

# **Regulation 2016/1191 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the EU. LR Approach.**

Presentation by the ELRN member - Poland

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Citizens living in an EU country other than their own often need to present a public document to the authorities of the EU country where they live.

Such public documents can be, for example, a birth certificate to get married, or a certificate on the absence of a criminal record to get a job. Also Land Registries in EU countries may desire some documents e.g. these concerning matrimonial property regimes to fulfill legal requirements for an entry in a land book.

How to simplify things ?

## Few facts about the Regulation on Public Documents:

The Regulation on Public Documents (Regulation 2016/1191), which was adopted on 6 July 2016 and applies in all EU countries as from **16 February 2019**, simplifies the circulation of:

- certain public documents
- and their certified copies

where those public documents and the certified copies are issued by a Member State authority (A) for presentation in another Member State (B).

Regulation should not cover copies of certified copies.

Regulation also covers electronic versions of public documents and multilingual standard forms suitable for electronic exchange.

## The Regulation's scope

It applies to public documents issued by the authorities of a Member State in accordance with its national law which have to be presented to the authorities of another Member State and the primary purpose of which is to establish one or more of the following facts:

- birth
- a person being alive
- death
- name
- marriage, including capacity to marry and marital status
- divorce, legal separation or marriage annulment
- registered partnership, including capacity to enter into a registered partnership and registered partnership status
- dissolution of a registered partnership, legal separation or annulment of a registered partnership
- parenthood
- adoption
- domicile and/or residence

- nationality
- absence of a criminal record
- the right to vote and stand as a candidate in municipal elections and elections to the European Parliament.

„Public documents” means documents issued by a public authority, such as:

- documents emanating from a court or a court official;
- administrative documents;
- notarial acts;
- official certificates placed on private documents;
- diplomatic and consular documents.

Prior to the Regulation, citizens that needed to present above mentioned public document in another EU country had to obtain an authenticity stamp (the so-called apostille) to prove that their public document was authentic as well as certified copy and a translation of their public document.

## Authorities:

‘authority’ means a public authority of a Member State, or an entity acting in an official capacity and authorised under national law to issue or receive a public document covered by this Regulation or a certified copy

(art. 3.2 definitions)

## Core facilities:

### 1. Exemption from legalisation and similar formality (art. 4)

Public documents covered by this Regulation and their certified copies shall be exempt from all forms of legalisation and similar formality.

## News for land registry:

Land Registry as public authority accepts the public document issued by foreign authority without authentication procedure (any special stamps)

Land Registrar as public authority which issues the certified copy of public document (in Poland possible).

## Core facilities:

### 2. Simplification of other formalities relating to certified copies (art. 5)

1. where a Member State requires the presentation of the original of a public document issued by the authorities of another Member State, the authorities of the Member State where the public document is presented shall not also require the presentation of a certified copy.
2. Where a Member State permits the presentation of a certified copy of a public document, the authorities of that Member State shall accept a certified copy made in another Member State

## News for land registry:

Land Registry as public authority accepts also the certified copies of public document issued by foreign authority and cannot require a certified copies if it is stated so in its procedural law



Core facilities:

### 3. Simplification of other formalities relating to translations (art. 6)

A translation shall not be required where:

a public document concerning **birth, a person being alive, death, marriage (including capacity to marry and marital status), registered partnership (including capacity to enter into a registered partnership and registered partnership status), domicile and/or residence, or absence of a criminal record**, is accompanied, in accordance with the conditions set out in this Regulation, by a **multilingual standard form**.

It may be developed.

News for land registry:

Land Registry as public authority accepts also the multilingual standard form attached to the public document or its certified copy issued by foreign authority and cannot require a translation

Core facilities:

### 3. Simplification of other formalities relating to translations (art. 6)

However certified translation carried out by a person qualified to do so under the law of a Member State shall be accepted in all Member States

Some examples:

[https://beta.e-justice.europa.eu/35981/EN/public\\_documents\\_forms](https://beta.e-justice.europa.eu/35981/EN/public_documents_forms)

Austria – Poland; Spain - Belgium

Multilingual standard forms are not to be downloaded from the e-Justice Portal and filled in by citizens but by competent authorities.

