

**Committee of the Regions' questionnaire on
the Green Paper: Less bureaucracy for
citizens: Promoting free movement of public
documents and recognition of the effects of
civil status records**

2 September 2011

QUESTIONNAIRE: LESS BUREAUCRACY FOR CITIZENS

I. INTRODUCTION

The Single European Act established the principle of free movement of persons and the Maastricht Treaty completed it with the introduction of EU citizenship. The Transfrontier Operational Mission (*Mission Opérationnelle Transfrontalière, MOT*) is grateful to the Committee of the Regions for launching this questionnaire on the European Commission's Green Paper on *Less bureaucracy for citizens: promoting free movement of public documents and recognition of the effects of civil status records*.

The MOT would like to contribute to this consultation by passing on its practical experience in local crossborder cooperation and by echoing the needs expressed by its network. The purpose of this contribution is not to answer the questions asked directly but to feed the debate on "less bureaucracy for citizens".

Presentation of the **Transfrontier Operational Mission** (*Mission Opérationnelle Transfrontalière*):

The MOT was set up in 1997 and is an association as well as a French interministerial body, whose main objective is to facilitate the implementation of crossborder projects. Its missions include operational assistance for crossborder project promoters (setting up projects, legal structuring, studies, etc.), networking, assistance in defining overall crossborder cooperation strategies and the implementation of EU projects. Its network includes local and regional authorities and their territorial groupings, associations, and crossborder structures, large companies, States etc. involved in crossborder cooperation and situated across borders. It has 60 members from 12 European countries.

So far, the MOT has focused its work on crossborder cooperation between neighbouring areas and on support for defining regional crossborder policies.

Site internet : www.espaces-transfrontaliers.eu

II. CONTRIBUTION

We would like to start by stressing a **terminological ambiguity**. The term "**crossborder**" is used indiscriminately to refer to cooperation between neighbouring local and regional authorities in two countries, across a border, and to international cooperation between two countries. In our report, we use "crossborder" to refer to cooperation between neighbouring local authorities in two neighbouring countries.

When people cross a border into a neighbouring country to study, work, shop, enjoy themselves, get treatment or give birth, they face international mobility issues even at the local level, especially when it comes to exercising their rights and obtaining the corresponding administrative papers.

Similarly, employed or retired people who decide to live in another country while continuing to live close to their country of origin can find themselves completely cut off, from an administrative point of view, because they have left their country of nationality.

It is mainly in these **crossborder areas**¹ that we are able to experiment with facilitating administrative procedures for EU citizens. In this sense, these areas serve as EU laboratories for identifying success stories but also for spotting things that might be working badly. The steps that need to be taken to address the difficulties encountered by citizens sometimes have to be adapted to local contexts.

¹ A crossborder area is an area that crosses one or more national borders and is covered by projects that have been defined and promoted by the public authorities in the area for the purposes of developing and implementing action programmes to meet its residents' needs and which have nothing to do with the area's administration.



One possible solution to facilitate the free movement of public documents, in line with the proposals set out in the European Commission's 2010 Green Paper², could be to start by providing citizens with good information services.

I. CITIZEN INFORMATION AT THE EU LEVEL

At present, there is a shortage of clear and straightforward information for citizens. They often have difficulty tracking down the information they are looking for. An **EU-level one-stop shop for information** for all citizens would inform citizens of their rights as well as advise them on formalities to exercise their right of free movement, help them to identify the relevant national authorities and advise them in case of legal action, etc. This approach goes beyond setting up information centres in each country, but could be combined with a network of national information points. The organisation of citizen information should follow a **bottom-up approach** based on citizen demand, and entailing a structural overhaul of the information system for EU law (see Lamassoure report³, proposal No 24).

There are many **specialised networks** covering areas such as health (EUNetPaS⁴), social security (CLEISS⁵), education (EURYDICE⁶), training (Euro-Institutes), consumption ((ECC-Net)⁷, job mobility (EURES⁸), crossborder issues (TEIN⁹)..., which are little known to the public.

By way of example, the development of information services for the general public and for crossborder workers is an important factor for promoting mobility in Europe, mainly by explaining and facilitating the formalities to be carried out (specialised bodies on one or more borders: INFOBEST¹⁰, GTE¹¹) etc.

