

INTERNATIONAL RECOGNITION OF DOCUMENTS – A RESULT OF GLOBALIZATION AND MOBILITY OF INDIVIDUALS

Mădălina COCOȘAȚU*
Elena MARINICĂ**

Abstract: *This article examines how globalization is a factor that has led to the acceleration of international labour force migration in recent decades, to the mobility of people in general, with the provision of a legal security framework and a recognition of the veracity of documents outside the issuing State. Considering the large quantities of information regarding this dominant topic, this state of things has allowed us to carry out an analysis on the relationship of interdependence created between the two phenomena, as well as on the old and yet new character of the procedures used in the recognition of documents at international level, in order to demonstrate that the experience of globalization has effects on the documents and their recognition in other states.*

Keywords: *migration; apostille; over-legalization, treaties; conventions*

I. PRELIMINARY REMARKS

To approach the topics in the title, namely the international recognition of documents following globalization and mobility of individuals, we will start with a few introductory considerations regarding their inclusion in an overall theoretical framework.

Globalization is a continuous, gradual process, characterized mainly by the cooperation of states and the development of cross-border links which has as a result the mobility of individuals or even their free movement. (e.g. in the European Union). However, globalization also implies an excessive mercantile character that tends to reduce the state sphere more and more, sometimes ignoring the ethical principles and the rights of the people, at the same time emphasizing the universalism of these rights. "Globalization is the starting point of the necessity to reconfigure the international system of values and priorities, but it also offers means for affirming and consolidating new principles and dimensions of governance."¹

In this context, the necessity of ensuring the legal certainty of the documents circulating inside and outside states, accompanied by the facilitation regarding the

* Ph.D. Associate Professor, Faculty of Public Administration, National University of Political Studies and Public Administration (N.U.P.S.P.A.).

** Ph.D. Assistant, Faculty of Public Administration, N.U.P.S.P.A.

¹ Petre Dumitriu, *Sistemul ONU în contextul globalizării. Reforma ca voință și reprezentare*, Curtea Veche Publishing House, Bucharest, 2008, p. 383

recognition of documents issued by one state in the confines of another state, has become a current issue. Considering that each state has its own rules and requirements in issuing official documents so that they can be used according to the law, it was also necessary to regulate in this respect in the sphere of external relations also to ensure the cross-border validity of documents, for legal certainty and, why not, for their easier and more efficient free circulation.

We know that important steps in the recognition of documents issued by one national state in the confines of another have been made through regulation at the level of public international law, through bilateral treaties and conventions, but also at the Hague Conference. In this latter case, a clear example is the Convention on eliminating the requirement for the over-legalization of foreign official documents, signed in The Hague on October the 5th, 1961, also known as the "Apostille Convention"; it is without a doubt the Convention with the largest applicability in the world. At the same time, as it is clear from the title of the Convention, the procedure of over-legalization is complementary and prior to the procedure for applying the apostille.

This extra-state recognition of documents has a strong impact on the legal certainty/validity of these documents since we could consider the recognition as a constitutive part of the process of legal integration and security of documents.

Also, in the context of international labour migration and free movement at European Union level with visible effects on the movement of documents, the need for legal certainty/validity of official documents, as a result of the simplification of certain procedures of issuing documents, completes the scheme of the civil circuit of documents issued in one state and used in another.

II. GLOBALIZATION AND MIGRATION

In recent years, the phenomenon of globalization has made a decisive contribution to the increase of migratory flows, both at international level and at the level of the European Union and of the Member States, the migration being determined, among others, by the desire or the need to look for new jobs, for new opportunities, for an educational system adapted to individual needs, and also from the desire to increase the quality of life.

Because the migration phenomenon is now a global one, and globalization as well as the permanent circulation of people are extremely important current landmarks that permanently support the migration phenomenon, it is obvious that in time these aspects will have determined and will generate profound social and economic changes. These are key factors to adopting appropriate policies that will respond positively to the challenges of migration and also highlight the positive impact of this phenomenon, such as inclusion, sustainable economic growth and economic development in the countries of origin and in the host countries, the development of science and technology and providing cultural diversity.

