

# ASPECTS ON THE PROMOTION OF CITIZENS 'FREE CIRCULATION BY SIMPLIFYING THE REQUESTS FOR PRESENTATION OF CERTAIN OFFICIAL DOCUMENTS IN THE EUROPEAN UNION

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## Abstract

*The Union has set the objective of maintaining and developing an area of freedom, security and justice without internal frontiers, within which the free movement of persons is ensured. In order to ensure the free movement of official documents within the Union, thus promoting the free movement of Union citizens, the Union should adopt concrete measures to simplify the existing administrative requirements relating to the presentation in a Member State of certain official documents issued by authorities of another Member State.*

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The Union has set the objective of maintaining and developing an area of freedom, security and justice without internal frontiers, within which the free movement of persons is ensured. In order to ensure the free movement of official documents within the Union, thus promoting the free movement of Union citizens, the Union should adopt concrete measures to simplify the existing administrative requirements relating to the presentation in a Member State of certain official documents issued by authorities of another Member State.

This Regulation should not apply to passports or identity cards issued in a Member State, as such documents are not subject to the requirement of legalization or similar formalities when they are presented in another Member State.

To this end, Regulation 2016/1191 of the European Parliament and of the Council on the promotion of the free movement of citizens by simplifying the requirements for the presentation of certain official documents in the European Union and amending Regulation (EU) 1024/2012.

The subject of this Regulation relates to certain official documents issued by the authorities of a Member State and to be submitted to the authorities of another Member State, a system of:

- a) exemption from the obligation to legalize or similar formalities;
- b) simplification of other formalities.

These provisions do not prevent a person from using other systems applicable in a Member State with regard to the legalization requirement or similar formalities and also lay down the standard multilingual forms to be used as translation aids accompanying official birth documents, that a person is alive, death, marriage (including marital status and marital status), registered partnership (including the ability to conclude a registered partnership and registered partnership status), domicile and / or residence, and the absence of a criminal record.

Simplifying the requirements for the presentation in one Member State of official documents issued in another Member State brings benefits to Union citizens. Given their different legal nature, documents issued by private persons should be excluded from the scope of the Regulation. Official documents issued by third country authorities should also be excluded from its scope, including where they have already been accepted as authentic by the authorities of a Member State. The exclusion of official documents issued by third-country

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authorities is also extended to certified copies made by the authorities of a Member State on the basis of official documents issued by the authorities of a third country.

This Regulation shall apply to official documents issued by the authorities of a Member State in accordance with its national law which must be submitted to the authorities of another Member State and the principal purpose of which is to establish one or more of the following: the fact that a person is alive, death, name, marriage, including marital status and marital status, divorce, legal separation or marriage annulment, registered partnership, including the ability to conclude a registered partnership and registered partnership status, the dissolution of a registered partnership, legal separation or cancellation of a registered partnership, affiliation, adoption, domicile and / or residence, nationality, absence of the criminal record, provided that such official documents are issued to a Union citizen by the authorities of the Member State whose citizenship n is it.

The Regulation also applies to official documents the presentation of which may be requested to citizens of the Union who reside in a Member State without being nationals of that Member State if they wish to vote and / The European Parliament or the local elections in their Member State of residence under the conditions laid down in Directive 93/109 / EC and Council Directive 94/80 / EC respectively. However, the Regulation does not apply to: official documents issued by the authorities of a third State in the case of certified true copies of the documents referred to in point (a) drawn up by the authorities of a Member State, nor in respect of the recognition in a Member State of the legal effects associated with the content of the official documents issued by authorities of another Member State. Therefore, official documents covered by this Regulation and their certified copies are exempt from all legalization and other similar formalities.

Translation is not required if<sup>1</sup>:

a) the official document is drawn up in the official language of the Member State in which the document is presented or, where the Member State concerned has more than one official language, in the official language or one of the official languages of the place where the document is presented or in any other language which the Member State has expressly accepted;

b) an official document on birth, the fact that a person is alive, death, marriage (including marital status and marital status), registered partnership (including the ability to conclude a registered partnership and registered partnership status), domicile and / or residence or absence of the criminal record is accompanied, in accordance with the conditions laid down in this Regulation, with a standard multilingual form, provided that the authority to which the official document is submitted considers that the information included in the multilingual standard form is sufficient for the processing of the official document. An authorized translation by a person qualified to carry out such translations under the law of a Member State is accepted in all Member States.

The purpose of the Regulation is not to alter the Member States' material right to birth, the fact that a person is alive, death, name, marriage (including marital status and marital status), divorce, legal separation or marriage annulment, registered partnership (including the ability to conclude a registered partnership and registered partnership status), the dissolution of the registered partnership, the legal separation or the cancellation of registered partnership, parentage, adoption, domicile and / or residence, citizenship, absence of the criminal record or official documents whose presentation may be imposed by a Member State on a candidate in elections to the European Parliament or in municipal elections or an elected voter in that

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<sup>1</sup> Article 4, Chapter II, adopted Regulation 2016/1191 of the European Parliament and of the Council on the promotion of the free movement of persons by simplifying the requirements for the presentation of certain official documents in the European Union and amending Regulation (EU) 1024/2012.

election who is a national of that Member State. Moreover, the Regulation should not affect the recognition in a Member State of the legal effects associated with the content of an official document issued in another Member State.

