Public Documents in the Digital World

28th Conference of European Civil-Law Notaries
Salzburg, 22 April 2016

Stephan Matyk
European Commission
DG Justice and Consumers, Unit A.1 (Civil justice policy)
Topics

1. The environment

2. The EU dimension of public documents

3. eGovernment and the Digital Single Market Strategy
1. The environment
Today's Digital World

*Tremendous speed of change – disruptive innovation*

*Revolution of how business is organised*

*Full interconnection – beyond national borders*

*Mobile devices as key enabler*

*Impact on all sectors*

*Globalisation*
The framework for notaries

- EU civil justice legislation
- Specific EU action concerning public documents
- EU policy on digitalisation/eGovernment
2. The EU dimension of public documents
EU dimension of public documents

- sectorial EU instruments

- 2016: first horizontal EU instrument

Notaries => EU notaries

Courts => EU courts
Sectorial instruments

- *Brussels I, Brussels IIa*
- *European Enforcement Order*
- *Mediation Directive*
- *Maintenance obligations*
- *Successions*
The Successions Regulation

=> Regulation (EU) No 650/2012 of 4 July 2012


- Decisions (Chapter IV)
- Authentic instruments and Court settlements (Chapter V)
- European Certificate of Succession (Chapter VI)

Recital 18:
"In order to avoid duplication of documents, the registration authorities should accept such documents drawn up in another Member State by the competent authorities whose circulation is provided for by this Regulation."
**ANNEX 5**

**FORM V**

European Certificate of Succession

The original of this Certificate remains in the possession of the issuing authority

Certified copies of this Certificate are valid until the date indicated in the appropriate box at the end of this form

Annexes included in the certificate (*)

- [ ] Annex I — Details concerning the applicant(s) (MANDATORY if the applicant(s) is(are) a legal person(s))
- [ ] Annex II — Details concerning the representative of the applicant(s) (MANDATORY if the applicant(s) is(are) represented)
- [ ] Annex III — Information on the matrimonial property regime or other equivalent property regime of the deceased (MANDATORY if the deceased had such a regime at the time of death)
- [ ] Annex IV — Status and rights of the heir(s) (MANDATORY if the purpose of the certificate is to certify those elements)
- [ ] Annex V — Status and rights of the legatee(s) having direct rights in the succession (MANDATORY if the purpose of the certificate is to certify those elements)
- [ ] Annex VI — Powers to execute a will or to administer the estate (MANDATORY if the purpose of the certificate is to certify those elements)
- [ ] No Annex is included

1. **Member State of the issuing authority (*)**

   - [ ] Belgium
   - [ ] Bulgaria
   - [ ] Czech Republic
   - [ ] Germany
   - [ ] Estonia
   - [ ] Greece
   - [ ] Spain
   - [ ] France
   - [ ] Croatia
   - [ ] Italy
   - [ ] Cyprus
   - [ ] Latvia
   - [ ] Lithuania
   - [ ] Luxembourg
   - [ ] Hungary
   - [ ] Malta
   - [ ] Netherlands
   - [ ] Austria
   - [ ] Poland
   - [ ] Portugal
   - [ ] Romania
   - [ ] Slovenia
   - [ ] Slovakia
   - [ ] Finland
   - [ ] Sweden

2. **Issuing authority**

   2.1. Name and designation of the authority (*): .................................................................

   2.2. Address

   2.2.1. Street and number/PO box (*): ..............................................................................

   2.2.2. Place and postcode (*): .....................................................................................

   2.3. Telephone: ............................................................................................................

   2.4. Fax ...........................................................................................................................

   2.5. E-mail: ...................................................................................................................
European Certificate of Succession

- The first European authentic act based on EU law
- issued by a court or another authority

Uniform rules on...

- content
- effects
- procedural standards for issuance, rectification, modification, withdrawal of the certificate
- Redress procedure
- Suspension of the effects of the certificate

=> Valid document for recording of property in the register
The electronic European Certificate of Succession

Project lead by Estonia;
Co-financed by COM;
Member States, CNUE and ARERT involved;

Deliverable: One common IT-standard (XML-schema) for electronically issued ECS

Timing:
- End April 2016 deliverable handover by Estonia to COM
- July: made available at the European e-Justice Portal (by COM)
The Regulation on public documents

- will facilitate the circulation of public documents in the EU (including notarial acts)

- will strengthen the administrative cooperation between authorities

- will help save cost and time

- will apply as of end 2018/beginning 2019
What will change?

