5,6,13;CE			Bilateral Treaty		ICCS 16/17			

Abolishment of legalisation treaty status

AT	x	x	x	x	x	x	x	x	x	x	x	x	x
BE	x	x	x	x	x	x	x	x	x	x	x	x	x
BG	x	x	x	x	x	x	x	x	x	x	x	x	x
CZ	x	x	x	x	x	x	x	x	x	x	x	x	x
CY	x	x	x	x	x	x	x	x	x	x	x	x	x
DE	x	x	x	x	x	x	x	x	x	x	x	x	x
DK	x	x	x	x	x	x	x	x	x	x	x	x	x
EE	x	x	x	x	x	x	x	x	x	x	x	x	x
ES	x	x	x	x	x	x	x	x	x	x	x	x	x
FI	x	x	x	x	x	x	x	x	x	x	x	x	x
FR	x	x	x	x	x	x	x	x	x	x	x	x	x
GR*	x	x	x	x	x	x	x	x	x	x	x	x	x
HU	x	x	x	x	x	x	x	x	x	x	x	x	x
IE	x	x	x	x	x	x	x	x	x	x	x	x	x
IT	x	x	x	x	x	x	x	x	x	x	x	x	x
LT	x	x	x	x	x	x	x	x	x	x	x	x	x
LU	x	x	x	x	x	x	x	x	x	x	x	x	x
LV	x	x	x	x	x	x	x	x	x	x	x	x	x
MT	x	x	x	x	x	x	x	x	x	x	x	x	x
NL	NL	x	x	x	x	x	x	x	x	x	x	x	x
PL	ICCS 16/17	PL	x	x	x	x	x	x	x	x	x	x	x
PT	ICCS 16/17	ICCS 16/17	PT	x	x	x	x	x	x	x	x	x	x
RO				RO	x	x	x	x	x	x	x	x	x
SE	CE	CE	CE		SE	x	x	x	x	x	x	x	x
SI	ICCS 16/17	ICCS 16/17	ICCS 16/17		SI	x	x	x	x	x	x	x	x
SK		Bilateral Treaty		Bilateral Treaty		Bilateral Treaty	SK	x	x	x	x	x	x
UK_EW	CE	CE	CE		CE			UK_EW	x	x	x	x	x
UK_SC	CE	CE	CE		CE			n/a	UK_SC	x	x	x	x
UK_NI	CE	CE	CE		CE			n/a	n/a	UK_NI	x	x	x
HR	ICCS 16/17	ICCS 16/17	ICCS 16/17	Bilateral Treaty		ICCS 16/17	Bilateral Treaty				HR		x
TR	ICCS 16/17	ICCS 16/17	ICCS 16/17			ICCS 16/17		CE	CE	CE	ICCS 16/17	TR	
CH	ICCS 16/17	ICCS 16/17	ICCS 16/17			ICCS 16/17	Bilateral Treaty	CE	CE	CE	ICCS 16/17	ICCS 16/17	

Notes (to the Table):

- ¹ European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers, London, 07.06.1968
- ² Convention on the issue of multilingual extracts from civil status records, Vienna 08.09.1976
- ³ Convention abolishing legalisation of documents in the Member States of the European Communities, Brussels 25.05.1987
- ⁴ In Germany, the civil status registrar has discretion to accept foreign public documents without legalisation. This will be the case with most documents from other EU Member States unless there is reason for doubt in a specific case
- ⁵ Greece is the only ICCS Member that has not ratified ICCS 1, 16 or 17, but various other ICCS Conventions
- ⁶ As between Cyprus, Malta, Ireland and the jurisdictions of the U.K., common law tradition does not require legalisation of documents

Where conventions totally abolish the legalisation requirement for all documents or certain types of documents coming from a contracting State, there are no specific authorities responsible for handling incoming or outgoing documents. The document may simply be used in the procedure before the authority competent to issue the legal act for which the document is required. E.g., if a civil status document is necessary in order to perform a marriage, it is up to the registrar to examine whether the document is exempt from legalisation. Some of the agreements also contain rules on the exchange of information, usually by way of the Ministries of Justice. It should be noted that the abolition of the legalisation requirement only means that the original document does not have to be legalised in order to be valid before an authority. However, if the document is in a foreign language, a legalised translation may nevertheless be required. Some of the above Convention and treaties also take care of this issue by providing multilingual forms.

6. Registration of Birth

Birth registration is the official recording of the birth of a child by an administrative level of the state and coordinated by a particular branch of government. It is a permanent and official record of a child's existence and has legal and statistical objectives. Birth registration is part of an effective civil registration system that acknowledges the existence of the person before the law, establishes the child's family ties and tracks the major events of an individual's life, from live birth to marriage and death.

The Declaration on the Rights of the Child adopted by the UN on 20. November 1959, contains no direct provision relating to the registration of the birth of a child. As part of the "Universal Bill on Human Rights", Article 4 para. 2 of the 1966 International Covenant on Civil and Political Rights (ICCPR) specifies that: "Every child shall be registered immediately after birth...". According to Article 7 para. 1 of the 1989 UN Convention on the Rights of the Child (CRC): "The child shall be registered immediately after birth. The UN Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entered into force 2 September 1990 in accordance with article 49, and is monitored by the UN Committee on the Rights of the Child. As of May 13, 2002, 191 States (including all states examined in this study) have ratified the Convention. According to most interpretations of international law, the Declaration on the Rights of the Child generally has no legal binding effect, but as treaties both the ICCPR and the CRC produce binding legal obligations for the State Parties. A child's right to birth registration forms part of its right to a legal identity. It is also closely related to the child's right to a name. The two conventions presented above mention the two rights within the same article, and describe the right to birth registration and the right to a name in the same paragraph. Article 24 para. 2 of the ICCPR states: "Every child shall be registered

immediately after birth and shall have a name." Article 7 para. 1 of the CRC provides: "Every child shall be registered immediately after birth and shall be given the right to a name...". CRC recognizes the right of every child to a name and the obligation of the States Parties to ensure the implementation of that right, among others, in accordance with their national law and their obligations under the relevant international instruments in this field.

All 32 surveyed countries register live births and draw up a birth certificate (mandatory or on request) but Turkey states that there are still a large number of children who are not registered in rural areas. The declaration and registration of birth is mostly made before and by the local registry offices. In Sweden all births must be registered with the tax offices. In Denmark all newborn citizens, regardless of religious denomination, are registered by the Danish National Church. In some countries registry officials visit hospital maternity units and can register the birth during the mother's hospital stay. There are sometimes arrangements between clinics and the registry office through which the formalities are completed with ease; the hospital prepares the declaration that is to be completed at the local civil registration office.

In order to ensure that all births are declared, the countries have organised the procedure how the information needed for the registration is collected. Notification about the birth of a child must be given, if the child is born in a hospital or other healthcare institution, by that institution in a number of states, for example in Austria, Bulgaria, Croatia, the Czech Republic, Finland, Germany, Greece, Hungary, Latvia, Slovenia, Sweden and Switzerland. If the child is born outside a hospital or health-care institution, the parents or the medical personnel who assisted in the delivery must declare the child. In other countries for example in Belgium, Cyprus, Denmark, Ireland, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain and the United Kingdom, the parents or the doctor or midwife are obliged to declare the birth. However, other people always qualified to act as informants may include relatives, neighbours, the occupier of the premises where the birth occurred, and a person present at the birth or learnt of the birth. Predominantly the registration is accomplished on the basis of a medical certificate accompanying the declaration of birth. If no medical certificate can be obtained the child may be presented, for example in Spain. It may be also lawful for the registrar drawing up an act of birth always to demand to see the child, for example in Malta. In Luxembourg the children of the grand-ducal family must be presented to the registrar in order to ascertain the sex of the child with regard to the succession. In order to avoid a birth being registered more than once and guard against fraudulent registrations, a registrar may check against birth lists produced by a local health authority or with the hospital if the event did occur, for example in the Netherlands and the United Kingdom.

The range in how soon a birth declaration must be made varies from one day in Sweden and Hungary up to three months in Ireland and Lithuania:

Table 9.: Birth Registration Time

Birth Registration		Birth Registration	
	Time Limit		Time Limit
AT	one week	LU	5 days
BE	15 days	LV	one month
BG	one week	MT	5 days
CY	42 days	NL	3 days
CZ	3 days	PL	two weeks
DE	one week	PT	20 days
DK	2 days	RO	15 days
EE	one month	SE	1 day
ES	8 days	SI	15 days
FI	2 days	SK	3 days
FR	3 days	UK_EW	42 days
GR	10 days	UK_SC	21 days
HU	1 day	UK_NI	42 days
IE	three months	HR	15 days
IT	3 to 10 days	TR	one month
LT	three months	CH	3 days

Most countries do not extend the envisaged time limit for the declaration of birth. However, if the child is neither born in a hospital nor with medical assistance an extension may be given in Sweden and Hungary. Also if the mother herself declares the birth, the legal deadline may be extended in Slovakia and Switzerland till she feels capable to do so. Registrars may also grant in extension when there is deemed to be good cause for the delay for example in Belgium, Croatia, Spain and Greece. Whenever a birth is not declared within the legal deadline, the administrative and police or other authorities may inform the registrar so that the omission of registration be suppressed. In case registry offices are informed about the existence of persons not yet registered, these offices are authorized to remind the persons qualified to register the birth of their legal obligation to register the birth and require them to attend to give the information needed. The registrar may determine the performance of additional inquiries to establish the facts. In Portugal, if the birth occurred more than 14 years ago, the intervention of two witnesses is required and, whenever possible, a document showing that the declaration is exact should be presented. A penalty for delayed declaration (fine or imprisonment) is envisaged in most countries. However, if the term for declaring the birth has elapsed, the registrar may refuse the registration or the birth can be registered only on the basis of a court judgement or an administrative decision.

The births occurred in the territory of a country must be declared and registered. There is rarely discrimination between resident nationals, non-resident nationals, resident foreigners or non-resident foreigners in the registration of children. Children born abroad to own residents or nationals residing abroad are registered mandatory or on request in most of the surveyed countries. Countries with a population register do not usually register these children unless in the event of relocating. Some countries take the foreign birth certificate as a basis for registration. Other countries require the birth to be declared at an embassy, consulate or other type of office abroad,

and draw up a declaration of birth based on the foreign birth certificate. The births occurred abroad are usually registered in the registry office of the (last) residence, the population or central register or in an additional national civil status register or central file, which assumes supra-regional tasks. There is some doubt as to whether such registrations will be complete.

Stillbirths are registered by the civil status registration service in all countries except Cyprus, Denmark, Spain, Finland, Hungary, Sweden and Turkey, but they might be registered in these seven countries in a medical or central demographic database. The instruments drawn up by the civil status registrar may vary from state to state. Sometimes a birth certificate and a death certificate are issued, sometimes only one of the two. In other countries a special stillbirth certificate is issued or a special file is created.

Once the declaration is made, a formal birth registration record is established and certain information is recorded either on paper or digitally. The following table shows the information which is recorded in the declaration of birth:

Table 10.: Content of Declaration of Birth

	Child													
	PIN	Name	Sex	Place	Date	Time	Legitimacy	Nationality	Religion	Weight	Length	Singleton / Multiple	Birth Order	Alive / Stillborn
AT		X	X	X	X	X	X	X	X	X	X	X	X	X
BE		X	X	X	X	X								
BG	X	X	X	X	X	X	X	X		X	X	X	X	X
CY 8	X	X	X	X	X		X					X	X	X
CZ	X	X	X	X	X		X			X	X	X	X	X
DE		X	X	X	X	X		X	on request	X	X		X	X
DK 1	X		X		X									
EE	X	X	X	X	X			X		X	X	X	X	X
ES 3		X	X	X	X	X				X		X	X	X
FI	X	X	X	X	X		X	X	X	X	X	X	X	X
FR		X	X	X	X	X	X					X	X	
GR		X	X	X	X	X	X	X	on agreement	X		X	X	X
HU	X	X	X	X	X	X		X			X	X	X	X
IE	X	X	X	X	X	X				X		X	X	
IT		x4	X	X	X	X						X	X	
LT	X	X	X		X			X				X	X	X
LU		X	X	X	X	X	X						X	
LV	X	X	X	X	X		X	X	X	X	X	X	X	X
MT 5		X	X		X	X			X					X
NL		X	X	X	X	X								
PL		X	X	X	X		X			X			X	X
PT		X	X	X	X			X						
RO		X	X	X	X		X			X		X	X	X
SE 1			X	X	X									
SI	X	X	X	X	X		X	X				X	X	X
SK 6, 7		X	X	X	X			X		X	X	X	X	X
UK_EW		X	X	X	X									
UK_SC		X	X	X	X									
UK_NI		X	X	X	X									
HR														
TR		X	X	X	X	X						X	X	X
CH	X	X	X	X	X							X		

Notes:

- 1 additional data is taken from the Population Register
- 2 spontaneous birth, caesarean section, forceps-delivery, etc.
- 3 first name, surname, date and place of birth, age, nationality and address of the grandparents
- 4 child's first name only
- 5 name and surname of the father of each of the parents of the child, only
- 6 both ethnic nationality and citizenship are noted
- 7 data on the father is required only if parents are a married couple.
- 8 each parent: place of origin or place of exile, Community (Greek/Turkish), religious group, religion and parish

					Mother				
	PIN	Name	Nationality	Age	Residence	Profession	Birth Date	Marital Status	Birth Place
AT		X		X	X			X	
BE		X		X	X		X		X
BG	X	X	X		X		X		
CY 8		X	x		X	X	x	x	x
CZ								X	
DE		X	if foreign	X	X	X		X	
DK 1		X		X				X	
EE	X	X	X	X				X	
ES 3		X	X	X	X		X	X	X
FI		X		X	X	X		X	
FR		X	X	X	X	X			X
GR		X	X	X	X	X			
HU	X	X			X		X	X	X
IE	X	X			X	X	X	X	
IT		X	X		X		X	X	
LT		X		X	X	X		X	
LU		X			X	X	X		X
LV		X	X	X		X	X	X	X
MT 5		X		X	X				X
NL		X					X		X
PL		X		X	X		X	X	X
PT		X		X	X			X	X
RO		X	X	X	X	X		X	X
SE 1									
SI	X	X		X	X	X			X
SK 6, 7		X		X	X	X		X	X
UK_EW		X				X			X
UK_SC		X				X			X
UK_NI		X				X			X
HR									
TR		X	X		X				
CH		X	if foreign	X	X		X		

Notes:

- 1 additional data is taken from the Population Register
- 2 spontaneous birth, caesarean section, forceps-delivery, etc.
- 3 first name, surname, date and place of birth, age, nationality and address of the grandparents
- 4 child's first name only
- 5 name and surname of the father of each of the parents of the child, only
- 6 both ethnic nationality and citizenship are noted
- 7 data on the father is required only if parents are a married couple.
- 8 each parent: place of origin or place of exile, Community (Greek/Turkish), religious group, religion and parish

Father

	PIN	Name	Nationality	Age	Residence	Marital Status	Profession	Birth Date	Birth Place
AT		X		X	X	X			
BE		X		X	X			X	X
BG	X	X	X		X			X	
CY 8	x	X	x		X		x	x	X
CZ									
DE		X	if foreign	X	X	X	X		
DK 1		X		X					
EE	X	X	X	X		X			
ES 3		X	X	X	X	X		X	X
FI		X		X	X	X	X		
FR		X	X	X	X		X		X
GR		x4	X	X	X		X		
HU	X	X			X			X	X
IE	X	X			X		X	X	
IT		X	X		X	X		X	
LT		X		X	X	X	X		
LU		X			X	X	X	X	X
LV		X	X	X		X	X	X	X
MT 5		X		X	X				X
NL		X						X	X
PL		X		X	X	X		X	X
PT		X		X	X	X			X
RO		X	X	X	X		X		X
SE 1									
SI	X	X		X	X	X	X		X
SK 6, 7		X		X	X		X		X
UK_EW		X					X		X
UK_SC		X					X		X
UK_NI		X					X		X
HR									
TR		X	X		X				
CH		X	if foreign	X	X			X	

Notes:

- 1 additional data is taken from the Population Register
- 2 spontaneous birth, caesarean section, forceps-delivery, etc.
- 3 first name, surname, date and place of birth, age, nationality and address of the grandparents
- 4 child's first name only
- 5 name and surname of the father of each of the parents of the child, only
- 6 both ethnic nationality and citizenship are noted
- 7 data on the father is required only if parents are a married couple.
- 8 each parent: place of origin or place of exile, Community (Greek/Turkish), religious group, religion and parish

Other Family Data

	Grandparent's Data	Parents' socio-economic status	Language	Marriage Date	Marriage Place	Marriage Duration
AT				X	X	
BE						
BG				X	X	
CY 8	x			X		
CZ				X		
DE						
DK 1						
EE		X	mother's only			
ES 3	X			X	X	
FI			X			
FR				X	X	
GR				X		
HU			X	X		X
IE				X		
IT						
LT						
LU						
LV						
MT 5	X	X	mother's only			
NL						
PL		X		X		
PT	X					
RO		X				
SE 1						
SI		X			X	
SK 6, 7				X		
UK_EW						
UK_SC						
UK_NI						
HR						
TR						
CH						

Notes:

- 1 additional data is taken from the Population Register
- 2 spontaneous birth, caesarean section, forceps-delivery, etc.
- 3 first name, surname, date and place of birth, age, nationality and address of the grandparents
- 4 child's first name only
- 5 name and surname of the father of each of the parents of the child, only
- 6 both ethnic nationality and citizenship are noted
- 7 data on the father is required only if parents are a married couple.
- 8 each parent: place of origin or place of exile, Community (Greek/Turkish), religious group, religion and parish

	Declaring Person					Delivery				
	Name	Residence	Birth Place	Birth Date	Profession	Medical Assistance	APGAR Score	Birth Type 2	Place	Pregnancy Duration
AT	X	X				X	X	X	X	X
BE	X	X								
BG	X	X				X			X	X
CY 8						X			X	
CZ										
DE	X	X			X					
DK 1										
EE						X	X	X	X	X
ES 3	X					X			X	X
FI						X	X		X	X
FR	X	X	X		X				X	
GR						X			X	X
HU						X	X		X	X
IE	X	X							X	X
IT	X	X	X	X		X				
LT									X	
LU	X	X			X				X	
LV	X	X		X	X	X		X	X	X
MT 5	X	X	X		X					
NL	X		X	X	X					
PL	X	X	X	X		X	X	X	X	X
PT	X	X								
RO						X				X
SE 1										
SI									X	
SK 6, 7	X	X	X	X						X
UK_EW	X	X								
UK_SC	X	X								
UK_NI	X	X								
HR										
TR										
CH	X	X			X					

Notes:

- 1 additional data is taken from the Population Register
- 2 spontaneous birth, caesarean section, forceps-delivery, etc.
- 3 first name, surname, date and place of birth, age, nationality and address of the grandparents
- 4 child's first name only
- 5 name and surname of the father of each of the parents of the child, only
- 6 both ethnic nationality and citizenship are noted
- 7 data on the father is required only if parents are a married couple.
- 8 each parent: place of origin or place of exile, Community (Greek/Turkish), religious group, religion and parish

In some cases, the issuing of a certificate automatically follows birth registration, while in others a separate application must be made. In either case, a birth certificate is a personal document issued to an individual by the state. The registration of a birth and the issuing of a birth certificate are, therefore, two distinct yet interlinked events. A birth certificate is the most visible evidence of a government's legal recognition of the existence of a child as a member of society and is the basis of many privileges (and sometimes obligations) under the law. The birth certificate is often the most important documentary evidence of a child's nationality, stating as it does the nationality of the parents.

7. Naming and Name Changes

Naming is the process of assigning a personal name, which identifies a specific unique and identifiable individual person. The Declaration of Human Rights and the international Covenants and Conventions have nothing to say about names. They do not give standards or guidelines, which should be followed in naming a person. The right to a name was first proclaimed internationally in Principle 3 of the Declaration of the Rights of the Child and subsequently recognized as a right in Article 24 (2) of the International Covenant on Civil and Political Rights. Articles 7 and 8 of the Convention on the Rights of the Child recognize the right of every child to a name and the obligation of the States Parties to ensure the implementation of that right in accordance with their national laws and their obligations under the relevant international instruments in this field. Also relevant are Articles 1 and 25 (2) of the Universal Declaration of Human Rights and Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the European Convention on Human Rights (ECHR), in that they prohibit any form of discrimination. Article 14's scope is limited only to discrimination with respect to rights under the Convention. Thus, an applicant must prove discrimination in the enjoyment of a specific right that is guaranteed elsewhere in the Convention. Protocol 12 extends this prohibition to cover discrimination in any legal right, even when that legal right is not protected under the Convention, so long as it is provided for in national law. The Protocol entered into force 01.04.2005 and has been ratified by 5 of the surveyed countries.

The declaration and registration of naming of the child is in all surveyed countries made before and by the registry offices as part of the completion of the birth entry. If other authorities are entitled to receive the birth declaration, the name can be declared to them. However, the stipulated time period for the declaration of birth may be extended in respect of assigning a name to the child, for example in Austria, Croatia, Denmark, Finland, Germany and Sweden.

The naming is a tender subject because all countries have several legal restrictions and/or public rules concerning the assignment and syntax of the first name(s) and the surname(s).

In most countries the first name(s) may be assigned to the child by the parents upon mutual agreement or if one of the parents is not known by the other parent. In Estonia, Germany, Greece and Turkey assigning a name is a custody right and the first name(s) is given by the person having custody. In the Netherlands the first name(s) of the child is assigned by the person registering the birth. In Belgium the first name(s) is chosen by the person to whom descent is established first. If descent is established at the same time to two persons, the first name(s) can be chosen by one of them, the other can object at the juvenile court. In Luxembourg the first name(s) of a child born in wedlock is assigned by the father. In case where the child is born out of wedlock, the first name is assigned by the mother unless the declaration of birth is made by the father. If the parents fail to reach an agreement upon the first name(s) a decision is made by a court (for example in Austria, the Czech Republic, Germany, Hungary, Lithuania, Latvia, Portugal, Slovenia, Slovakia and Turkey), by a guardianship authority (for example in Estonia and Croatia) or by the prefectural authority in Greece. In Poland, when the parents did not indicate a first name at the moment of registering birth,

the registrar registers a first name usually used in the country, by mentioning this fact in the act or the family court must decide.

In Spain and the Netherlands, if the persons do not point out a name after having been requested to do so, the registrar determines a first name(s) by himself, acting *ex officio*. In Bulgaria, if the parents have not reached agreement about the name the registrar enters in the birth certificate one of the names proposed by the parents which he considers most appropriate in the case. The first name(s) and the surname may be assigned to the found and orphan child by the registrar, the finder, the mayor, the Crown, a court, a supervisory authority, a guardian ship authority or a social welfare authority.

One or more first name(s) may be assigned to the child. A limit is unknown for example in Austria, Belgium, Czech Republic, Denmark, France, Germany, Ireland, Luxembourg, the Netherlands, Sweden, Switzerland and Turkey. In the Netherlands, five is usually the limit but for example a child was assigned all first names of a whole football team (23). In Belgium an exaggerated number may be refused and in Germany and Austria through precedent cases seven first names are permitted but 12 first names are not allowed. A first name or first names, which do not correspond to the gender of the child are assigned, for example in Croatia, Italy, the Netherlands and Sweden.

In Estonia such name is assigned upon good reason shown only. Also it may be not possible to assign a first name one's sibling already bears, for example in the Czech Republic, Finland, Italy, Portugal and Spain. In Luxembourg in principle only first names listed in almanacs or of historical characters should be assigned but in practice this rule is handled tolerant. In Hungary the parents must select the first name(s) of their child from a list of first names compiled by the Hungarian Academy of Sciences. In Denmark a child must be given a first name that has been approved by the Ministry of Ecclesiastical Affairs. If the child should be given a first name not on the list, the Ministry of Ecclesiastical Affairs must approve it. Furthermore in some countries it is not possible to assign a first name to the child, which is of foreign origin, newly invented, not recognized as a first name, similar to a surname, not in accordance with national grammar or language requirements etc.

Bulgaria, Malta and the United Kingdom have no legal restrictions in respect of choosing the first name(s). In Slovenia and the Republic of Ireland only the length and the number of first names is regulated.

However, nobody is completely free in respect of the choice of the first name for the child. The registering authority must always prevent selection of names contrary to the child benefits. Furthermore the freedom of name selection may also be limited by reasons of public morality, public safety and rights of other individuals.

The choice of the surname is regulated in all surveyed countries except the United Kingdom. In Slovenia only the length and the number of surnames is regulated. The surname usually derives from the father's or the mother's or both. It may also be possible to choose a surname one or both parents have a right to use or that they are known for. Some countries allow certain combinations based on the parent's surname or use gender suffixes to the surname etc. and have no regulation that all children must bear the same surname. In most countries the surname may not consist of more than two single words. However, in Portugal the surname may consist of a maximum of four single words taken from the surnames of each or of one of the parents. A hyphen is often not compulsory or even unknown in legislation.

In the United Kingdom and the Republic of Ireland any person may change the name by usage. With few exceptions, a person can have whatever name he/she chooses as long as he/she is not changing the name for fraudulent purposes or to avoid an obligation or debt. The changing of the

name in the birth certificate is possible under regulated circumstances through the General Register Office.

A change of name upon marriage, divorce, registered partnership, recognition, naturalisation, gender reassignment or adoption is mostly authorised by a registrar or court. Upon contradiction of marriage a name change is for example in Belgium, France, Greece, Italy, Luxembourg, the Netherlands and Spain not envisaged in the legislation and both spouses retain their pre-marital surname. In everyday life and for social convenience women often use the surname of their husband. Although the name may appear in administrative documents, it is never mentioned in the registers of births, marriages and deaths. In Denmark if one party takes the partner's surname as the married name, he or she may retain his or her previous surname as a middle name, however only as a called name. In Turkey the woman takes the name of her husband. Upon application to the registrar responsible for the wedding she may continue to use the name she was using before the marriage in front of her husband's family name. Other countries provide all or some of the following possibilities: both spouses retain their pre-marital surnames; spouses can choose the surname of one spouse as the common surname; spouses may take both surnames as common; each or one spouse may add or prefix the surname of the other spouse in any order; a hyphen may be required.

In case of other name changes the authority concerned with the application for a change of the first name or the surname is in all countries, except Spain, the Netherlands and Sweden the same. Among them are local or national civil status registration authorities, courts, governments and Ministries of Justice. The authority concerned with the decision of changes of the first name differs in Estonia, Finland, Hungary, Lithuania, Luxembourg, Latvia, Romania and Switzerland from the authority concerned with the application. The authority concerned with the decision of changes of the surname differs in Belgium, Germany, Estonia, Finland, Hungary, Lithuania, Luxembourg, Latvia, Romania and Switzerland from the authority concerned with the application.

