



Questionnaire on the Green Paper

LESS BUREAUCRACY FOR CITIZENS: Promoting free movement of public documents and recognition of the effects of civil status records¹

**Submitted by Mr Patrick McGowan (IE/ALDE) for consultation
of the Subsidiarity Monitoring Network**

Please complete and submit by **2 September 2011**. You can upload the completed questionnaires directly onto the Subsidiarity Monitoring Network webpage (<http://subsidiarity.cor.europa.eu> – remember to log in). Alternatively, you can send them by email to subsidiarity@cor.europa.eu.

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BACKGROUND

The European Union facilitates moving beyond national borders for a variety of reasons. The Green Paper is a further step in the process of tackling bureaucratic burdens that can make it difficult to exercise the rights attached to EU citizenship. It is primarily at local and regional level that citizens come into contact with public administration and where questions about the cross-border usability of public documents and the recognition of the effects of civil status records (birth certificates, marriage certificates, partnership registrations, name changes etc) first arise.

This questionnaire aims to gather the views of local and regional authorities on some issues – considered to be of great relevance to them – which are related to the Green Paper and the legislative proposals.

Please complete the following questions:

¹ COM(2010) 747.

.../...



The Green Paper presents cooperation between the competent national authorities - which would include local and/or regional authorities - as one of the solutions to facilitate the free movement of public documents between Member States.

1. (a) *Do you have any experience with cross-border cooperation and/or any data on cross-border cooperation? If so, what problems typically arise for your authority or the authorities you represent? How have these problems been solved so far?*

(b) *Do issues ever arise relating to the availability of civil status records or their recognition between regions or local authorities **within** your country? If so, please describe.*

1. (a) It is usual for foreign civil status records to be presented when registering changes to civil status in Austria (e.g. birth, marriage, registered partnership, death in Austria), and likewise when registering changes to the civil status of Austrian citizens that took place abroad. Differences in the procedure for and issuing of these documents repeatedly cause difficulties for the parties involved, for example if it needs to be demonstrated that certain documents that are required in Austria for registration are not issued in the country of origin, or vice versa. In the border areas of Reutte (Tyrol)/Füssen (Bavaria), Seefeld (Tyrol)/Mittenwald and Garmisch-Partenkirchen (Bavaria) and Kufstein (Tyrol)/Kiefersfelden (Bavaria), the register offices work together due to their proximity and the amount of cross-border activity. There is also an exchange between the Association of Tyrolean Registrars and the Association of Registrars in South Tyrol/Alto Adige.

(b) There are no problems in Tyrol with regard to civil status records. Pursuant to a decree of the Austrian Home Office, it is no longer necessary to present specific certificates of no impediment from EU and EEA countries if legal capacity to marry is apparent from other documents. Some EU and EEA countries do not issue certificates of no impediment.

In many Member States, civil status events are only registered where the event occurs. In the Green Paper, the European Commission considers centralising the registration of all of a person's civil status events in one location.

2. (a) *In your opinion, is this centralisation of the registration of a person's civil status events in a single place, in a single Member State, necessary? If so, which place would be the most appropriate: place of birth, Member State of nationality or Member State of residence? If not, please explain your position.*

(b) *What implications (if any) could this centralisation policy have for your region or local authority?*

2. Austria is in the process of developing a central civil status register, which is intended to include all civil status data and, if need be, personal legal status as well. The data can then be accessed, and added, by all authorities responsible for civil status records and also by the registry (responsible for citizenship). This kind of central registration obviously has huge advantages, because all of a person's data are centrally accessible and information can be passed on more easily. It should, however, be noted in this connection that such systems require a high degree of security and reliability for the stored data, i.e. data protection and, in particular, the transfer of data must of course be carefully regulated and monitored. In Austria, the data are already linked through various requirements for the civil status authorities and other administrative authorities and courts to share information: in other words, changes to civil status are forwarded and recorded in the relevant registers. However, a person's civil status data are currently recorded in the registers of births, marriages, civil partnerships and deaths in various locations, i.e. wherever the event occurred. The introduction of a central information point or system throughout the EU would certainly be welcomed. It would also make it easier to exchange civil status records, a process currently regulated under bilateral or international agreements: at the moment, civil status records are forwarded either to the consulate of the country in question or to the relevant civil status authority in the country of origin, depending on the specific agreement; the rules are not the same for all EU countries. A central civil status register would also make it easier to enter information from foreign civil status records that is of relevance within Austria, either *ex officio* or at the request of the party.

Another potential solution would be to provide more systematic information to citizens as to which authorities are competent for entries in civil registers and the issuing of certificates.

3. In your opinion, would it be useful to publish the list of national authorities competent for dealing with civil status matters or, if appropriate, the contact details of one central information point in each Member State?

3. The extent of the differences between EU countries in how civil status matters are handled means that there is little point in producing a list of competent national authorities. In Austria, for example, the list would have to include all register offices and their districts and all registration authorities, i.e. in practice every local authority in Austria. It would, though, be useful to designate a central office in each EU country that can field queries in this connection and provide legal information.

Civil status records include the record of life events such as birth, filiation, adoption, marriage, recognition of paternity, registered partnership, or sex change, and sub-national authorities may have a legislative role as well as administrative responsibilities.

4. (a) *In your country, do regions have legislative responsibilities for issues relating to civil status? If so, please include a link or a list of responsibilities.*

(b) Civil status records have effects in a number of policy areas, for example in child care and education, social security, pension rights or health care. Would automatic mutual recognition of the effects of civil status records established in another Member State affect your regional legislation on these or any other policy areas? If so, please explain what the effects would be.

4. (a) In Austria, the provinces have no legislative competence regarding civil status matters. The provincial governor, as an indirect federal authority, may only regulate the formation of register office districts by order.

(b) If this recognition would mean that all EU civil status records would be recognised as official documents without notarisation, that would certainly be useful and very helpful for the parties involved, though Austria has already concluded agreements to that end with most Member States. Of course, only civil status records/civil statuses that are provided for within the country can be recognised/have legal effect. This is not the case in all countries regarding, for example, the legal status of registered partnerships.

5. *In your country, if the principle of mutual recognition of the effects of civil status records was implemented, what consequences would this have for administrative processes at local and regional level in the policy areas mentioned at 4.b) above, or in any other policy area? Please provide examples.*

5. Dispensing with the need for recognition would certainly make things easier. Recognition would also be made easier if a standard form, e.g. an EU birth certificate, were developed and used by all Member States. A form similar to the one used under the Convention on the issue of multilingual extracts from civil status records – which Austria has ratified – could be drawn up, with footnotes in all EU languages. The simple fact that documents are still completed by hand in some countries sometimes causes problems in terms of legibility.

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