A report by the United Nations (UN) on international migration states that, in 2017, about 258 million people lived in a country other than the country where they were born, compared to 220 million in 2010 and 173 million in 2000, and from a statistical point of view, international migrants represent 3.4% of the world population, and compared to previous years the increase was determined in particular by the number of international trips (over 1.3 billion).²

According to the Report,³ "The 2030 Agenda for Sustainable Development, with its commitment to leave no one behind, recognises that international migration is of major relevance for the development of countries of origin, transit and destination, requiring coherent and comprehensive responses." In accordance with the provisions of The 2030 Agenda, "governments are committed to facilitating the orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies. (objective SDG 10.7)."

Also, considering the European and international demographics statistics, generated by the ageing of the population and implicitly by its decline, it can be seen that they have determined and will cause a permanent imbalance in the labour market, which could be counteracted by means of labour mobility, accompanied by easier or even free circulation of official documents where it is possible (e.g. within the European Union) and by ensuring legal certainty/validity of documents held and used by migrants.

It is necessary that all states, European and Euro-Atlantic organizations, as well as all other regional or international bodies engage in a serious dialogue in order to reach consensus, share responsibility and establish a migration objective, which would be useful to all, an example being the UN Global Compact Initiative for Safe, Orderly and Legal Migration and the Global Refugee Pact of the United Nations High Commissioner for Refugees.

Migration requires global solutions based on the principles of solidarity and shared responsibility.

Also, the Organization for Cooperation and Development in Europe, in close collaboration with the European Commission, have made proposals to improve the instruments of the EU for managing labour migration, in particular general and highly skilled migration. These competences fall under the responsibility of the EU Member States and no country has yet found the ideal policy to deal with this situation.⁴

² About 60% of international migrants live in Asia (80 million), Europe (78 million), North America (58 million), Africa (25 million), Latin America and the Caribbean (10 million) and Oceania (8 million); See *International Migration Report 2017*, United Nations, New York, 2017, p.1 and following, available on http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2017_Highlights.pdf, accessed on 15th June 2019

³ *Ibidem*, p. 1

⁴ *Ibidem*, p.56

The integration of migrants into the state of destination⁵ must aim, among other things, to facilitate adjustment and settling in the new state, including labour market integration⁶, registration and use of personal documents (e.g. civil status documents, study papers, a.s.o.) as conveniently as possible, to create a balance.

Migration policies must be a permanent priority for states, they must have as a goal the need to protect the rights of all migrants, regardless of their legal status concerning migration⁷, and also to establish and strengthen cooperation in the field of migration in the countries of origin and transit, through the creation of legal and safe opportunities of migration, especially in the European Union, for an organized management of migration flows, but also for addressing the root causes of emigration.⁸ These policies aim to recognize individuals' mobility as a global phenomenon and strengthen the protection of refugees and migrants through global response and cooperation. Indeed, the EU has potential, mainly due to the dynamic labour markets, to the diversity of its geopolitical connections, to its role as a centre of innovation and the attractiveness of European values compared the rest of the world states, the advantages and the policies working for the mutual benefit of the countries of origin, the countries of destination, the migrants themselves, but also for their employers.⁹

At the same time, concerning the European Union, but not exclusively, in the context of a current labour market thriving by using the human resource, one can consider the similarity between the concepts of free circulation of individuals and of the labour force, the need for integration becoming more stringent in some situations.

However, it has been found that despite the progress made at European and international level, it does not benefit European citizens, because there is a disparity between their expectations towards their respective governments in terms of migration management and individual displacement or the capacity of these governments to act accordingly or successfully communicate their opinions and actions, as the EU needs to focus on an approach to the main root causes of migration, to move towards a system of migration management based on objectively defined rules, and its partners to become better at managing legal

⁵ In June 2016, the European Commission adopted an Action Plan on the integration of third-country resortisants, which includes a series of actions to support the integration of third-country resortisants., available to <https://ec.europa.eu/migrant-integration/main-menu/eus-work/actions>, accessed on 15.06.2019.