An overview of these aspects of naming can be seen in the following table:

Table 11.: General Name Table

	Naming			
	Gender Reflection	First Name Maximum Limit	Additional Regulated Requirements	Surname Regulated
AT	yes	none (5)	yes	yes
BE	yes	none (6)	yes	yes
BG	no	none	no	yes
CY	X(10)	X(10)	X	yes
CZ	yes	none	yes	yes
DE	yes	none (5)	yes	yes
DK	yes	none	yes	yes
EE	yes (8)	3	yes	yes
ES	yes	2	yes	yes
FI	yes	3	yes	yes
FR	no	none	yes	yes
GR	X(10)	X(10)	yes	yes
HU	yes	2	yes	yes
IE	no	3	yes (3)	yes(11)
IT	no	3	yes	yes
LT	yes	2	yes	yes
LU	no	none	yes	yes
LV	yes	2	yes	yes
MT	no	none	no	yes
NL	no	none	yes	yes
PL	yes	2	yes	yes
PT	yes	2	yes	yes
RO	X(10)	X(10)	X(10)	yes
SE	no	none	yes	yes
SI	no	2	yes (3)	yes (4)
SK	yes	3	yes	yes
UK_EW	no	none	no	no
UK_SC	no	none	no	no
UK_NI	no	none	no	no
HR	no	2	yes	yes
TR	no (9)	none	yes	yes
CH	yes	none	yes	yes

	Authority Entitled to Assign First Name and Surname to a Foundling	Registration of Names for Stillborn Children	
		First Name	Surname
AT	Governor	on request	yes
BE	Registrar, Finder, Court	on request	no
BG	Registrar	no	no
CY	X(10)	no	no
CZ	Court	yes	yes
DE	Supervisory Board	on request	on request
DK	X(10)	no	no
EE	Guardianship Authority	on request	on request
ES	Registrar	no	no
FI	Social Authority	no	no
FR	Registrar	on request	on request
GR	Registrar	on request	yes (7)
HU	Registrar	no	no
IE	Registrar	on request	on request
IT	Court	no	no
LT	Social State Authority	no	on request
LU	Registrar, Finder	on request	on request
LV	Municipal Authority	on request	yes
MT	Registrar	yes	yes
NL	Crown	on request	on request
PL	Court	yes	yes
PT	Registrar	no	no
RO	Mayor	X(10)	X(10)
SE	Social Authority	no	no
SI	Guardian with Social Work Centre	on request	on request
SK	Court	no	no
UK_EW	Director of Social Work	on request	on request
UK_SC	Director of Social Work	on request	on request
UK_NI	Director of Social Work	on request	on request
HR	Social Welfare Organisation	on request	yes
TR	General Directorate of Social Services and Child Protection, police forces, hospital staff	no	no
CH	Cantonal Supervisory Board	on request	on request

Name Change (1)**First Name**

	Authority Concerned with Application	Authority Concerned with Decision
AT	Municipal (District) Registry Office	Municipal (District) Registry Office
BE	Ministry of Justice	Ministry of Justice
BG	District Court	District Court
CY	Registry Office for Greeks; Court for Turks	Registry Office for Greeks; Court for Turks
CZ	Registry Office	Registry Office
DE	Special Sub-Unit of the rural district or City Administration	Special Sub-Unit of the rural district or City Administration
DK	Parish of residence or to the County Authority	Parish of residence or to the County Authority
EE	Vital Statics Office	Minister of Regional Affairs
ES	Registrar or the Minister of Justice or the Director General for Registers and Notaries	Registrar or the Minister of Justice or the Director General for Registers and Notaries
FI	Registry Office	County Administrative Board
FR	Family Court	Family Court
GR	Court	Court
HU	Registry Office	Minister of the Interior
IE	General Register Office (2)	General Register Office (2)
IT	Prefect	Prefect
LT	Registry Office	Ministry of Justice
LU	Government	Grand Duke
LV	Registry Office	Civil Registry Department of the Ministry of Justice
MT	Court	Court
NL	Court	Court
PL	County Chief (starosta) or the President of Warsaw	County Chief (starosta) or the President of Warsaw
PT	Registrar of the Central Registries; Registry Offices	Registrar of the Central Registries
RO	Registry Office	Mayor
SE	Tax Authority	Tax Authority
SI	Local Administrative Authorities	Local Administrative Authorities
SK	(District) Registry Office	(District) Registry Office
UK_EW	General Register Office (2)	General Register Office (2)
UK_SC	General Register Office (2)	General Register Office (2)
UK_NI	General Register Office (2)	General Register Office (2)
HR	Administrative Authority	Administrative Authority
TR	Court	Court
CH	Registry Office	Cantonal Supervisory Board

Name Change (1)**Surname****Authority concerned with Application****Authority concerned with Decision**

AT	Municipal (District) Registry Office	Municipal (District) Registry Office
BE	Ministry of Justice	King
BG	District Court	District Court
CY	Registry Office for Greeks; Court for Turks	Registry Office for Greeks; Court for Turks
CZ	Registry Office	Registry Office
DE	Special Sub-Unit of the rural district or City Administration	District Government
DK	Parish of residence or to the County Authority	Parish of residence or to the County Authority
EE	Vital Statics Office	Minister of Regional Affairs
ES	Minister of Justice or to the General Director of Registries and Notaries	Minister of Justice or to the General Director of Registries and Notaries
FI	Registry Office	County Administrative Board
FR	Family Court	Family Court
GR	Prefectural Authority of the Municipality	Prefectural Authority of the Municipality
HU	Registry Office	Minister of the Interior.
IE	General Register Office (2)	General Register Office (2)
IT	Prefect	Prefect
LT	Registry Office	Ministry of Justice
LU	Government	Grand Duke
LV	Registry Office	Civil Registry Department of the Ministry of Justice
MT	Court	Court
NL	Minister of Justice	Minister of Justice
PL	County Chief (starosta) or the President of Warsaw	County Chief (starosta) or the President of Warsaw
PT	Registrar of the Central Registries; Registry Offices	Registrar of the Central Registries
RO	Registry Office	Mayor
SE	Patent and Registration office	Patent and Registration office
SI	Local Administrative Authorities	Local Administrative Authorities
SK	(District) Registry Office	(District) Registry Office
UK_EW	General Register Office (2)	General Register Office (2)
UK_SC	General Register Office (2)	General Register Office (2)
UK_NI	General Register Office (2)	General Register Office (2)
HR	Administrative Authority	Administrative Authority
TR	Court	Court
CH	Registry Office	Cantonal Supervisory Board

Notes to the Table above:

- 1 A change of name upon marriage, divorce, registered partnership, recognition, naturalisation, gender reassignment or adoption is mostly authorised by a registrar or court
- 2 Any person may change the name by usage; changing the name in the birth certificate is possible under regulated circumstances through the relevant authority
- 3 Only length is regulated
- 4 Only length and number of surnames is regulated
- 5 Through precedent cases seven first names are permitted but 13 first names are not allowed
- 6 An exaggerated number may be refused
- 7 If born in wedlock
- 8 A first name, which does not correspond to the gender of the person, is not assigned without a good reason
- 9 Due to the existence of gender neutral names
- 10 not stated
- 11 The law specifically regulates that the surname is **not** regulated

8. Parentage

Parentage may be established by presumptions provided by law, by recognition or acknowledgement or by a decision of a competent authority. Presumption describes situations where legal effects are achieved by simple operation of the law. In all states the mother of a child is presumed to be the woman who bears it. In Italian law this presumption covers not children born to unmarried women. So the birth certificate must bear the mother's name, which is sufficient to establish maternal affiliation in accordance with the maxim *mater semper certa est*. Nevertheless maternity can also be established in 14 countries by recognition or sometimes through court proceedings. A maternity certificate is often not envisaged in legislation. Nevertheless such a document can be issued in 23 countries (mandatory or on request). Moreover, following the model contained in the International Commission on Civil Status Conventions (CIEC), if maternal recognition is necessary to meet the requirements of the law of a non-contracting state the mother may make such a declaration before the competent authority of any of the States parties. States parties to the Convention of 12 September 1962 (on the establishment of maternal descent of natural children) are: Germany, Greece, Luxembourg, Spain, Netherlands, Switzerland and Turkey.

Presumptions regarding the father are generally used in the case of children born within wedlock. Usually, the child conceived before or during the marriage and born during the marriage will be presumed to be the child of the mother's husband. Furthermore, the child conceived during the marriage and born after the end of the marriage will be presumed the child of the former husband. Other presumptions may be provided in the case of a child conceived during a first marriage and born during a second, or for a child conceived before marriage and born after the end of the marriage. In some cases, the law setting such presumptions may provide time limits, according to the period of gestation, within which the conception and birth should occur. Finally, some States may not apply these presumptions if the child is born after the factual or legal separation of the spouses or after the dissolution of the marriage or the divorce. Special rules may also apply to cases of nullity of marriage. Sometimes, presumptions are used in the case of children born out of wedlock. With the necessary adjustments they may apply to those cases where the mother of the child is living or has been living with a man without being married during the period of gestation. It is usually possible to rebut a presumption of parentage before a competent authority. Procedural

limitations in the child's interests may apply. Generally, the competent authority will be a court of law. It could also be an administrative authority.

Recognition describes situations where parentage is established on the basis of a voluntary act of the parent or parents. Such acknowledgement may have different forms, for example expression of will before an administrative authority, in a protocol before a court or administrative authority, by a joint written agreement or by joint registration or certificate. In all surveyed countries except Greece and Sweden paternity can be recognized before a civil status registrar. In some States, the mother and/or the child may be given the possibility to oppose the establishment of parentage by voluntary recognition of the person alleging to be the father. In all countries except Austria, Bulgaria, France, Luxembourg, Portugal and Turkey, the acknowledgement of parentage requires the simultaneous consent of father, mother and child. However, in this latter situation, the consent of the child could be conditional upon her or him reaching a certain age. If an age has not been fixed, a competent authority, depending on the nature of the case, may assess if the child is capable of expressing her or his own views. In most situations, it is possible to contest the recognition before a competent authority. Generally, the competent authority will be a court of law. It could also be an administrative authority.

Determination of parentage by a judicial decision has a subsidiary character; recourse to the courts is available in order to contest parentage established by presumption or by acknowledgement. Usually, it is also possible to request the establishment of parentage by a competent authority, if it is not possible to establish it otherwise. The judicial determination of parentage is usually based on a presumption, oral or documentary evidence, or medical evidence, including blood and genetic (DNA) testing.

The following table provides an overview of the different procedures, by which parentage is established as far as the formal procedures with respect to the registry offices are concerned:

Table 12.: Determination of Parentage

	By Presumption	Maternity		
		By Recognition or Court Proceedings	Registrar competent	By Recognition Certificate issued
AT	exclusive	X	X	on request
BE	yes	yes	yes	yes
BG	yes	yes	yes	yes
CY	exclusive	X	X	on request
CZ	exclusive	X	X	no
DE	exclusive	X	X	on request
DK	exclusive	X	X	on request
EE	exclusive	X	X	no
ES	yes	yes	yes	yes
FI	exclusive	X	X	on request
FR	yes	yes	yes	yes
GR	exclusive	X	X	on request
HU	yes	yes	no	no
IE	exclusive	X	X	no
IT	yes	yes	yes	yes
LT	yes	yes	no	no
LU	yes	yes	X	on request
LV	exclusive	X	X	no
MT	yes	yes	no	no
NL	exclusive	X	X	on request
PL	yes	yes	no	no
PT	yes	yes	yes	yes
RO	yes	yes	yes	yes
SE	exclusive	X	X	on request
SI	exclusive	X	X	on request
SK	yes	yes	no	no
UK_EW	exclusive	X	X	on request
UK_SC	exclusive	X	X	on request
UK_NI	exclusive	X	X	on request
HR	yes	yes	yes	yes
TR	exclusive	X	X	on request
CH	exclusive	X	X	on request

Paternity

	By Presumption	By Recognition		By Court Proceedings
		Registrar Competent	Joint Application or Consent (mother,child) required	
AT	yes	yes	no	yes
BE	yes	yes	yes	yes
BG	yes	yes	no	yes
CY	yes	yes	yes	yes
CZ	yes	yes	yes	yes
DE	yes	yes	yes	yes
DK	yes	yes	yes	yes
EE	yes	yes	yes	yes
ES	yes	yes	yes	yes
FI	yes	yes	yes	yes
FR	yes	yes	no	yes
GR	yes	no	yes	yes
HU	yes	yes	yes	yes
IE	yes	yes	yes	yes
IT	yes	yes	yes	yes
LT	yes	yes	yes	yes
LU	yes	yes	no	yes
LV	yes	yes	yes	yes
MT	yes	yes	yes	yes
NL	yes	yes	yes	yes
PL	yes	yes	yes	yes
PT	yes	yes	no	yes
RO	yes	yes	yes	yes
SE	yes	no	yes	yes
SI	yes	yes	yes	yes
SK	yes	yes	yes	yes
UK_EW	yes	yes	yes	yes
UK_SC	yes	yes	yes	yes
UK_NI	yes	yes	yes	yes
HR	yes	yes	yes	yes
TR	yes	yes	no	yes
CH	yes	yes	yes	yes

9. Marriage

Through the institution of civil marriage all countries in Europe recognise regulate different-sex couples. As a legal institution marriage can be characterised as a form of partnership between two persons that is created by a formal act of registration, and that results in a number of legal consequences. Since the 1970s a growing number of European countries have made a growing number of these legal consequences available to unmarried partners in informal cohabitation. This legal recognition of informal cohabitation has sometimes been restricted to different-sex couples, while sometimes same-sex couples have been included. Since 1989 several European countries have introduced registered partnership, a legal institution that is more or less analogous to marriage, resulting in some or almost all of the legal consequences of marriage. In some countries registered partnership has only been made available to same-sex couples, while others made it also available to different-sex couples. And since 2001 a few European countries have opened up civil marriage to same-sex partners. This study looks at civil marriage as a legal institution. This focus on the legal character of marriage means that other aspects (such as the social, the psychological, the religious, the economic) are left aside. As a legal institution marriage can be characterised as an act, ceremony or process by which the legal relationship between two persons is constituted. The legality of the union may be established by civil or religious means are recognized by the laws of each country. The law sets conditions that must be met by the two persons who want to marry, gives rules for the procedures that need to be followed for starting or ending a marriage, and provides which legal consequences result from a marriage. Article 12 of the ECHR, adopted in 1950 provides a right for men and women of marriageable age to marry and establish a family. The right to register a marriage was not included as such in the International Human Rights Covenants. However, it is implicitly recognized as essential for several of the rights embodied in those covenants. The registration of marriages first came to be legally binding on the States with the approval in 1964 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, article 3 of which states that all marriages shall be officially registered by the competent authority. The United Nations General Assembly had earlier approved for resolutions recommending the official registration of marriages. The first was resolution 843 (IX) of 1954, entitled "States of women in private law: customs, ancient laws and practices affecting the human dignity of women, which urged all States to take all appropriate measures in the countries and territories under their jurisdiction with a view to abolishing such customs, ancient laws and practices ; and establishing a civil or other register in which all marriages and divorces will be recorded. The more recent declarations of the United Nations General Assembly on the subject of the registration of marriages are the Declaration on the Elimination of Discrimination against Woman of 1967, Article 6.3 of which states that effective action, including legislation, shall be taken to specify a minimum age for marriage and to make registration of marriages in an official registry compulsory. This wording is echoed in Article 16.2. of the Convention on the Elimination of All Forms of Discrimination against Women. Through copies or certificates the civil registration service issues proofs of the marriage and its particulars, which will provide the spouses thereafter with the means to safeguard several of their human rights.

In all 32 European countries considered, common-law marriages are not licensed by government authorities and are not recorded in the civil status records, with Scotland being the last to abolish them in 2006. The practice persevered in Scotland because the Acts of Union 1707 provided it retained its own legal system separately from the rest of the UK. The Netherlands, Belgium and Spain are the only countries in which same-sex couples can get married officially. Such marriages are conducted and registered by the local civil status registrar in the Netherlands and Belgium. In Spain a judge, mayor or civil servant performs the marriage and the registration is accomplished by the judge of first instance or justice of the peace.

In all the 32 European countries considered, contracting a civil marriage is possible. However, the relation between a civil marriage and a religious marriage is not the same in all countries. In 20 countries (Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Slovak Republic, Spain, Sweden and United Kingdom) a religious marriage has consequences for the civil marriage in the sense that a religious marriage is recognised by the state as equivalent to a civil marriage. France states that a religious marriage has no consequences for marital status, unless that religious marriage has been contracted abroad.

The legally recognized marriage is conducted in most countries by a registrar but the function can also be performed by the mayor, a judge, a judge of peace, clergy, ship captains, military commanders or other civil servants or municipal officials. As regards capacity to marry, a person may not contract marriage before the age of 18 in most countries. In Portugal and the United Kingdom the marriageable age is 16 and in Luxembourg and Romania it is 18 for males and 16 for females. Exceptions from the age requirement can be granted in all countries except Portugal, the United Kingdom and Switzerland. Banns or notice of marriage need to be published in France, Greece, Italy, Lithuania, Luxembourg, Latvia, Malta and Romania. In Spain publications are only obligatory when the interested parties were domiciled for two years in cities of more than 25 000 inhabitants. A waiting period after the application is not necessary in Austria, the Czech Republic, Germany, Portugal, Slovakia and Sweden. In the other countries the period varies between 7 days up to one month. A medical certificate forms part of the documents to be submitted with the application for marriage in Bulgaria, Luxembourg, Romania and Turkey. The marriage by proxy is possible in the Czech Republic, Spain, Greece, Malta, Poland, Portugal, Slovakia and Slovenia. Witnesses are mandatory in all countries except Germany, Estonia and Luxembourg.

The following table provides an overview of the formal structure of marriage ceremonies:

Table 13.: General Marriage Table

	Personal Requirements		Religious Marriage with Civil Effects	Person conducting legally recognized Marriage
	Age male / female	Exceptions from the Age Requirement Possible		
AT	18	yes	no	registrar
BE	18	yes	no	registrar
BG	18	yes	no	registrar, ship captain
CY	18	yes	yes	mayor or a member of a municipal council appointed by the mayor as marriage officers; officer of immigration; clergy
CZ	18	yes	yes	registrar, mayor, deputy mayor, authorized member of the municipal board of the registry office, ship captain, military commander, clergy
DE	18	yes	no	registrar
DK	18	yes	yes	mayor or a civil servant; clergy
EE	18	yes	yes	civil servant; clergy
ES	16	yes	yes	judge, mayor or civil servant from the Ministry of Justice; clergy
FI	18	yes	yes	chief judge of a district court; district judge; district registrar; clergy
FR	18	yes	no	registrar
GR	18	yes	yes	mayor; clergy
HU	18	yes	no	registrar
IE	18	yes	yes	registrar; clergy
IT	18	yes	yes	registrar; clergy
LT	18	yes	yes	registrar; clergy
LU	18 / 16	yes	no	mayor or his delegate
LV	18	yes	yes	registrar; clergy
MT	18	yes	yes	marriage registrar; clergy
NL	18	yes	no	registrar
PL	18	yes	yes	registrar; clergy
PT	16	no	yes	registrar; clergy
RO	18 / 16	yes	no	registrar; ship captain
SE	18	yes	yes	district court judge; any individual who has received special authorisation from the county administration; clergy
SI	18	yes	no	head of the administrative authority (e.g. mayor)
SK	18	yes	yes	mayor; clergy
UK_EW	16	no	yes	registrar; clergy
UK_SC	16	no	yes	marriage registrar; clergy
UK_NI	16	no	yes	marriage registrar; clergy
HR	18	yes	yes	registrar; clergy
TR	18	yes	no	registrar; marriage officer (e.g. mayor); civil servants of the General Directorate of Population and Citizenship
CH	18	no	no	registrar

Civil Marriage

	Preliminary Procedure			Ceremony	
	Banns to be Published	Waiting Period after Application	Medical Certificate to be Presented	By proxy Possible	Witnesses
AT	no	no	no	no	yes
BE	no	14 days	no	no (4)	yes
BG	no	30 days	yes	no	yes
CY	no	15 days	no	not stated	yes
CZ	no	no	no (1)	yes	yes
DE	no	no	no (2)	no	no
DK	no	no	no	no	yes
EE	no	one month	no	no	no
ES	no (6)	no (6)	no	yes	yes
FI	no	7 days	no	no	yes
FR	yes	10 days	no	no	yes
GR	yes	7 days	no	yes	yes
HU	no	30 days	no	no	yes
IE	no	three month	no	no	yes
IT	yes	12 days	no	no (3)	yes
LT	yes	one month	no	no	yes
LU	yes	10 days	yes	no	no
LV	yes	one month	no	no	yes
MT	yes	14 days	no	yes	yes
NL	no	two weeks	no	no (5)	yes
PL	no	one month	no	yes	yes
PT	no	no	no	yes	yes(9)
RO	yes	10 days	yes	no	yes
SE	no	no	no	no	yes
SI	no	14 days/no(8)	no (2)	yes	yes
SK	no	no (10)	no	yes	yes
UK_EW	no (7)	15 days	no	no	yes
UK_SC	no (7)	15 days	no	no	yes
UK_NI		14 days	no	no	yes
HR	no	30 to 45 days	no	no	yes
TR	no	24 hours	yes	no	yes
CH	no	10 days	no	no	yes

Notes to the table above:

- 1 future spouses must declare that they are aware of the partner's health condition
- 2 if the state/country of residence requires a medical certificate, the applicants may need to provide one
- 3 marriage by proxy is allowed when one of the husbands resides abroad and there are serious reasons, e.g. soldiers in wartime
- 4 marriage by proxy is allowed in wartime only
- 5 Minister of Justice can, for serious reasons, grant the permission to marry by proxy
- 6 publications and a waiting period of 15 days are only obligatory when interested parties were domiciled for two years in cities of more than 25 000 inhabitants
- 7 marriage notice book is open for inspection free of charge at all reasonable hours
- 8 exception - where future spouses present all necessary documentation
- 9 the presence of witnesses is not mandatory if the registrar personally knows the spouses or they present identification documents
- 10 14 days for foreigners only

Unlike births and deaths marriages are contracted between two persons who do not necessarily belong to the same population. Moreover, marriages may be contracted outside the territory of the home country. The following cases should be taken into account: The marriage is conducted in the country where one spouse is resident, but the other spouse is from a different country; marriage is conducted between spouses belonging to the same population outside the country for example on vacation; marriage is conducted between spouses from two different countries in a third country.

Most countries require the marriage occurred abroad to be declared to consular offices of the country abroad. The marriage is registered on the basis of the foreign marriage certificate or on a special declaration based on the foreign marriage certificate. However, there are some countries, which do not or only on request register marriage contracted abroad. The marriage conducted abroad may be registered in the registry office of the (last) residence, of the place of birth, in the population or central register, or in an additional national civil status register or central file, which assumes supra-regional tasks.

All of the surveyed countries except Belgium, Croatia, Cyprus, Denmark, France, Ireland, the Netherlands, Slovenia, Spain and Switzerland have a *legal* obligation for foreigners to produce a certificate of no impediment of the country of origin if they intend to marry in their country. However, in practice the presentation of such a certificate is considered "useful" in Belgium and Denmark and in the Netherlands and Croatia foreign nationals need to present a certificate of no impediment to marriage in nearly every registry office. In France, foreigners must produce a certificate of no impediment in case the foreign marriage law is deemed more liberal than the French law and should apply to the marriage.

The following table provides an overview:

Table 14.: Certificate of no impediment

	Legal Obligation	Issuance possible	Issuing Authority	State Fee	Consular Fee
AT	X (1)	X	Registry Office	20,80 €	- €
BE	0 (2)	0	none	- €	- €
BG	X (9)	X	District Court	0,51 €	- €
CY	0	0	none	- €	- €
CZ	X (3)	X	Registry Office	17,70 €	- €
DE	X (1)	X	Registry Office	33,00/55,00 (15)	- €
DK	0 (2)	X	Mayor	free/67,03 € (4)	- €
EE	X	X	Registry Office	1,60 €	- €
ES	0	X	Registry Office and Embassy/Consulate	free	free
FI	X	X	Registry Office or Clergy	free	- €
FR	0 (5)	X	Embassy/Consulate	- €	free
GR	X (19)	X	Mayor	free	- €
HU	X (6)	X	County Administrative Office and Embassy/Consulate	8,46 €	35,00 €
IE	0	X	Department of Foreign Affairs and Embassy/Consulate	20,00 €	20,00 €
IT	X (9)	X	Registry Office and Embassy/Consulate	free	8,27 €
LT	X	X	Registry Office	4,30 €	- €
LU	X (7)	X	Registry Office	free	- €
LV	X	X	Registry Office and Embassy/Consulate	4,27 €	10,00 €
MT	X (14)	X	Public Registry Office	4,66 €	- €
NL	0 (8)	X	Registry Office and Embassy/Consulate	19,60 €	30,00 €
PL	X (9)	X	Registry Office and Embassy/Consulate	11,82 €	126,00 €
PT	X (10)	X	Registry Office and Embassy/Consulate	16,50 €	16,50 €
RO	X (17)	0	none	- €	- €
SE	X (11)	X	Tax Office, Ministry of Foreign, Affairs Embassy/Consulate	free	23,00 €
SI	0	0	none	- €	- €
SK	X (18)	0	none	- €	- €
UK_EW	X (12)	X	Registry Office and Embassy/Consulate	38,08 €	78,00 €
UK_NI	X (12)	X	Registry Office and Embassy/Consulate	19,04 €	78,00 €
UK_SC	X (12)	X	Registry Office and Embassy/Consulate	10,79 €	78,00 €
HR	0 (8)	X (13)	Registry Office	2,75 €	- €
TR	X (16)	X	Registry Office and Embassy/Consulate	free	13,00 €
CH	0	X	Registry Office	15,14 €	- €
Average				10,87 €	35,98 €

Notes (to the Table):

1. In the absence of such a document, the capacity to marry is verified by forwarding the documents for approval of the marriage to the appropriate Superior Court
2. In practice, presentation of a certificate of no impediment is considered as "useful"
3. If the certificate may not be obtained without serious difficulties, the registry office may grant permission for it to be substituted by an affidavit or may waive the presentation
4. The certificate is issued free of charge if at least one of the prospective spouses is a resident of Denmark. Otherwise the cost is 500 DEK (67,03 €)
5. Only when the foreign marriage law is deemed more liberal than the French law and should apply to the marriage, foreigners must produce a certificate of no impediment
6. When such a certificate cannot be produced, an application may be made for exemption to the County Administrative Office
7. Only if it is envisaged in a bilateral agreement
8. In practice foreign nationals need to present a certificate of no impediment to marriage in nearly every registry office
9. If a foreigner is not able to obtain such a certificate of no impediment, a court may exempt a foreigner from this requirement
10. May be substituted by a declaration of no impediment if there is no diplomatic or consular representation of the country of that nationality or any other unforeseeable circumstances
11. If such a certificate is not available in the country of origin, the Swedish official will customarily accept an affidavit
12. Only for foreigners having lived in the U.K. for less than 2 years, the registry office may grant permission for it to be substituted by an affidavit
13. The situation in respect of the issued statement of no impediment is unclear
14. In practice a declaration(s) on oath stating that to the best of his/her knowledge and belief there is no legal impediment to the marriage is sufficient
15. The cost of 55.00 € is charged if foreign law must be considered
16. When a certificate cannot be produced it can be issued by the Foreigners Police Office
17. If such a certificate is not available in the country of origin, the Romanian official will accept a notarized affidavit
18. When a certificate cannot be produced, a confirmation of the country of origin stating that that country does not issue any certificate of no impediment is sufficient.
19. May be substituted by a confirmation of no impediment, issued in the form of an affidavit of marriage signed under oath before a consular officer

Where a legal obligation to produce a certificate of no impediment exists, some national particularities must be taken into account. In Austria and Germany the capacity to marry is in the absence of such a certificate verified by forwarding the documents for approval of the marriage to the appropriate Superior Court, which is a time consuming and expensive procedure. In Hungary, Bulgaria and Poland an application may be made for exemption to the Hungarian County Administrative Office or a Polish or Bulgarian Court. In the Czech Republic, if the certificate may not be obtained without serious difficulties, the registry office may admit that it can be substituted by an affidavit or may waive the presentation. In Malta, a declaration(s) on oath stating that to the best of his/her knowledge and belief there is no legal impediment to the marriage is in practice sufficient. In Portugal the certificate may be substituted by a declaration of no impediment if there is no diplomatic or consular representation of the country of that nationality or any other unforeseeable circumstances. In Sweden, Romania and the United Kingdom an official will customarily accept an affidavit. In Slovakia a confirmation issued by the competent authority of the respective country stating that that country does not issue any certificate of no impediment is sufficient. In Greece and Italy a confirmation of no impediment issued by the national's consulate is

sufficient. In the absence of such a certificate or declaration a court may exempt a foreigner in Italy from this requirement. In Turkey when such a certificate cannot be produced it can be issued by the Foreigners Police Office. In Luxembourg a certificate of no impediment must be produced only if it is envisaged in a bilateral agreement and in the United Kingdom a obligation only exists for foreigners having lived in the U.K. for less than 2 years.

Accordingly in the absence of a certificate of no impediment it is not possible to marry in Estonia, Finland, Lithuania and Latvia.

The issuance of a certificate of no impediment is possible in all surveyed countries except Belgium, Cyprus, Romania, Slovenia and Slovakia. Again some national particularities must be taken into account. In Croatia certificates of no impediment are issued by some registry offices but not by others, and these are accepted by some Member States, and not by others and in Germany, Croatian certificates of no impediment, if issued, are accepted by some registrars and not by others. In some surveyed countries, the certificate issued by a French, Latvian, Swedish or Polish diplomatic or consular institution, rather than by the civil status registration office, is not treated as a valid certificate of no impediment.

While in Austria, Germany, Hungary, Italy, Lithuania, Luxembourg, the Netherlands, Portugal, Spain, Switzerland and Turkey the certificate of no impediment is valid for 6 months, in Denmark, Finland, Hungary and Sweden it is valid only for 4 months. The certificate of no impediment, which is obtained in England, has no validity restriction unlike that issued by a register office in Scotland which must be used within 3 months of its date of issue.

Costs of certificates of no impediment vary significantly as well. In some member states, such certificates are issued free of charge or for a fee of less than € 5,00, in some others fees can be as high as € 126,00, with differences made between the residence or nationality of the parties and the issuing authority. Average state fees are at around € 10,87 and the average consular fees are at around € 35,98.

In practice, the complications involving the certificate of no impediment are much more severe. In order to obtain such certificate, many Member States require the presentation of a birth certificate of each future spouse. In some Member States, the birth certificate must be applied for in person. Then the birth certificates may require an Apostille (to be applied for in person in some Member States). Thereafter, application (possibly in person) must be made to the Member State of origin of the respective spouse, thereafter an Apostille is to be obtained and all the documents need to be presented to the registrar at the place of marriage. Not all Member States issue certificates which are accepted in all other Member States. If this occurs, in some Member States, marriage is not possible at all, without such a certificate. In others, lack of such certificate requires a waiver by a court and a court proceeding for which court fees may apply, lawyer fees may have to be expended and these court proceedings usually take three to six months.

