

FREE MOVEMENT OF PUBLIC DOCUMENTS IN EU REGULATIONS

25 November 2021



European Union and the Single Market (3.3 TEU)

Principle of free movement of persons, goods and services

Common space of freedom, security and justice (3.2 TEU)

Mutual recognition of judicial and non-judicial decisions in civil matters

Court decisions and the 1968 Convention, the 44/2001 Regulation and now 1215/2012

What about non-judicial documents?

«The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters» (ART 67.4 TFUE)

Deeds, wills, powers of attorney, civil status...

INTERNATIONAL LAW

Material problem: Validity. Rome I

Formal problem:

- Autorship = Legalitation
- Language = Translation
- Capacity of probation?

EU RESPONSE

- No general regulation
- Partial response
- Scope. Restricted areas
- Aim. Restricted issues

WHAT TOOLS DO WE HAVE?

Regulation 650/2012

I. The ECSuccessions

II. Others:

- Same Evidentiary effects (art 59)
- Authorship: No legalisation (art 74)
- Translation: No

Regulations 2016/1103 and 2016/1104

I. Public Documents

- Same evidentiary effects (art 58)
- Authorship: No Legalisation (art 61)
- Translation: No

Regulation 2016/1191

I. Civil Status documents

- Translation: Multilingual forms (art 7)
- Authorship: No legalisation (art 4)
- Authenticity: The IMI system models and request of information

Regulation 2016/1191

The European Commission reports:

February 2021: «documents relating to the legal status and representation of a company or other undertaking»

February 2024: Other public documents

CONCLUSIONS

1. There is no free movement of documents within the EU
2. There is a strong tendency to “national documents only”
3. The European response is limited
4. There is still a long way to go but things are already changing.

THANK YOU FOR YOUR
ATTENTION