⁶For example, at the European Union level was launched the initiative „Employers join forces to contribute to integration“, available to https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/european-dialogue-skills-and-migration/integration-pact_en, accessed on 15.06.2019.

⁷ For more information, see also *International Convention of 18 December 1990 on the Protection of the Rights of All Migrant Workers and Members of Their Families*

⁸ For more information, see also *European Migration Agenda from 13th May 2015* (COM(2015)0240) and Commission Communication from 7th June 2016 on establishing a new partnership framework with third countries based on the European Migration Agenda (COM(2016)0385)

⁹ For more information, see also Vienna Migration Conference 2018, Future Migration Governance, Reforming Refugee Protection, Skilled Migration, International Centre for Migration Policy Development, 2018, p.56

migration and labour forces, on the one hand, and to impose strict and efficient control of migration, on the other hand.¹⁰

A visionary European immigration policy based on solidarity and respect for European values requires a balanced approach in dealing with migration and for this reason the EU is committed to contributing to the creation of safer and better controlled migration channels, both to support people in need of protection and to adequately respond to the needs of the labour market and skilled labour shortages.¹¹

Integration is an essential step in the migration process, in ensuring inclusion and cohesion, aiming to offer the development of the qualifications and skills of the people who have the right to remain in the European Union and put them to good use; it is essential on economical and social levels. Thus, maximizing legal migration by developing and implementing active integration policies, providing a permanent framework for dialogue, emphasizing policies on education mobility are means of preparing migrants to integrate into the host society and the labour market. Therefore, in order to attract third-country nationals with specific competences, skills and professional qualifications it is necessary to implement more flexible admission policies.

Obviously a comprehensive labour migration policy and a better integration of migrants is needed in order to achieve the objectives of the EU for smart, sustainable growth that benefits migrants, as well as for ensuring free circulation at EU level (for migrants from the EU) with concrete and visible effects on the circulation of legal documents.

At the same time, the Council of Europe adopted, at the 1335th meeting of the Committee of Ministers, a series of *Guidelines of the Committee of Ministers of the Council of Europe on electronic evidence in civil and administrative proceedings*¹², adopted on the 30th of January 2019 by the Committee of Ministers, starting from the premise that the aim of the Council of Europe is to achieve a closer union between its Member States, in particular by encouraging the adoption of common rules in legal matters, they felt the need to create a common framework by harmonizing the national laws of the Member States, taking into account the necessity to respect the diversity of the legal systems of the Member States, but also in order to provide practical solutions to remedy the current shortcomings in law and practice. Thus, these guidelines are designed as a practical tool for the Member States, which supports them to adapt the functioning of their dispute settlement mechanisms in addressing the issues caused by electronic evidence in

¹⁰ *Ibidem*, pp.65-67

¹¹ Briefing European Parliament - Legal migration to the EU, p. 1, available to [http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635559/EPRS_BRI\(2019\)635559_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635559/EPRS_BRI(2019)635559_EN.pdf), accessed on 15.06.2019

¹² *Guidelines of the Committee of Ministers of the Council of Europe on electronic evidence in civil and administrative proceedings* - CM(2018)169, 30 January 2019, available to https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680902dc9, accessed on 15.06.2019

civil and administrative proceedings and, implicitly, of the documents issued in this manner.

It is true that the interaction between public international law and private international law, seen through the perspective of migration and human rights, poses real challenges, especially with regard to free circulation, to the legal regulation of the rights and problems of migrants, how their documents are circulating and the way they are analysed and recognized by the authorities. This is the reason why an important step in ensuring the free circulation of persons was represented by international recognition, through public international law, of the legal effects produced by the existence of documents issued by states.