For the following table and calculation a fairly simplified but common scenario was selected. It is assumed that a heterosexual couple wishes to marry in a Member State. Both future spouses are residents of that Member State where the marriage is to be concluded. One future spouse is a national of that Member State and was born at the place where the marriage is to be performed. The other spouse is a foreign national from another Member State (likely a migrant worker) who was born in the Member State whose nationality he or she has. None of the spouses has been married before and no additional complications were considered.

Certain standard rates were applied: Translation were calculated at a standard average rate of € 30,00 for each document that needs translation and one day for the translation. Postage fees were calculated at an average of € 2,00 for each way (taking into account transmissions with and without registered mail), and each way was considered to take 4 days. Whenever certificates could be

applied for at the same time (rather than consecutively), or while waiting for another process or document, this was taken into account. For the marriage ceremony, the fees for the application, and for the marriage certificate were included. When a document requires personal application in another Member State, it was assumed that one could reach almost every other Member State in Europe at travel expenses of an average of € 500,00 and within 5 days, go and return. Travels to the nearest Embassy or Consulate, where required, were calculated at an average of € 50,00 and one day. Travel costs of € 500,00 were also established for cases in which a marriage would not be possible in that Member State to travel to another.

For the calculation, the Member States were "mirrored". In order not to distort the costs and duration, the prices and the duration, and the complications were considered on the basis of the Member State itself, in other words, each Member State was (in part) treated as being *foreign* to itself.

Finally, in order to calculate the average amounts for costs and duration, the minimum amount was multiplied by the number of other States with which that particular Member State has the same language (so that no translation is required), has treaties for multilingual documents, treaties for the abolition of legalisation or similar practices that reduces cost and duration. The maximum amount was multiplied by the number of Member States for which that particular Member State would not have any such treaty or arrangement, and then the sum was divided by 29.

Based on this scenario and assumptions, the following table shows the cost and duration involved in such a cross-border marriage. Cost are stated in €, and the duration in days.

Table 15.: Cross border marriage cost and duration

Place of marriage		Birth Certificates		C./no impediment		Consular Fee		Other Certificates	
		Min	Max	Min	Max	n.A.	Max	Min	Max
AT	Cost:	26,10	26,10	20,80	20,80	0,00		0,00	0,00
	Duration:	0,00	12,00	0,00	0,00	0,00		0,00	0,00
BE	Cost:	10,00	12,00	0,00	0,00	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
BG	Cost:	1,50	1,50	0,50	0,50	0,00		50,50	50,50
	Duration:	0,00	0,00	0,00	0,00	0,00		7,00	7,00
CY	Cost:	4,00	4,00	0,00	0,00	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
CZ	Cost:	8,00	12,00	0,00	17,70	0,00		0,00	0,00
	Duration:	0,00	13,00	0,00	0,00	0,00		0,00	0,00
DE	Cost:	21,00	21,00	55,00	55,00	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
DK	Cost:	0,00	0,00	0,00	67,03	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
EE	Cost:	0,00	0,00	1,60	1,60	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
ES	Cost:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
FI	Cost:	0,00	6,80	0,00	0,00	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
FR	Cost:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
	Duration:	0,00	10,00	0,00	0,00	0,00		0,00	0,00
GR	Cost:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
	Duration:	0,00	12,00	0,00	30,00	0,00		0,00	0,00
HU	Cost:	24,40	24,40	8,46	8,46	0,00	35,00	0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00	42,00	0,00	0,00
IE	Cost:	20,00	20,00	0,00	20,00	0,00		0,00	0,00
	Duration:	0,00	10,00	0,00	0,00	0,00		0,00	0,00
IT	Cost:	0,00	0,00	0,00	0,00	0,00	8,30	50,00	50,00
	Duration:	42,00	42,00	0,00	0,00	0,00	42,00	1,00	1,00
LT	Cost:	3,40	3,40	4,30	4,30	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
LU	Cost:	4,00	9,00	0,00	0,00	0,00		50,00	50,00
	Duration:	0,00	5,00	0,00	0,00	0,00		7,00	7,00
LV	Cost:	8,50	8,50	4,27	4,27	0,00	10,00	0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00	42,00	0,00	0,00
MT	Cost:	4,60	30,00	0,00	4,70	0,00		0,00	0,00
	Duration:	0,00	6,00	0,00	0,00	0,00		0,00	0,00
NL	Cost:	21,20	31,80	0,00	19,60	0,00	30,00	0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00	42,00	0,00	0,00
PL	Cost:	29,00	65,30	11,82	11,82	0,00	126,00	0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00	42,00	0,00	0,00
PT	Cost:	49,50	49,50	16,50	16,50	0,00	16,50	0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00	42,00	0,00	0,00
RO	Cost:	0,00	0,00	0,00	55,00	0,00		50,00	50,00
	Duration:	0,00	0,00	0,00	0,00	0,00		7,00	7,00
SE	Cost:	0,00	0,00	0,00	0,00	0,00	23,00	0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00	42,00	0,00	0,00
SI	Cost:	1,10	1,10	0,00	0,00	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
SK	Cost:	4,80	4,80	0,00	55,00	0,00		0,00	0,00
	Duration:	0,00	0,00	0,00	0,00	0,00		0,00	0,00
UK_EW	Cost:	10,30	39,60	38,00	38,00	0,00	78,00	0,00	0,00
	Duration:	0,00	0,00	22,00	22,00	0,00	63,00	0,00	0,00
UK_SC	Cost:	34,26	86,70	10,79	10,79	0,00	78,00	0,00	0,00
	Duration:	0,00	0,00	21,00	21,00	0,00	63,00	0,00	0,00
UK_NI	Cost:	31,80	41,46	19,00	19,00	0,00	78,00	0,00	0,00
	Duration:	0,00	0,00	22,00	22,00	0,00	63,00	0,00	0,00
HR	Cost:	5,50	6,02	0,00	2,75	0,00		0,00	0,00
	Duration:	0,00	12,00	0,00	0,00	0,00		0,00	0,00
TR	Cost:	0,00	0,00	0,00	0,00	0,00	13,00	50,00	50,00
	Duration:	0,00	21,00	0,00	0,00	0,00	42,00	7,00	7,00
CH	Cost:	23,40	23,40	0,00	15,10	0,00		0,00	0,00
	Duration:	0,00	10,00	0,00	0,00	0,00		0,00	0,00

Place of marriage		Translations		Apostilles		Transmission (Post)	
		Min	Max	Min	Max	Min	Max
AT	Cost:	0,00	120,00	0,00	65,60	18,00	28,00
	Duration:	0,00	4,00	0,00	0,00	37,00	56,00
BE	Cost:	0,00	60,00	0,00	20,00	8,00	12,00
	Duration:	0,00	2,00	0,00	20,00	16,00	24,00
BG	Cost:	120,00	120,00	0,00	16,00	18,00	28,00
	Duration:	4,00	4,00	0,00	12,00	37,00	56,00
CY	Cost:	0,00	60,00	0,00	3,40	5,00	8,00
	Duration:	0,00	2,00	0,00	0,00	10,00	16,00
CZ	Cost:	0,00	120,00	0,00	16,88	18,00	28,00
	Duration:	0,00	4,00	0,00	0,00	37,00	56,00
DE	Cost:	0,00	120,00	0,00	80,00	18,00	28,00
	Duration:	0,00	4,00	0,00	98,00	37,00	56,00
DK	Cost:	0,00	60,00	0,00	44,00	0,00	12,00
	Duration:	0,00	2,00	0,00	8,00	0,00	24,00
EE	Cost:	120,00	120,00	0,00	58,80	0,00	28,00
	Duration:	4,00	4,00	0,00	40,00	0,00	56,00
ES	Cost:	0,00	120,00	0,00	0,00	18,00	28,00
	Duration:	0,00	4,00	0,00	12,00	37,00	56,00
FI	Cost:	0,00	120,00	0,00	36,00	0,00	28,00
	Duration:	0,00	4,00	0,00	0,00	0,00	56,00
FR	Cost:	0,00	60,00	0,00	0,00	9,00	14,00
	Duration:	0,00	2,00	0,00	365,00	18,00	28,00
GR	Cost:	0,00	120,00	0,00	0,00	18,00	28,00
	Duration:	0,00	4,00	0,00	0,00	37,00	56,00
HU	Cost:	0,00	120,00	0,00	94,96	18,00	28,00
	Duration:	0,00	4,00	0,00	4,00	37,00	56,00
IE	Cost:	0,00	60,00	0,00	40,00	5,00	8,00
	Duration:	0,00	2,00	0,00	2,00	10,00	16,00
IT	Cost:	0,00	120,00	0,00	0,00	18,00	28,00
	Duration:	0,00	4,00	0,00	4,00	37,00	56,00
LT	Cost:	120,00	120,00	0,00	80,00	18,00	28,00
	Duration:	4,00	4,00	0,00	4,00	37,00	56,00
LU	Cost:	0,00	120,00	0,00	4,00	18,00	28,00
	Duration:	0,00	4,00	0,00	16,00	37,00	56,00
LV	Cost:	120,00	120,00	0,00	28,40	18,00	28,00
	Duration:	4,00	4,00	0,00	40,00	37,00	56,00
MT	Cost:	0,00	120,00	0,00	48,00	18,00	28,00
	Duration:	0,00	4,00	0,00	0,00	37,00	56,00
NL	Cost:	0,00	120,00	0,00	64,00	18,00	28,00
	Duration:	0,00	4,00	0,00	168,00	37,00	56,00
PL	Cost:	0,00	120,00	0,00	74,90	18,00	28,00
	Duration:	0,00	4,00	0,00	36,00	37,00	56,00
PT	Cost:	0,00	120,00	0,00	0,00	18,00	28,00
	Duration:	0,00	4,00	0,00	8,00	37,00	56,00
RO	Cost:	120,00	120,00	0,00	28,20	18,00	28,00
	Duration:	4,00	4,00	0,00	8,00	37,00	56,00
SE	Cost:	0,00	120,00	0,00	105,80	18,00	28,00
	Duration:	0,00	4,00	0,00	4,00	37,00	56,00
SI	Cost:	0,00	60,00	0,00	9,50	8,00	12,00
	Duration:	0,00	2,00	0,00	4,00	16,00	24,00
SK	Cost:	0,00	120,00	0,00	26,30	18,00	28,00
	Duration:	0,00	4,00	0,00	40,00	37,00	56,00
UK_EW	Cost:	0,00	120,00	0,00	136,30	18,00	28,00
	Duration:	0,00	4,00	0,00	90,00	37,00	56,00
UK_SC	Cost:	0,00	120,00	0,00	136,30	18,00	28,00
	Duration:	0,00	4,00	0,00	90,00	37,00	56,00
UK_NI	Cost:	0,00	120,00	0,00	136,30	18,00	28,00
	Duration:	0,00	4,00	0,00	90,00	37,00	56,00
HR	Cost:	0,00	120,00	0,00	16,60	18,00	28,00
	Duration:	0,00	4,00	0,00	8,00	37,00	56,00
TR	Cost:	0,00	120,00	0,00	0,00	18,00	28,00
	Duration:	0,00	4,00	0,00	4,00	37,00	56,00
CH	Cost:	0,00	60,00	0,00	36,80	14,00	21,00
	Duration:	0,00	2,00	0,00	8,00	28,00	42,00

Place of marriage		Waiting and Ceremony		Waiver of C/n.i.		Travel	
		Min	Max	Min	Max	Min	Max
AT	Cost:	25,30	25,30	0,00	250,00	0,00	0,00
	Duration:	0,00	21,00	0,00	90,00	0,00	0,00
BE	Cost:	20,00	20,00	0,00	0,00	0,00	500,00
	Duration:	14,00	21,00	0,00	0,00	0,00	5,00
BG	Cost:	0,50	0,50	0,00	300,00	0,00	500,00
	Duration:	30,00	30,00	0,00	90,00	0,00	5,00
CY	Cost:	128,00	128,00	0,00	0,00	0,00	500,00
	Duration:	15,00	21,00	0,00	0,00	0,00	5,00
CZ	Cost:	0,00	0,00	0,00	0,00	0,00	0,00
	Duration:	0,00	21,00	0,00	0,00	0,00	0,00
DE	Cost:	70,00	75,00	0,00	300,00	0,00	0,00
	Duration:	0,00	21,00	0,00	90,00	0,00	0,00
DK	Cost:	0,00	0,00	0,00	0,00	0,00	0,00
	Duration:	0,00	21,00	0,00	0,00	0,00	0,00
EE	Cost:	32,00	58,00	0,00	0,00	0,00	50,00
	Duration:	30,00	30,00	0,00	0,00	0,00	1,00
ES	Cost:	0,00	0,00	0,00	0,00	0,00	0,00
	Duration:	0,00	21,00	0,00	0,00	0,00	0,00
FI	Cost:	0,00	0,00	0,00	0,00	0,00	500,00
	Duration:	7,00	21,00	0,00	0,00	0,00	5,00
FR	Cost:	0,00	0,00	0,00	0,00	0,00	0,00
	Duration:	10,00	21,00	0,00	0,00	0,00	0,00
GR	Cost:	14,67	14,67	0,00	0,00	0,00	0,00
	Duration:	7,00	42,00	0,00	0,00	0,00	0,00
HU	Cost:	0,00	0,00	0,00	19,90	0,00	500,00
	Duration:	30,00	30,00	0,00	14,00	0,00	5,00
IE	Cost:	150,00	150,00	0,00	0,00	0,00	0,00
	Duration:	90,00	90,00	0,00	0,00	0,00	0,00
IT	Cost:	22,40	22,40	0,00	35,00	50,00	50,00
	Duration:	12,00	21,00	0,00	150,00	1,00	1,00
LT	Cost:	10,80	10,80	0,00	0,00	0,00	500,00
	Duration:	30,00	30,00	0,00	0,00	0,00	5,00
LU	Cost:	0,00	0,00	0,00	0,00	0,00	0,00
	Duration:	10,00	21,00	0,00	0,00	0,00	0,00
LV	Cost:	7,12	7,12	0,00	0,00	0,00	500,00
	Duration:	30,00	30,00	0,00	0,00	0,00	5,00
MT	Cost:	69,90	69,90	0,00	0,00	0,00	0,00
	Duration:	14,00	21,00	0,00	0,00	0,00	0,00
NL	Cost:	0,00	0,00	0,00	0,00	0,00	0,00
	Duration:	14,00	21,00	0,00	0,00	0,00	0,00
PL	Cost:	49,36	49,36	0,00	300,00	0,00	0,00
	Duration:	30,00	30,00	0,00	90,00	0,00	0,00
PT	Cost:	116,50	116,50	0,00	0,00	0,00	0,00
	Duration:	0,00	21,00	0,00	0,00	0,00	0,00
RO	Cost:	0,00	0,00	0,00	0,00	0,00	500,00
	Duration:	10,00	21,00	0,00	0,00	0,00	5,00
SE	Cost:	0,00	0,00	0,00	0,00	0,00	0,00
	Duration:	0,00	21,00	0,00	0,00	0,00	0,00
SI	Cost:	31,90	31,90	0,00	0,00	0,00	0,00
	Duration:	0,00	21,00	0,00	0,00	0,00	0,00
SK	Cost:	66,00	66,00	0,00	0,00	0,00	500,00
	Duration:	14,00	21,00	0,00	0,00	0,00	5,00
UK_EW	Cost:	99,50	99,50	0,00	0,00	0,00	0,00
	Duration:	22,00	22,00	0,00	0,00	0,00	0,00
UK_SC	Cost:	102,76	102,76	0,00	0,00	0,00	0,00
	Duration:	21,00	21,00	0,00	0,00	0,00	0,00
UK_NI	Cost:	65,42	65,42	0,00	0,00	0,00	0,00
	Duration:	22,00	22,00	0,00	0,00	0,00	0,00
HR	Cost:	44,34	44,34	0,00	0,00	0,00	0,00
	Duration:	30,00	45,00	0,00	0,00	0,00	0,00
TR	Cost:	16,30	16,30	0,00	0,00	0,00	0,00
	Duration:	1,00	21,00	0,00	0,00	0,00	0,00
CH	Cost:	81,70	81,70	0,00	0,00	0,00	0,00
	Duration:	10,00	21,00	0,00	0,00	0,00	0,00

Place of marriage		Total		Treaties & waivers		Weighed Average	Weighed Average	
		Min	Max	Yes	No		Cost	Duration
AT	Cost:	90,20	535,80	21,00	8,00	213,12	213,12	
	Duration:	37,00	183,00	21,00	8,00	77,28		77
BE	Cost:	38,00	624,00	19,00	10,00	240,07	240,07	
	Duration:	30,00	72,00	19,00	10,00	44,48		44
BG	Cost:	191,00	1.017,00	6,00	23,00	846,10	846,10	
	Duration:	78,00	204,00	6,00	23,00	177,93		178
CY	Cost:	137,00	703,40	6,00	23,00	586,21	586,21	
	Duration:	25,00	44,00	6,00	23,00	40,07		40
CZ	Cost:	26,00	194,58	12,00	17,00	124,82	124,82	
	Duration:	37,00	94,00	12,00	17,00	70,41		70
DE	Cost:	164,00	679,00	16,00	13,00	394,86	394,86	
	Duration:	37,00	269,00	16,00	13,00	141,00		141
DK	Cost:	0,00	183,03	10,00	19,00	119,92	119,92	
	Duration:	0,00	55,00	10,00	19,00	36,03		36
EE	Cost:	153,60	316,40	3,00	26,00	299,56	299,56	
	Duration:	34,00	131,00	3,00	26,00	120,97		121
ES	Cost:	18,00	148,00	14,00	15,00	85,24	85,24	
	Duration:	37,00	93,00	14,00	15,00	65,97		66
FI	Cost:	0,00	690,80	5,00	24,00	571,70	571,70	
	Duration:	7,00	86,00	5,00	24,00	72,38		72
FR	Cost:	9,00	74,00	18,00	11,00	33,66	33,66	
	Duration:	28,00	426,00	18,00	11,00	178,97		179
GR	Cost:	32,67	162,67	6,00	23,00	135,77	135,77	
	Duration:	44,00	144,00	6,00	23,00	123,31		123
HU	Cost:	50,86	795,72	14,00	15,00	436,13	436,13	
	Duration:	67,00	113,00	14,00	15,00	90,79		91
IE	Cost:	175,00	278,00	8,00	21,00	249,59	249,59	
	Duration:	100,00	120,00	8,00	21,00	114,48		114
IT	Cost:	140,40	305,40	19,00	10,00	197,30	197,30	
	Duration:	93,00	279,00	19,00	10,00	157,14		157
LT	Cost:	156,50	746,50	3,00	26,00	685,47	685,47	
	Duration:	71,00	99,00	3,00	26,00	96,10		96
LU	Cost:	72,00	211,00	13,00	16,00	148,69	148,69	
	Duration:	54,00	109,00	13,00	16,00	84,34		84
LV	Cost:	157,89	696,29	8,00	21,00	547,77	547,77	
	Duration:	71,00	135,00	8,00	21,00	117,34		117
MT	Cost:	92,50	300,60	4,00	25,00	271,90	271,90	
	Duration:	51,00	87,00	4,00	25,00	82,03		82
NL	Cost:	39,20	263,40	13,00	16,00	162,90	162,90	
	Duration:	51,00	249,00	13,00	16,00	160,24		160
PL	Cost:	108,18	649,38	21,00	8,00	257,48	257,48	
	Duration:	67,00	216,00	21,00	8,00	108,10		108
PT	Cost:	200,50	330,50	13,00	16,00	272,22	272,22	
	Duration:	37,00	89,00	13,00	16,00	65,69		66
RO	Cost:	188,00	781,20	4,00	25,00	699,38	699,38	
	Duration:	58,00	101,00	4,00	25,00	95,07		95
SE	Cost:	18,00	253,80	3,00	26,00	229,41	229,41	
	Duration:	37,00	85,00	3,00	26,00	80,03		80
SI	Cost:	41,00	114,50	15,00	14,00	76,48	76,48	
	Duration:	16,00	51,00	15,00	14,00	32,90		33
SK	Cost:	88,80	800,10	16,00	13,00	407,66	407,66	
	Duration:	51,00	126,00	16,00	13,00	84,62		85
UK_EW	Cost:	165,80	461,40	4,00	25,00	420,63	420,63	
	Duration:	81,00	194,00	4,00	25,00	178,41		178
UK_SC	Cost:	165,81	484,55	4,00	25,00	440,59	440,59	
	Duration:	79,00	192,00	4,00	25,00	176,41		176
UK_NI	Cost:	134,22	410,18	4,00	25,00	372,12	372,12	
	Duration:	81,00	194,00	4,00	25,00	178,41		178
HR	Cost:	67,84	217,71	19,00	10,00	119,52	119,52	
	Duration:	67,00	125,00	19,00	10,00	87,00		87
TR	Cost:	84,30	214,30	15,00	14,00	147,06	147,06	
	Duration:	45,00	113,00	15,00	14,00	77,83		78
CH	Cost:	119,10	222,90	15,00	14,00	169,21	169,21	
	Duration:	38,00	83,00	15,00	14,00	59,72		60

The following table shows the calculated total and average cost and duration:

	Min	Max		
Total Cost	0,00	1.017,00 €	Overall Average Cost:	301,89 €
Total Duration	0,00	426,00 days	Overall Average Duration:	99 days

If the couple is lucky, the marriage will be for free and will be performed the very day they have presented themselves to the marriage registrar. However, if the couple resides in the wrong Member State and the foreign spouse is from an "incompatible" Member State, expenses can be more than € 1.000,00 and the duration for all documents, and legal proceedings can take up to 426 days. The weighed average of such a marriage for citizens in Europe are costs of around € 300,00 and a duration of three months.

These results are also reflected in a survey conducted with citizens interviewed during their visit at registry offices in 18 States. They were asked about the type of civil status event and if their visit had any cross-border aspect, such as a a foreign document (foreign birth, marriage or other certificate) being needed in the process to which the visit was connected, or that the documents or certificates to be obtained were to be used in another country. The results of this survey are shown in the following Table:

Table 16.: Number of contacts required, by type of event, and cross-border aspect

type of event	aspect	1 contact	2 contacts	3 contacts	4 & more	total	number
birth	domestic	54%	28%	9%	8%	100%	(160)
	cross-border	22%	31%	22%	25%	100%	(36)
marriage	domestic	32%	27%	19%	23%	100%	(111)
	cross-border	12%	32%	21%	35%	100%	(68)
death	domestic	53%	27%	7%	13%	100%	(60)
	cross-border	14%	43%	0%	43%	100%	(7)
other	domestic	30%	37%	19%	13%	100%	(99)
	cross-border	26%	24%	14%	36%	100%	(50)
all	domestic	43%	30%	14%	14%	100%	(431)
	cross-border	19%	30%	18%	34%	100%	(161)
total		36%	30%	15%	19%	100%	(591)

Citizens were also asked if their visit had finally resolved the matter. In the preceding table, if the matter had not been resolved on the day of questioning, one additional contact has been added mathematically. Certain adjustments may also have to be made and considered for the fact that, in most Member States a marriage generally requires a minimum of two contacts (for application or registration, and for the ceremony itself taking place some time later), but this has not been mathematically included in the table as there are Member States in which a marriage is possible on the same day (as stated in the table before, applied to the "waiting period"). Also, not all citizens whose visit related to a marriage were visiting the registrar for the purpose of concluding a marriage. But if these adjustments are considered, probably about half of the citizens with a purely domestic case were able to complete their registration or other business at the registry office on the same day (or in the case of marriage, with a maximum of two contacts.)

On the other hand and not surprisingly, when a cross-border aspect is involved, the number of contacts necessary with registrars rises significantly. Over a third of all citizens, in whose registration a cross-border aspect was involved, needed four or more contacts to complete their

request. And when these citizens were asked about their opinion on the bureaucratic effort, e.g. number of documents, translations, stamps and seals required, those with a cross-border matter were significantly less content. The following diagrams provide a graphical comparison:

Table 17.: Diagram: number of contacts for purely domestic and for cross-border matters

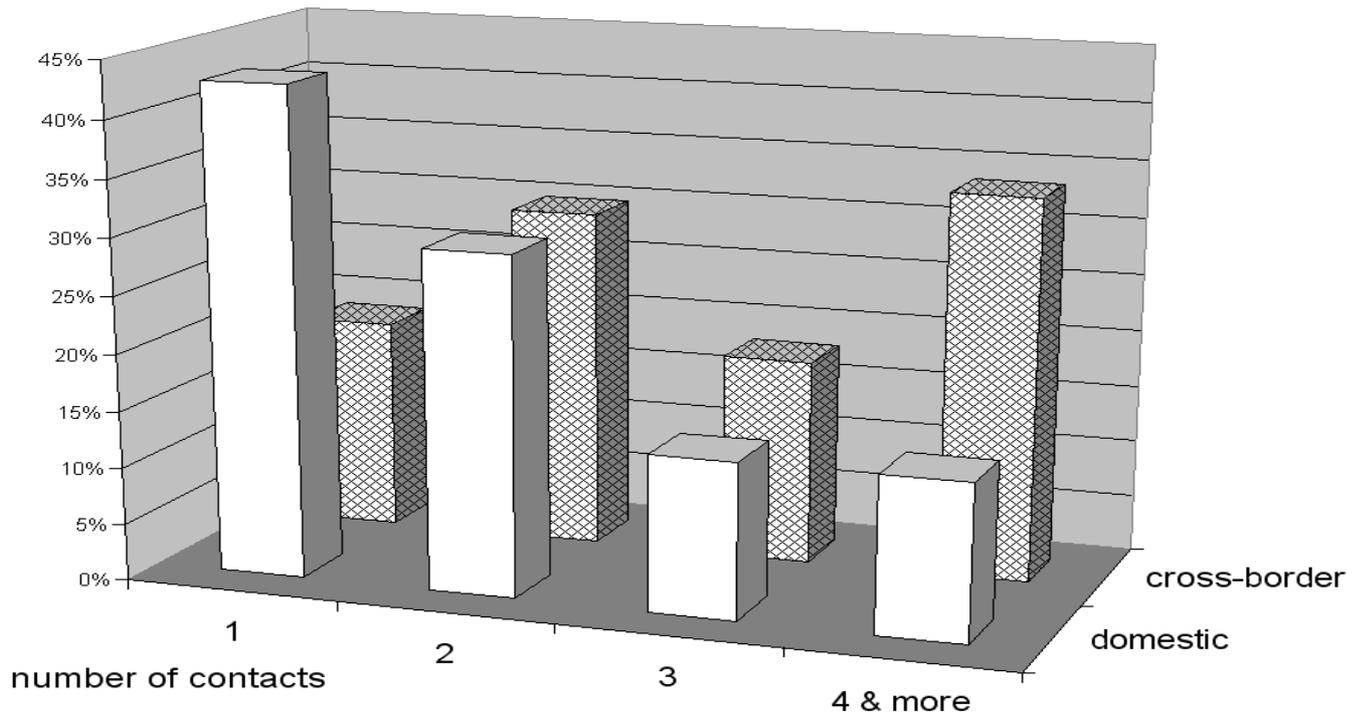
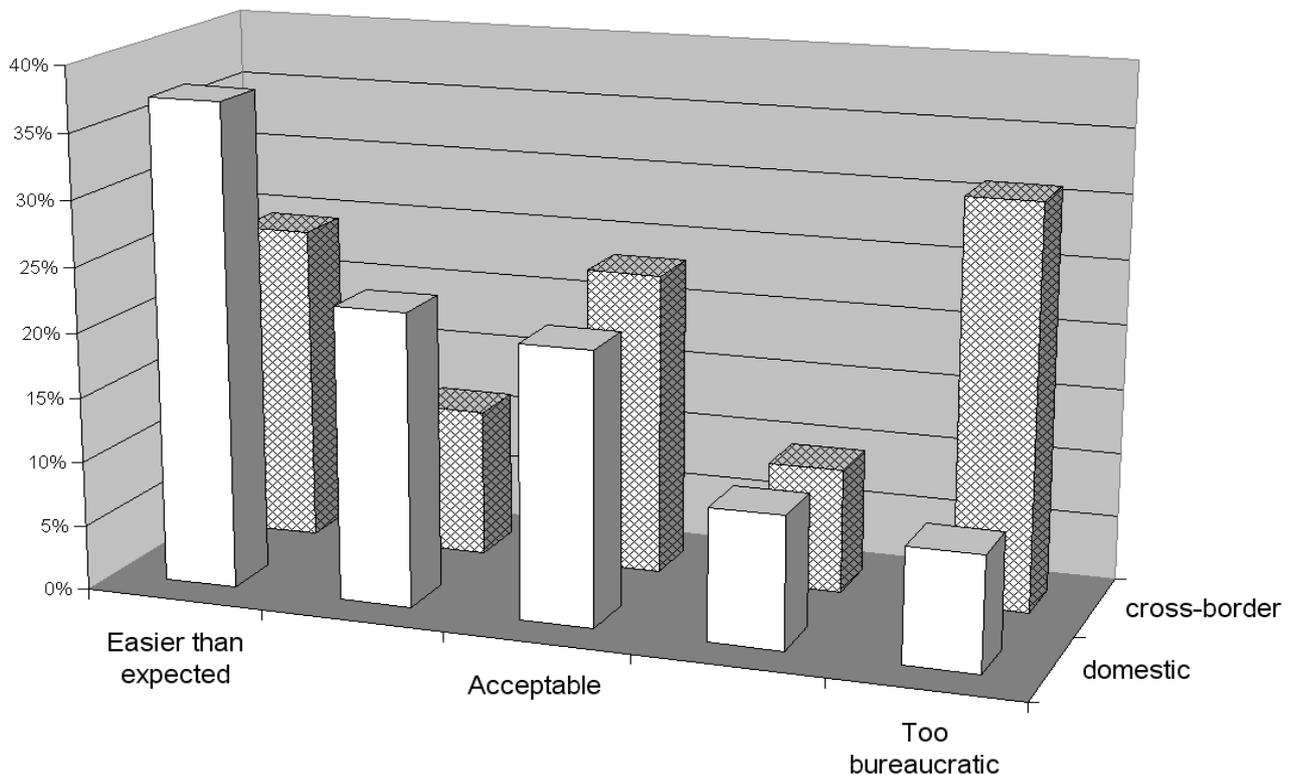


Table 18.: Diagram: Perception of red tape involved



One citizen in Germany had been particularly unlucky, as he or she had the most contacts with civil status registrars in relation to a marriage with a cross-border aspect. On the day of the interview, the matter had been finally concluded, after 22 contacts on that matter, while several other citizens had had 7, 10 or 13 contacts with registrars on their matter.