II. ONE CROSSBORDER SCENARIO: COOPERATION BETWEEN ADMINISTRATIVE AUTHORITIES WITHIN A COUNTRY IN A CROSSBORDER SITUATION

The purpose is to facilitate administrative formalities for people living in crossborder conurbations. The examples set out below illustrate the specificities of crossborder regions.

• Example of a French citizen living in Germany and wishing to obtain a passport

In the past, a French national permanently resident across the border from France in Kehl, Germany (or anywhere else in the German part of the Strasbourg-Oretnau Eurodistrict) would have had to apply for a passport at the French consulate in Frankfurt, 200 km away.

Since 2008, administrative arrangements between the French ministry for the interior and the French foreign ministry and the City of Strasbourg allow this French citizen to apply for a passport in France at the Strasbourg townhall, a few kilometres away.

Recommendation: Citizens of one Member State permanently residing very close to the border of their country of origin in a bordering Member State (e.g. in a crossborder conurbation) should be able to request and obtain identity papers in their country of origin rather than at their country's consulate or embassy in their country of residence, when this consulate or embassy is further away than the relevant authority in their country of origin.

² The European Commission's Green Paper on less bureaucracy for citizens (COM(2010) 747 final)

³ Report on the citizen and the application of Community law of June 2008, drawn up for the president of the French Republic by Alain Lamassoure, MEP and vice-president of the MOT, in preparation for the French EU presidency,

⁴ European Network for Patient Safety

⁵ Centre for European and International Liaison on Social Security

⁶ Information on Education Systems and Policies in Europe

⁷ European Consumer Centres Network

⁸ EU job mobility portal

⁹ Transfrontier Euro-Institute Network

¹⁰ Network of information and advisory bodies on crossborder issues relating to the Upper Rhine

¹¹ *Groupement Transfrontalier Européen*: Franco-Swiss association set up to represent the interests of crossborder workers

- **Example regarding the establishment of civil status in a crossborder maternity hospital**

The crossborder Franco-Spanish hospital of Cerdagne situated in Spain, three kilometres from the Franco-Spanish border, caters for expectant mothers from both sides of the border, which creates a certain number of problems concerning civil status.

Following strong public demand, the French administrative authorities are looking into ways to ensure that children born to French parents residing in France at this hospital in Spain receive the same administrative treatment as children born on the French side of the border in the *Département des Pyrénées-Orientales*, i.e. so that they fall within the remit of the administrative services of the *Département des Pyrénées-Orientales* and not the central civil status services of the French foreign ministry in Nantes (service for French nationals born abroad).

Recommendation: Children born in maternity hospitals close to an internal EU border (e.g. in a crossborder conurbation) to parents whose nationality and residence corresponds to the neighbouring Member State should automatically be covered by the same civil status services as children born in the State corresponding to their parents residence and nationality.

III. COOPERATION BETWEEN THE RELEVANT NATIONAL AUTHORITIES OF DIFFERENT COUNTRIES

In addition to cooperation between the authorities of the same country, crossborder areas can also serve as test cases or laboratories to study cooperation between the relevant national authorities of different countries in order to solve the administrative difficulties encountered by citizens.

- **Example of staff of crossborder bodies/ European Groupings of Territorial Cooperation (EGTC)**

International mobility issues can be particularly complex to solve for **operational crossborder teams**, such as the staff of European crossborder bodies, since this type international mobility **rarely involves a change of domicile** or place of work.

Let's take the example of **civil servants** working for the local administration of a neighbouring State or for a crossborder body that has its headquarters abroad.

And let us say that due to the fact that some crossborder Eurodistricts are small, these civil servants continue to live in their own countries and may even continue to work there for a crossborder body that has its headquarters abroad but which has opened an office across the border.

This is the case of many EGTC based in France, which have offices across the border and employ staff from this neighbouring region.

Some civil servants and other staff employed by crossborder bodies are often treated as crossborder workers and can have **difficulty finding clear solutions** when it comes to paying their **taxes (fiscal matters)** or exercising their **pension rights (portability of social rights)** following their transfer to the administration of a neighbouring State.

Local and regional authorities should therefore **inform the relevant tax and social welfare authorities** of the status of their staff's situation and should work with bodies representing the rights of crossborder workers to **find operational solutions** to facilitate the employment of these people outside the administration that originally recruited them.

Legal frameworks regulating mobility should cover all aspects of **mobility** (social insurance etc.) for **civil servants**. Better coordination between **national and regional authorities** would therefore improve mobility measures, if necessary through EU-level discussions, possibly resulting in EU measures.

