

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

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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.

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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.

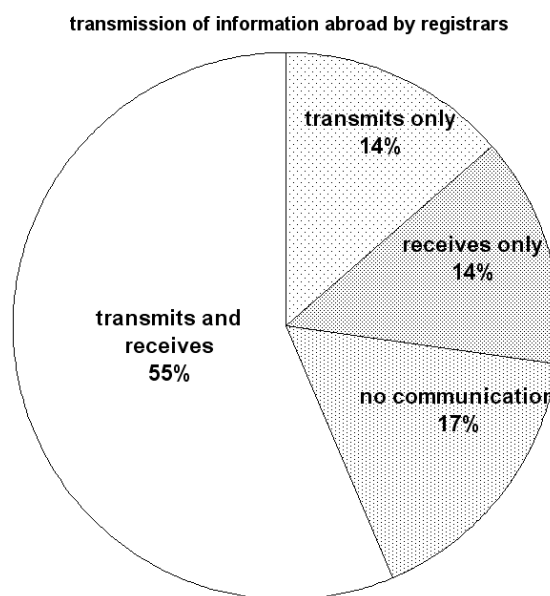
In addition, many Member State record civil status events when they occur to their citizens abroad, irrespective of their place of birth, or even to their permanent residents. It may therefore be considered an additional obligation to inform the authorities of the Member State whose citizen or permanent 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

HCCH 1993

Abolishment of legalisation treaty status

AT	yes	AT		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
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	ICCS 16/17
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				CE
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
LT							LT		x	x	x
LU		ICCS 16/17	ICCS 6,8,12,13,14,15,CE			ICCS 16/17		LU		x	x
LV		1987 Convention			1987 Convention		Bilateral Treaty		LV		x
MT						Bilateral Treaty					MT
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
SK		Bilateral Treaty		Bilateral Treaty		Bilateral Treaty	SK		x	x	x	x	x
UK_EW	CE	CE	CE		CE			UK_EW		x	x	x	x
UK_SC	CE	CE	CE		CE			n/a	UK_SC		x	x	x
UK_NI	CE	CE	CE		CE			n/a	n/a	UK_NI		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		Surname
		Maximum Limit	Additional Regulated Requirements	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

	Maternity			
	By Presumption	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