The official birth certificates, the fact that a person is alive, death, marriage (including marital status and marital status), registered partnership (including the ability to conclude a registered partnership and registered partnership status), domicile and / or residence, as well as the absence of a criminal record, communicated by the Member States are accompanied, at the request of the person entitled to receive the official document, to a standard multilingual form.

Where the authorities of a Member State in which an official document or certified true copy is in fact duly substantiated as to the authenticity of the official document or its certified copy, they shall take the following measures to put an end to the doubts: , checks the available document templates from the Internal Market Information System (IMI) database.

If the doubt persists, I am sending a request for information through IMI:

a) the authority which issued the official document or, where appropriate, the authority which: made the certified copy or both;

b) the competent central authority. These doubts may concern: the authenticity of the signature, the quality of the document's signatory, the identity of the seal or the stamp. If the authenticity of the official document or its certified copy is not confirmed, the requesting authority shall not be obliged to process it. For the implementation of the Regulation, each Member State shall designate at least one central authority. Where a Member State designates several central authorities, it shall designate the central authority to whom communications of any kind may be addressed in order to be forwarded to the competent authority of that Member State<sup>1</sup>.

The central authorities shall provide assistance in relation to requests for information made and, in particular, transmit, receive and, if necessary, respond to such requests and provide the necessary information on such requests.

The exchange and transmission of information and documents by Member States under this Regulation serves the specific purpose of verifying the authenticity of official documents by the competent authorities through IMI and its provisions are without prejudice to the application of the laws, regulations and administrative provisions of Member States on public access to official documents.

Thus, by 16 August 2018, Member States should have communicated to the Commission:

a) the languages it accepts for the official documents to be submitted to their authorities;

b) an indicative list of official documents covered by the Regulation;

c) list of official documents to which multilingual standard forms may be attached as an appropriate translation assistance mechanism;

d) the lists of qualified persons, in accordance with national law, to carry out authorized translations, where such lists are available;

e) an indicative list of the types of authority empowered under national law to make certified copies;

f) information on means of identification of certified translations and certified copies;

g) information on the specific characteristics of certified children.

Therefore, this Regulation does not oblige Member States to issue official documents which do not exist under their domestic law. As a result of this Regulation, on 8 December 2016, the Commission adopted a Communication on an Action Plan to strengthen the European response to fraud in travel documents in order to improve the overall security of travel documents issued in the EU. The Action Plan addressed the increasingly important

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<sup>1</sup> Article 15, Chapter IV, adopted Regulation 2016/1191 of the European Parliament and of the Council on the promotion of the free movement of persons by simplifying the requirements for the presentation of certain official documents in the European Union and amending Regulation (EU) 1024/2012.

issue of document fraud, which became more relevant in the context of terrorist attacks and migration flows. It was therefore essential for the EU and, in particular, the Member States to step up their efforts to improve the security of travel documents, thereby contributing to better border protection and better management of migration and to paving the way for a true and genuine security union.

Concerning on primary documents and document verification, including mobile technologies, the Commission has funded three major projects under Horizon 2020 for secure companies: ORIGINS, which ended in mid-2017, FIDELITY, concluded in 2015 and ARIES, launched in 2016. These research projects address aspects of combating identity fraud, protecting existing identity, image metamorphosis, and falsifying digital fingerprints. Monitoring activities include the continuity of the ORIGINS project through the European Committee for Standardization (CEN) GL19 on Standardization of Primary Documents; a consortium on a research project on metamorphosis of images; the SIRIUS project, which aims to capture standard document reference data and ENLETS Mobile, which examines new developments and exchanges best practice on mobile solutions for front-line law enforcement agencies<sup>1</sup>.

### **Conclusions**

Regulation (EU) 2016/1191 of 6 July 2016 on the promotion of the free movement of citizens by simplifying the requirements for the presentation of certain official documents in the European Union will apply from 16 February 2019. Under this Regulation, official documents such as certificates of birth, issued in one Member State and presented to the authorities of another Member State, shall be exempt from the obligation to apply the apostille.

The Regulation will strengthen the fight against fraudulent public documents by allowing the authorities of the receiving Member State, if they have doubts about the authenticity of the official document submitted, to consult the issuing authority through the Internal Market Information System. Issuing of documents is the responsibility of the Member States.

Work on creating a Best Practice Guide for Correct Enrollment of Biometric Identification Elements that examines the enrollment of biometric facial image and fingerprint data and underlines the importance of direct enrollment of facial images to effectively combat identity fraud through metamorphosis image. The guide also addresses the quality of biometric data and highlights the practical challenges and lessons learned.

This activity is supported by CEN, which will establish a technical standard for the enrollment of biometric identifiers together with Member State experts in the committee set up for this purpose.

Member States have supported this holistic approach. Progress made includes: sharing information on national identity practices and the enrollment process for biometrics, strengthening the security features of uniform visa and residence permits, and ongoing discussions on improving book security identity.

Smarter travel management and better control will help improve borders protection, manage migration and move towards a genuine and genuine security unity.

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<sup>1</sup> Report from the Commission to the European Parliament and the Council on the implementation of the Action Plan to strengthen the EU response to fraud in travel documents, Brussels, 16.10.2018.