Outdated formalities to be carried out in the neighbouring country also need to be abolished (e.g. providing **documents that do not exist in the other country**). Strengthened cooperation between administrations could also lead to solutions.

Recommendation: Launch an EU-level programme **on cooperation between national authorities** responsible for social security, similar to existing Matthaeus¹² programmes for customs officials to fill the knowledge gaps of the relevant authorities (Lamassoure report, proposal No 29).

Recommendation: Member States should facilitate strengthened cooperation between the **relevant national authorities and administrations** by involving all levels of governance and establishing **appropriate training** for their administrative staff because they are often not well-informed about the other's administrative system.

Recommendation: Member States should develop **bilateral agreements** in one or more areas of local crossborder cooperation (tax, health etc.). Example: France is negotiating health cooperation framework agreements with its neighbours covering areas including medical and social care for crossborder patients.

Recommendation: Look into the possibility of a "**28th scheme**" for social rights, tax rights etc. for mobile workers. This could be tested in crossborder areas (Lamassoure report, proposal No 4).

IV. THE FREE MOVEMENT OF PUBLIC DOCUMENTS

The free movement of public documents mainly concerns four types of documents:

- civil status records (birth, adoption, marriage, death, nationality etc.),
- administrative documents (training qualifications, diplomas etc.),
- legal documents (court decisions etc.),
- notarial acts (marriage contracts, title deeds etc.).

We would like to focus on the first three categories: civil status records, administrative documents and legal documents.

RECOGNITION OF CIVIL STATUS RECORDS

The recognition of public documents, especially those relating to the effects of civil status records, such as birth, adoption, marriage or death certificates, etc., is essential to the mobility of EU citizens.

At present, the bureaucracy involved in having these certificates recognised **takes time, effort** and **money**, and can even **discourage** citizens from moving. Recognition could be facilitated by introducing a number of single multilingual documents or a central registration point or single certification point.

- **Multilingual forms recognised throughout the EU**

Citizens and administrations both have to deal with language barriers. **Multilingual forms** recognised throughout the EU on the basis of individual codes could reduce the need for translation. These forms would make free movement as well as recognition easier.

- **The European citizen card or European civil status certificate**

The recognition of civil status certificates could also be achieved through the introduction of single documents. In his report, Alain Lamassoure recommended asking the Commission to create a **European citizen card**. This card would combine all the certificates Europeans might need in a partner country in one simple document covering identity, marital status, employment eligibility, or social welfare entitlements etc. It would replace the ten or so currently required documents and would have strong symbolic value (Lamassoure report, proposal No 31).

¹² EU exchange and training programme for indirect taxation officials

We have already gained experience from the introduction of the European Health Insurance Card. This European citizen card could also take the form of a **European civil status certificate** setting out standardised information as suggested in the Commission's Green Paper¹³.

- **European "livret de famille" (record of family relationship)/ a single information network for issuing certified documents**

The mutual recognition of certificates via a single document could also be applied to matrimonial property regimes, another area that continues to present citizens with administrative difficulties, especially in the case of marriages between citizens of different EU Member States. One recommendation put forward by Alain Lamassoure in his report concerns a **European livret de famille (record of family relationship)** as well as a **single network for providing information and issuing certified marriage documents** (area of civil status records) and crossborder contracts (in the area of notarial acts). He advocated asking the Commission to study the proposals of the International Commission on Civil Status (CIEC) to simplify formalities and procedures along these lines (Lamassoure report, Proposal No 16).

- **A central registration point**

As already mentioned, marriages between partners of different nationalities present many administrative difficulties. Setting up a **central registration point** for civil status records (at EU level to centralise key data, or at the place of birth, domicile or nationality – why not let a citizen choose one of the three?) would be particularly helpful to citizens, especially with regard to marriage formalities. This central registration point would have to be coordinated with the abovementioned single certification point and the one-stop shop for information.

- **Dual nationality**

Some countries still refuse to recognise dual nationality. Addressing this issue in his report, Alain Lamassoure suggested adopting a 28th regime, i.e. in order to issue dual nationality automatically to the children of mixed marriages.

- **Solutions to the non-recognition of certain effects of civil status records**

Solutions to the non-recognition of certain effects of civil status records (e.g. for certain types of marriages contracted abroad or even surnames) may lie in improved cooperation between the national authorities concerned and/or work relating to the conventions, EU law or the bilateral agreements mentioned below.