10. Divorce

Divorce is the final dissolution of a marriage, that is, the separation of two persons which confers on the parties the right to remarry under civil provisions to the laws of each country. Resolution 843 (IX) of 1954 of the United Nations General Assembly on the status of women in private law urged governments to establish a register of divorces. Furthermore, in its resolution 1068 F of 10.07.1965, the Economic and Social Council recommended that "A divorce or judicial...shall be legally recorded...".

Divorce is possible in all countries except Malta. In all countries decisions about divorces are taken by the court. However, for three countries additional remarks can be made. In Portugal separation and divorce by mutual consent are decreed and registered by the civil status registrar. In Estonia a vital statistics office can grant a divorce on the basis of a petition of one spouse if a court has established the fact that the other spouse is missing. Also a divorce is registered at the vital statistics office in the presence of both spouses if the spouses divorce by agreement. A divorce can be registered without the presence of one spouse if the spouse cannot with good reason appear at a vital statistics office and the notarised consent of the spouse to the divorce is submitted without the presence of the spouse. In Denmark the Regional State Administrations (County Governors Office) deal with separation and divorce cases. If a couple agree on the divorce the Regional State Administration may grant divorce.

In all other countries divorces are registered at the court. Most countries forward a copy of the ruling to the pertinent civil status registration service. Sometimes the decree is entered in a separate register or through a complementary notation in the register of marriages. Other services merely take note of the divorce decree by recording its main data items in the population register, or the margin or on the reverse of the marriage and/or birth record. It is also possible to combine both systems, in other words, record the divorce separately as an independent entry in the divorce register (central or local) and simultaneously make a marginal note on the record of the marriage being dissolved by the divorce decree. For example a special divorce register is maintained in the Netherlands, Ireland, Lithuania and Turkey. In Sweden the information about divorces is sent to the Tax Authority, which forwards it to the Swedish population register.

Under the regime of Council Regulation (EC) No. 2201/2003 ("Brussels IIa"), divorces taking place abroad in another Member State do not require legalization or further formalities if certificate according to annex I of that Regulation is attached to the decree. In particular, under Art. 21 (2) of this Regulation, no special procedure shall be required for updating the civil-status records of a Member State. Application of this Regulation in practice can be divided into three groups of Member States:

In event based registration systems, a divorce (be it domestic or foreign) may or may not be inscribed to the original entries in the birth or marriage certificate, but such marginal note is not legally constitutive. If that person wishes to marry again, the citizen is generally required to produce the divorce decree itself as evidence upon application to marry. In some Member States, certificates and decrees of **all** previous marriages and divorces have to be produced.

In systems with a population register, divorce decrees as any other change of civil status, whether occurring in that Member State, or abroad, shall be registered by all citizens and residents in the

normal course of events. In most cases, at least for residents, such inscription is akin to the registration of a change of address or similar change and can be done without much effort. Such registration may or may not be sufficient for any other purposes of civil status registration and the divorce certificate may still have to be presented during marriage proceedings, but that is a different issue.

The most complicated in this regard are the person based registration systems in Slovenia, Belgium (and Turkey and Switzerland to which Brussels IIa does not apply). Otherwise and in theory being the modern and more sophisticated system compared to the event based system these systems create particular difficulties with respect to any kind of civil status events occurring abroad.

In one case reported by a lawyer from Belgium, the Belgian citizen had been divorced in Germany and wanted to get married again in Belgium immediately after the divorce. Before he could do so, his divorce decree had to be presented to the registrar at the place of birth to be inscribed to the birth registry. From there, the updated extract from the registry had to be registered with the national population register to evidence the change of status, and of the name. And only thereafter, upon presentation of the new complete extract from the civil status registry, of the certificate from the population register, and the divorce decree again, was the citizen allowed to marry after 5 additional weeks.

In a survey 147 residing in one of the 29 jurisdictions in the EU about their experience with Council Regulation (EC) No. 2201/2003, no real problems were reported to occur as long as such divorce decree had a certificate attached to it. The selection was not random, but rather lawyers were contacted, who were known to have both some international experience and were (also) doing family law. During telephone conversations, only two issues were mentioned as a problem. The first complaint was that, many colleagues did not know about the Regulation and therefore did not apply for the certificates under the Annexes of the Regulation at the end of the divorce proceeding itself. As a result, the clients have to apply for the certificate later causing additional effort. Second, and related thereto, it was suggested that the courts might issue such certificate automatically when there was a cross-border aspect involving citizens from other Member States in any family matter.

E. The Problems of Civil Registration and Mobility

Mobility poses a special challenge to civil status registration. In many systems, problems already occur if the events that relate to an individual during the lifetime and which need to be recorded do not occur in the same parish, or commune. Civil status registration becomes even more difficult where events occur in another country: until today, civil status registration is still considered a national issue.

1. Event-based Registration

Out of the 32 jurisdictions which have been covered by the study, twentytwo jurisdictions have an event-based registration system. In an event-based registration system in its pure form, each event that has an effect on the civil status of a person is recorded at the place where the event occurred. The birth of a person is recorded at the place of birth. Marriage is recorded at the place of marriage. A divorce is not recorded at all, since divorces take place in courts and not under the authority of the civil status registrars. A person who wishes to marry and who has been married before, needs to state so and present the former marriage certificate and the divorce decree for evidence, even within the same state.

In practice, a pure event-based registration creates loopholes making it difficult to fully document the civil status of a person. As in the example above, a person could be married at two different places if there is no "central" place where marriages are recorded. In addition, a citizen needs to

remember or know exactly where the registration has been made. Where the entries concern other persons than him- or herself, such as in inheritance matters, this may be difficult. Also, when a person needs more than one type of civil status certificate, he or she will have to contact many different registries.

In order to obtain a certain level of coordination, event-based registration systems utilize a system of marginal notes. Using marginal notes, changes to the civil status of a person, such as a marriage, divorce, change of name or an adoption, are recorded in the existing records of that same person. As an example, upon marriage, the registrar at the place of marriage will notify the registrar at the place of birth who will make a marginal note to the birth registration. Upon divorce, the court will notify the registrars at the place of birth and at the place of marriage who will make marginal notes. In addition, some states maintain family books at the place of residence or family registrations at the place of marriage where children of the married couple are also registered.

In terms of legal concept, there is a very distinct difference between the original registration and the marginal notes. In many civil status registration systems, the original registration is much more than a simple record of information on a fact or an event. Rather, it is a legal document of a constitutive nature. In this concept, a birth is not legally a birth until registered and a civil marriage, by its nature, is not a marriage until the civil registrar has duly recorded it. Accordingly, civil status records have even more than a presumption of being true. Rather, they actually stand instead of the original event itself for all legal purposes. If there is any error, the document still prevails until formally rectified by legal procedure.

As opposed to the original registration acts, marginal notes about civil status events occurring elsewhere are not deemed to be constitutive. Also, the marginal note does not usually contain all the information that is contained in the original registration of that event. The system of marginal notes is mostly designed to track down the current status of a person and to prevent forgery as well as bigamy or similar problems. Therefore, even with a marginal note, the registrar at the place of that note will not be able to issue a certificate based on the marginal note. As an example, the registrar at the place of birth will not issue a marriage certificate which, if needed, has to be obtained at the place of marriage and vice versa.

Because of the concept which gives so much legal weight to the place of registration, most event-based registration systems still heavily rely on paper records although modern technology may be used for preparation of the files and for searching and indexing.

2. Person-based Registration

Four out of the 32 jurisdictions which have been covered by this study have a person-based registration system. In a person-based system, an entry for every person born in that jurisdiction is made at one particular place. All subsequent changes to the civil status of that person, all changes of name, marriages, divorces, children and, eventually, the death of that person, are registered at that same place. In some jurisdictions, this may be a national central registry. In the absence of a central database, a decision needs to be made as to the place of a person's registry. In some jurisdictions it is the place of birth. However, since the place of birth can be random, it is often the place of the family's residence or the place of the family's inherited domicile.

The system is deemed to be more "modern" than event-based registration and has certain advantages. In addition to being able to obtain a certificate relating to a specific event, it is also possible to obtain a full chronological record showing all changes in civil status and the current status. Compared to the event-based system, this is very useful for example at a marriage. A person who has been married before does not need to show his marriage and divorce certificates but only the record showing all these prior events and showing that the current status is "divorcee" in order to be allowed to marry.

A disadvantage of this system is that, the recording of events is remote from the registrar of the event. The civil status records inevitably contain registrations made at different civil status registry offices and other events such as court decisions. Besides, the records have to be updated, which almost naturally requires a computerized system. The registry becomes rather a collection of relevant data and is no longer able to maintain its legal constitutive "originality".

3. Central Population Register

Six Member States have a fully computerized population register system. Obviously, this system employed in Scandinavia and the Baltic countries is a very efficient system from the outset.

In a population register, all citizens and permanent residents have an entry in the system linked to a personal identification number ("PIN"). With respect to civil status, it is, of course, a person-based system. But as opposed to the person-based civil registration system described as above, the entries in the population register are not restricted to matters of civil status and related issues. Rather, a population register records many other items of information, such as residence, employment, taxes, driver's license and social benefits. While civil status certificates may be issued, these are no longer really necessary. Whenever information is required that was traditionally provided via a certificate, the authority can usually obtain that information on-line and directly out of the system.

Accordingly, as an example, the registration of a child's birth will automatically lead to the payment of social benefits related to the child and to a change in tax classification. It is not necessary for the citizen to make an application and to present a birth certificate.

4. Cross-border Mobility within the European Union

Cross-border mobility and migration is not a new phenomenon in Europe. Particularly in the preceding century, the first and second world wars, changes of borders, post-war refugee movements, communist oppression and then the migrant workers of the sixties and early seventies have led to a significant proportion of European citizens who do not live at the same location and within the same jurisdiction under which their civil status registrations have been made.

In various EU Member States, civil status registries are localized, and some Member States are comprised of more than one jurisdiction. In these states, some of the issues arising with respect to cross-border mobility may even occur within one Member State .

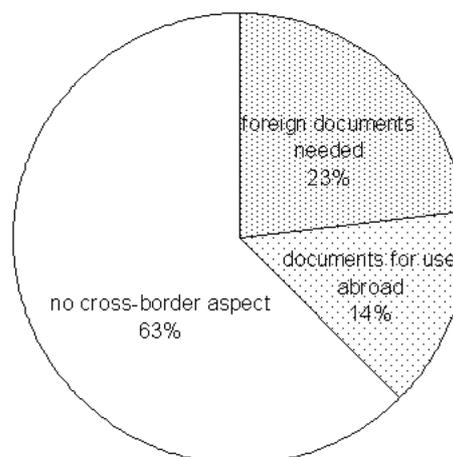
Modern life and economy, more than anything else, may lead to yet new levels of mobility within Member States and across borders. European integration and now European citizenship further stimulates this new type of mobility. Finally, marriage tourism is a known phenomenon, even if it is not as frequent as commonly assumed.

As has been described in the introduction, according to general statistics approximately 1/3 of all civil status registrations in Europe can be expected to have a cross-border aspect. In a survey, 758 citizens in 18 different states visiting a civil status registration office on a particular date were asked about the nature of their activity at a civil status registration office:

Table 19.: Cross-border proportion

Proportion of Cross-border issues	
a foreign document (foreign birth, marriage or other certificate) was needed in the process to which today's visit is connected	23% (167)
the documents or certificates I will be obtaining will be used in another country	14% (103)
no cross-border aspect	63% (452)
Total proportion	100% (722)
n/a, % of total respondents	5% (36)

proportion of cross-border issues in civil status registration



Of those citizens giving an answer to this question, 37% had a cross-border aspect to their business. These numbers may not be representative, and a representative research would require difficult decisions of valuation and too many factors would have to be taken into consideration. The Member State and its overall size and population, the proportion of immigration to and emigration from that Member State to other Member State, the commune in which research has taken place and its size, its proportion of immigrants and proximity to any borders, and finally the difference between personal appearance and mail order of certificates, the type of civil status change involved, even the weekday may play a role.

Nevertheless, these figures are indicative as they are congruent with the overall statistical figures discussed above. In addition, these figures are constant: assuming that, in relation to the registration of most civil status events and on the average, two persons and their documents are involved (two parents of a child, two spouses), so that the likelihood of one being foreign doubles, it might be expected that the number of requests for documents for use abroad is about half of the number of registrations with a cross-border aspect.

At all times, such mobility has led to certain difficulties with the registration of changes to civil status and with obtaining documents relating to such registration. And still today, even within the European Union and despite Union citizenship and the right to free movement as enshrined in the EC Treaty, mobility conflicts with civil status registration. A central European population register that might be able to solve problems related to cross-border mobility does not exist.

It is obvious that all three civil registration systems described above have their legitimacy. All three systems are functional within a state. Yet all three systems have difficulties dealing with civil status changes that take place or have taken place abroad and that have an impact on the civil status of people residing in that Member State or who are registered there for reason of prior events or of nationality. There are even more difficulties when two systems clash.

Event-based registration systems have the least problems with events taking place abroad. Such events do not have to be recorded. The marginal notes cannot be made if there is no communication between the registries in the different Member States, but eventually these notes are not that important for the system to work properly. Persons, irrespective of their nationality, who have had civil status events abroad and who need to record a new event in general have to produce the same certificates as someone who has just moved from the neighbouring commune. It is not much different except that the hassle for the citizen to obtain certificates - which may already be quite difficult if coming from another place within the same jurisdiction - may become terrible if coming

from a different jurisdiction. At least there is the advantage that any documents only need to be presented "ad hoc" when actually needed for the registration of a new civil status event. Problems may especially occur if other jurisdictions have not issued certificates for individual events, but only full records as in some person-based systems.

Person-based registers, whether pure civil status registers or general population registers, rely much more on the accuracy of the current status of the data and the constant transmission of relevant changes from relevant authorities. If a person has an event abroad, the system will not receive notice, thereby creating a breach in the consistency of the data.

This problem has led to different treatment of citizens of the Member State and of foreign citizens once they leave the country. All jurisdictions which have person-based registration systems maintain and update records of their own citizens permanently. Citizens are usually required to notify the authorities immediately of any changes to their civil status occurring abroad so that the system can be kept up to date.

For births of nationals, this may not be such an issue. Their registration is usually required for citizenship and the issuance of a passport anyway. However, for other events, and in any case for persons of dual nationality, the requirement to report all changes may come as a sudden surprise.

In the opposite situation, persons who do not have citizenship or permanent residence in a Member State with a person-based registration system may still have civil status events occurring in that Member State. A tourist may give birth to a child or die, a non-resident may wish to marry in that Member State, just to mention the "easiest" cases. The following examples are already more complicated: non-resident father who may wish to recognize or deny his parenthood for a child that has been born in, or has the citizenship of or permanent residence in that Member State; an international adoption is to take place; the change of name of a former permanent resident has to be recorded in the registries for the purpose of obtaining an updated birth certificate.

In such a situation a citizen from another Member State will be required to bring his record up to date once he or she is entered into the system on the occasion of a civil status event. As an example, in order to obtain a full record, a person coming from another jurisdiction who wants to marry in a Member State with person-based registration may be required to provide not only a birth certificate and the marriage and divorce certificates of the last marriage, if divorced, but also certificates of all other marriages he or she may have had before, birth certificates of all children and certificates of any change of name, because all this may be required to build the record on which the registration system will rely. To make matters worse, the civil status registrar might even ask for a single document comprising all changes of civil status even from persons coming from jurisdictions with an event-based registration system. This person may be able to produce a birth and a marriage certificate and the death certificate of his former spouse, all issued at different places, but will not be able to produce this required one single document which also certifies the "current status".

Of course, if the person comes from another jurisdiction with a person-based registration system, things will be easier. He or she may be able to obtain a printout of his or her full record, the data of which can then be entered into the system of the other jurisdiction.

If a person moves to a Member State with a population register, things are even more difficult than if moving to a Member State with a person-based registration system. In order to keep a consistent population register, it is generally necessary to complete the records not only in the event of a change of civil status – as in person-based registration systems –, but a new entry must be created as soon as the person takes legal residence. This requires that the parties concerned will need to prove not only their identity but also their (prior or related) civil status to the authorities by documentation already at that point.

If, on the other hand, a person from a Member State with a person-based registration system or a population register moves to a Member State with an event-based registration system, he or she might be required to produce civil status certificates for events, to which the registration system at home is not accustomed. Again, this can lead to a burdensome situation.

To give an example for the situations that may occur: Estonia is a Member State with a fully computerized population register with an astounding level of sophistication. The system is interconnected with an ID card that has an electronic chip. This card enables the Estonian citizen and permanent residents of Estonia to identify him- or herself directly to the population register and even pay certain fees and taxes on-line through an account at one of the three major commercial banks which are cooperating with the system.

All of this, however, requires an ID Card which is only issued to citizens and permanent residents, it requires a bank account at an Estonian bank which usually requires an ID Card in the first place, and it requires physical presence in Estonia.

It is not possible to obtain civil status certificates from Estonia by telephone, e-mail, fax, mail or otherwise from abroad. One of the reasons cited by administration officials was that, without physical presence, it would not be possible to confirm the identity of the person requesting a certificate.

Interestingly, with the proper technical equipment and the ID Card, it is even possible to access the personal registry entry from abroad via a website. However, since civil status registries in other Member States require originals or certified copies of civil status certificates if not even an Apostille, it is hardly sufficient to be able to open the site from abroad and print out the entry at home. Rather, it would be necessary that the civil status registrars abroad have the equipment to read the ID Card and check the original document on screen. However, even if the technical equipment was available, one can hardly imagine a foreign civil status registrar accepting such a procedure. And to make matters worse, this particular site is in Estonian language only, thus making any access from abroad futile.

As a result, many of the difficulties have nothing to do directly with a particular Member State but rather with specific **combinations** of two Member States, while each of these two Member States may be unproblematic with respect to other Member States. Also, while an overall majority of life events to be registered in a Member State may be completely unproblematic, inexpensive and without taking much time, individual cases may be extreme yet such extremism is usually systematic and related to specific combinations. It is very difficult to present a useful statistical result in such cases. In addition, it is usually not only the registration and the documents relating to one life event that makes matters difficult, but the combination of life events, which are interlinked and may be connected by documents from several different Member States. The updating of civil status registers is also an issue only in a minority of Member States, as in many Member States no updating of records as such takes place

This result, which was reported by the correspondents, was also confirmed by a survey conducted in which 96 civil status registrars from 17 jurisdictions participated, as shown in the following table:

Table 20.: Member State which is the most difficult partner

Country Code	AT	BE	BG	DE	DK	ES	FR	GR	HU	IT	PL	PT	RO	SE	UK
AT				•			•		•	•			•		
CH			•	•		•				•			•		
CZ	•	•							•						
DE					•	•					•		•		
DK															•
ES													•		
FI					•										
FR				•											
HU													•		
IE													•		
LU										•		•	•		
NL			•												
PL					•									•	
SK						•									•
TR							•	•							

The table shows that, among the civil status registrars participating, Romania was mentioned as a difficult partner in more jurisdictions than other Member States, followed by Denmark, Spain and Italy. At the same time, the table also shows that even Romania is mentioned in less than half of the sample jurisdictions States as being a particular difficult partner.

5. Obtaining Civil Status Certificates from abroad

All Member States require that, citizen produce civil status certificates on certain occasions, in particular when registering civil status changes to the citizen or to a relative, if such certificate or the information therein has not been produced and stored in the files or database before. As a prime example, all Member States require that, citizens who wish to marry must produce their birth certificate. Some Member States require that, the birth of their citizen or residents having occurred abroad be registered as soon as they occur or as soon as permanent resident is taken in that Member State. But even then, this only changes the point in time at which certificates have to be presented, not the obligation itself. And even in these Member States, civil status events (such as birth of child, marriage, divorce or death) may occur to non-residents or even to citizens who are not even physically present in that state (such in the case of divorce, or parenthood to a child born abroad).

Accordingly, if birth has occurred and has been registered abroad, a certificate of the birth may be required in practically every Member State at a certain point in time.

Generally, all civil status documents are issued on request, application for all certificates can be submitted in person or by postal mail as well as by proxy through any third party. A submission via e-mail and with electronic signature is accepted in some states, only. Additionally, any applications to be submitted to the civil registry office by citizens living abroad may be submitted through a diplomatic mission or consular post.

Again, surprisingly, in general the duration for obtaining certificates was rather short. Many Member States provide certificates or extracts within minutes if applied for personally, and within just a few days if ordered by mail or on-line and it appears that the delay, if any, can be attributed to the time needed for the mail to arrive. Even the longest transmission, from Turkey, took less than three weeks and again, at least two thirds of that time can be attributed to the postal service and due to the fact, that application was made through the Consulate General which was involved in transmission both ways.

These times were independent of the type of registration service, whether it is paper based or fully computerized. It is therefore, apparently, possible to provide such service.

Unfortunately, there are a number of Member States from which the attempt of obtaining a certificate by means of long distance communications failed and would have required far more efforts than a simple phone call, letter, or on-line communication.

Some civil status registrars were able to give general information about requests from abroad to their individual office, but it was not possible to obtain representative overall statistical information as to how often certificates are required, or obtained by long distance communication from abroad. In this connection it is very interesting that the Austrian Foreign Ministry advises that, annually it assists Austrians to obtain civil status documents from abroad in 6.500 cases. Taking into account that this figure concerns Austrian citizens only, who have returned to Austria but have had an event registered abroad before, and that Austrian citizens have the possibility of registering certain events occurring abroad at the central civil status registry office in Vienna right after the event has occurred either directly or through the consular service, this number appears to be quite high.

In several Member States, it is possible to obtain a certificate or extract by phone, fax, e-mail, or on-line from a Web-site from a central registry office and is mailed to the citizen within three days or less, in others, the same type of service is available not from a central office, but from the issuing registry office. In some Member States, it is possible to obtain a certificate or extract by phone, fax, e-mail, or on-line from a Web-site from the embassies or consular offices.

Austria is the only Member State which provides full-service consular assistance to its citizens: Austrian citizens residing abroad may ask the consular office to obtain a certificate from Austria, and Austrians residing in Austria may ask the foreign Ministry to obtain a civil status certificate from abroad through the consular service.

In England and Wales, and in Scotland, within about 18 months after the event has been registered, civil status certificates have to be ordered directly at the registry office, which may take some time. Thereafter, certificates can be ordered online from a central registry office of each jurisdiction and are sent within two or three days. Various methods of payment including credit card payment is possible.

Turkish citizens and former Turkish citizens naturalized in another country **must** obtain any certificates through the consular service, exclusively. Multilingual certificates are then received from Turkey by mail free of charge within two weeks. Yet unsolved is the situation of foreign citizens, who have never been Turkish citizens, and who have a civil status event registered in Turkey. In these cases, certificates must be obtained from the registrar in Turkey in person or in writing (in Turkish language) which may be burdensome and is without guarantee of receipt, although this information could not be practically verified for lack of a candidate.

In Germany, availability of civil status certificates by means of long distance communication depends on the Land and on the individual civil status office: all registry offices provide civil status certificates within about two or three weeks if ordered by mail with proof of identity included (copy of a passport or ID), other civil status offices are less strict, and allow certificates or extract to be ordered by fax, or on-line from a Web-site. In all cases certificates are sent by registered mail. Most

registry offices require payment be made in advance by wire transfer, thus delaying the production of certificates, some allow postal money order or direct debit authorisation, none accept credit cards.

However, in a number of Member States, it is **not** possible to obtain a certificate or extract through any means of long distance communication. It is required to personally apply for a certificate at a registry office in that Member State, or to have someone, such as a relative, appear in person and apply by proxy.

Finally, at the current state of developments, Estonia might be singled out in so far as they have built a very efficient and fully computerized central population register. In most cases, in Estonia itself, certificates are no longer necessary as information is available and is transmitted through the system to relevant authorities. An Estonian electronic ID has been created and is issued to Estonian citizens and permanent residents, and which includes electronic signature functions. Data and certificates are available on-line at all times to any person who is in the possession of an Estonian electronic ID and a bank account in Estonia for on-line payment. Unfortunately, the service is thus unavailable for citizens of other Member States who have left Estonia after the registered event, and to Estonians abroad who do not maintain a bank account in Estonia.

When testing these official statements in practice in the course of this study, about half of the Member States sent a certificate to a citizen in another Member State without much ado, at reasonable costs and within a time frame of two weeks or less, even within two days (including the time for mail delivery). While some registry offices made specific questions as to which type of certificate (long, short, multilingual/international) would be required, and acted accordingly, or sent a multilingual certificate right away, some Member State simply sent a plain short certificate in the language of origin (even if multilingual extracts were, in theory, available in that Member State). And as expected, obtaining certificates by means of long distance communication failed in those Member States which do not offer this option officially.

It should be noted that, in a number of Member States the possibility of obtaining certificates on-line has been introduced quite recently. This is a very positive development to be observed in favour of citizens needing such service.

However, for citizens who are citizens of certain Member States or, more precisely, who have had a civil status event registered in one of the Member States from which it is not possible to obtain certificates through methods of long distance communication, matters are different. Obtaining certificates of these events is connected with extreme costs and efforts, especially if they have to travel in person to the place where the event has been registered. That is, clearly and without discussion, an obstacle to citizens that need to register a civil status event.

For many citizens of these Member States residing abroad, it may still be possible to send relatives still residing in that Member States to obtain such certificates, but this is not necessarily true for everyone. The practice is most discriminatory for citizens of other Member States who have had an event registered and who have returned to their Member State of origin or moved to a third Member State. Then still, for some of these citizens there is a different answer: their Member State of origin provides that, civil status events occurring abroad either may, or must be registered in the civil status registers at "home". Thus, when a certificate is needed, an extract can be obtained from there, although not all Member States will recognize civil status certificates or extracts which as valid have not been issued at the place at which the registered event has occurred (e.g., a birth certificate issued by a registrar in a different Member State than the place of birth). Therefore, this solution is only fully valid for citizens who return to their Member State of origin, but not for those citizens who move to a third country.

Being unable to obtain a certificate without travelling in person, or without employing a relative to apply in person, has been perceived as a major obstacle by those citizens who were affected.

Citizens born in each Member State were asked to make a reasonable attempt to obtain a birth certificate, or birth extract, where applicable, by means of long distance communication from abroad. Where available and accessible, application should be made on-line. In all other cases, citizens were asked to send a letter by post to the registry office or the commune at the place of birth, and in some cases, where information had been provided on the internet that the Consulate was the proper authority for all applications, to the Consulate. Due to ambiguity of information, the Polish applicant applied both to the registry office, and to the Consulate, and received an answer from both. In two cases the applicants while trying to ascertain the proper addressee, were advised by phone, that applications could not be made by mail but had to be made in person, either in the Member State itself, or at the Embassy / Consulate.

