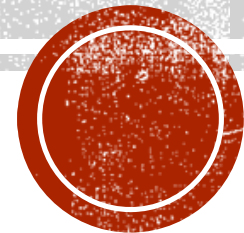


**IMPLEMENTATION OF EUROPEAN INSTRUMENTS: STUDY OF OBSTACLES AND RECOMMENDATION PROPOSAL REGULATION (EU)  
2016/1191**

**Conclusions of the CPs contributions to validate and register a foreign public document  
in the LR**

**Marta Rekawek-Pachwicz, CP from Poland**



## **ELRN WORKSHOP 18TH SEPTEMBER : QUESTIONS FOR CPS ROUND TABLES**

**1. Do You have any practical problems to use the foreign documents indicated in the article 2.1 of the Regulation (EU) 2016/1191 as the document of an entry in the LR?**

**Is it useful legal tool to prove established right or obligation for LR proceedings in your country?**

**2. Do You have any practical problems to use the multilingual standard forms in terms of assessment of the content of the document (articles 8, 9 of the Regulation (EU) 2016/1191)?**

**Is it easy to obtain the fee according the rule by article 11 of the Regulation (EU) 2016/1191? (The fee for obtaining a multilingual standard form does not exceed the production cost of the multilingual standard form or of the public document to which the form is attached, whichever is lower).**

**3. Do you have national legislation supplementing the Regulation (EU)2016/1191 or the Regulation itself is enough to regulate the issue? If yes, what is the content of national law act?**

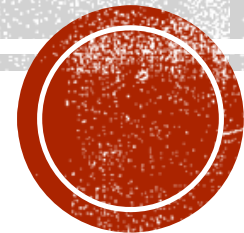


## ELRN WORKSHOP 18TH SEPTEMBER : QUESTIONS FOR CPS ROUND TABLES

Answers to the questions were given by **16 countries**: Belgium, Bulgaria, Croatia, Cyprus, Estonia, Finland, Ireland, Luxembourg, Malta, Poland, Portugal, Romania, Scotland, Slovak Republic, Spain, Sweden.

All answers were full and understandable, they also arrived on time.

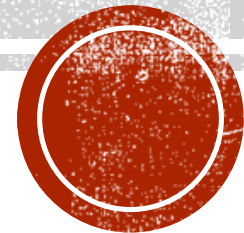
Seven CPs didn't answer the questionnaire, however they were active during the seminar. The sixteen EU countries are also good representative sources to find some practical feedback about problems to use the foreign documents regulated in the Regulation (EU) 2016/1191 in terms of land registry practice.



**FIRST QUESTION: DO YOU HAVE ANY PRACTICAL PROBLEMS TO USE THE FOREIGN DOCUMENTS INDICATED IN THE ARTICLE 2.1 OF THE REGULATION (EU) 2016/1191 AS THE DOCUMENT OF AN ENTRY IN THE LR? IS IT USEFUL LEGAL TOOL TO PROVE ESTABLISHED RIGHT OR OBLIGATION FOR LR PROCEEDINGS IN YOUR COUNTRY?**

**Majority of the CPs answered directly that they do not have any practical problems to use foreign documents, indicated in article 2.1 of the Regulation, eg. Bulgaria, Croatia, Estonia, Finland, Ireland, Luxemburg, Malta, Poland, Portugal, Romania, Scotland, Slovak Republic, Spain, Sweden**

*Article 2 Scope 1. This Regulation 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: (a) birth; (b) a person being alive; (c) death; (d) name; (e) marriage, including capacity to marry and marital status; (f) divorce, legal separation or marriage annulment; (g) registered partnership, including capacity to enter into a registered partnership and registered partnership status; (h) dissolution of a registered partnership, legal separation or annulment of a registered partnership; (i) parenthood; (j) adoption; (k) domicile and/or residence; (l) nationality; (m) absence of a criminal record, provided that public documents concerning this fact are issued for a citizen of the Union by the authorities of that citizen's Member State of nationality.*



**FIRST QUESTION: MOST OF THE COUNTRIES GAVE ADDITIONAL EXPLANATION CONCERNING TROUBLE-FREE USE OF THIS INSTRUMENT. IT ALSO INFLUENCED ANOTHER CONSEQUENT TOPIC – BEING A USEFUL LEGAL TOOL TO PROVE ESTABLISHED RIGHT OR OBLIGATION FOR LR PROCEEDINGS. FURTHER DEVELOPMENTS**

Sense of most of this answers was circulating around the issue that „...many attributes of the Regulation I.e. Article 2 do not constitute attributes required for our LR System, therefore, we do not maintain them” as the Cyprus CP said.

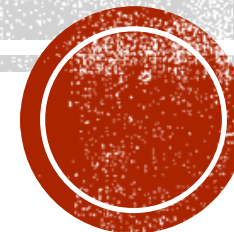
Estonia noticed that „There are not so many cases/documents applied”.