III. A FIRST STEP IN ENSURING THE FREE CIRCULATION OF DOCUMENTS – THE OVER-LEGALIZATION PROCEDURE, THE PROCEDURE FOR APPLICATION OF APOSTILLE ON DOCUMENTS AND OTHER PROCEDURES ESTABLISHED AT INTERNATIONAL LEVEL

Indeed, we can say that migration is an important factor in the evolution of society, and its appearance is somewhat natural, with many benefits to the development and well-being of states and their citizens, among which is also the mobility of the workforce, accompanied by the issuing of a series of documents in and from the countries of destination.

As international legislation has varied and varies from state to state, which has in time determined the existence of legal insecurity, initially discouraging the involvement of states in cross-border relations and then in the development of labour migration and mobility, the need to combat insecurity and develop the positive aspects was imperative in order to ensure a level of coherence between states.

At first, in international law, it was specified that for the circulation of documents outside the issuing states and the producing of legal effects, it was necessary to "legalize" them; what does this legalization mean? In the specialized literature¹³, it is considered that legalization is a formality that consists in the certification of the veracity of the signature and the quality of the public officer who issued the document by a public official. Legalization is a means of proving the origin of the act often encountered as mandatory before administrative authorities, compulsory in exceptional cases before the court and very often used in practice even if it is not mandatory. In some legal systems, this type of proof is a solemn one and nothing can replace it, playing a part in the exercise of the sovereignty of the state that institutes it. This formality ensures the certification of the elements attesting the validity of the document, as well as the competence of

¹³ Georges A.L. Droz, *La Legalisation des Actes Officiels Étrangers*, Rapport établi par Georges A.L. Droz, Secrétaire Au Bureau Permanent, Conférence de la Haye de Droit International Privé, 1959, pag.15, available on <https://assets.hcch.net/upload/apostille1959pd01.pdf>, accessed on 16.06.2019

the person who made it, including compliance with certain conditions of form. Subsequently, this formality served as a pre-established proof of the validity of the act, but the question arose whether the practice of legalization showed how useful this formality is, because it was also considered to be a cumbersome and costly procedure that hinders international relations.

To get to the present moment, we will start by presenting the international regulation of the procedure of over-legalization, procedure with a role in ensuring the legal security and in recognizing the veracity of the documents outside the territory of the state of origin.

The procedure of over-legalization presupposes the formalities established by the legislation of a state (inadvertently there are conditions that differ from one state to another), confirming the veracity of the documents issued on the territory of one state for use in another state, a procedure that starts with the recognition of the signatures applied to documents and ends by applying the stamp of the embassy or consulate of the recipient state. The over-legalization follows only the formality by which the diplomatic or consular agents of the country on whose territory the act is to be presented attest the veracity of the signature, the capacity in which the signatory has acted, or, as the case may be, the identity of the seal and stamp on the act.¹⁴

Subsequent to this procedure, in order to eliminate the formalities that generate material costs but also to cut down on the time required to certificate documents in each state, by regulating and establishing the formality of applying only one stamp, the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents was adopted during the Hague Conference on Private International Law¹⁵. The role of the Convention is to ensure legal protection and security for all individuals and legal entities, despite the different character of the legal systems of each state.

At present, the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, known as "Apostille Convention", has 117¹⁶ contracting states. The Convention evades the formalities of legalisation and resorts to the simple delivery of a certificate in a prescribed form, entitled "Apostille", by the authorities of the State where the document originates. According to the Convention¹⁷, "the only formality that may be required

¹⁴ Art. 2 from Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, signed in Hague

¹⁵ Available to <https://www.hcch.net/en/instruments/specialised-sections/apostille>, accessed on 16.06.2019

¹⁶ We mention that on the website of the Apostille Convention, "contracting part" will mean on the one hand the states where the Convention entered into force, and on the other hand the states where the Convention has not yet entered into force, but have the instruments of ratification, accession, acceptance or approval were deposited. In this situation, the Philippines and Guyana have deposited the instruments of accession to the Hague Convention, which has been applied since May 14, 2019 and April 18, 2019. Available on <https://www.hcch.net/en/instruments/conventions/status-table/?cid=41>, accessed on 16.06.2019.