Where a letter was used, relevant personal details were to be provided, namely the name, date of birth, place of birth, and the names of the parents. Also, a copy of Passport or ID should be enclosed. If the certificate was not received after 3 months, the attempt was deemed as "failed". The results of these tests have been compiled in the following table:

Table 21.: Ordered birth certificate

Birth Certificate (ordered from a citizen living in another european country)					
	Duration	Cost		Duration	Cost
AT	20 days	8,70 €	LV	attempt failed	
BE	attempt failed		MT	10 days	10,00 €
BG	attempt failed		NL	6 days	10,80 €
CY	attempt failed	1,72 €	PL - Registrar	36 days	46,00 €
CZ	21 days	3,95 €	PL - Consulate	14 days	36,00 €
DE	4 days	7,00 €	PT	15 days	17,50 €
DK	7 days	free	RO	attempt failed	
EE	attempt failed		SE	14 days	free
ES	attempt failed		SI	attempt failed	
FI	4 days	25,20 €	SK	attempt failed	
FR	18 days	- €	UK_EW	4 days	13,20 €
GR	4 days	free	UK_SC	4 days	28,90 €
HU	attempt failed		UK_NI	4 days	13,82 €
IE	18 days	10,00 €	HR	12 days	3,27 €
IT	attempt failed		TR	25 days	free
LT	attempt failed		CH	14 days	15,89 €
LU	9 days	2,00 €			

Out of 33 attempts, 22 succeeded, and 11 attempts failed. In the States in which the attempt succeeded, the proceeding took between 4 days and maximum of 36 days, or 25 days if the application to the Polish registrar is disregarded in light of faster Consular service. The average cost (without the extra Polish certificate) was € 10,40, and four certificates were even provided free of charge.

The frustrating element is rather the number of failures.

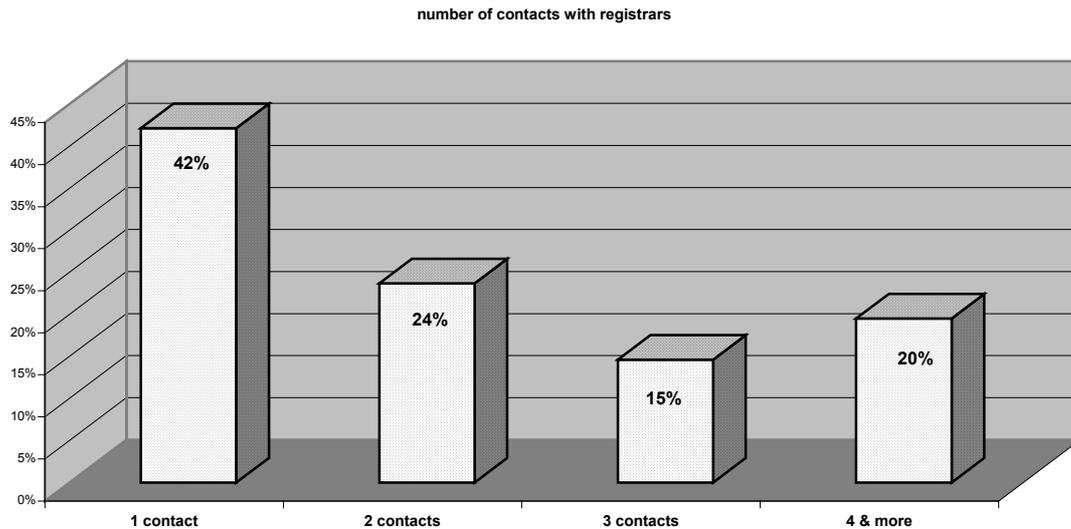
In addition to the two Member States (Slovakia, Lithuania) which provided this information by phone, one Member State (Romania) sent an information leaflet advising that, application in person (or by a person having written power of attorney) was required.

Other than these three cases, it is very important to note that, the results are not representative and in no way indicative of the respective Member State as in most cases we cannot ascertain exactly why the certificate was not issued and returned to the applicant. Possibly the mail was lost, and in one case (Cyprus) the certificate would have been issued and obtainable through the Consulate but there were certain details of the applicant's registration itself that had to be cleared before this could occur. Vice versa, in some of the Member States in which certificates were provided by mail it is not assured that requests made to other registrars at different places would be equally successful.

In a different survey, 758 citizens visiting the registration office in one of 18 States were interviewed with a short form. Out of these, 301 citizens had been at the registry office for the purpose of obtaining a certificate for an event that had occurred earlier (as opposed to the registration of an event). The citizens were also asked how many times they had contacted this and other officials in that registry office and elsewhere in total on the matter at hand (sum of all contacts including today's visit, whether in person or by phone, fax, letter or e-mail). The result can be seen in the following table and diagramm:

Table 22.: Citizens requiring a certificate, number of contacts

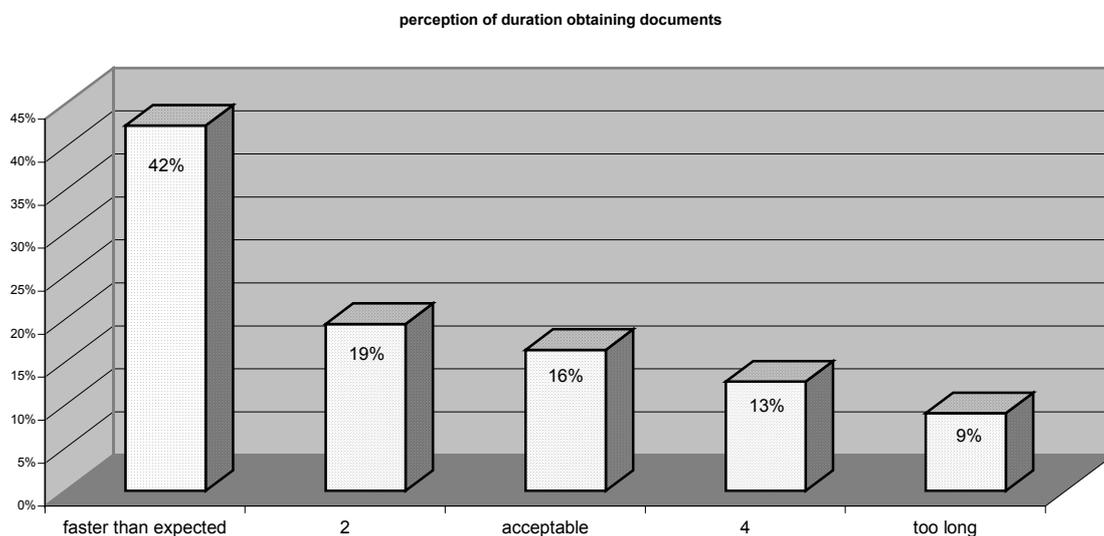
Country Code	Total number of contacts to registrar			
	1	2	3	4 & more
AT	13	2	1	7
BE	3	1		1
CH	5	2		
CZ	16	13	6	4
DE	12	10	6	2
DK	1			
ES	4	2	2	3
FI	5	3	1	2
FR	1	1		1
GR	2	1	7	17
HU	5	4	6	4
IE	18	4	1	
NL	3		3	6
PL	6	6	1	1
PT	11	10	5	1
SE		2		2
SK	15		1	2
TR	1	7	2	3
Total	121	68	42	56
	42%	24%	15%	20%



While a significant number of citizens were able to obtain their certificate right away, still more than half had to return at least a second time, and a fifth of the citizens had to contact a registrar four times or more just to obtain a certificate. To make matters worse, of those who had contact with a registrar four times or more, about half had not yet completed their task during the visit at the registry office.

The citizens perception of the duration pretty much reflects these results, although perception was leaning to the positive side and an overall majority of these citizens were still reasonably content with the duration, as shown in the following Diagram:

Table 23.: Diagram: Perception of duration obtaining documents



6. The Cost of Civil Status Registration and Certificates

Surprisingly, in general the cost for registration of events, and for certificates and even for certificates to be sent abroad, were rather moderate in all Member States. In many Member States, civil status registrations and certificates are provided for free. In most other cases, costs are below

€ 20. Higher fees, up to around € 200 are only charged for marriages at special locations or for name changes, and of course for divorces which are expensive in most Member States.

Also, even the Apostille if needed can be obtained at moderate costs, usually € 20, the highest amount being in the region of € 35 as charged by the U.K. Foreign and Commonwealth Office.

Much more costs are incurred for translations, which cost € 30,00 on the average but may cost up to € 150 for a simple document, for an affidavit of law and customs (e.g., certificat de coutume), and for travelling costs, when certificates cannot be obtained by means of distance communication.

Accordingly, in general, the direct costs related to civil status registration were not perceived as an issue by most citizens in the survey:

Table 24.: Cost as perceived by Citizens

Citizens: With respect to the cost of the procedure at the registry office these were:						
Country Code	less than expected	2 reasonable	3 reasonable	4 too costly	5 too costly	Total
AT	35%	32%	17%	8%	8%	100%
BE	69%	15%	8%	0%	8%	100%
CH	35%	40%	25%	0%	0%	100%
CZ	23%	26%	35%	12%	5%	100%
DE	16%	27%	34%	14%	8%	100%
DK	93%	7%	0%	0%	0%	100%
ES	24%	7%	53%	4%	11%	100%
FI	29%	12%	47%	6%	6%	100%
FR	100%	0%	0%	0%	0%	100%
GR	11%	13%	47%	15%	15%	100%
HU	31%	12%	39%	14%	4%	100%
IE	44%	26%	28%	2%	0%	100%
NL	41%	20%	28%	7%	4%	100%
PL	45%	18%	9%	12%	15%	100%
PT	0%	16%	32%	44%	8%	100%
SE	19%	9%	44%	9%	19%	100%
SK	50%	25%	14%	4%	7%	100%
TR	11%	43%	15%	23%	8%	100%
Total	28%	22%	30%	12%	8%	100% (=746)

Overall, for 80% of the citizens, the cost at the registry office were deemed to be less than expected or at least reasonable and only a small proportion perceived the procedure at the registry office itself as too costly. The real costs are incurred elsewhere and are not deemed to be part of the registration process.

7. Exchange of Information between the States

Generally, while there is some connection or communication between the civil registry offices of the EU Member States, this relationship exist only in parts. While information about civil status acts and changes of foreign citizens that occur in another EU Member State may be transmitted to the foreign authority of other Member States, according to the registrars this is by no means a reliable institution. Transmission is often omitted even if it is known that the other State requires such information or if a relevant bilateral agreements regarding exchange of data registered with the registry offices exists. A few countries (e.g. Ireland, Malta and the United Kingdom) neither transmits information about civil status acts and changes of their citizens born in another EU Member State or of citizens of other EU Member States occurring in the country directly to the authorities of that EU Member State nor receive information about civil status acts and changes of their citizens (or of citizens whose birth was registered in the country) directly from the authorities of that EU Member State. All civil registry offices receive information of the own nationals from abroad only on a random basis. Accordingly there exists a lack of information exchange between the EU Member States.

Among the Scandinavian Member State, the Nordic Agreement applies. If a citizen moves from one Nordic country to another, the citizen must inform the local registration authority of the destination country of the arrival and present identification (passport, ID card) to the authority. When the personal identity code or number is known, the details are transferred electronically from the registration authorities of the country of origin to the authorities of the destination country. The purpose of the agreement is to ensure that those moving within the Nordic countries are registered in the population register of only one country at a time. Information about civil status events is directly transferred to the competent population register.

Ten Member States (Germany, Austria, Belgium, Spain, France, Italy, Luxembourg, Netherlands, Poland, Portugal), and Turkey, are members to the CIEC Convention No. 3 Convention on the international exchange of information relating to civil status, of Istanbul 04.09.1958. The Convention provides that, notice of marriages and deaths shall be notified directly to the civil status registrar at the place of birth in each of the Member States by a multilingual form provided for this purpose. In practice, however, civil status registrars have reported that, notice of civil status events under this Convention is only received on a random basis and not on a fully reliable basis.

Some Member States have reported that, the foreign Embassies are informed routinely about civil status registrations of their nationals occurring in that Member State. But even if such notification is made, it is always related to nationality only, and not to the place of birth or the place of habitual residence.

In all other Member states, the civil status registrar of birth is not notified of these events. Moreover, the CIEC Convention applies to marriages and deaths, only, it does not require that divorces be registered with the registrar of marriage or the registrar of birth of the spouses. This gap was supposed to be closed by CIEC Convention No 26 on the international exchange of information relating to civil status of Neuchâtel, 12.09.1997, which has been ratified by France and Turkey, only.

For event based civil status systems this is not such an issue, because copies of certificates or extracts of the records are usually provided on the basis of the original registration, therefore the lack of information can be "tolerated" by these systems without dangers to the integrity of the system.

Person based system do have a problem, when information is missing. Especially life events occurring abroad are not automatically transmitted to the registration office and hence the record will be incomplete and incorrect, and a proper certificate cannot be issued as required. Before a

certificate can be issued, the records have to be brought up to date by properly adding all events that have occurred abroad in the meantime and that have not been registered. This may include births of children, marriages and divorces or deaths of spouses, and with children this may include acknowledgements of paternity, or judgments of custody and name changes. Only when all these events have been properly registered, can a personal certificate be issued as may be required for a marriage, for example, or for the registration of a child born in that Member State. Accordingly, other than in an event based system it is not sufficient to produce all the certificates that may be required. In particular, a divorce decree from another Member State as such would not be sufficient, it has to be recorded in the registers first (which is not entirely in contradiction to Art. 21 para 1 of Brussels IIa Regulation).

With citizens of that same Member State an attempt is made to keep the record up to date, even if the citizen is residing abroad or if civil status events occur abroad, if for citizenship, passport, immigration, tax or military purposes and in some cases they are even assisted by notification of other Member States to the Embassies. Records of permanent residents, even if kept, are not updated.

For citizens it is felt to be particularly burdensome to have to first register all "historic" events that have occurred abroad since the last entry, before a new event can be registered.

Further incompatibilities between event and person based systems occur when a birth certificate is required. In person based systems, the registrar will ask for and expect a certificate issued by the registrar at the place of birth. Person based systems sometimes do not even properly register events of non-citizens and non-permanent residents and such citizens have difficulties obtaining proper certificates.

Another exception may be made for own citizens, who have the option to have a foreign birth registered in a special registry in their country of citizenship. In this case, at a later point, a certificate issued by that registry may be obtained. Such a certificate is then sufficient in the Member State in which it was issued but not in all other Member States, which will require a record by the place of birth.

8. Naming of Children

The rules of naming children at birth differ between the Member States. In fact, the Member States cannot even agree, which general rule should be applied. Also, a number of Member States currently insist that their rules to be applied exclusively. The issue is currently before the ECJ, but under the current regime, citizens may end up with different legal names registered in civil status registries in different Member States. As a result, other certificates such as diplomas, a driver's licence, or many other documents may be issued to that citizen with different names which may make it difficult for the citizen to prove identity.

In the jurisdictions of the U.K., a name can be changed easily by simple use without registration or any formal legal requirements. Nonetheless, due to practical difficulties which may arise for citizens to prove their identity towards public and private parties, formalisation and registration schemes have been devised and are used for that purpose, but outside the U.K. such document is not known in other Member States. The CIEC Convention No. 21 of the Hague of 8 September 1982 on the issue of a certificate of differing surnames covers surnames only and has been ratified only by four Member States, namely Spain, France, Italy and The Netherlands.

9. Name Changes

In most Member States, name changes are possible although the rules and conditions differ significantly.

In all Member States, name changes may be effected if parentage of a child is changed after the birth has been recorded, and upon adoption. Pursuant to a decision by the European Court of Human rights, a name change will be effected in all Member States upon change of gender, if possible.

But that is about where the common ground ends. In most Member States, but not in all Member States, a name change may occur relatively easy upon marriage, or upon divorce. And for all other possible cases there is almost complete disagreement between the Member States. There is also currently no provision of the automatic recognition and acceptance of a name change legally authorized and registered in another Member State.

And again, just like the potential for different names registered at birth under the current regime, citizens may end up with different legal names registered in civil status registries in different Member States.

10. Translation and Legalisation

Once the obstacle of obtaining the proper certificates to be used abroad has been overcome, the next issue arises. It turns out that, even today, Identity Cards or Passports and judgments are the only "certificates" related to civil status which are universally accepted and recognized without further requirements in Europe. The mutual recognition of judgments in matrimonial and in matters of parental recognition is based on Brussels II/IIa Regulation.

But while the Member States do recognize judgments, driving licenses, diploma and professional licenses from other Member States without any further legalisation requirements, the Apostille is still required for civil status documents in many combinations of member states. As it can be seen from the treaty situation table above, in the majority of combinations of states the Apostille is still required.

According to our research, some jurisdictions leave it to the discretion of the civil status registrar whether to require a translation or not. In those Member States, the civil status registrar will waive the requirement either if someone in the registrar's office understands the foreign language or if the registrar is very familiar with the certificate. Two examples: most civil status registrars in Germany have seen the Turkish "Nüfus" so often that translation is often waived; most civil status registrars in the EU understand English and do not need translation of documents in English language. Vice versa, even in England, we were told by registrars, German certificates are often familiar enough to waive translation requirements.

Other jurisdictions always require certified or official translations unless otherwise provided for by bilateral or multilateral agreements.

11. Content of Civil Registration

Finally, once all the formal requirements are fulfilled, additional issues arise in the cross-border context with respect to the content of the certificate, as will be illustrated by the registration of birth.

The principles of birth registration being universally accepted in Europe, one is immediately surprised by the differences in detail. In total, in all Member States, 46 different items are recorded about the newborn child, such as date and place of birth, its parents and other details. Yet, out of these 46 items only two, namely the date of birth and the sex of the child, are part of the record in **all** jurisdictions. Not even the names of the child and its parents are necessarily recorded in the declaration of birth and the initial birth record.

On second thought, one may want to discount systems with population registers. With a population register, additional information is provided through the links within the system itself. Although, this may not be the case when information about the persons concerned, such as the parents of the child,

has not been recorded in the system because these persons are residing abroad. But even if the Member States with a population register are excluded, only three more items are universally part of the declaration of birth, namely the names of the child, the names of both parents and, except for Malta, the place of birth. Even then, there are differences as Italy records the first name of the child only and Greece records the first name of the father only.

These differences in record obviously cause additional issues. Items that have been recorded in the declaration of birth will obviously constitute the maximum of items which can be entered into the corresponding certificate. However not all the information which is recorded will necessarily also become part of the corresponding certificate.

In addition, quite different concepts exist about how to deal with subsequent changes to information. With respect to birth certificates, some jurisdictions will generally issue birth certificates based on the information available at the time of issuance. Changes to the civil status which have an impact of items in the certificate will be reflected. As an example, a change as to the father of the child based on recognition or legitimisation or based on a court decision, will be reflected in any newly issued birth certificate of the child. The same applies to any changes of name. Other jurisdictions never change any of the information of the original certificate. Irrespective of any later changes to the civil status of the person and with the exception of corrections a birth certificate will always be issued based on the original record at the time of birth.

The same is, of course, true for all other civil status records and certificates. It should be remembered that, due to the different legal concepts of civil status record, there is also a different value assigned to these certificates. Certificates from some Member States are rather an "extract" from the records, a piece of information which in theory can be doubted and proven wrong. Other jurisdictions effectively issue certified copies of an original record which gives irrefutable evidence of certain facts with binding legal effect (as long as the original registry record has not been challenged in a formal legal proceeding). Unfortunately, when certificates from a foreign jurisdiction are presented, a registrar may see something which has a different legal significance than the national certificates.

In summary, what can be noted is that there is no common concept of what a civil status record is and what any of the civil status certificates that may be issued should be and should contain.

Finally, making matters worse, even substantive law may play a role and lead to differences. Based on its laws of international private law (rules of conflict of laws), each jurisdiction determines the law applicable to the civil status of a person based on its own laws. Some will apply the principle that the law at the place of court (*e.g.*, at the place of registry) applies, some jurisdictions in Europe will apply the law of the place of residence, some jurisdictions apply the laws of the citizenship of a person. Applying these different concepts to the civil status of a child for example may lead to different results with respect to which name(s) the child bears, who its parents are and which nationality the child has. Depending on the law applied, a child may have different names, may have two or even more different fathers or none and have different nationalities or even none.

Accordingly, a birth certificate from one jurisdiction which states that, for example, the father who has legally recognized his parenthood is the legal father of the child, may not be recognized in another jurisdiction where the mother's husband is automatically the legal father of a child. Issues become even more complicated when the reason for the other jurisdiction being involved at all is the nationality of the father (or one of the fathers) and the child's need for registration for the purpose of citizenship and a passport.

With respect to the name that may be given to a child at birth, some jurisdictions have very strict rules. There are member states in which the first name shall reflect the national history, shall be clearly indicative of the sex of the child and / or must not be ridiculous or otherwise detrimental to

the interest of the child. As to the family name or last name, there are jurisdictions in which the last name is basically strictly fixed by law and usually follows the father's or the mother's family name or both without any exception. Some Member States also use sex denomination suffixes (*e.g.*, -ov, -ova) to the last name or a "fathername" based on the father's first name as middle name. Other Member States are not as strict, allowing for certain combinations or variations based on the parents' names. Finally, the UK and Slovenia both have no significant legal restrictions whatsoever with respect to the name(s) which a child may receive at birth. Again, these differences may compromise recognition of a foreign birth certificate, or at least in parts. One jurisdiction may refuse to enter a name of a child into its records which it believes to be either illegal or offensive, especially with respect to its own citizens.

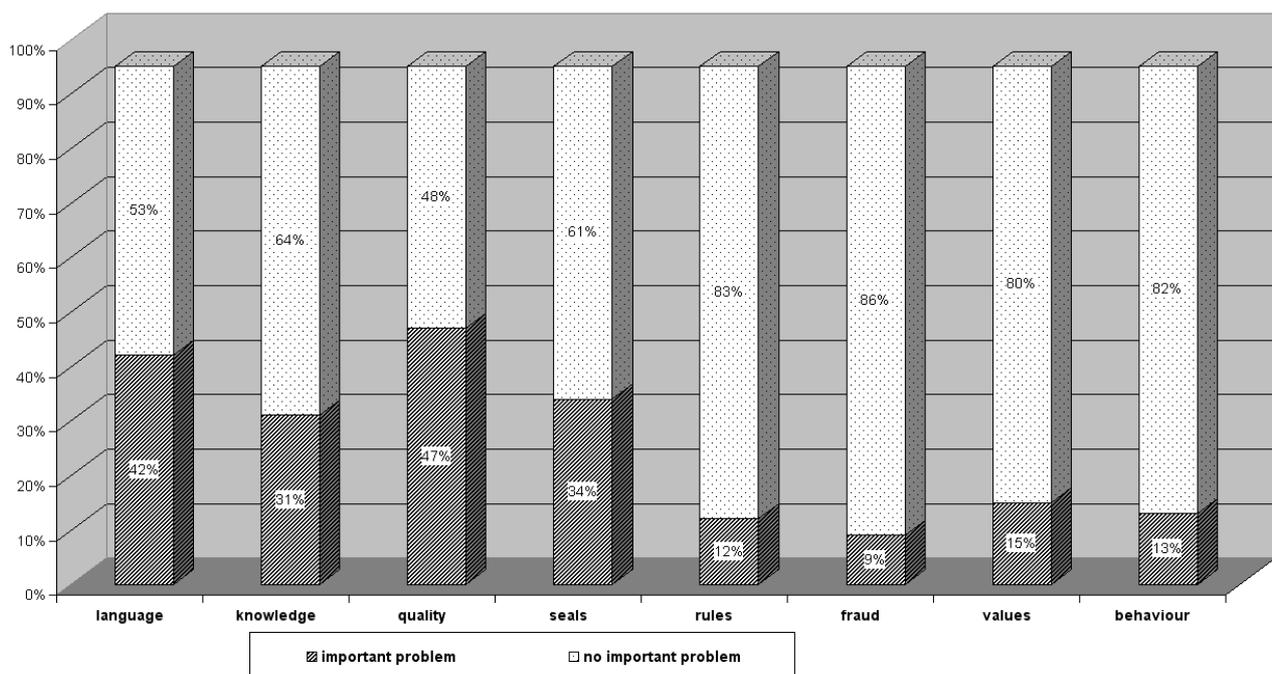
12. Problem awareness by registrars

Based on these analyses, 96 civil status registrars from 17 different jurisdictions were asked to identify the issues most frequently causing problems relating to other Member States, namely

- foreign language documents,
- lack of knowledge about foreign legal rules and procedures,
- missing information in foreign documents, poor quality of documents,
- missing stamps or certifications, missing Apostille,
- missing bilateral / multilateral treaties or rules,
- fraud, misrepresentation,
- the laws or public policy of other Member States, and
- the acts or behaviour of civil status registrars of other Member States.

The results can be seen in the following chart:

Table 25.: Problem stated by civil status registrars



The chart shows that, neither the laws nor the values of other Member States are perceived to cause major problems in cross-border relationships with other Member States. The relationship to

registrars in other Member States is quite excellent, too. There is obviously a true sense of collegiality between registrars in different Member States. Also, fraud does not seem to be an issue at all in relation with other Member States. Fears in this area seem to be overrated as far as other Member States are concerned.

The main issues are all on another level: the language and the general understanding of foreign civil status documents are causing the most concerns. A Danish registrar made the additional comment that it would be perfectly sufficient if she had access to samples of every document from every Member State, comparable to the Prado database for identity documents (<http://consilium.europa.eu/prado>). She stated that for most cases it would be entirely sufficient to know how each document should look like, and possibly to have a blank translation.

Also, despite all efforts by citizens to obtain documents with proper seals and certifications, the lack of proper seals and certifications is mentioned as an issue by a third of the registrars.

The largest group, almost half of the registrars, complained about missing information in foreign documents, or their poor quality. Obviously, the information provided by documents from one Member States is often not sufficient for the purposes of another Member State, and certified information is the item that is needed the most.

13. Judicial involvement

From the analysis and from the interviews with citizens and registrars above it has been shown that, a huge potential for problems exist and occurs in practice. A number of registrations require sufficient effort and several contacts to civil status registrars and take considerable amount of time and related cost. Where such problems exist in administration, one would expect constant judicial recourse. In addition, as reported in the country reports, several acts and particularly the waiver of the certificate of no impediment often require judicial intervention. And indeed, there appears to exist an abundance of reported case law in some Member States dealing with civil status issues, e.g., approximately 1.500 cases reported in Germany on the PStG statute alone. Although, this figure has less significance if one considers that, the average number of cases every year is only 35 and if related related to the total number of registrations in Germany every year. In two member states, Spain and Portugal, registration itself is a type of judicial proceeding.

Surprisingly, in a survey of 153 lawyers in all 32 jurisdictions, only three have reported to have been personally involved in a legal matter directly concerning civil status registration. All attorneys knew of problems clients have had in the past, but had not directly been involved in the resolution of these issues. 180 civil status registrars, participants in the annual congress of the European Association of Registrars (EVS) did not report to have been personally involved in an adversarial judicial proceeding. Accordingly, most problems are obviously resolved, if at all, within the administration itself. If a judicial process takes place, it is in most cases not adversarial but rather of a supervisory nature and the citizens are involved, if at all, without legal representation.

Cases that cause problems are often of an exotic nature or combination:

Among all citizens interviewed at the registry offices, the lawyers questioned, and from the answers of questionnaires sent out to more than 600 Solvit and Europoints, the following cases were reported which may serve as good examples:

From Romania, there was a report of a British citizen wishing to marry a Romanian citizen. On the sixteenth attempt to present certain certificates, the foreign citizen's British birth certificate was rejected by the registrar on the grounds that it was not "of green colour", as it was in fact pink. For some reason, the registrar had a sample of a British certificate which was green and insisted that the certificate should have that colour. Action was brought to court and the proceeding was still pending after several months.

In two reported cases, declaration of recognition of paternity made to registrars in one Member State were not recognized in another Member State but had to be made a second time, just using different forms, by the parents concerned. One case involved a paternity declaration from Estonia that had to be repeated in Finland.

The other case reported from a citizen met at the registration office in Denmark was more complicated: the citizen was reporting the birth of the second child of the family, is a UK-citizen, the mother of his children is a German citizen. The family lives in Denmark and both children are born in Denmark. In connection with the registration of both births in Denmark, the family experienced no problems at all, the interviewed person describes the process as easy, quick and cost-free.

The problems the family experienced with the first child (and are now expecting again in connection with the second child) are not connected to the Danish authorities, but to the dealings with the authorities of their countries of origin:

The first child was born before the parents got married, therefore they had to make declarations of parenthood and on shared custody. This was an easy process in Denmark, but got complicated and expensive when the birth was also to be registered in Germany and the UK. The couple had to declare the same things, they already had declared in Denmark, but for each country on a new form and connected with new costs. Furthermore, the process was also quite time-consuming and demanded travels to Consulates and the Embassies in Copenhagen.

The first child was first named in Denmark: the child got a first name, a middle name (the family name of the mother) and a family name (the family name of the father). With the UK-authorities, this caused no complications. However, in connection with the German authorities the issue of the naming of the first child is still (three years after the birth) an unsolved issue, which also influences the issue of naming the new second child. The German authorities do not except the choice of a middle name despite dual citizenship of the child. The citizen was very interested to hear about the *Grunkin-Paul* case currently pending at the ECJ from our interviewer.