Very useful is a remark of Ireland that „Generally it is the lodging party (lawyer) who uses article 2.1. The Land Registry and lawyers have built up a mutual trust and the Land Registry will accept such documents from lawyers with further query”.

Very detailed and wide explanation was given by Portuguese CP and it is worth to quote it – „According to Portuguese Civil Law (Article 365. °), foreign documents can be accepted, and its legalization is only necessary if there are doubts about their authenticity. The Portuguese Land Registry (Article 43. °) also allows foreign documents written in English, French or Spanish, if the registrar knows the language. Portugal is part of the Hague Convention on the apostille which is very often used. We will certainly make more use of Regulation 2016/1191 as regards documents from MS that are not part of the said Hague Convention. Besides Portugal is also part of the CIEC Convention dated 05/09/1982 as regards certificates of capacity to marry and CIEC Convention dated 27/09/1956 as regards multilingual certificates of civil status, birth, marriage and death (of which Poland is also part since 02/10/2003”

There are also so liberal countries as Sweden where ..”Sweden allows foreign documents in a foreign language, so this has not been an issue”.

More detailed info – see Annex I



**SECOND QUESTION: DO YOU HAVE ANY PRACTICAL PROBLEMS TO USE THE MULTILINGUAL STANDARD FORMS IN TERMS OF ASSESSMENT OF THE CONTENT OF THE DOCUMENT (ARTICLES 8, 9 OF THE REGULATION (EU) 2016/1191)? IS IT EASY TO OBTAIN THE FEE ACCORDING THE RULE BY ARTICLE 11 OF THE REGULATION (EU) 2016/1191? (THE FEE FOR OBTAINING A MULTILINGUAL STANDARD FORM DOES NOT EXCEED THE PRODUCTION COST OF THE MULTILINGUAL STANDARD FORM OR OF THE PUBLIC DOCUMENT TO WHICH THE FORM IS ATTACHED, WHICHEVER IS LOWER).**

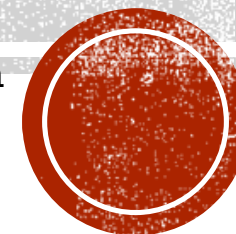
Again, majority of the CPs answered that there aren't any problems in practice of using the multilingual standard forms in terms of assessment of the content of the document. However, the reasons are mostly as in a case of Estonia - „*they are used rarely*” or in a case of Finland that „*These multilingual standard forms aren't maybe well known among customers*”. Similar answers in a sense of commenting lack of problems were given also by Croatia, Luxemburg (no case), Poland, Slovak Republic, Spain and Sweden.

In some cases CPS enhanced the matter of activity of other professions in this field as lawyers (Ireland) or public notaries (Belgium and Romania).

Two countries explained precisely the structure of national organs involved into the processing the public documents, especially connected to IMI search (Romania, Spain and Scotland).

There were no problems with calculating fees. In some countries a fee is lower than the limit indicated in the Regulation (EU) 2016/1191.

More detailed info – see Annex II

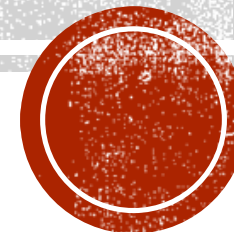


**THIRD QUESTION: DO YOU HAVE NATIONAL LEGISLATION SUPPLEMENTING THE REGULATION (EU)2016/1191 OR THE REGULATION ITSELF IS ENOUGH TO REGULATE THE ISSUE? IF YES, WHAT IS THE CONTENT OF NATIONAL LAW ACT?**

Majority of the CPs answered that there is no need to process additional legislation, the Regulation (EU)2016/1191 „*is enough to regulate this issue, because as an EU Regulation it will be directly applicable without the need of transposition*” (Spain). Such answers came from 12 countries.

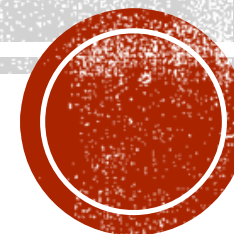
Four countries have additional national regulation supplementing the Regulation (EU)2016/1191 – Estonia, Luxemburg (obligation the parties to join on their own costs a translation of the document, that is certified by the notary or a sworn translator), Poland (type of public documents, costs, IMI national organs), Sweden (statement which Swedish authorities are responsible for the IMI).

More detailed info: see Annex III



## THE MAIN CONCLUSIONS;

1. the Regulation (EU)2016/1191 is not much popularised instrument in EU countries
2. the documents which are in the scope of the Regulation (EU)2016/1191 are mostly not much connected to land registries procedures and used as the base for any assessments and further – entry in a land book
3. All the CPs consider the legal aids regulated by the Regulation (EU)2016/1191 as useful
4. No problems with fee structures





**THANK YOU FOR YOUR ATTENTION AND PARTICIPATION**  
**MAIL: MARTA.REKAWEK-PACHWICEWICZ@MS.GOV.PL**