¹⁷ Art. 3 of Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents

in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in Article 4, issued by the competent authority of the State from which the document emanates.”

The Convention applies exclusively to public documents, and the classification as a public document of a document is determined by the law of the State in which it was issued. For the purposes of the present Convention, the following are deemed to be public documents¹⁸:

a. documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process-server ("huissier de justice");

b. administrative documents;

c. notarial acts;

d. official certificates which are attached to documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

However, the present Convention shall not apply to documents executed by diplomatic or consular agents and to administrative documents dealing directly with commercial or customs operations¹⁹.

The beneficiaries of this procedure are undoubtedly the citizens of all the states that signed the Convention, by using the official documents to which the apostille procedure was applied, on the territory of another Contracting State.

Since 1999, Romania is a signatory State of the Hague Convention following Government Ordinance no. 66/1999 for Romania's accession to Hague Convention of 5 October 1961 - Abolishing the Requirement of Legalisation for Foreign Public Documents²⁰, approved by Law no. 52/2000, with subsequent amendments²¹.

Both the procedure for applying the apostille and the procedure for applying the over-legalization do not involve an analysis of the content of the act, but only of recognizing the authenticity of the signature, but also of the capacity of a person to issue and sign the document subject to the procedure of applying the apostille / over-legalization, as well as the identity and authenticity of the seal or stamp the document in question is bearing.

Beyond the procedural steps, which are clearly simplified by the Apostille Convention, these procedures are differentiated function of the recipient state, the

¹⁸ Art.1 par. 2 of Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents

¹⁹ At the Council of Europe level, there are similar regulations, such as European Convention of 1968 on the abolition of the legalization requirement for documents prepared by diplomatic agencies and consular officials, adopted in London on June 7, 1968, and signed by Romania in Strasbourg on May 21, 2010, ratified by the Romanian Parliament by Law no. 114/2011, published in the Official Gazette of Romania, Part I, no. 470 of July 5, 2011, entered into force on April 2, 2012.

²⁰ Published in the Official Gazette of Romania, Part I, no. 408 of August 26, 1999.

²¹ Published in the Official Gazette of Romania, Part I, no. 169 of April 20, 2000.

one in which the respective documents are to be used. As mentioned above, the Apostille Convention has 117 contracting states, and the states that are not included are states in which the over-legalization procedure is applicable.

As societies face new challenges related to globalization, mobility and changes in the social and legal framework, it was considered necessary to permanently adapt to the current needs of society and citizens. Considering the increasing number of electronic public documents issued all over the world and considering that the electronic apostles offer another solution for the application on public documents in their original form, we are witnessing an increase in the interest shown for the electronic component of the Apostille Convention - "e-APP²²" ((issuing electronic apostille - "e-apostille", or the operating of records and checks in electronic registers - "e-register"²³), an extremely useful tool for the safe and efficient functioning of the Convention in a broader way. Actually, in 2016, over 200 competent authorities from the Contracting States implemented one or both components of the e-APP, noting that a high percentage of the new acceding contracting parties join as e-APP parties. Encouraging the establishment of such electronic registers aims in fact to provide universal access to the possibility of verifying the authenticity of each issued apostille (not the public document on which it is applied), but also information regarding the person or authority who signed or applied the stamp on the public document for which the apostille was issued.

In addition to the Electronic Register of apostille verification, there is also the electronic apostille issued in electronic format, bearing an electronic signature, offering the only solution for the apostille's application on electronic public documents, and thus ensuring the security, efficiency and ease of transmission, as well as the verification of the authenticity of public documents. Subsequently, the electronic apostille can be verified in the Electronic Register of the competent authority.