- Circulation of public documents simplified
  - No need for an Apostille
  - Multilingual translation aid forms

- Administratif cooperation strengthened
  - Administratif cooperation
  - Internal Market Information System

- Save time and money
- Multilingual translation aid forms
The e-multilingual standard forms

11 multilingual standard forms
Will be made available electronically in the European e-Justice Portal
Can be embedded/integrated in national IT-systems
Subject matters covered:
- Birth
- Life
- Death
- Marriage (incl. capacity to marry, marital status)
- Registered partnership (incl. capacity and status)
- Residence/Domicile
- Absence of a criminal record in the Member State of nationality of the person concerned

ANNEX IV

MARRIAGE
MULTILINGUAL STANDARD FORM - TRANSLATION AID
Article 7 of Regulation (EU) 2016... of the European Parliament and of the Council of ... on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012

- Belgium (BE) ☑ Bulgaria (BG)
- Czech Republic (CZ)
- Denmark (DK) ☑ Germany (DE)
- Estonia (EE) ☑ Ireland (IE)
- Greece (EL) ☑ Spain (ES)
- France (FR) ☑ Croatia (HR)
- Italy (IT) ☑ Cyprus (CY)
- Latvia (LV) ☑ Lithuania (LT)
- Luxembourg (LU)
- Hungary (HU) ☑ Malta (MT)
- Netherlands (NL) ☑ Austria (AT)
- Poland (PL) ☑ Portugal (PT)
- Romania (RO) ☑ Slovenia (SI)
- Slovakia (SK) ☑ Finland (FI)
- Sweden (SE) ☑ United Kingdom (UK)

IMPORTANT NOTICE
The sole purpose of this multilingual standard form is to facilitate the translation of the public document to which it is attached. This form shall not be circulated as an autonomous document between Member States.

This form reflects the content of the public document to which it is attached. However, the authority to which the public document is presented may require, when necessary for the purpose of processing the public document, a translation or transliteration of the information included in the form.
Public documents: the IMI

In case of doubt, checks of documents' **authenticity** will be possible electronically via the Internal Market Information System (IMI)
Going further: the e-workflow

Building on the future Public Documents Regulation, priority should be given to **mapping and promoting the cross-border use of electronic public documents** within the Union.

**Elements:**
- achieving a **Digital Single Market**
- the **once only** principle in eGovernment
- the **ISA**-project
- the role and functioning of the European **e-Justice Portal**
- **workflow** of using electronic public documents in different Member States
Your toolbox

The European e-Justice Portal

=> One-stop shop for information on European justice and access to judicial procedures in the Member States

Examples:
- on successions:
  https://e-justice.europa.eu/content_succession-166-en.do

- on public documents:
  available as of 2018
3. eGovernment and the Digital Single Market Strategy
Austria scores well for the use of digital technologies in public services as compared to the EU average, ranking 6 overall.

<table>
<thead>
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<th>Austria</th>
<th>Cluster</th>
<th>EU</th>
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eGovernment vision

Vice-President Ansip at the Mobile World Congress
Barcelona, 22 February 2016

“...three main principles for Europe's public sector: digital by default, open by default and cross-border by default.

- all interaction with public administrations – and between them – is done electronically;
- national governments in Europe must be open, transparent and collaborative;
- no digital barriers between EU public services. Otherwise, we cannot have a fully functioning internal market.”
Digital Single Market Strategy

=> One of 10 top priorities of the Commission.


Communication of the Commission of 19 April 2016 (COM(2016) 179 final)

**e-Government Action Plan 2016-2020** which includes

(i) making the **interconnection of business registers** a reality by 2017,

(ii) launching in 2016 an initiative with the Member States to pilot the ***Once-Only*** principle;

(iii) extending and integrating European and national portals to work towards a ***Single Digital Gateway*** to create a user friendly information system for citizens and business and

(iv) accelerating Member States' transition towards full e-procurement and **interoperable e-signatures**.
What’s next?

"Open, transparent and collaborative governments that make life easier for people and businesses", VP Ansip, 1 Dec 2015

Digital Single Market Strategy for Europe:

- **Once only principle**
  - reuse of information about the citizen or companies that is already in the possession of public services without asking again (annual net saving at the EU level of around EUR 5 billion)
  - possibility of an EU wide e-safe solution (a secure online repository for documents)

- **Digital by default**
  - all interaction with public administrations – and between them – is done electronically as preferred option

- **Cross-border and interoperable by default**
  - no digital barriers between public services in the EU
Making it operational...

Key building blocks:

- eIDAS Regulation

- e-Codex project / e-Justice Portal

- ISA² programme
eIDAS: a fundamental basis

Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market (eIDAS Regulation)

Will apply as of 1st July 2016

- ensures that people and businesses can use their own national electronic identification schemes (eIDs) to access public services in other EU countries where eIDs are available
- Legal certainty, legal validity
e-Codex project

- **building blocks** that can be used in or between Member States to support cross-border operation of processes in the field of justice.

=> direct communication between citizens and courts

Example: **Sending an EPO application to another Member State.**

**Fill in and send to** a participating court the EPO application form. By using their electronic signature or eID solution and the e-CODEX transport solution, the court can be sure that the received form is authentic.
The ISA² programme

- EUR 131 million programme

- to support the development of interoperable digital solutions, which will be available to all interested public administrations in Europe.

Timeframe:
1 January 2016 - 31 December 2020