RECOGNITION OF ADMINISTRATIVE DOCUMENTS

In addition to the matter of the recognition of civil status records, the question of recognition for vocational qualifications and diplomas also deserves attention.

- **Recognition of diplomas**

With regard to **diplomas**, there is the European Credit Transfer and Accumulation System (ECTS), the Bologna Process (bachelor/master/doctorate) and Erasmus Mundus, with the possibility of issuing joint diplomas.

- **Recognition of vocational qualifications**

The situation is more difficult with respect to **vocational training**, where automatic recognition only applies to a few occupations, despite the introduction of ECVET¹⁴. This system should be more widely known.

Europass makes it possible to obtain attestation (not compulsory) for **training carried out abroad**. For instance, Europass is applied in a local crossborder situation through projects set up by the Champagne-Ardenne (FR) and Wallonia (BE) regions in relation to the movement of people and recognition of their vocational training and experience.

¹³ Green Paper on less bureaucracy for citizens (COM(2010) 747 final)

¹⁴ European Credit System for Vocational Education and Training

In local crossborder situations, we can mention the example of **bilateral agreements** (concluded at the national level) which - since they cover areas such as health - have an impact on health workers.

Recommendation: A **standardised EU-level comparison grid** (with codes) should be developed to facilitate comparison and avoid the need for country-by-country and occupation-by-occupation comparisons.

RECOGNITION OF LEGAL DOCUMENTS

We would like to present some simple procedures for dealing with crossborder litigation and the issue of levels of information among the relevant professionals.

- **Existing procedures for crossborder litigation**¹⁵

It is mainly **consumers** who need legal protection and who often come up against difficulties connected with administrative formalities and/or recognition of legal documents.

At the EU level, two **simplified judicial procedures** for crossborder litigation were introduced in 2006/2007, and are not well known to the public:

- The European order for payment procedure¹⁶
- The European small claims procedure¹⁷

There is no specialised contact point to which citizens can refer for clear and simple information about these two procedures. The European Consumer Centre in Kehl, whose mission concerns consumer rights, could take on this role. At present, the centre focuses on extrajudicial formalities, e.g. out-of-court settlements.

The *Grande Région's arbitration network* is a good example of a regional crossborder initiative for settling crossborder litigation (civil status, retirement, etc.). Similar networks could be set up for other European borders.

- **The professionals concerned**

Generally speaking, it is not only citizens who are inadequately informed about EU law, but also the relevant professionals and administrative bodies. This includes national judges who are not well-versed in EU law. **Specialised training** is required to fill these information gaps. Alain Lamassoure has recommended an **Erasmus programme for judges** (Lamassoure report).

V. INTERNATIONAL CONVENTIONS, EU LAW AND BILATERAL AGREEMENTS

- **The ratification of international conventions**

International conventions with an impact on the mobility of people in Europe have to be ratified. Alain Lamassoure suggested calling on all Member States to **ratify all international conventions** that were important to "mobile" Europeans, such as the European **Convention on Nationality** of 6 November 1997 and the Convention on **multilingual extracts from civil status records** (Lamassoure report, proposal No 19).

- **The transposition of EU law - existing and future directives**

The **transposition of existing directives** into national law must be **promoted** and attention paid to the quality of transposition (including ex ante and ex post monitoring). **Accelerated simplified procedures** could also be introduced within a country for EU directives (Lamassoure report, Proposal No 22).

¹⁵ **Crossborder litigation** refers to a case in which at least one of the parties is domiciled or habitually resident in an EU country other than the country of the court hearing the case.

¹⁶ Regulation (EC) No 1896/2006

¹⁷ Regulation (EC) No 861/2007

A Charter concerning the **good transposition of EU law** could also be established at EU level (Lamassoure report, proposal No 21) and an **article included on the application of directives**, binding each Member State to submit a table setting out a directive's measures and the corresponding national transposing measures (Lamassoure report, proposal No 20), and then **the legislation under preparation could be finalised**.

- **Updating existing bilateral conventions and agreements**

Finally, with regard to local crossborder cooperation, a number of existing **bilateral conventions** need to be updated in order to deal with new situations (e.g. the 1959 Franco-German convention on taxation).

THE QUESTIONS

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 crossborder cooperation and/or any data on crossborder 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. What should be the focus of local and regional authorities' efforts in the implementation of measures to promote European and international mobility of local civil servants?

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?

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?

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.
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.