Multilingual standard forms shall be attached to the public documents referred to in that paragraph, shall be used as a translation aid and **shall have no autonomous legal value.**

Fee for it must be citizen friendly calculated (art. 11)

Core facilities:

#### 4. Internal Market Information System (IMI) art. 13

The Internal Market Information (IMI) System is a secure, multilingual online information exchange tool.

It was developed to facilitate the exchange of information between public administrations across the EEA and the European Institutions and Bodies involved in the practical implementation of EU law.

Some examples:

[https://beta.e-justice.europa.eu/551/EN/public\\_documents?clang=en](https://beta.e-justice.europa.eu/551/EN/public_documents?clang=en)

Repository of public documents (samples)

Poland, Croatia, Spain, Portugal or others to request

## Core facilities:

### 4. Internal Market Information System (IMI) art. 13

If the authorities of a Member State in which a public document or its certified copy is presented have a reasonable doubt as to the authenticity of that public document or its certified copy, they shall take the following steps:

- check the available models of documents in the repository of IMI
- if a doubt remains, submit a request for information through IMI:
  - (i) to the authority that issued the public document or, where applicable, to the authority that made the certified copy, or to both
  - (ii) to the relevant central authority.

## Exchange of best practice (art. 23)

Ad hoc committee composed of representatives of the Commission and the Member States and chaired by a representative of the Commission shall be established – regular meetings.

Tasks are fulfilled by facilitating the exchange and regular updating of best practice concerning:

- (a) the application of this Regulation between the Member States;
- (b) the prevention of fraud involving public documents, certified copies and certified translations;
- (c) the use of electronic versions of public documents;
- (d) the use of multilingual standard forms;

Important dates:

- **6 February 2018** - the Commission published the lists of country-specific entry headings in the Official Journal of the European Union and in the European e-Justice Portal in all the official languages of the institutions of the Union

(constant actualisation due to national law changes)

Important dates:

- **6 August 2018**, the Member States communicated to the Commission:
  - (a) the languages they will accept for the public documents to be presented to their authorities
  - (b) an indicative list of public documents falling within the scope of this Regulation;
  - (c) the list of public documents to which multilingual standard forms may be attached as a suitable translation aid;
  - (d) the lists of persons qualified, in accordance with national law, to carry out certified translations, where such lists exist;
  - (e) an indicative list of types of authorities empowered by national law to make certified copies;
  - (f) information relating to the means by which certified translations and certified copies can be identified;
  - (g) information about the specific features of certified copies.

[https://beta.e-justice.europa.eu/551/EN/public\\_documents?clang=en](https://beta.e-justice.europa.eu/551/EN/public_documents?clang=en)

Information communicated by EU countries (pursuant to Article 24 of the Regulation)

Important dates:

- **6 February 2021** the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee, an assessment report on the appropriateness of

the extension of the scope of this Regulation to:

- (i) public documents relating to the legal status and representation of a company or other undertaking;
- (ii) diplomas, certificates and other evidence of formal qualifications;
- (iii) public documents attesting an officially recognised disability



Important dates:

- **16 February 2024** (and at the latest every three years thereafter), the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation, including an evaluation of any practical experience relevant to cooperation between central authorities.

That report shall also contain an assessment of the appropriateness of **the extension of the scope of this Regulation to public documents relating to matters other** than those referred to in Article 2 and in point (a) of paragraph 2 of this Article.

Land registries possible ?

To sum up

The practical effect of The Regulation on Public Documents (Regulation 2016/1191) is possible thanks to E-Justice Portal held by the European Commission.

So, REGISTRAR please find some time to check „dynamic form” – „public document” website to use this fantastic tools !

Attention!

Check the Beta version of the Portal also.

Thank you for your attention!