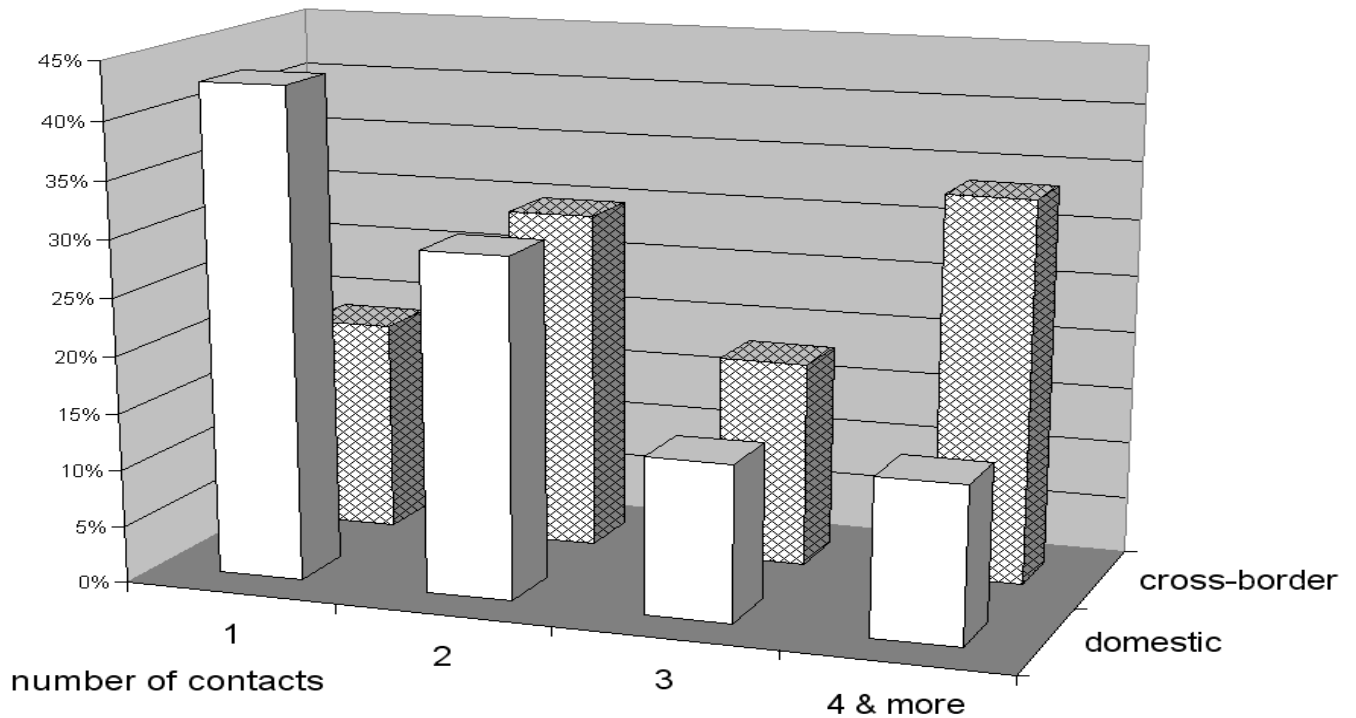
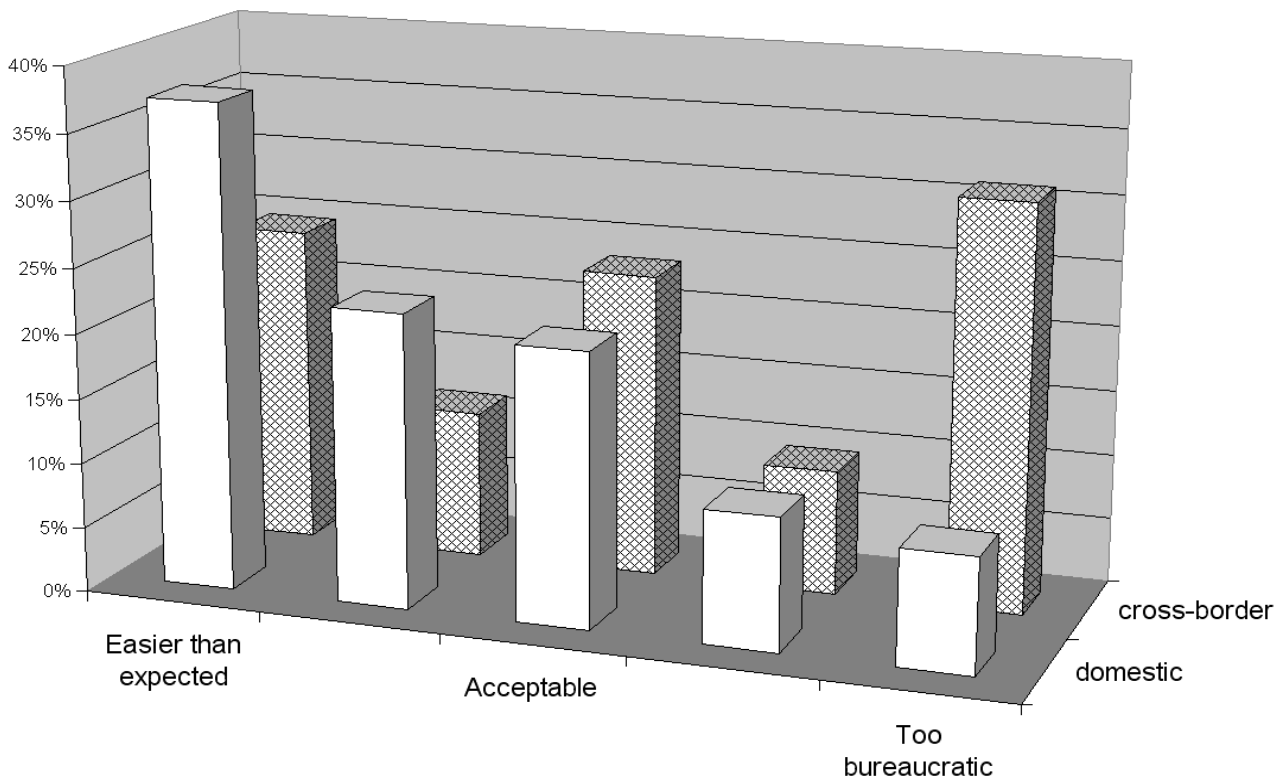


Table 18.: Diagram: Perception of red tape involved



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 .