There was the case reported by a lawyer in Belgium about the citizen who wished to marry and who had been divorced in Germany, thus requiring prior re-registration.

In a case in Germany reported by one of the lawyers, the registration of a Turkish child born in Germany into the Turkish registers at the Consulate had been refused on the grounds that, upon registration in Germany the Turkish name of the child had been "transliterated" by the parents using German spelling thus making the name unpronounceable gibberish in the Turkish language. An application for the correction was refused by the German registrar, as there was no "error" in registration. While legal proceeding was pending in German courts for said correction, the parents travelled to Turkey, convinced the registrar at the father's register to partially disregard the German birth certificate and enter the child into the Turkish registry in the intended Turkish spelling contrary to legislation. Upon their return to Germany with the new documents and passport the German registrar was willing to change the entry. The judicial process was withdrawn.

In Germany, a Cypriot from the Turkish population but born and registered in the Greek part was met at the registry office in his preliminary preparation of an intended marriage. He reported to have difficulties as he was known under two different names in Cyprus and that the German authorities were only willing to accept the "wrong" one of these two names.

A Polish citizen met a registration office in the Netherlands reported that, it had taken him quite a while to obtain his birth certificate from Poland. Polish authorities originally refused to issue the certificate when they were told that a same-sex marriage was intended. Only when, after a grace period, new application was made under the pretense that the certificate was needed for a heterosexual marriage was the same issued.

These examples are reported only to illustrate the issue that rather individual constellations create difficulties and delays over and above the usual red tape. Yet, rarely is legal recourse taken or seen as a successful avenue, but rather citizens concerned will attempt to fulfil the needs of the registration one way or the other, or attempt to find a solution through other means, such as marriage in a different place, or a more understanding registrar, such as the Turkish parents mentioned.

Every Member State has some peculiarities: a State may have naming rules which registrars in other Member States do not understand, there is no Member State which has a treaty with all other Member State, the type of registration system differs. Few of these issues alone pose any significant obstacle to cross-border interactions and with some good luck, these problems do not have any significant effect in practice (as can be seen in Table 13, *supra*). But with some bad luck, these small issues may lead to very significant additional costs and duration. Accordingly, the question of the problems arising in cross-border situation is always a question of a combination of individual, possibly "harmless" factors.

F. Policy Objectives

As Advocate General Sharpston has only recently pointed out in her opinion of 24 April 2008 in the recent case of *Grunkin and Paul v. Standesamt Stadt Niebüll* (Case C-353/06):

"It is undoubtedly true that matters would be simpler if Community legislation had been adopted to deal with the situation (or if all of the Member States were members of the ICCS and had ratified all of its conventions). A legislative or conventional solution would moreover be appropriate in such a field. The discussions which precede the adoption of Community legislation or multilateral agreements are necessarily longer, more thorough and wider-ranging than can ever be achieved in the context of a preliminary reference procedure before the Court. And, given the increasing mobility of citizens throughout the territory of the European Union, which is not merely a single market but a single area of freedom, security and justice, it is clear that conflicts of interest involving the determination and use of personal names can (and probably will) arise with increasing frequency unless and until some adequate solution is found. Such a solution should be fully and systematically thought out, with due regard to all its implications for all the legal systems involved. But no such solution is yet in place. ..."

As part of this study, possible solutions are to be indicated. This, in turn, requires the formulation of policy objectives as a basis for the evaluation of possible solutions.

The tender for this study makes reference to the Communication of 2 June 2004 (COM(2004)m 401 final) in which the Commission stressed that the "development of judicial cooperation must continue to make tangible improvements in the daily life of individuals and businesses by enabling them to assert their rights at Union level." The need to facilitate mutual recognition in new fields, such as the civil status of individuals, is mentioned as one of the priorities. In addition, the recitals of Council Regulation (EC) No 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, and of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, have stressed the importance of an area of freedom, security and justice.

The citizens' right to respect for their private and family life, the right to marry and to found a family are guaranteed by the European Convention of Human Rights. The right of every child to be registered immediately after birth and its right to have a name are protected by the United Nations

Convention on the Rights of the Child. Not only is the European Union bound to protect these rights but it is held to take measures against threats endangering these rights.

The free movement of persons and increasing mobility in the European Union, as well as the free movement of services, which includes the right to access services such as maternity hospitals in other Member States, or marriage tourism all constitute a special challenge to civil status registration.

Finally, in the interest of both citizens and the functioning of government and society, it is important to take measures of protection against identity fraud and to enable citizens to prove who they are in a secure and convenient way in daily life as well as when accessing government services.

Accordingly, the following objectives may be formulated:

1. General Objectives

- Maintaining and developing an area of freedom, security and justice, in which the free movement of persons, and of services, is ensured.
- To support citizens in asserting their rights in all Member States, especially the right to respect for their private and family life, their right to marry and to found a family, their right to a name and their right to an identity and to the proof thereof.

2. Specific Objectives

- To promote the protection of civil rights.
- To reduce obstacles to the free movement of persons and services.
- To avoid forgery and identity fraud and theft.

3. Operational Objectives

- To ensure mutual recognition of civil status documents from one Member State in another Member State.
- To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union.
- To reduce efforts and costs for citizens exercising their right to free movement of persons and services.
- To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens.
- To reduce forgery and identity fraud and theft and to support the integrity of information on the civil status of citizens.

4. Solutions

With all these aspects in mind, it is obvious that a simple solution will not be easily found. Usual concepts of harmonisation obviously fail when the differences are so extreme and have so many different roots.

As mentioned above, all three systems of civil registration which exist in Europe have good reasons and traditions and are functional within the same jurisdiction but fail more or less faced with cross-border mobility, especially when two different systems have to interact. It is unthinkable to ask any of the Member States to change its system, let alone the cost that such a change would involve.

To make matters worse, some of the conceptual problems involved are deeply intertwined with other laws and with strong traditions and beliefs.

As to the items recorded and certified, for example, most Member States will not record the religion of a child. In some of these Member States it is not only a matter of convenience, but an aspect of constitutional law and of human rights that the state shall never ask for or record such an information. Other Member States believe this item to be quite important; rights and duties, taxes and the right to marry in church at a later time may be based on such registration.

The details and especially the nationality of the parents are registered in most Member States and some even record personal details of the grandparents. This information is deemed to be very important for issues of descent and inheritance as well as citizenship. Other Member States have quite different mechanisms for these purposes. Generally, most Member States will not record or certify items which may be subject to change or which are not directly relevant under the laws of that Member State. One has to keep in mind that every additional item in the records may also mean that the citizen has to produce additional documentation for evidence, possibly from abroad.

As to the naming issue mentioned above, some Member States, on the one hand, believe it to be an important matter of national culture to maintain names based on that culture, or believe to have rules in the interest of and for the protection of children. On the other hand, other Member States believe that it is not legitimate, even unconstitutional and against human rights for the state to interfere in the personal sphere of citizens' names without absolutely compelling reasons.

These may be some of the reasons why all attempts on harmonisation have failed so far. There is not even one single Convention of the International Commission on Civil Status (CIEC) which has been ratified by all of its member states. And not even all EU Member States are members of the CIEC, despite the fact that it has been founded on initiative of the Council of Europe to which all Member States belong. Lately, the website of the CIEC has become sponsored by advertisements.

Nevertheless, a significant improvement of the situation is necessary and, in fact, this is what Europe's citizens expect from the EU. After all, with all the good reasons why the situation has developed to become as complicated as it is, in practice there is still no good reason why to burden the citizens that much. It therefore remains necessary, while keeping the complexity of the problems and issues in mind, to develop solutions and strategies to overcome the current situation.

G. Policy Options

1. Introduction

This section defines, elaborates and assesses alternative policy options that can credibly address the problems identified and meet the policy objectives. The policy options include both legislative and non legislative proposals and a 'status quo' option where no new proposals are put forward. This section of the report:

- Summarises the problems addressed; and
- Identifies the policy options that could address the problems in the current situation and contribute to the achievement of the policy objectives.

The issue of names is excluded here, as it causes special problems which require to be discussed in a separate chapter, following hereafter.

Based on the results, the following main problems can be envisaged and need to be addressed:

- **Problem 1** – It is often very time-consuming and costly for citizens whose civil status events have occurred and have been registered in one Member State to obtain certificates of these events if they are residing in another Member State.
- **Problem 2** – Civil status certificates from Member States are not accepted without additional formalities such as a legalisation or Apostille in all other Member States.
- **Problem 3** – Civil status certificates from Member States are not accepted as equivalent to similar certificates of the receiving Member State or as not sufficient in content.
- **Problem 4** – For some civil status registrations, citizens of other Member States have to produce additional documentation and evidence just because they are citizens of another Member State (certificate of law, certificate of no impediment).
- **Problem 5** – Forgery and identity theft may occur unnoticed as the correctness of certificates from other Member States cannot always be assured, causing concerns for citizens and Member States alike and jeopardizing the integrity of civil status registries.
- **Problem 6** – Civil status registrars are often not informed of changes to the civil status of a person occurring in another Member State, while, if the same change occurred in that Member State, the registrar would be informed and would make notice of record of that change.

And as a separate issue:

- **Problem 7** – Different regimes in naming lead to citizens who cannot have the name which corresponds either to their nationality or to their place of habitual residence registered in their place of residence, or may have different names registered to their person in different Member States.

Based on the information gathered in the country reports, on bilateral experiences between some Member States, on experiences of the European Union with other instruments, on publications of the CIEC and EVS, and on personal discussions with registrars both during interviews and at the Annual Conference of Registrars at Gent in May 2007, a number of policy options have been identified which could address these problems.

The status quo option has been divided into two policy options: a “passive” status quo (policy option 1) and the “active” status quo (policy option 2). These policy options include both legislative and non-legislative policy options. Certain options may be combined with each other whereas others are mutually exclusive.

The following table summarizes these policy options:

Table 26.: Overview of Policy Options

Overview of the Policy Options		
<i>Policy Options</i>		<i>Description of policy option</i>
<i>Status quo options</i>		
Policy Option 1	<i>“Passive” Status quo</i>	<i>The Community does not take any further initiative to address the policy objectives.</i>
Policy Option 2	<i>“Active” Status quo</i>	<i>The Community does not take any legislative and organisational initiatives, but will support information and education of civil status registrars.</i>
<i>Legislative options</i>		
Policy Option 3	<i>Abolishment of Legalisation for European Documents</i>	<i>Civil status certificates (and possibly all public documents) from a Member States must generally be accepted in all other Member States without any additional formalities.</i>
Policy Option 4	<i>Abolishment of additional requirements</i>	<i>Legislative obligation (e.g. EC directive) on Member States: all types of additional requirements for non-citizens, such as certificate of no impediment or certificate of law are abolished.</i>
Policy Option 5	<i>Obligation to provide Civil Status Certificate</i>	<i>Legislative obligation (e.g. EC directive) on Member States to provide a Civil Status Certificate to persons residing abroad in timely and reasonable fashion</i>
Policy Option 6	<i>European Civil Status Certificates</i>	<i>Legislation (Directive or Regulation) providing for uniform European certificates for certain acts or events</i>
Policy Option 7	<i>Mutual recognition by receiving state</i>	<i>Legislative obligation (e.g. EC directive) on Member States to fully recognize Civil Status Certificates issued in other Member States in form and content</i>
Policy Option 8	<i>Obligation to provide accepted certificate</i>	<i>Legislative obligation (e.g. EC directive) on Member States to provide Civil Status Certificates which will be fully recognized in other Member States in form and content</i>
<i>Organisational options</i>		
Policy Option 9	<i>Direct communication</i>	<i>Registrars are allowed and held to communicate directly with registrars in other Member States to exchange information.</i>
Policy Option 10	<i>Creation of Central Authorities in Member States</i>	<i>A Central Authority is created in each Member State. Registrars in a Member State shall contact registrars in other Member States through the Central Authority to exchange information.</i>
Policy Option 11	<i>European Civil Status Office</i>	<i>A European Civil Status Office is created. Registrars in the Member State shall notify or contact registrars in other Member States through the European clearing house to exchange information about registrations.</i>

2. Initial Evaluation

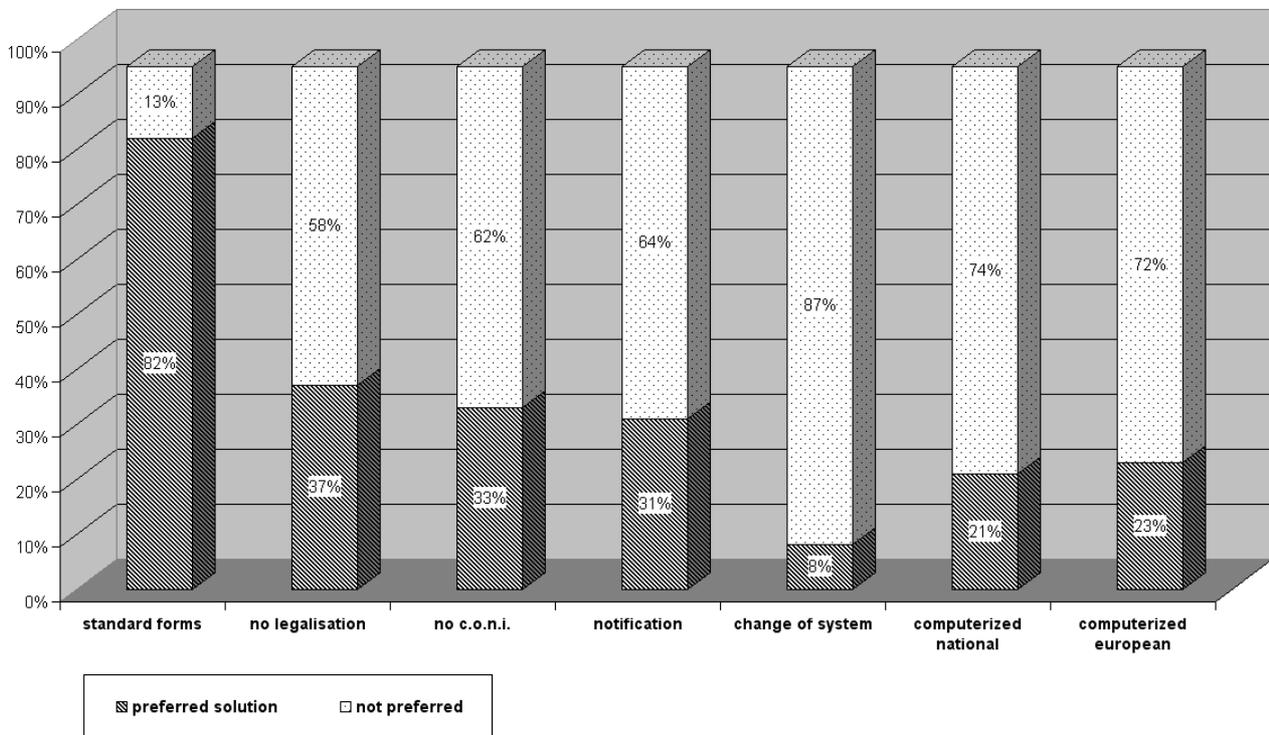
Based on these thoughts, 96 civil status registrars in 17 different jurisdictions were asked which solution they would prefer to see for their daily practice in cross-border issues related to other Member States. In a simplified version of the policy options outlined above, the registrars could choose between

- the introduction of standard documents (e.g., European birth, marriage, death certificates)
- the abolishment of the apostille and other certification for documents from other EU Member States
- the abolishment of certificate of no-impediment for citizens from other EU Member States
- the notification of civil status changes occurring in other EU Member States to the place of birth
- a change of system in your Member State
- the creation of a national computerized civil status registry in your Member State, and

- the creation of a computerized European civil status registry or link system.

The results of the survey are illustrated by the following chart:

Table 27.: Preference of policy options by civil status registrars



The table shows that, only very few of the civil status registrars would consider a change in their own civil registration system as a preferred option for a solution to the problems. The introduction of computerized databases, either on a national or on a European level were not very popular either.

About a third of the registrars, or more promoted the abolition of the Apostille and other certification, and of the certificate of no-impediment.

But by far the most popular proposal was the introduction of standard EU forms for all Member States, with 82% of the registrars being behind this concept. This support is so strong despite the reluctance by the registrar to any changes in their own system and potential conflicts, or clashes, between a harmonized form and current rules of the Member States.

3. Policy option 1: "Passive" Status Quo

The current system of civil status registration in each of the Member States is fully functional. In each of the Member States considered individually, the civil status registration is efficient and most secure. Registrars or civil servants acting on behalf of these registrars are often well trained and do a thorough and trustworthy job on their task. In some Member States, the current civil status system has existed largely unchanged for a long time. Accordingly, information has been stored for a very long time using that system and it has survived wars and the change of political systems. There are good reasons to keep such as system. Other Member States have completely modernized and digitised their civil status registration system, adding efficiency and making additional features possible. The details of civil status registration are also closely linked to the society and legal culture of each Member State, and to a number of constitutional questions.

Thus, the main strength of the system is its overall stability.

However, each of the civil status registration systems, and all of the systems together, fail when cross-border issues arise, especially when these issues are related to another Member State in which the system of civil status registration is different.

The Status Quo also means that no further action is undertaken. This means that the key issues as identified in the problem definition will persist. Citizens will continue to have difficulties in asserting their rights at Community level, if not being deprived of some of these rights which the Member States and the European Union have pledged to protect. At the same time, with increasing mobility, the administrative burden on the Member States and the registrars in these Member States to cope with an increasingly chaotic situation will also increase.

The following table provides a summary assessment of this policy option. As indicated in the table there would be no effect on the achievement of the policy objectives.

Policy option 1 - 'Passive' Status quo		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	0	<i>No effect</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	0	<i>No effect</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	0	<i>No effect</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	0	<i>No effect</i>
To reduce forgery and identity fraud and theft	0	<i>No effect</i>
To support the completeness and integrity of information on the civil status of citizens	0	<i>No effect</i>
Economic and social costs in EU	Continuing costs due to lack of acceptance of registrations from other MS	
Civil effect	Continuing disapproval by European citizens exercising their freedom of movement	
Administrative Costs	None	

4. Policy option 2: "Active" Status Quo

The “Active” Status Quo means that no legislative action is undertaken. Rather, the Commission will undertake to educate the registrars in the Member States about civil status registration in all other Member States.

A more detailed compendium of the relevant provisions and an explanation of practical implications of these provisions need to be created for each Member State and in all languages.

This policy option appears to be very costly. The number of civil status registrars in Europe is high. The compendium has to be regularly updated, to take account of changes occurring at least in two Member States on average every year. Experts need to be employed for courses and seminars. Registrars need to take leave of absence for these educational activities, causing costs for their

employers. In some Member States, registrars are elected officials and in some others, they may be part-time employed. These registrars might not be willing to make such an effort.

At the same time, the effects of such measures are limited. Knowledge about the system of other Member States may reduce cases in which the citizens have problems with recognition of their certificates based on pure misunderstanding. In addition, knowledge about the "look" and the meaning of certificates from other Member States reduces the potential for fraud. Yet, knowledge of foreign laws and practices on the part of registrars alone does not ensure that citizens can obtain certificates when needed, or that certificates from other Member States will be recognized when presented to a registrar.

The following table provides a summary assessment of this policy option:

Policy option 2 - 'Active' Status quo		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	(√)	<i>Little effect - increased knowledge of registrars about other Member States will reduce cases of misunderstanding</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	(√)	<i>Very little effect</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	0	<i>No effect</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	0	<i>No effect – positive effects are not higher than additional costs for training</i>
To reduce forgery and identity fraud and theft	√√	<i>Increased knowledge of registrars about other Member States systems and certificates will help reducing cases of fraud</i>
To support the completeness and integrity of information on the civil status of citizens	0	<i>No significant effect</i>
Economic and social costs in EU	Slightly reduced costs due to lack of acceptance of registrations from other MS	
Civil effect	Slightly reduced disapproval by European citizens exercising their freedom of movement	
Administrative Costs	Very high administrative costs	

5. Policy option 3: Abolishment of Legalisation

The Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Hague Apostille Convention) facilitates the circulation of public documents issued in one State party to the Convention and to be produced in another State party to the Convention. It does so by replacing the cumbersome and often costly formalities of a full legalisation process with the mere issuance of an Apostille (also called Apostille Certificate or Certificate). All Member States have ratified the Apostille Convention.¹

¹ The Hague Conference is currently in the process of updating the Convention by adding electronic features and registers to the current Apostille and by introducing an electronic Apostille for electronic documents.

There are two background concepts behind the requirement of legalisation or Apostille for foreign public documents:

The first concept is a general one: certain public documents have a particular high value in some states. Under the laws of these states, such documents may be irrefutable proof for its content as long as the document has not been changed by court order or administrative decision. As a matter of public policy and of sovereignty, states are reluctant to afford a similar kind of value to a document which has been issued by another state, thereby potentially undermining the work of the own authorities. The second concept is more of a practical nature: from abroad it may be very difficult for an official in a public administration to judge if a document that has been presented is genuine in the sense that it has been issued by an existing and proper authority authorized to issue such documents, that the document has been signed by the right person and that it has not been forged or tampered with.

True legalisation is a complex process by which the Consular officer certifies genuineness of the signature of an official of the foreign ministry of his host country, who has, in turn, certified a document, which may have had to be certified by other officials before. The Apostille is a shortcut, but it is a burdensome procedure to obtain the Apostille nonetheless. It is still an additional certification required which domestic documents do not need to have. In many cases, the Apostille has to be obtained from a single authority, so that the citizen must travel to or send the document to that authority. In addition, a certification by an intermediate authority may often be required.

Currently, it is not a very secure method either. Just as the underlying document can be forged, so can the Apostille. While a list of the authorities who are entitled to issue the Apostille has been deposited at the Hague, the registers are hardly ever checked for confirmation.

In many of its instruments, the EU has abolished all kinds of additional legalisation. Especially civil judgments of all kinds are recognized in all Member States without any further requirements. Accordingly, under the current situation, judgments stating that a citizen is divorced, or has to pay a child support, has custody or visiting rights for a child will be recognized in all Member States, while the birth or marriage certificate will not. It is obvious that such a level of distrust is not appropriate within the EU. In fact, matters are similar in the commercial sphere: a judgment that orders a company to pay a huge sum to another company is fully enforceable in every Member State without Apostille, while the company's certificate of registration as a company is not.

To resolve this situation, a Convention abolishing legalisation of documents in the Member States of the European Communities was signed at Brussels on 25 May 1987. Under this Convention, legalisation is truly abolished and public documents from other Member States are accepted without any additional formalities. Unfortunately, to date this Convention has been ratified only by Belgium, Cyprus, Denmark, France, Italy, Latvia, and Ireland.

In the sphere of civil status registration, all relevant CIEC conventions provide for mutual recognition of documents issued under each convention without any further formalities. Of particular importance are CIEC Convention No. 16 on the issue of multilingual extracts from civil status records, Vienna 08 September 1976, and No. 17 on the exemption from legalisation of certain records and documents, Athens, 15 September 1977. All in all, these conventions cover 12 Member States, plus Switzerland and Turkey. The Nordic Agreement covers Finland, Sweden and Denmark. Every Member State has concluded bilateral treaties with some other Member States abolishing the requirement of the Apostille, with Austria taking the lead having bilateral or multilateral agreements with 20 Member States.

Obviously, none of the Member States is entirely averse to accepting documents from other EU Member States without further requirements, but they still do not do so on a broad scale. During the study, the foreign ministries of the Member States were asked why they had not ratified the 1987

Brussels Convention and if there were any general objections to such a step. None of the Member States could give any compelling reason. In one Member State, an official checked the files and explained over the phone that there was an election shortly after the treaty had been signed and in addition, the respective ministerial official who had been responsible retired. Thereafter the treaty was simply forgotten.

Still, among the 30 jurisdictions of the 27 Member States there are 435 possible combinations of two jurisdictions and civil status documents do not need an Apostille only in about 1/3 of these possible combinations.

With truly abolishing the requirement of any kind of legalisation for public documents from other Member States, everything is to be gained. Citizens will not be opposed, on the contrary, it is usually very difficult to explain the requirements to citizens. Costs for implementation are very low. Some of the treaties concluded by Austria with other Member States have no more than two articles, one abolishing the requirement of legalisation, another for the date of coming into effect. A legal instrument such as an EC Regulation would not necessarily need to have any additional content. Finally, this option should reduce administrative costs for the Member States who do no longer have to issue an Apostille for these documents.

This policy option will not solve all problems, but can be seen as a first step and a minimum requirement for all other policy options which involve legislative or organisational activities.

The following table provides a summary assessment of this policy option:

Policy option 3 - ‘Abolishment of Legalisation’		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated 0 to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√√√	<i>High effect – the costly and time-consuming necessity of obtaining the Apostille and possibly other additional stamps before using a document is abolished</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√√√	<i>High effect</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√√√	<i>High effect – on many different levels not only in the area of civil status</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√√√	<i>High effect – positive effects are higher than additional costs for training</i>
To reduce forgery and identity fraud and theft	0	<i>A slight increase in forgery may occur</i>
To support the completeness and integrity of information on the civil status of citizens	0	<i>No significant effect</i>
Economic and social costs in EU	Costs due to lack of acceptance of registrations from other MS are avoided	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement	
Administrative Costs	Very low administrative costs for legislative action, outweighed by the reduction of administrative costs for the issuance of Apostille	
Special Beneficial Effect	May be applied to all public documents, having positive effects for private persons and businesses in many other fields as well	

6. Policy option 4: Abolishment of additional requirements for citizens of other Member States

A number of Member States require that citizens of foreign countries, including citizens of other Member States, must produce a certificate of no impediment and/or a certificate of law and customs issued by the authorities of their Member States of origin when they intend to marry. These certificates are more than a simple certificate of celibacy. Rather, they certify that there are no impediments, under the laws of the Member State whose citizen the person is, to conclude a marriage and to conclude exactly that marriage to exactly that other person as intended.

These certificates are not required without reason. Firstly, under the conflict of law rules of many Member States, the civil status of a person and its effects are governed wholly or partially by the law of the home state of that person. Secondly, and more importantly, the personal requirements for and the impediments to marriage differ between the Member States. In both cases, the Member State in which the marriage is celebrated attempts to avoid that this marriage may not be recognized in the home country of one of the spouses. Such a situation would cause a so-called "limping marriage" valid in one country and not in another, leading to even further complication. Children of that marriage might then be deemed to have been born in wedlock in one country, and not in another. And finally, the spouses might even be free to marry again in another country without prior divorcing, because they are not deemed to be married under the law of that country.

A civil status registrar in one country is not necessarily qualified to judge the laws and legal requirements for a marriage in another country. Therefore, a certificate of no impediment issued by the authorities of that other Member State will be required.

Unfortunately, obtaining a certificate of no impediment in many cases is particularly burdensome. Due to the fact that this certificate also attests that those two persons wishing to marry may do so under the law of their home country, the authority which issues the certificate will need full details (and evidence in form of birth and marriage certificates, divorce decrees of both spouses, and additional information and certificates even about other family members – in order to rule out a prohibited relationship between the future spouses). Thereafter, all records need to be reviewed. After all, theoretically the future spouses, despite different places of birth, nationality, residence, and diverse names of the parents, could still be related (for example they could be siblings, or a grandaunt and the niece's daughter's former husband for that matter who are barred from marrying under the laws of some Member States).

The persons who need a certificate of no impediment therefore may not only need to organize all the documents that the Member State of marriage requires (plus the certificate), but also all the documents that the Member States of each spouse's country of citizenship requires, and many of these documents may be required in triplicate. Furthermore, not all Member States issue certificates of no impediment, in which case a waiver needs to be obtained, which makes a court procedure necessary in some Member States.

While this effort may have been reasonable or even necessary in the past or in relation to other countries, it is no longer logical in the context of the European Union. Not all Member States require certificates of no impediment. And not all Member States apply the principle of nationality of the parties to issues of personal status. In fact, many Member States apply the principles of domicile, habitual residence or simply the law of the *forum*, that is the law of where the marriage takes place.

Pursuant to Brussels IIa, divorces which are adjudicated by a court in one Member State are automatically recognized in all other Member States, irrespective of the nationality of the parties and whether or not these parties would have qualified for divorce in their country of origin. Other

than the lack of a Regulation, there appears to exist no *logical* ground why marriages should not be recognized but divorces are.

And indeed, at least for marriages between different sexes, there appears to be no Member State which does not accept marriages from other Member States as valid as a matter of principle. In fact, even without a formal treaty or EU legal instrument specifically addressing this issue, there is little doubt that a Member State must not refuse recognition of a marriage between an own citizen and a citizen of another Member State which has been concluded in another Member State and is valid in that Member State. Every other approach would be a serious obstacle to the free movement of persons, as highlighted by the ECJ recently, for example, in the matter of *Garcia Avello*.