Although a small number of contracting states have implemented the electronic apostille application system, there is now a tendency to develop this system, including increasing the number of apostille checks issued through the use of electronic registers. In Romania, a component of this program was implemented, namely the possibility of verifying the apostilles issued for administrative acts by

²² Australia, Austria, Brazil, Chile, Romania, Tajikistan and a state of Mexico (Southern Baja California) joined the e-APP from 2014 to 2016.

²³ The list of operational E-registries includes: Andorra, Argentina, Australia, Austria, Bahrain, Belgium, Brazil, Bulgaria, Chile, China (Hong Kong), Colombia, Costa Rica, Dominican Republic, Estonia, Georgia, Ireland, South Korea, Latvia, Mexico (Baja California Sur), Morocco, New Zealand, Nicaragua, Paraguay, Peru, Moldova, Romania, Russia, Slovenia, Spain, Tajikistan, Ukraine, United Kingdom of Great Britain and Northern Ireland, USA (California, Colorado, North Carolina, Rhode Island, Texas, West Virginia, Washington), Uruguay, Venezuela

the Ministry of Internal Affairs in an Electronic Register appealing to the Prefect's institution.²⁴

We can say that, over time, the system introduced by the Apostille Convention, as implemented by the Member States, has caused difficulties for the owners and users of such public documents outside the states of origin, not ensuring adequate protection regarding the interests of the member states of the Convention, mainly to prevent fraud in relation to foreign public documents. In the specialized literature²⁵, it is considered that "The Apostille itself is a public document. However, as any other public document, an Apostille is susceptible to fraud, and the authorities in the Member States may have a legitimate interest in verifying its authenticity in case of doubt." Thus, in order to support the need for protection, a procedure for verifying the Apostille was regulated, which stipulates that at the request of any interested person, the authority that issued the Apostille is required to verify that the data in the apostille correspond to a register or file. Basically, a consultation of the registries is possible in case the authorities of the Member States contact each other to make sure of the authenticity of the Apostille applied.

According to the same report²⁶, a series of reasons has been identified for the lack of success of the verification procedure provided by the Convention, such as the Apostille registers, which are generally kept individually both in paper format and locally by each competent authority, communication between competent authorities is hindered by linguistic ability, the ways in which registers can be consulted are limited and, last but not least, access to registries is sometimes restricted.

In addition to these two procedures, other specific means pertaining to public international law must be mentioned, such as the existence of a treaty²⁷, conventions, agreements or regulations that require these formalities to be removed, simplified or to exempt the documents from over-legalization or the application of the apostille. These legal instruments have acquired "an importance that is constantly growing; their significance has become noticeable as a result of their ever-increasing number, covering the most varied and the widest areas/fields, through the vital character of the functions they are meant to perform."²⁸ In support of these ideas are the provisions of article 8 of the Apostille Convention according to which, if there is a treaty, convention or agreement between two or more

²⁴ Electronic register (e-Register) implemented by the Romanian Ministry of Internal Affairs offers the possibility to check the apostilles issued for public administrative documents, after November 1, 2004, available to <http://www.apostila.mai.gov.ro/>

²⁵ *The Use of Public Documents In The EU*, Synthesis Report, presented by Jacob van de Velden (London), British Institute of International and Comparative Law, July 2007, p.35

²⁶ *Ibidem*, p.36

²⁷ Romania has bilateral treaties or conventions for legal assistance in civil matters, which provide for exemption from over-legalization.

²⁸ Ion M. Anghel, *Dreptul tratatelor, Second edition, revised and added, vol. I*, Lumina Lex Publishing House, 2000, pp. 49-50

Contracting States containing provisions that require the attestation of the signature, seal or stamp according to certain formalities, the Convention does not derogate from these formalities unless they are more rigorous compared to those provided in art. 3 and 4 of the Convention.