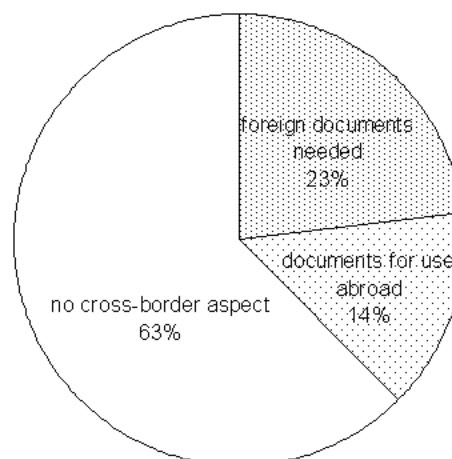
Modern life and economy, more than anything else, may lead to yet new levels of mobility within Member States and across borders. European integration and now European citizenship further stimulates this new type of mobility. Finally, marriage tourism is a known phenomenon, even if it is not as frequent 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.

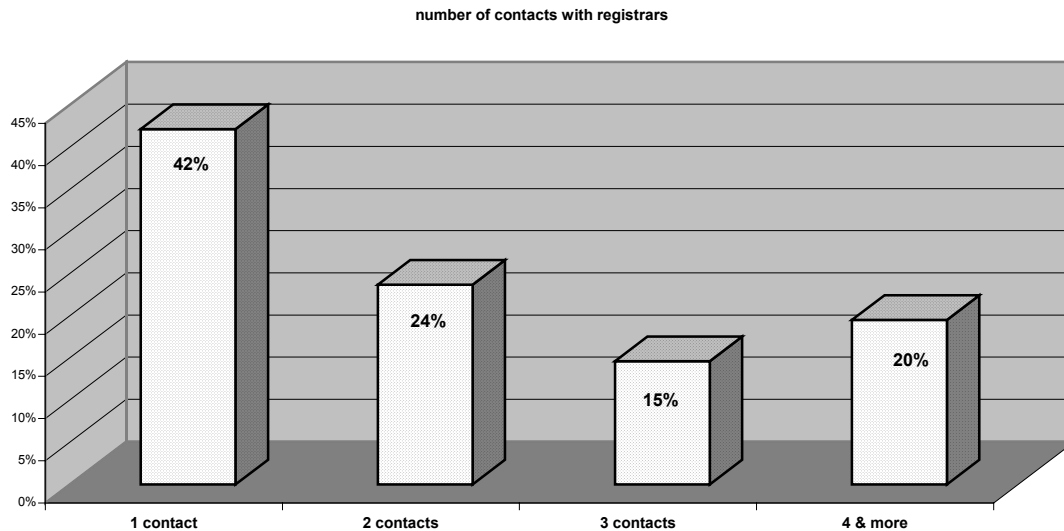
In addition to the two Member States (Slovakia, Lithuania) which provided this information by phone, one Member State (Romania) sent an information leaflet advising that, application in person (or by a person having written power of attorney) was required.

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 on 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