The question of a certificate of no impediment does not arise in Member States applying the law of habitual residence, or generally the law of the place of marriage. And as discussed, no other Member State may refuse recognition of such a marriage. Accordingly, the fears of a "limping" marriage are unfounded, at least as far as the Member States are concerned.

In fact, one can even move one step further: one should imagine a citizen from a Member State lawfully residing in another Member State, wishing to conclude a marriage in that Member State, who is prevented from doing so solely on the grounds of his nationality, because there is an impediment to marriage which applies to him and which would otherwise not prevent marriage under the laws of the Member State in which the marriage is to take place. Again, such a decision would clearly constitute discrimination and an interference with European citizenship and the right of free movement.

As discussed, the reasons which may be brought forward to justify such interference are no longer valid within the EU. Accordingly, in this context, the requirement to provide a certificate of no impediment should be abolished. In fact, there are serious doubts if this requirement as such, and not only its potential consequences as outlined, constitutes discrimination and an interference with European citizenship and the right of free movement.

In line with Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, it appears necessary to extend the abolishment of the certificate of no impediment and similar additional burdens to holders of a long-term resident permit under this Directive as well.

Abolishing the certificate of no impediment would remove a significant burden to citizens wishing to marry in certain Member States in a situation where either the citizen or the future spouse is a citizen of another Member State. In addition, abolishing the certificate of no impediment would reduce administrative costs and the burden to issue such certificates.

The following table provides a summary assessment of this policy option:

Policy option 4 - 'Abolishment of additional requirements'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – 0 to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√	Medium effect – citizens may exercise their right to marriage and found a family
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√√√	Large effect for a particular situation – a burden to citizens wishing to marry in certain Member States is removed
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√√√	Large effect for a particular situation – a burden to citizens wishing to marry in certain Member States is removed
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√√	Certificate does no longer need to be issued, and does no longer need to be required, checked and recorded
To reduce forgery and identity fraud and theft	0	A slight increase in forgery may occur
To support the completeness and integrity of information on the civil status of citizens	0	A slight increase in incomplete or false data may occur, a small number of persons may marry while certain requirements are not met in their Member State of origin
Economic and social costs in EU	Reduced costs	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement	
Administrative Costs	Very low administrative costs for legislative action, outweighed by the reduction of administrative costs for the issuance of certificates and by the reduction of administrative costs for requiring such certificates	

7. Policy option 5: Obligation to provide a civil status certificate

This policy option is a proposal for a legislative initiative (e.g. a Directive) which obliges Member States to provide civil status certificates of events registered in that Member State to persons residing in another Member State in a timely and reasonable fashion.

All Member States do issue copies of civil status certificates, or extracts from the records, often even in variations: there are short forms, long forms, multilingual forms, copies from the original record, extracts with limited information, certificates based on the original entry, certificates based on updated information, and "full" civil status records showing just about every civil status information about a person on the same document (such as birth, marriage(s), divorce(s), children). These certificates are issued sometimes free of charge, sometimes for a fee, but no Member State refuses to issue additional certificates on request (unlike Canada, for example, where only one birth certificate is ever issued and another birth certificate will be issued only under a complicated procedure and only if the first certificate has been destroyed, lost or stolen).

In about half of the Member States, it is possible to obtain civil status certificates from abroad either by filling in an on-line form, or by phone, e-mail or fax, either from the registry office which issued the certificate, or a central office, or the Embassy or Consulate. Fees range between being free and up to € 30,00 and delivery usually takes place within a week or two, including the time it takes for the mail. Taking into account the administrative work involved, this time frame and costs seem

reasonable. The same applies for Turkey, Croatia and Switzerland which have been included in this study. (A special situation exists between the Member States of the Nordic Agreement, where information can be exchanged electronically between the central population registers and records are not required.)

On the other hand, there are a number of Member States where it has not been possible to obtain civil status certificates from abroad by means of long distance communication. In some Member States, applicants did not even receive an answer, in others they were directly advised that it would be necessary to appear in person or to send another person, such as a family member, with or without power of attorney to the registry office.

The Member States unanimously agree that, in certain situations, citizens have to present civil status certificates of the place where the event was registered, even if that place was abroad. At the same time, as it appears, some Member States are not willing to provide these certificates if they need to be presented to a registrar in another Member State. Such practice is *prima facie* illogical and is it therefore not justifiable. It is obviously a serious obstacle and burden to the citizens and a barrier to the free movement of citizens.

It appears that three grounds are cited: administrative burden, the necessity to collect fees, and the necessity on the ground of data privacy to ensure that only a person qualified under the laws to obtain a certificate will receive that certificate. The first ground is obviously unreasonable, as it does not require much more effort to mail a certificate. The issue of payment is not reasonable either since practical solutions do exist to make payment from one Member State to another possible. For a certificate from Cyprus, it would have been necessary to appear in person at the municipal office, or at a Consulate, in order to obtain a receipt for the payment of a fee of not more than € 1,72. Out of kindness, Consulate personnel allows payment to be made by postal stamps.

Finally, as to privacy, this may be an issue. But even among those Member States that do send out certificates there are some with strict privacy laws. Data privacy is a right and is meant to protect the citizen and not to create burdens and obstacles to the citizen. There are a number of very simple solutions which avoid sensitive information getting into wrong hands: some Member States require that the applicant provides all information which will be shown on the certificate in the application. As an example, a person requesting a birth certificate may have to provide the name, date and place of birth, as well as the names of both parents and possibly their dates of birth. If need be, applicants may additionally be required to attach a copy of their passport or ID to the application and registered mail may be used to send the certificate, as it is practiced in some Member States. With all these precautions, if they are felt to be necessary at all, the likelihood of a certificate being sent to an unauthorized person is minimized without making issuance impossible as it is now.

The following table provides a summary assessment of this policy option:

Policy option 5 - 'Obligation on Member States to provide a civil status certificate'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – 0 to √√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√√√	<i>Large effect – citizens in half of Member States may exercise their rights to marry and found a family, to register their children, or to prove their identity more easily</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√√√	<i>Large effect – a burden to citizens is removed</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√√√	<i>Large effect – a burden to citizens is removed</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√	<i>Member States that have to register a civil status change may do so easier if citizens can provide necessary documentation from other Member States whenever these are needed; Costs to some Member States may increase having to issue certificates more often, but if need be, fees may be levied by these Member States</i>
To reduce forgery and identity fraud and theft	0	<i>No significant effects</i>
To support the completeness and integrity of information on the civil status of citizens.	0	<i>No effect</i>
Economic and social costs in EU	Reduced costs	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement	
Administrative Costs	Very low administrative costs, additional administrative costs in some Member States for the issuance of certificates, outweighed by the reduction of administrative costs for registration in other Member States	

8. Policy option 6: Creation of uniform European Civil Status Certificates

This policy option is a proposal for a legislative initiative (e.g., a Directive or Regulation) to harmonize the issuance of civil status certificates as to create uniform European Civil Status Certificates for certain events.

This option is in line with several other instruments such as Brussels I and Brussels IIa, Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims, or Regulation (EC) No 1348/2000 on the service of documents. All these instruments harmonize certain procedural rules and introduce a common form which can be issued in all languages of the EU and can therefore be used without the need of translation. In the field of civil status registrations, multilingual forms have already been developed by the CIEC, especially forms for multilingual birth certificates, marriage certificates and death certificates thereby covering the three most important civil status acts under CIEC Convention Nr. 16 on the issue of multilingual extracts from civil status records of Vienna on 8 September 1976. In addition, there is Convention No. 25 which provides for a numerical form of civil status registrations which does not require translation into all languages, and a new Convention for the transmission of electronic data.

It would be quite simple to adopt the certificates and categories of one of these CIEC Conventions.

As Advocate General Sharpston has pointed out in her recent opinion in *Grunkin Paul*:

It is undoubtedly true that matters would be simpler if Community legislation had been adopted to deal with the situation (or if all of the Member States were members of the ICCS and had ratified all of its conventions). But no such solution is yet in place.

But apparently, the Member States were reluctant to become Members of the CIEC and even more reluctant to ratify the Conventions. The Convention on multilingual certificates is the most successful CIEC Convention, but it has only been ratified by eleven Member States.

The problems with the creation of a uniform European Civil Status Certificate can be illustrated with the example of a birth certificate, which should appear to be a simple matter. All Member States do issue birth certificates, but it is surprising to note that there are in total 46 different categories which are registered and about which certificates may be issued by different Member State, and but for the date of birth, there is not a single one which all Member States have in common. And while some of these categories may be dispensable even from the viewpoint of the Member States that do have them, some others may be deeply embedded into the culture and connected to the national heritage, but at the same time incompatible to the situation of other Member States. In addition, as outlined in the introduction, the system of civil status registration in many Member States is around 250 years old and has not been fundamentally changed since then.

For some Member States, the Slavonic father's name is quite important as part of the name, while other Member States do not have that category. The CIEC forms under Convention No. 16 have enough space to enter the Slavonic father's name, but one has to admit that there is no specific category or dedicated space for this item. For some Member States, stating the religion in the birth certificate is important, it may even be required if that person wishes to marry in church at a later date. The possibility of marriage in a church having civil effect is in fact not quite uncommon among the Member States. On the other hand, there are Member States where registering the religion of a child on a birth certificate would be outright unconstitutional. Not even the sex of the new-born child is mentioned on the certificates of all Member States.

Then of course, there is the matter of qualification of the certificate. Even if two certificates from different Member States look alike or have the same categories and entries, this does not necessarily mean that these certificates have the same meaning and content. As an example, in one group of Member States, a birth certificate is practically carved in stone, once finalized and properly issued, bar exceptional circumstances it will never be changed again. And when issued to a citizen, the citizen will always receive a full copy or an extract which will have the same information on it (sometimes a little less, for a "short form") as the original certificate. In another group of Member States, the registration certificate may be amended using marginal notes, and when issuing a certificate or extract, some of these notes may be mentioned or even reflected in the certificate. In some Member States, the certificate is always up-to-date and reflects the current situation, with all changes entered, and the content of a person's birth certificate may change frequently. Specifically, the name of a person may be updated following a name change. Finally, in some Member States, a birth certificate issued to a citizen is no more and no less than a printout informing the citizen about the data currently stored in the computer system about him, subject to easy change or correction at any time.

From a practical point of view, of course, harmonized certificates would have great advantages for the citizens. Uniform certificates would be universally accepted in the EU, without the need for translation, and without registrars asking for information which a Member State requires but another Member State does not issue. The legal instrument would regulate exactly how the form should be.

However, as attractive as this solution feels initially, the problems in detail are almost impossible to solve. As discussed, the Member States have very different concepts as regards the form and the content of a certificate, and each of these concepts has a rationale and is connected to other issues.

Even the form is debatable: while several Member States issue certificates on plain paper with typewritten information, seal and signature, others use special paper to combat forgery, and for a third group of Member States the digital form is the only one truly trusted.

Using a multilingual form also bears the risk that such form might become difficult to handle. Using numbers and figures for the entries may make them difficult to read and understand. And while most registrars in Europe are very qualified, not all are, so that using certificates with figures bears certain risks, unless training is provided. In addition, of course, the proper forms need to be printed and provided to all registrars, and legislation for proper internal organisation to adapt to the new form of certificate needs to be adopted.

The following table provides a summary assessment of this policy option:

Policy option 6 - 'Uniform European Civil Status Certificate'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – 0 to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√√√√	<i>Large effect – citizens may exercise their rights to marry and found a family, to register their children, or to prove their identity</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√√√	<i>Large effect – a burden to citizens is removed</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√√√	<i>Large effect – a burden to citizens is removed</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√	<i>Member States that have to register a civil status change may do so more easily if citizens can provide necessary documentation from other Member States whenever these are needed; Costs to some Member States may increase if they have to issue certificates that do not properly fit into their system</i>
To reduce forgery and identity fraud and theft	0	<i>Effects will depend on the type of document introduced – and the costs that are invested into secure documentation; potential negative effect if security measures are not taken</i>
To support the completeness and integrity of information on the civil status of citizens	0	<i>No effect</i>
Economic and social costs in EU	Reduced costs of mobility	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement	
Administrative Costs	High administrative costs, high additional administrative costs in some Member States for the issuance of certificates and introduction of new forms, not outweighed by the reduction of administrative costs for registration in other Member States	

9. Policy option 7: Obligation of mutual recognition

This policy option is a proposal for a legislative initiative (e.g., a Directive or Regulation) to fully recognize civil status certificates issued in other Member States.

While policy option 3 aimed at abolishing formal requirements for the recognition of foreign civil status certificates, this policy option goes one step further: it requires that civil status certificates of a certain kind be mutually recognized in all other Member States in content as well.

Recognition of civil status certificates from other Member States does become very difficult, when the content differs significantly or when the certificates have a differing meaning. As an example, again, in some Member States, a birth certificate is issued based on and reflecting the current status, and the details in the certificate, such as the name or sex, may be different from the time of birth. In other Member States, a birth certificate will always state the details at the time of birth, never to be changed. The first Member State, accordingly, may ask for an up-to-date certificate showing the current name, sex and marital status to be presented for an application to marry and a certificate reflecting the situation at the time of birth may cause confusion if given full recognition and the same effect as an updated certificate. For a Member State which requires proof of the sex of a person, as evidenced by a birth certificate, a certificate that does not have that information may be difficult to fulfil that purpose.

Fully recognizing the content of a certificate would also mean that the name, as entered into a certificate, would have to be recognized in all other Member States. As Advocate General Sharpston has explained in *Grunkin Paul*, this again might be difficult. Several Member States having stricter rules on naming than others appeared to be strictly opposed to any change and to an obligation to recognize names – especially when their own citizens may be concerned.

Accordingly, without also adapting the civil status registration system by adding rules on *how* to exactly recognize certificates of other Member States and what exact role these certificates take with respect to the registration of events in another Member State, the pure obligation to recognize foreign certificates and give the same effect to them as to certificates from the same Member State will cause confusion and create other inconsistencies in current civil status systems.

Accordingly, an obligation to recognize foreign certificates may only function if the obligation is combined with explanations and "translation tables" for each combination of Member States, or if a large degree of harmonisation is included in this policy option. As a result, this policy option involves roughly the same threats and costs for additional measures as, and can be compared to, policy option 6, but without the Uniform Certificate – unless the same is provided as a combination of both policy options.

The following table provides a summary assessment of this policy option (without the possible combination with a variant of policy option 6):

Policy option 7 - 'Obligation of Recognition'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated 0 to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To promote citizens asserting their rights at Union level	√√√	<i>Large effect – citizens may exercise their rights to marry and found a family, to register their children, or to prove their identity; certain issues with incompatibilities remain</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√√	<i>Large effect – a burden to citizens is removed, certain issues with incompatibilities remain</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√√	<i>Large effect – a burden to citizens is removed, certain issues with incompatibilities remain</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√	<i>Member States that have to register a civil status change may do so more easily if citizens can provide necessary documentation from other Member States which is recognized; certain issues with incompatibilities remain, causing costly inconsistencies</i>
To reduce forgery and identity fraud and theft	0	<i>A slight increase in forgery may occur</i>
To support the completeness and integrity of information on the civil status of citizens	0	<i>A slight increase in incomplete or false data may occur, a small number of persons may marry while certain requirements are not met in their Member State of origin</i>
Economic and social costs in EU	Reduced costs of mobility	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement	
Administrative Costs	High administrative costs, high additional administrative costs in some Member States to meet inconsistencies in registrations	

10. Policy option 8: Obligation to provide recognized certificates

This policy option is a proposal for a legislative initiative (e.g., a Directive or Regulation) to impose an obligation on the Member States to provide civil status certificates which will be recognized for a certain purpose in another Member State.

Again, while policy option 3 aimed at abolishing formal requirements for the recognition of foreign civil status certificates, this policy option also goes a step further by aiming at the content of the certificate and requiring that it be fit for the purpose. The aim is that a civil status certificate of a certain kind be recognized in the other Member State. The proposition is the mirror image to policy option 7: it is directed not at the receiving state, but at the issuing state.

The advantage of this policy option is that whatever certificate is issued, it will be the one proper for the purpose. The issuing registrar will be able to tailor each certificate to the needs of the receiving registrar. If the issuing registrar knows what the certificate is exactly needed for, explanatory comments may be made to explain differences or why specific information, which is usually asked for by the receiving registrar, cannot be provided from the registers of the issuing Member State.

This policy option has the further advantage that there is no interference whatsoever between the different civil status systems. Yet at the same time, the problems of the citizens who need a certificate to fit a certain requirement and purpose are resolved. The registers of the Member States remain consistent, as they were, with added compatibility with registers of other Member States.

There is an obvious disadvantage of this policy option, though. As a first step every registrar in every Member State will have to be able to fulfil the needs of the registrars of every other Member State. The registrars most likely will have to have forms for a number of purposes and for each Member State, and must be trained to be able to use them.

To reduce costs, there will be added pressure on the Member States that have similar systems to find common solutions. The CIEC forms, as an example, may significantly reduce the number of different forms that need to be kept by each registrar in those Member States which have ratified the respective CIEC Conventions. These Member States may continue to use the current forms and a few other Member States could join. Other Member States may still have to keep different information available for every other Member States and will therefore attempt to negotiate agreements to reduce the efforts.

Until this happens, and experience shows that movement is very slow in the area of treaties on civil status registration, administrative costs will be very high and there will be severe practical problems on the part of the administration.

The following table provides a summary assessment of this policy option (without the possible combination with a variant of policy option 6):

Policy option 8 - 'Obligation to provide certificate adequate to purpose'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√√√√	<i>Large effect – citizens may exercise their rights to marry and found a family, to register their children, or to prove their identity</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√√√√	<i>Large effect – a burden to citizens is removed</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√√√	<i>Large effect – a burden to citizens is removed</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√/-	<i>Member States that have to register a civil status change may do so more easily if citizens can provide necessary documentation from other Member States, but costs of providing these certificates will be very high for the issuing Member State</i>
To reduce forgery and identity fraud and theft	0	<i>No significant effect</i>
To support the completeness and integrity of information on the civil status of citizens.	0	<i>No effect</i>
Economic and social costs in EU	Reduced costs of mobility	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement	
Administrative Costs	High administrative costs, extremely high additional administrative costs in Member States for implementation	

11. Policy option 9: Direct Communication of Registrars

Policy option 9, while formally a legislative measure, is rather organisational in its nature. It encompasses that registrars be authorized and encouraged to contact registrars of other Member States directly. Such direct contact shall take place when there is any doubt about the legitimacy of a certificate which may have been forged, or when there are any questions as to its content. On the other hand, registrars may be required to inform other registrars of civil status events which they have registered.

So far, while policy options 3-8 resolve many of the burdens to citizens, none of these policy options tackles the issue of the reduction of forgery and identity fraud, or of integrity of information. In fact, there might even be concerns that there may be additional risks involved if foreign certificates are accepted without any safeguards.

Introducing direct contact of registrars may be a solution to this problem. Receiving registrars in the Members State should not have to contact the issuing registrars every time, but they should have this opportunity if and when there are issues to be resolved.

Some legal and other obstacles, such as concerns for data privacy, exist to such contacts. But even currently, contact is already practiced, mostly on an informal and personal basis between individual registrars who are either members or have otherwise participated in the annual meetings of the European Association of Registrars (EVS), or in border regions, or between Member States which have a common language and a similar tradition, such as Germany, Austria, and Switzerland, or

Ireland and the UK. It has been reported by registrars from these Member States that there is frequent and unbureaucratic contact, often over the phone.

These examples show that the main obstacle may be an issue of language. Yet, in most cases there might simply be a lack of internal "procedural orders" to make direct contact possible.

With respect to the language issue, multilingual forms may help - in a completely different way than the introduction of totally uniform certificates. Rather than changing the certificate, these forms would have an entirely different function and content. As an example, the citizen might already have presented a foreign certificate and the receiving registrar has doubts about its validity. If the registrar speaks the language, a telephone call might suffice, but in other cases, the registrar may simply send a fax form with a copy of the certificate attached asking:

- Is the attached certificate genuine?
- Is the information in this certificate correct according to your records?
- Is the information in this certificate up to date (in case of certificates or information subject to change)?

This will not change or harmonize the form and content of the certificate and will therefore intrude far less into the system of the Member States. Such questions are easy to prepare and translate, either on a European scale or on a case by case basis.

Also, with respect to the information about civil status changes, the registrar may simply issue a certificate or information based on the laws of the issuing Member State. It is then left to the Member State receiving such information to act, or not to act, upon such information.

The following table lists the events which should generally be notified and to whom they should be notified to:

Notification Needs Overview		
<i>Event</i>	<i>Registered or informed by</i>	<i>To be notified to:</i>
Marriage / Civil Partnership	<i>Registrar at place of marriage</i>	<i>Registrar of birth of each spouse in EU Member State</i>
Divorce / Dissolution of Civil Partnership / Annulment	<i>Court / Administrative authority</i>	Registrar of marriage in <i>Member State</i> Registrar of <i>birth of each spouse in Member State</i>
Birth of children	<i>Registrar at place of birth</i>	Registrar of marriage, if married, in <i>Member State</i> Registrar of <i>birth of each parent in Member State</i>
Death	<i>Registrar at place of death</i>	Registrar of marriage, if married, in <i>Member State</i> Registrar of <i>birth in Member State</i>
Change of name	Registrar at place where change is registered	<i>Registrar of birth in Member State</i>
Change of gender	Registrar where change is registered	<i>Registrar of birth in Member State</i>
All events	Registrar or Court / Administrative authority	<i>Nationality authority of the Member State whose nationality the citizen has, if different to the place of the event or place of birth</i>

A simple "harmonized" form may be provided and distributed to registrars in order to give a certain look and legitimacy to the transmission (as has also been provided for by said CIEC Convention No. 3), but this is not really necessary. What appears to be more important is that the Member States and the Commission may have to provide a list with addresses, fax and telephone numbers, information about working languages (rather than official languages) of registrars who can be contacted, and where notice of civil status registrations should be sent to.

However, this policy option has certain weaknesses. Language issues may still remain a problem for many combinations of Member States, forms cannot cover all potential questions and issues, and the necessity to keep an up-to-date register of communication data of almost 30,000 registration offices (and this includes Member States which, by virtue of a central population register or a central database, do not even require notice to an individual registry office) would be a major task. Yet if properly practiced, an additional advantage of this policy option should be that in many cases in which to date citizens have to produce certificates, the necessary information may already have been transmitted to the Member State where it is needed. Also, certain requirements of evidence may be lowered and replaced by declarations and affidavits if both the registrar and the citizen are aware that, by informing the other registrars and especially the registrar at the place of birth of certain events, discrepancies to the original information stored there will be discovered.

The following table provides a summary assessment of this policy option:

Policy option 9 - 'Direct Communication of Registrars'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – 0 to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√√	<i>Some effect – citizens may exercise their rights to marry and found a family, to register their children, or to prove their identity</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√	<i>Some effect – a burden to citizens is removed, depending on the level of implementation</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√	<i>Some effect – a burden to citizens is removed, since they do not have to provide information on civil status events themselves to some other authorities</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√√√/-	<i>If the system functions, Member States that have to register a civil status change that has occurred elsewhere may do so if such information is provided on a reliable basis; costs of implementation and transmission to issuing Member State will be very high</i>
To reduce forgery and identity fraud and theft	√√√	The risk of fraud and forgery is reduced significantly, if certificates can be counterchecked
To support the completeness and integrity of information on the civil status of citizens	√√√√	The completeness and integrity of civil status information about citizens is greatly improved if important information is transmitted on a reliable basis
Economic and social costs in EU	Reduced costs of mobility	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement, certain concerns of data privacy may be raised	
Administrative Costs	High administrative costs for implementation at EU level, additional administrative costs in Member States for implementation, the latter may be outweighed partly by a reduction of current costs for attempts to otherwise obtain the information needed, or the structural costs of inadequate and incomplete data.	

12. Policy option 10: Central Authority

Policy option 10 is similar to policy option 9, but includes the additional installation of a Central Authority in each Member State. Again, while formally a legislative measure, it is rather organisational in its nature.

Central authorities are in use in several areas of law, particularly in the Hague Convention system central authorities are often used for transmission of requests. In the EU, as an example, Council Regulation (EC) No. 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, and Council Regulation (EC) No. 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters use central bodies. Under these Regulations, the central bodies are designed to provide information and solve problems rather than to interfere with the

communication of requests, which should take place on a direct level between courts and administration of the Member States.

In the context of civil status registration, the first and main role of the Central Authorities in each Member State would be to receive notice of civil status events occurring in another Member State which are to be transmitted to the registrar of birth and the registrar of marriage, and to give notice of any civil status changes of citizens and permanent residents of these other member states occurring in the Member State where the Central Authority is located. A majority of Member States already has a central registration office, which deals with civil status changes occurring abroad. Therefore the introduction of an obligation to designate one Central Authority in each Member State to receive such information is not a burden for most Member States. The registrar of a birth, marriage, civil partnership, death or change of name or gender, or the court or administrative office dissolving a marriage or civil partnership, need only give notice to a small number of different institutions in other Member States about changes, thus reducing costs for the maintenance of an enormous address list and reducing other friction.

Using a Central Authority may also reduce problems related to understanding the content of any notice, or even translation problems. It can be expected that the Central Authority receiving such information will have or develop qualified personnel which can also use forms or samples to understand notices from other Member States. Again, it is important to note that the transmission of a notice of a change of civil status from one Member State to another does not create any obligation by the second Member State to act on that notice or record that notice in any way, if that is not part of the current procedure in that Member State neither generally nor for that particular civil status event. It remains entirely in the sphere of the receiving Member State if and how to process the notice received.

The Central Authority could also serve as a receiving agency for requests for information on the correctness of a certificate, or for any other requests for information.

The main problem and disadvantage of Central Authorities, especially for the second type of activities, is the added delay and bureaucracy involved. In all those Member States in which there is no central registry or database, the Central Authority will need to forward the request for information to the registry office, which will then answer to the Central Authority which will then transmit the answer back to the registrar making the original request. Rather than making matters easier for citizens and registrars, there is an imminent threat that such transmissions back and forth may take several weeks on average, thereby causing additional obstacles rather than removing them. Therefore, the Central Authority is a good institution for receiving and transmitting notices of civil status changes for the purpose of ensuring consistency and integrity of records, but not for confirmation or certification.

The following table provides a summary assessment of this policy option, for the part of receiving information only:

Policy option 10 - 'Central Authority'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√	<i>Some effect – citizens may exercise their rights to marry and found a family, to register their children, or to prove their identity, if their registrations are correct and up to date</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√	<i>Some effect – a burden to citizens is removed, depending on the level of implementation</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√	<i>Some effect – a burden to citizens is removed, since they do not have to provide information on civil status events themselves to other authorities</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√√/-	<i>Some effect: Member States that have to register a civil status change that has occurred elsewhere may do so if such information is provided on a reliable basis; some costs related to the establishment of a Central Authority in some Member States</i>
To reduce forgery and identity fraud and theft	√√√√√	<i>The risk of fraud and forgery is reduced significantly if certificates can be counterchecked</i>
To support the completeness and integrity of information on the civil status of citizens	√√√√√	<i>The completeness and integrity of civil status information about citizens is greatly improved if important information is transmitted on a reliable basis</i>
Economic and social costs in EU	Reduced costs of mobility	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement, certain concerns of data privacy may be raised	
Administrative Costs	High administrative costs for implementation at EU level, additional administrative costs in Member States for implementation, the latter may be outweighed partly by a reduction of current costs for attempts to otherwise obtain the information needed, or the structural costs of inadequate and incomplete data.	

13. Policy option 11: European Civil Status Office

Policy option 11 has similarities to policy options 9 and 10, but the aim of this policy option is to implement one central European civil status office, as clearing house or liaison office.

The European Civil Status Office could be installed anywhere in the EU, preferably in a Member State with a sophisticated computerized registration, in Estonia as an example for the sake of argument. The European Civil Status Office could have three main tasks.

As a first task, it could serve as an intermediary in the place of the Central Authorities which were the aim of policy option 10. Any registration of an event which has a cross-border aspect would be notified to the European Civil Status Office. In principle, these would be more or less the same items as in the list under policy option 9: if a national of one Member State is born in another Member State, or if the marriage or civil partnership that had taken place or been registered in another Member State is dissolved, the registrar would send this information to the European Civil

Status Office. This office would register the notice in its system, make translations or explanations where necessary, and then forward the notice to every registrar or authority which, according to a list held at that office, would be concerned with the information.

Secondly, rather than having to contact a Central Authority or a foreign registrar directly, any registrar having doubts about a certificate presented could contact the European Civil Status Office. The Office, disposing of qualified personnel and the information about the looks and details of the certificates of all Member States, may often be able to comment on any certificate presented, or generally help to answer questions of understanding of foreign certificates or entry. As an example, the Office could clarify that a certain category that may commonly be part of a birth certificate (such as the sex of a child) is not registered in another Member State, or could explain the difference between a certificate based on the original event and one that is updated to the status quo. Finally, if doubts persist, the European Civil Status Office could contact the issuing registrar in the language of that Member State to confirm any information. The major advantage of such an office would be that it could be multilingual and much less bureaucratic than a system of Central Authorities or direct contact. Contact to that office could be made in any language and by postal mail, fax, encrypted e-mail, secure web-site, direct network connection (WAN or VPN) or even by phone, depending on the equipment available to the registrar concerned. Making easy, fast and secure transmission available is far easier if every registrar only needs to deal with one contact point, to whom he or she addresses questions, from whom he or she receives questions and whose secure identity he or she has to check - namely the European Civil Status Office.

