

Set of Italian records provided by EU guidelines and international agreements for the movement and registration of status.

Welcome to all my colleagues attending the Nineteenth Convention of European Civil Status Officers.

I am grateful to the President of Anusca, Paride Gullini, for giving me the opportunity to present the Italian experience to you and to expose a topic, which is close to the heart of every single Civil Status Officer.

As we know, the documents of civil status have an essential value, in fact they prove the most important events of every person's life, from birth to death.

Moreover, they play an important role in international relations: the citizen needs these documents to demonstrate their personal status, above all when he moves to a different country from where he was born.

The proof of the condition of marriage, of being a son/daughter and so on, is fundamental to recognise, for example, the right of residence of a relative of a EU citizen, that lives in a different home country (Directive 2004/38/CE).

Since the beginning, the purpose of European Union is to create an area of freedom, security and justice, where is guaranteed the freedom of movement of people.

However, the free circulation of people inside EU is possible only if we break down all kinds of barriers, even bureaucratic ones.

Even the formalities represent obstacles to the free movement of people, that are necessary if you need a document in a different state from the one in which that document was released.

For these reasons some European states, even before the birth of EU, have found solutions to facilitate duties of the citizens and to ease the exchange of documents and information of civil status: the Convention is the tool, which is the result of an agreement between different states to delete or reduce the administrative formalities (translation or legalisation) for the exchange of documents.

Many Conventions aim to simplify the duty of legalisation, replacing it with Apostille or completely deleting it: one of the most famous and used is the Hague Convention, 5th of October 1961, many European and non-European states have acceded to it.

In Italy, the Hague Convention comes into force in 1978.

Moreover, Italy acceded to many others Conventions; for examples:

- ✓ Luxemburg Convention of 26th of September 1957 on the free of charge and the exemption from legalisation of copies of civil status records
- ✓ Athens Convention of 15th of September 1977 on the exemption from legalisation of certain records and documents
- ✓ Brussels Convention of 25th of May 1987 on the abolition of the legalisation of documents in the Member States of the European Communities

Some Conventions are particularly significant, because they eliminate the necessity of translation and legalisation; they adopt multilingual forms, just to mention:

- ❖ Vienna Convention of 8th of September 1976 on the multilingual extracts of civil status records
- ❖ Munich Convention of 5th of September 1980 on the certificate of legal capacity to marry

Conventions play a central role, but they have a limit: to be effective in the single states, they have to be ratified by those same states. This takes time and will to adhere.

A proof is that not all EU countries have ratified the Conventions that simplify the exchange of records and documents: this is a boundary and an impediment.

European Commission has emphasised these problems in the Green Paper of 2010: *“Less bureaucracy for citizens. Promoting free movement of public documents and recognition of the effects of civil status records”*, where they stated that *“...European citizens are still confronted each day with many obstacles to the exercise of these rights. One reason for these problems is that citizens are required to present public records to the authorities of another Member State in order to provide the proof needed to benefit from a right or to comply with an obligation. These documents can vary considerably. They can be administrative documents, notarial acts such as property deeds, civil status records such as birth or marriage certificates, miscellaneous contracts or court rulings. Very often these documents are not accepted by the authorities of a Member State without bureaucratic formalities that are cumbersome for citizens.”*

To overcome those boundaries the solution is to resort to an effective instrument and immediately mandatory for all the Member State, without the requirement of adhesion or transposition: **the Regulation.**

This ambitious goal has been reached in every single country of European Union with the **Regulation (EU) 2016/1191** of European Parliament and Council of 6th of July 2016, that endorse a free movement of people facilitating the requirements for the presentation of some public documents inside EU and that modify the regulation (EU) n. 1024/2012.

The Regulation 2016/1191 has set the objective “...to ensure the free circulation of public documents within the Union and, thereby, promote the free movement of Union citizens” through the creation of “a system for further simplification of administrative formalities for the circulation of certain public documents and their certified copies where those public documents and the certified copies thereof are issued by a Member State authority for presentation in another Member State.”

The aim of the Regulation is not to “to change the substantive law of the Member States relating to events that have a certification” and should not affect “the recognition in one Member State of legal effects relating to the content of a public document issued in another Member State.”

Essentially, the Regulation simplify the presentation of public documents, **but doesn't deal with their content**, this issue is different from what happens in the Regulation (EU) n.2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters.

In fact, the Regulation (EU) 2016/1191 doesn't represent a tool for the recognition of status that are not establish in a State where the document has to be presented: *Ex.: a marriage celebrated in Spain between a same sex people, an Italian citizen and a foreign, it would not be recognized as valid in Italy, because it will produce a Civil Partnership.*

The Regulation provides multilingual standard forms. Their aim is to facilitate the translation of attached public documents.

Therefore, those forms should not have to circulate as autonomous documents among Member State, but as an annex to the document drafted in the language of State that release it.

If the receiving Member State considers the information of the translation not sufficient in order to understand the original document, then it may demand a full translation.

Anyway, the document drafted in the language of issuing Member State is exempt from legalisation.

Fundamentally, the multilingual forms:

- ✚ relate exclusively to the translation;
- ✚ don't have legal value if it is detached from its original document, but it has to be attached to the foreign document released in the language of the issuing Member State;
- ✚ cannot circulate freely;
- ✚ don't require a legalisation of the foreign document.

Attention: the Regulation doesn't undermine the validity of Conventions that are already stipulated by every Member State, therefore citizens may continue to use them.

Indeed, the multilingual form doesn't substitute records and documents granted in accordance with other international conventions or EU Regulations, for example the multilingual standard extracts of Vienna Convention, nor other instrument or exemption system of legalisation. It is supportive to the translation of public documents released by the authority of every single Member State. It is separated and independent compared to those existing and different modalities.

If there are doubts about the authenticity of any of the documents, it is possible to verify them.

In Italy the Regulation (EU) 2016/1191 concerns both the Civil Status and the Registry Offices.

More in detail, they may operate **as public officers that receive the documents** to verify certain status of the EU or Italian citizen who live in a Member State.

In that case:

- they have to accept the documents, if they relate to the events stated in the regulation;
- the Civil Status Officer may use those documents in order to transcript them on the civil status registers, after a careful consideration;
- the translation of a record has to be entirely copied and the Civil Status Officer has to resume it, considering the content of the record.

The Civil Status and Registry Officers may act: **as public officers that release the requested document.**

Therefore:

- they have to release a document according to the rules under the Italian law;

- they have to attach to the document the standard form of translation, foreseen by the Regulation and corresponding to the type of document/certificate;
- that model has to be filled in on the website *The European e-Justice Portal*, since in the section “forms for public documents” foreseem the possibility to complete online every form. https://beta.e-justice.europa.eu/35981/IT/public_documents_forms

Certainly, an enormous step was made to simplify life of European citizens and to allow not only the free movement of people, capitals, goods, services, **but also documents that contain the most important information** that are part of the history of each person.

This result, I believe that is a great merit of EVS, that has followed closely the creation of this Regulation and it has played a significant role in order to deepen a subject, which is close to every single European citizen: free movement of people and simplification of administrative charges.

Now it is time for European Civil Status Officers to take up the challenge with great enthusiasm and proficiency with the purpose of transforming the tools offered by the Regulation (EU) 2016/1191 into a singular opportunity for each citizen.

Thank you all for your attention!