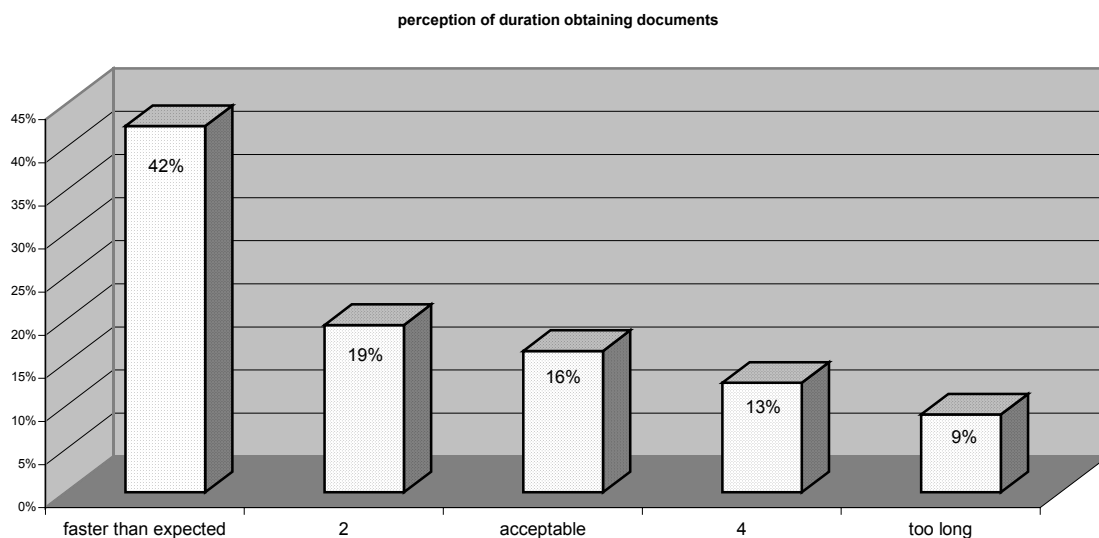
Country Code	Total number of contacts to registrar			
	1	2	3	4 & more
AT	13	2	1	7
BE	3	1		1
CH	5	2		
CZ	16	13	6	4
DE	12	10	6	2
DK	1			
ES	4	2	2	3
FI	5	3	1	2
FR	1	1		1
GR	2	1	7	17
HU	5	4	6	4
IE	18	4	1	
NL	3		3	6
PL	6	6	1	1
PT	11	10	5	1
SE		2		2
SK	15		1	2
TR	1	7	2	3
Total	121	68	42	56
	42%	24%	15%	20%



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	4 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.

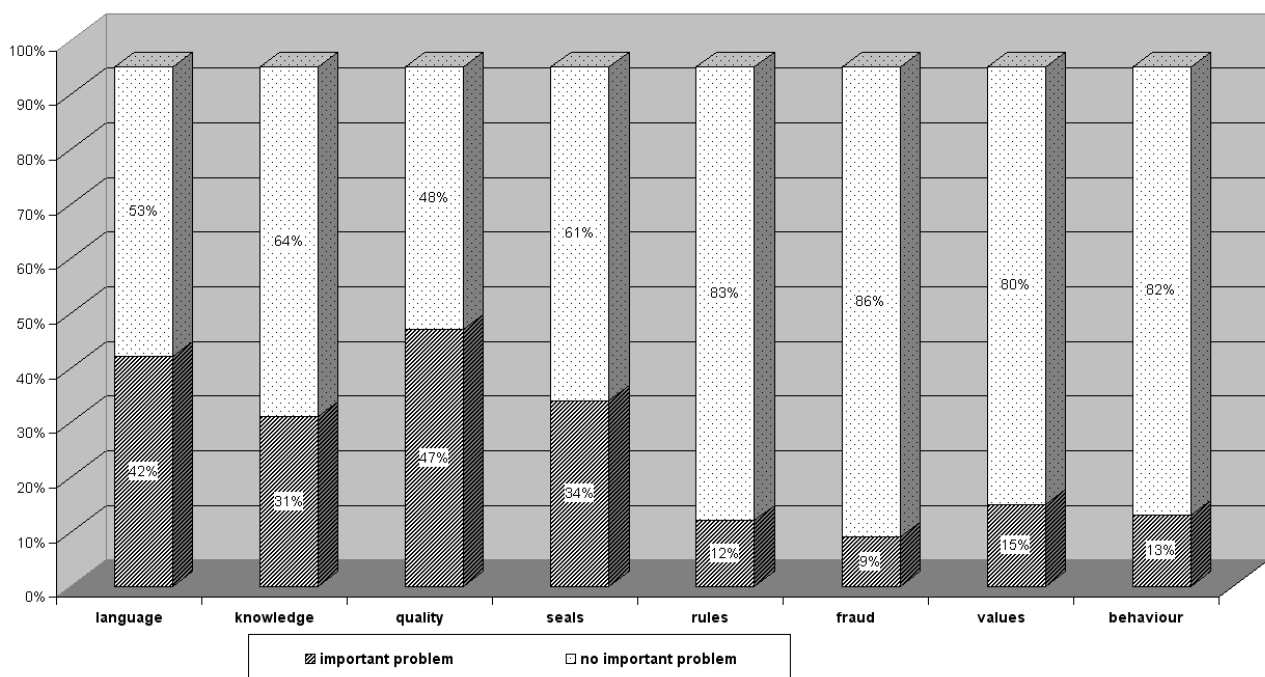
12. Problem awareness by registrars

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 State 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