Of course, in connection with all these legalization procedures regulated at international level (e.g. over-legalization, apostille, treaties, conventions or agreements) various difficulties have been detected over time, "which can be directly or indirectly associated with the requirement of legalizing foreign public documents. The general difficulties may be distinguished by the specific difficulties of applying the Apostille Convention and the legalization procedures under the national law of the Member States. The following general difficulties were identified: (1) legal diversity and fragmentation of the legal framework regarding the cross-border use of public documents; (2) heterogeneity of public documents; (3) heterogeneity of competent public authorities; (4) the differences between the public administration systems of the Member States; (5) the differences between the public registration systems of the Member States; (6) differences between Member States regarding public document authentication systems; (7) diversity of languages; (8) the uncertainty regarding public documents that are solicited abroad in order to ascertain proof for certain rights (9) incorrect application or failure to comply with the applicable formalities; (10) lack of relevant and up-to-date information; (11) lack of e-governing; (12) lack of confidence in foreign public authorities and the documents produced by them; (13) lack of confidence in the reliability of foreign public registers."²⁹

At present, some of these difficulties have been and can be removed, in the context of the advantages offered by the use of modern technologies in providing an apostille (faster)³⁰ or because some states have adopted appropriate legislation to allow the competent authorities to issue e-apostilles.

In addition to all these procedures mentioned above, maybe anticipating the European frame of bilingual forms established by the EU Regulation no. 2016/1191 on promoting the free circulation of citizens by simplifying the requirements for the presentation of certain public documents in the EU, which should not circulate as autonomous documents between the Member States but only alongside public documents; we mention also the Convention of the International Commission for Civil Status (CIEC) no. 2 regarding issuing civil status records free of charge and exemption from legalising copies of civil status records, the CIEC Convention no. 16 regarding the issue of multilingual extracts from civil status records and the CIEC Convention no. 34 regarding the issuing of multilingual and coded extracts from civil status documents and of multilingual and civil-coded certificates.

²⁹ *The Use of Public Documents In The EU*, Synthesis Report, presented by Jacob van de Velden (London), British Institute of International and Comparative Law, July 2007, p.37

³⁰ A Contracting State (Colombia) has implemented an online Apostille service, available 24 hours per day, seven days per week.

Among them, we make some clarifications regarding the Convention No. 16 of the International Commission on Civil Status regarding the issue of multilingual extracts of civil status records, signed in Vienna on September the 8th, 1976, in view of the entry into force on June the 5th, 2013 of the law for Romania's accession to the Convention no.16 of the International Commission on Civil Status, ratified by Law no.65 / 2012.³¹

The Convention is applicable exclusively to civil status records and aims to establish a common regulatory framework for issuing extracts from civil status records intended for use abroad and, at the same time, to eliminate the condition of legalization of civil status documents. The multilingual extracts of civil status records issued by the competent authorities of the members States are prepared when an interested state requests them or when their use requires translation. According to the Convention, these multilingual excerpts of the civil status records regarding birth, marriage or death are accepted by the public authorities and institutions in Romania and in the other member states of the convention without any form of legalization or an equivalent formality on the territory of each State adhering to the Convention. Therefore, the procedure for translating, legalization, over-legalization and applying the apostille to civil status records will be replaced by a simplified procedure, contributing, on the one hand, to the elimination of bureaucracy and, on the other, to reducing forgeries in the acts of civil status, to an increasing confidence in the safety of the civil status circuit.

Convention no.16 does not exclude the application of the apostille according to the provisions of Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents³², therefore, the issuing of multilingual extracts for Romanian citizens, with the purpose of being used abroad will determine an increase in the quality of the services concerning issuing civil status records for all citizens of the States that signed the Convention and will significantly contribute to the recognition of these official documents in other signatory States of the Convention, also a higher degree of safety and security regarding the information provided and the protection of citizens' rights in the Member States.