As in the previous policy options, no Member State needs to change its registration system radically or introduce any legal changes. The office need not be very large either, just a sufficient number of persons to be able to communicate in the languages of all Member States, and some IT support personnel. After a short while, the European Civil Status Office will have developed internal forms and procedures on its computer system to deal with just about every type of registration and any type of certificate from any Member State.

For Member States which have digitised systems, the European Civil Status Office could provide the technical intermediary for secure transmission and the translation from one type of database entry to another type of database entry.

Finally, the European Civil Status Office could record civil status information about any citizen migrating in Europe if he or she wishes, quite similar to the service that is provided by most Member States to its nationals through the consular service. The citizen may ask for a certificate that has been issued by the registrar of any Member State to be recorded at the European Civil Status Office, either by sending that certificate directly or by asking the registrar to transmit it. At any later point in time, if the citizen needs to present this certificate to any other registrar, a copy or the information therein may be obtained directly from the European Civil Status Office.

The following table provides a summary assessment of this policy option:

Policy option 11 - 'European Civil Status Office'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – 0 to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√√√	<i>Large effect – citizens may exercise their rights to marry and found a family, to register their children, or to prove their identity, if their registrations are correct and up to date</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√√√	<i>Large effect – a burden to citizens is removed, depending on the level of implementation</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√√√	<i>Large effect – a burden to citizens is removed, since they do not have to provide information on civil status events themselves to other authorities</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√√√	<i>Large effect: Member States that have to register a civil status change that has occurred elsewhere may do so if such information is provided on a reliable basis; minimal costs of implementation</i>
To reduce forgery and identity fraud and theft	√√√√√	<i>The risk of fraud and forgery is reduced significantly, if certificates can be counterchecked</i>
To support the completeness and integrity of information on the civil status of citizens.	√√√√√	<i>The completeness and integrity of civil status information about citizens is greatly improved if important information is transmitted on a reliable basis</i>
Economic and social costs in EU	Reduced costs of mobility	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement, certain concerns of data privacy may be raised	
Administrative Costs	Medium administrative costs for maintenance of European Civil Status Office, minor additional administrative costs in Member States for implementation, outweighed partly by a reduction of current costs for attempts to otherwise obtain the information needed, or the structural costs of inadequate and incomplete data.	

H. Summary of the preferred options

In the previous section, five policy options were identified as being particularly preferable by virtue of particularly positive effects at reasonable administrative cost. These policy options, which are listed in the following table, have the additional advantage of not being mutually exclusive:

Overview of the preferred policy options		
<i>Policy Option</i>		<i>Description of policy option</i>
<i>Legislative options</i>		
Policy Option 3	<i>Abolishment of legalisation for European Documents</i>	<i>Civil status certificates (and possibly all public documents) from a Member State must generally be accepted in all other Member States without any additional formalities.</i>
Policy Option 4	<i>Abolishment of additional requirements</i>	<i>Legislative obligation (e.g. EC directive) on Member States: all types of additional requirements for non-citizens, such as certificate of no impediment or certificate of law are abolished.</i>
Policy Option 5	<i>Obligation to provide a civil status certificate</i>	<i>Legislative obligation (e.g. EC directive) on Member States to provide a civil status certificate to persons residing abroad in timely and reasonable fashion</i>
Policy Option 8	<i>Obligation to provide accepted certificate</i>	<i>Legislative obligation (e.g. EC directive) on Member States to provide civil status certificates which will be fully recognized in other Member States in form and content</i>
<i>Organisational options</i>		
Policy Option 11	<i>European Civil Status Office</i>	<i>A European Civil Status Office is created. Registrars in the Member State shall notify or contact registrars in other Member States through the European clearing house to exchange information about registrations.</i>

As has been shown, the abolishment of legalisation or any other additional *formal* certification is a necessary measure with positive effects far beyond civil status registration. In the context of the other preferred policy options, reducing formal requirements makes the implementation of policy options 5, 8 and 11 easier, if not being a prerequisite. Concerns related to potential abuse are met by policy option 11.

Additional requirements for citizens of other Member States should be abolished. It is entirely sufficient to apply the law of the place where the marriage takes place and the effects of such marriage to be recognized in all Member States. There is no logical conflict of this measure with any other measure.

The formal requirement to provide certificates to citizens who are residing abroad in a timely and reasonable fashion if these certificates are needed by the citizen is a prerequisite to the right to free movement of workers, and of the free - active and passive - movement of services. This requirement does not conflict with any other policy option, in fact, it is even necessary for measures under policy options 8 and 11 to operate properly.

For the citizen, to be able to present a certificate which will be accepted in content as well as in form, it is again a prerequisite to the right to free movement of workers, and of the free active and passive movement of services. When making a choice between requiring the Member States to simply accept certificates from other Member States, as they are, or creating an obligation on the Member States to provide certificates which will be accepted by another Member States in a particular case, the second is slightly more burdensome, but has the advantage of not interfering with the laws or procedures of the Member States in general.

Establishing the European Civil Status Office complements the above measures by providing an intermediary for any questions necessary on the content or validity of a certificate. In addition, the

European Civil Status Office can assume the task of notifying civil status changes to other registrars whose records may be affected by such change.

The following table provides a summary assessment of the combination of the preferred policy options:

Combined policy options 3, 4, 5, 8 and 11 - 'European Civil Status Regime'		
<i>Objective to be achieved/ problem addressed</i>	<i>Anticipated impact (rated – 0 to √√√√√)</i>	<i>Explanation of rating and aspects of the policy option necessary to achieve impact</i>
To support citizens in asserting their rights at Union level	√√√√√	<i>Large effect – citizens may exercise their rights to marry and found a family, to register their children, or to prove their identity; certificates can be obtained without undue effort, delay or costs, and will be accepted; in addition registrations are maintained correct and up to date in every relevant location, irrespective of the Member State</i>
To enable citizens to change their civil status and to register these changes without undue burdens, irrespective of where they occur within the European Union	√√√√√	<i>Large effect – a burden to citizens is removed</i>
To reduce efforts and costs for citizens exercising their right to free movement of persons and services	√√√√√	<i>Large effect – several burdens to citizens are removed at the same time</i>
To reduce effort and costs for the Member States related to registering changes of civil status of their citizens, residents and of Union citizens	√√√√√	<i>Large effect: Member States do not have unnecessary efforts to issue certificates or review foreign certificates; also, Member States that have to register a civil status change that has occurred elsewhere may do so easily if such information is provided on a reliable basis; minimal costs of implementation</i>
To reduce forgery and identity fraud and theft	√√√√√	<i>The risk of fraud and forgery is reduced significantly, if certificates can be counterchecked reliably and data is up to date</i>
To support the completeness and integrity of information on the civil status of citizens.	√√√√√	<i>The completeness and integrity of civil status information about citizens is greatly improved if important information is transmitted on a reliable basis</i>
Economic and social costs in EU	Reduced costs of mobility	
Civil effect	Highly reduced disapproval by European citizens exercising their freedom of movement	
Administrative Costs	Medium administrative costs for maintenance of European Civil Status Office, minor additional administrative costs in Member States for implementation, outweighed by a reduction of costs currently incurred for complicated measures taken by Member States which, in the end, do not meet the policy objectives	

I. Names

The issue of names requires a separate chapter. The rules on naming differ significantly among the Member States. Some Member States have very liberal rules and citizens may register almost any

name they wish, of their children at birth, or of the spouses at marriage, and may change their names at will. Other Member States have very strict rules, especially when their nationals are concerned, and these rules differ significantly, again.

The European Court of Human Rights has pointed out in the matter of *Bulgakov v Ukraine*:

“The process whereby surnames and forenames are given, recognised and used is a domain in which national particularities are the strongest and in which there are virtually no points of convergence between the internal rules of the Contracting States. This domain reflects the great diversity between the Member States of the Council of Europe. In each of these countries, the use of names is influenced by a multitude of factors of an historical, linguistic, religious and cultural nature, so that [it] is extremely difficult, if not impossible, to find a common denominator.”

Member States with strict rules have various different rationales for these rules. Some Member States wish to keep names in a general order and wish to have a definite identity of a person, or wish to be able to show family ties and history in the surnames. Some Member States require the sex of the person to be evident from the first name or the surname. Some Member States wish to protect children and society from names which may harm these children. And other Member States require names which follow their language, culture and traditions.

More liberal Member States argue that the identity of a person can (and is in many cases) be secured by using a digital personal number irrespective of a name. In concepts of free and democratic society, a person should have the right to do anything that does not harm someone else or override public interest. The state shall refrain from restricting this right, unless in the public interest. According to this general idea, no overriding public interest can be found which would require a person to register or use a specific name. It is therefore a disproportional use of powers to prescribe the use of particular names. However, it should be noted that, the European Court of Human Rights has rejected this notion. In several decisions, the ECHR has ruled that, but for restrictions in the matter itself (such as discrimination by sex or of minorities), the regulation of names as such by a state does not violate and provisions of the European Convention of Human Rights.

In practice, even in Member States with a liberal approach an overall majority of citizens stick to traditional first names and surnames following either the father's surname or, less often, the mother's surname.

In addition, some Member States strictly apply the law of forum when registering a civil status event, some Member States apply the principle of domicile or habitual residence, and some apply the principle of nationality. Given these positions, the Member State will hardly agree on a joint approach to names. Invariably this may lead to discrepancies and to citizens who bear two different names.

However, as the European Court of Justice has ruled, rules relating to names can have an impact on the right of free movement or on the right of establishment. A rule on the transliteration of a name was held to be incompatible with the EC Treaty if it forces upon a citizen a spelling of a name whereby its pronunciation is modified and the resulting distortion exposes the citizen to the risk that potential clients may confuse him with other persons (*Konstantinidis v. Stadt Altensteig*, C-168/91, 30 March 1993). And in the matter of *Garcia Avello v. État Belge*, C-148/02, 02 October 2003, the Court has stated that

“it is common ground that ... a discrepancy in surnames is liable to cause serious inconvenience for those concerned at both professional and private levels resulting from, inter alia, difficulties in benefiting, in one Member State of which they are

nationals, from the legal effects of diplomas or documents drawn up in the surname recognised in another Member State of which they are also nationals.”

Accordingly, a solution needs to be found along the line of one of the following policy options:

Overview of the Policy Options on Names		
<i>Policy Option</i>		<i>Description of policy option</i>
<i>Special Issue: Names</i>		
Policy Option A	<i>Mutual recognition of registration by state of nationality</i>	<i>Legislative obligation (e.g. EC directive) on Member States to fully recognize the name as determined by the Member State whose nationality the citizen has</i>
Policy Option B	<i>Mutual recognition of original registration</i>	<i>Legislative obligation (e.g. EC directive) on Member States to fully recognize the name as entered into a civil status certificate issued where the event occurred</i>
Policy Option C	<i>Liberal choice of names or regime</i>	<i>Legislative obligation (e.g. EC directive) on Member States to either fully recognize any name which a citizen wishes to register, or to introduce a free choice of the legal regime to be applied to the name based either on the law of where the event has occurred and is registered, on the law of the place of habitual residence, or on the law of the nationality</i>
Policy Option D	<i>European name (as choice of law)</i>	<i>Introduction of a European law on names, which would be liberal but not completely liberalized, which any citizen may select as a matter of Choice of Law, instead of any national regime.</i>
Policy Option E	<i>Introduction of a certificate of name</i>	<i>A certificate of name is introduced, enabling a citizen to prove identity of personality if the person has different names in different Member States</i>

1. Policy option A: Rule of Nationality

Under this policy option, citizens would be required to follow the naming rules of their nationality. Member States applying any different principle would have to be required, by European legislation, to change their private international law rules accordingly to require citizens of other Member States to follow the rules of their home country on any matters of naming.

The advantage of such legislation might be clarity: the rules under which a person is to be named can be determined without any doubt at all times. Persons with dual nationality may probably have to choose one, and may then be bound to the laws of that Member State.

There are three disadvantages to this policy option: firstly, from a practical point of view it would require civil status registrars to obtain knowledge of the laws of naming of all Member States or, in the alternative, require citizens who participate in the registration of a civil status change to obtain evidence or a certificate stating which option he or she has to name a child, or to choose a name to bear after marriage. In both cases, the registration is delayed and made complicated. And to make matters even worse, decisions by such a registrar might be subject to challenge in court, but not the courts of the Member State whose laws are to be applied, but the one at the place of registry, although the dispute is about foreign law.

The second disadvantage is the inherent discrimination it involves. Citizens of one Member State who may have been residing in another Member State for a long time are forced to follow the laws

of their Member State of nationality. But, as an example, parents may wish to give their child a name more common and more adapted to their host country. Also, it can hardly be imagined that, in such a case, the European Court of Justice would tolerate such discrimination on the grounds of nationality.

The third disadvantage is that the EU would force a severe change of law and practice upon those Member States that are not applying the nationality principle, while such rule is neither entirely convincing nor compulsory for the functioning of the Single Market or the EU.

2. Policy option B: Recognition of original (first) registration

Under this policy option, the Member States would be required to recognize and follow any registration in any other Member State which has an effect on a name, once a certificate of such registration is produced, be it on the occasion of birth, marriage, divorce or any name change otherwise valid under the laws of the Member State where the event occurred and was first registered (full faith and credit).

Nothing else would change. The private international law rules of the Member State in which the original registration of the name takes place would rule which law is to be applied, be it the law of the forum, the law of the citizen's domicile or habitual residence, or the law of the citizen's nationality. In addition to the law of the Member State, under the ruling of the ECJ in *Garcia Avello*, the citizen concerned will also always have the right to choose the laws of his or her nationality even if the laws of the Member State in which the event occurs do not provide for this option.

Once the citizen has made a choice, the registration can be made and all other Member States, including the Member State of origin, would be bound by the decision.

This policy option also has the advantage of clarity. By giving precedence to the laws of the Member State in which the event is registered, there is only little change of law required in the Member States. The registrars of the Member States need not be aware of the laws of other Member States, unless required by the laws of that particular Member State (which is a decision made by that Member State's legislation) or requested by the citizen according to the *Garcia Avello* doctrine (who may then have to obtain evidence of those foreign laws).

The principle of mutual recognition behind this policy option is well-established in EU law: products or services legally on the market in one Member State must be allowed in other Member States, judgments by courts in civil or commercial and in certain family matters must be recognized.

However, some Member States seem to be averse to such a rule. Judging by the opinions presented to Advocate General Sharpston in the recent case *Grunkin Paul*, certain Member States raise objections against their own citizens bearing a name which is allowed under the laws of another Member State, but not under the (stricter) laws of that Member State. In fact, these Member States appear to be very convinced and determined to preserve such rules as they may be part of the languages and tradition of that Member State.

These Member States tend to overlook that even at the current state of law, especially under the *Garcia Avello* doctrine, they cannot completely prevent persons of their nationality from bearing foreign names, if these citizens are dual nationals of two Member States. Also, to avoid conflicts with EU law or with the European Convention of Human Rights, additional exceptions need to be made for national minorities, for citizens naturalized, citizens changing their gender or citizens with a different religion than the main religion of that Member State. Effectively, no Member State can strictly and fully uphold all strict naming rules without exception. And if the ECJ follows the reasoning of Advocate General Sharpston in *Grunkin Paul*, there will be one further exception.

In fact, it may well be and there is good reason to assume that the ECJ may even go beyond the Advocate General's opinion and make full recognition compulsory, because after all this is the standard approach in most areas of EU law, and *Grunkin Paul* may become the *Cassis de Dijon* of naming.

The Advocate General has voiced some concern about potential "forum shopping" by citizens, who may decide to give birth in a hospital in another Member State, marry in another Member State, divorce in another Member State or even make an application for name change in another Member State with more liberal rules, simply for the purpose of circumventing the laws of their nationality or habitual residence.

One may decide to tolerate such behaviour. Experience in Member States with very liberal rules has shown that only a miniscule number of citizens take advantage of these options. In a different area of law, the effects of the ECJ ruling in *Centros* have not been devastating to national economic structures as feared. Only a small number of companies in Europe, compared to the total number of existing companies, are making use of the possibilities of "circumventing" national legislation related to minimum capital and that has not lead to significant market distortions.

As an alternative, one may consider imposing moderate restrictions on the Member States such as limiting name changes on application, which are not connected to any other civil status change such as marriage or divorce, to citizens who either have the nationality of the Member State in which they apply for the name change, or domicile or habitual residence in that Member State.

However, such limitations would not apply to registrations at birth. Again, the number of EU citizens who might decide to bear their children in the hospital of another Member State than the one of habitual residence, solely for the purpose of being able to give the child a different name, is likely to remain so small that serious repercussions on civil status system or on society are not to be expected.

3. Policy option C: Liberal choice of name or regime

This policy option is a proposal for a legislative initiative (e.g. a Directive) to create an obligation on Member States to either fully recognize any name which a citizen wishes to register, or to introduce a free choice of the legal *regime* to be applied to the name based either on the law of where the event has occurred and is registered, on the law of the place of habitual residence, or on the law of the nationality.

Since some Member States have virtually no limitations on the choice of name, this policy option would mean full liberalisation for all Member States. The Members States would effectively give up on their control of naming issues.

The concept raises new issues apart from the general question whether or not rules and regulations which limit the citizen's choice of naming are warranted, allowed or – in essence – contrary to human rights. As reported by Advocate General Sharpston in her opinion in *Grunkin Paul*, the Lithuanian Government has argued that no Member State should be required to recognize names given to its nationals in accordance with foreign law if those names are incompatible with the structure of its national language, a fundamental part of its national heritage. Lithuanian surnames take different forms according to whether they are borne by a man or a woman and, if by a woman, according to whether she is married or single. These differences are inherent in the structure of the language and distorted forms are unacceptable to Lithuania as a matter of national policy.

It can be doubted though that it is reasonable to impose observance to national heritage by law. Scots used to wear kilts, and still do, especially on national festivities, but no one would consider prescribing such wardrobe in the name of preserving national heritage. Many dishes are part of national heritage and cultures, and yet there is no one who would impose on restaurants not to serve

anything but the original food of the region, or on citizens not to eat anything but what corresponds to their nationality. If, in the case of naming, rules as traded by national heritage and language are shared by the majority of the population, they are free to adhere to these rules. But no harm is done when liberalizing the rules for those few who, for whatever reasons, believe that they must do things differently than everybody else, unless they harm others by doing so. In addition, customs change and it is doubtful if, in a free and democratic society, customs and traditions should be enshrined by law.

To make matters even more complicated, a citizen who has chosen to take the opportunity which has been opened by the freedom of movement under the Treaty, and who has settled in another Member State, has already changed. By mingling with citizens of that Member State and with other residents of foreign nationality, new concepts are developed, and a new personality is formed whose ties and relationship to the state of "origin" has invariably changed. It is a valid question how long such a person should be bound by rules of national heritage simply based on the fact of the nationality, if they are no longer shared by this individual. Yet, on the opposite, forcing such individual to fully adapt to the national heritage of the host country might be just as wrong.

It may be taken into account that names nowadays do not have the relevance as they had in former times as in many states different or additional methods are used to identify citizens for administrative purposes, especially by introducing a personal identity number ("PIN"). Only recently, Turkey has introduced a system involving such a number and has thereby solved an age-old problem with excessive duplicate names.

On the other hand, not all Member States have introduced such a method of identification. And there are a number of Member States and a number of people quite averse to the concept of turning a person into a "number". Turning persons into numbers is, after all, a frequent habit of totalitarian regimes. Also, there are inherent dangers of errors, such as typing errors, which can occur far more easily and which are far more difficult to perceive when they concern numbers rather than names.

To sum up, some degree of liberalisation might be needed. But apart from dangers and concerns related to other means of administrative identification which would then become necessary, liberalizing the use of names would entail severe changes to the current laws of an overall majority of Member States. In addition, for Member States which have not introduced a PIN, liberalisation might create a number of severe administrative problems.

4. Policy option D: European name (as choice of law)

This policy option is a proposal for a legislative initiative (e.g. a Directive) introducing a European law on names, which would be liberal but not completely liberalized and which a citizen may select, as a matter of Choice of Law, instead of any national regime.

This option would be particularly tailored to the "mobile citizen". Rather than being chained to a particular regime, any citizen who wishes to do so would have the option of selecting a truly European civil status regime either for him- or herself, or for his or her child. The concept is remotely comparable to the introduction of the Societas Europaea under Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company.

In their declaration of Engelberg, the members of the Europäische Verband der Standesbeamtinnen und Standesbeamten (EVS, the European Association of Registrars), meeting at their annual conference in Engelberg on 22 and 23 May 2006 have called upon the European governments to create harmonized rules on naming in Europe, and upon the responsible authorities of the EU to adopt adequate measures. For the interim period until full harmonisation, the EVS has called for a European regime as discussed here.

This proposal raises issues about the potential content of such rules, once a European regime is introduced. Considering the extreme differences among some of the Member States, unless complete or almost complete liberalisation is sought, one can hardly imagine any particular regime that could be the essence of a truly European naming law.

Accordingly, the members of the EVS, in their declaration of Engelberg, had also prepared a set of principles to guide these rules, which were very liberal indeed. The proposition provided that a person should have a minimum of two names (a first name and a last name), to be freely chosen and freely changed with any registration or change of civil status (e.g., at birth, change of parenthood, marriage, divorce) by simple declaration to the registrar, the only condition being that the name must be spelled in a character set which is based on all characters used by any official European language based on Latin letters (including any diacritics).

5. Policy option E: Introduction of a certificate of name

Under this policy option, while no other changes are made, a "certificate of name" is introduced by legislative initiative (e.g. a Directive), enabling a citizen to prove his or her identity, in case the person has different names in different Member States. The document might be issued as a multilingual document in which a civil status authority of a Member State may certify the fact that a person is legally using or has been legally using more than one name.

While not curing the problem of citizens having different names in different Member States, this certificate may at least ease some of the practical problems.

Yet, even for this supposedly simple proposal, there is a Member State which may have reservations against such a certificate. This might be the UK where, in all three jurisdictions, changing one's name may be done completely unofficially at any time, either by simple usage, or, if a little more formality is sought, by using a name deed. As a name can thus theoretically be acquired or changed just about any time and as often as one likes, there should be conceptual problems in agreeing to, and issuing an official document. To date, legislation in the UK has avoided creating any official document relating to name changes. Also, it is difficult to envisage what exactly a certificate might state in relation to a person who has had, as an example, one name registered in another Member State, and has used several other names in the UK.

6. Summary of policy options on naming

Different to the policy options on civil status registration in the EU in general, where several policy options could be combined, the above policy options on naming are mutually exclusive. It is therefore useful to summarize and compare them in one table, whereby the strengths and weaknesses are summarized and weighed. The following table provides a summary assessment of the policy options:

Summary Assessment of the Policy Options on Names		
<i>Policy Option</i>	<i>Strengths</i>	<i>Weaknesses</i>
Policy Option A	<i>Mutual recognition of registration by state of nationality</i>	<i>++ clarity and consistency</i> <i>- requires extensive knowledge / training of registrars</i> <i>- inherent discrimination of long-term residents</i> <i>-- requires changes to laws in several MS</i> <i>- no choice for citizens</i>
Policy Option B	<i>Mutual recognition of original registration</i>	<i>+ clarity</i> <i>++ in line with EU policy in related fields</i> <i>++ few changes to internal laws and practices of MS</i> <i>+ small choice for citizens</i> <i>- less consistency</i> <i>- principles in some MS may be weakened if more citizens can claim exceptions</i> <i>-- potential for forum shopping</i>
Policy Option C	<i>Liberal choice of names or regime</i>	<i>++ full choice for citizens</i> <i>--- extensive changes to laws in many MS</i> <i>-- potential for disturbances</i>
Policy Option D	<i>European name (as choice of law)</i>	<i>+ medium choice for citizens</i> <i>+ few changes to internal laws and practices of MS</i> <i>.- no clarity</i> <i>- less consistency</i> <i>- common ground unavailable</i>
Policy Option E	<i>Introduction of a certificate of name</i>	<i>+ small remedy if no other option is agreed on</i> <i>- solves only a limited number of problems</i> <i>- it may be difficult to adapt to situation of name change in UK</i>

Summary of Results

1. There are 125.000 civil status registrars distributed among about 80.000 local registry offices, some with additional employees in Europe where civil status events are registered and where certificates can be obtained. These civil status registrars process up to 15 million civil status changes annually of which up to a third have a cross-border aspect.
2. All EU Member States and the three additional states which have been the subject of this study have a functional civil status registration system, administered by professional and qualified personnel, which has a high degree of accuracy and integrity as long as only civil status events occurring within that Member State are concerned.
3. There are three main types of civil registration systems in Europe: in event-based systems, each event is registered at the place where it occurs (variations include a central archive), in person-based systems, each civil status event is registered at one location for an individual person (variations include "family-based" registrations), and in central population registers, comprehensive information about individuals is stored in a central database, including information on civil status changes.
4. Some systems have and provide static information and certificates, never to be changed after the event has been registered, while others have and provide up-to-date information and certificates showing the status quo.
5. While practically all civil status registration offices are equipped with personal computers and other technology, some systems are, in essence, paper-based, other systems are fully digitised.
6. While each of the systems is functional as long as civil status events occurring within that Member State are concerned, every system may fail when civil status events occurring in other Member States need to be integrated (and vice versa), especially when such events occur in one of the other "groups" of Member States. As an example, if citizens from two Member States wish to marry, in some cases marriage may be conducted the same day and at no fees, while in other cases the same proceeding may cost up to € 1.000 and take 426 days. The same couple may be allowed to marry in one Member State and prohibited in another, and not for legal reasons but just for lack of documents that cannot be produced.
7. All Member States are party to multilateral or bilateral treaties concerning at least one aspect of civil status registration - but except for the Hague Convention on the Apostille there is no single treaty to which **all** Member States are party.
8. While there is a general level of agreement as to the main events which are registered, the type of registry and especially the content of the registration differ extremely: as an example, but for the date of birth, there is not one item of registration which all Member States can agree on with respect to the content of a birth certificate.
9. The rules of family law, and of private international law, which form the legal background of civil status registrations, differ significantly, and are partly deeply rooted in society and culture.
10. The rules of naming which form the legal background of certain civil status registrations, differ significantly, and are partly deeply rooted in society, culture, and language.

11. Citizens who have a civil status event to be registered are faced with a number of obstacles:
 - a. citizens from some Member States cannot even obtain civil status certificates from abroad (via means of distance communication), but are required to travel to the registry office in person (or send another person with proxy)
 - b. certificates from other Member States, once obtained, are not recognized without additional certification, which may be costly and time-consuming to obtain, and/or without translation
 - c. certificates from other Member States, once obtained, are not considered to be equivalent or sufficient
 - d. citizens who have another nationality have to provide additional information, additional certificates or otherwise face additional burdens
 - e. specifically in the case of marriage, it is made very difficult for some citizens to marry at the place where they may wish to marry, even if that place is the place of habitual residence
 - f. differences in the regime of names can lead to citizens having different names in different Member States.
12. The following policy objectives have been identified:
 - a. Maintaining and developing an area of freedom, security and justice, in which the free movement of persons, and of services, is ensured.
 - b. To support citizens in asserting their rights at Union level, especially the right to respect for their private and family life, their right to marry and to found a family, their right to a name and their right to an identity and to the proof thereof.
 - c. Specifically: to promote protection of citizens rights, reduce obstacles to the free movement of persons and services, avoid forgery and identity fraud and theft.

Summary of Recommendations

In order to fulfill these policy objectives,

13. It is recommended that European legislative measures be taken to ensure that, civil status certificates (and possibly all public documents) from a Member State must generally be accepted in all other Member States without any additional formalities, and that any kind of legalisation or certification, including the Apostille, is abolished for documents from other Member States, such a measure being necessary, overdue and without harm.
14. It is further recommended that European legislative measures be taken to ensure that, all types of additional requirements for citizens of other Member States, such as certificates of no impediment or certificates of law are abolished, such requirements being unjustified discrimination.
15. It is recommended to oblige Member States to provide civil status certificates to persons residing abroad in timely and reasonable fashion.
16. It is recommended to oblige Member States to provide civil status certificates which will be fully recognized in other Member States in form and content.

17. And it is recommended to create a European Civil Status Office as a clearing house; registrars in the Member State shall notify or contact registrars in other Member States through the European Civil Status Office to exchange information about registrations.
18. It is recommended that European legislative measures be taken to ensure that, the original registration of a name in any Member State which is registered in connection with a civil status event be recognized in all other Member States.