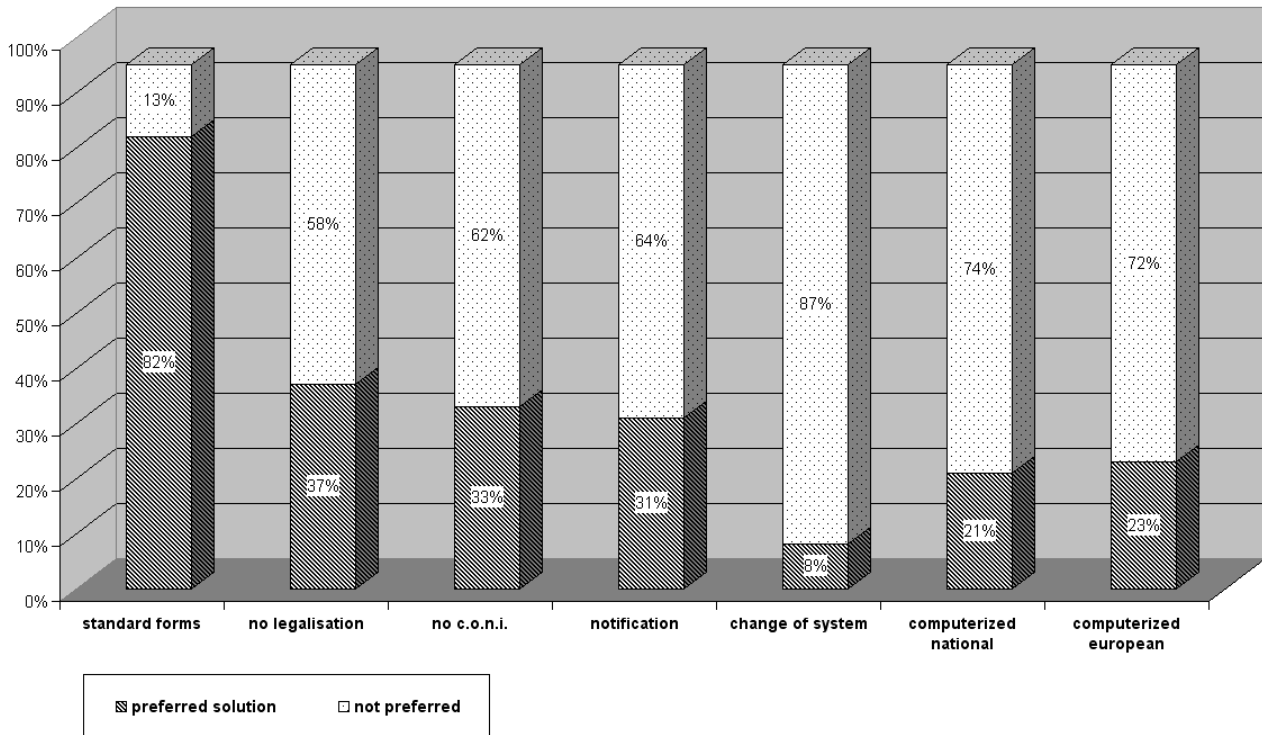
Based on these thoughts, 96 civil status registrars in 17 different jurisdictions were asked which solution they would prefer to see for their daily practice in cross-border issues related to other Member States. In a simplified version of the policy options outlined above, the registrars could choose 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 - inherent discrimination of long-term residents -- requires changes to laws in several MS - no choice for citizens</i>
Policy Option B	<i>Mutual recognition of original registration</i>	<i>+ clarity ++ in line with EU policy in related fields ++ few changes to internal laws and practices of MS + small choice for citizens</i>	<i>- less consistency - principles in some MS may be weakened if more citizens can claim exceptions -- 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 -- potential for disturbances</i>
Policy Option D	<i>European name (as choice of law)</i>	<i>+ medium choice for citizens + few changes to internal laws and practices of MS</i>	<i>.- no clarity - less consistency - 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 - 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.