We find that, over time, it has been attempted and to some extent it has been possible to identify solutions to the difficulties listed above, so that all these procedures and their improvement will lead to the simplification of the official documents circuit, to guaranteeing the identity, security and quality of these documents and of their issuing institutions, in a context generated by the mobility of citizens and the development of inter-state relations.

³¹ Published in the Official Gazette of Romania, Part I, no.277 of April 26, 2012. Also, in the Official Gazette of Romania, Part I, no. 608 of September 30, 2013 also published the Government Decision no. 727/2013 for approving the Methodological Norms for implementing the provisions of Convention no.16 of the International Commission for Civil Status regarding the issue of multilingual extracts of civil status records, signed in Vienna on September 8, 1976.

³² In Romania, the provisions of the Convention are applicable in addition to the provisions of the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, to which Romania acceded.

IV. CONCLUSIONS

Finally, we can conclude that, in a world characterized by the phenomenon of globalization, the mobility of individuals entails a mobility of official documents, and the guarantee concerning legal recognition and security must be fulfilled, so that in the end the existence of all these regulations can lead to a more profound understanding of the complex interactions between national standards, international standards (The Hague Conference, International Commission on Civil Status, international treaties and agreements) and, last but not least, regional standards (European Union).

It is obvious that the striving towards perfection in the case of any such standard or procedure is desirable for the states and for all the other actors involved. The need for a minimum of requirements to ensure the de-bureaucratisation of procedures, greater ease in obtaining the documents required for cross-border circulation, but also the legal recognition and security of these official documents represent small, but important steps that must be constantly reviewed, completed and, why not, reinterpreted.

We believe that it is necessary to protect the coexistence of all these systems applicable in various states, because it is necessary to create effective and easy to get benefits for the citizens, respecting the material law of their respective states.

States must always have the possibility to maintain or to conclude bilateral or multilateral agreements on issues that may concern the simplification of the documents circulation between states, the probative value of official documents, the multilingual extracts with legal value, or the exemption from the obligation to legalize the aforementioned or other official documents in different fields or to decide concerning new Contracting States that wish to join them by adhering to this kind of decisions.

Bibliography:

- Ion M. Anghel, *Dreptul tratatelor, Second edition, revised and added, vol. I*, Lumina Lex Publishing House, Bucharest, 2000
- Droz, Georges A.L. *.La Legalisation des Actes Officiels Étrangers*, Rapport établi par Georges A.L. Droz, Secrétaire Au Bureau Permanent, Conference de la Haye de Droit International Privé, 1959
- Dumitriu, Petre, *Sistemul ONU în contextul globalizării. Reforma ca voință și reprezentare*, Curtea Veche Publishing House, Bucharest, 2008
- Jugastru Călina, „Reședința obișnuită” în contextul regimurilor matrimoniale europene. *Regulamentul (UE) 2016/1103*, p. 1, article available on <https://www.universuljuridic.ro/resedinta-obisnuita-in-contextul-regimurilor-matrimoniale-europene-regulamentul-ue-2016-1103/>
- Jacob van de Velden (London), *The Use of Public Documents In The EU*, Synthesis Report, British Institute of International and Comparative Law, July 2007

- *International Migration Report 2017*, United Nations, New York, 2017 http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2017_Highlights.pdf,
- Briefing European Parliament - *Legal migration to the EU*, p. 1, available on [http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635559/EPRS_BRI\(2019\)635559_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635559/EPRS_BRI(2019)635559_EN.pdf)
- Vienna Migration Conference 2018, *Future Migration Governance, Reforming Refugee Protection, Skilled Migration*, International Centre for Migration Policy Development,
- The European Commission's Action Plan (June 2016) on the integration of third-country nationals, which includes a series of actions to support the integration of third-country resortisants, available on <https://ec.europa.eu/migrant-integration/main-menu/eus-work/actions>
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
- The European Migration Agenda, 13 May 2015 (COM(2015)0240)
- Guidelines of the Council of Europe Committee of Ministers on electrotechnics in the field of civil and administrative processes of the Council of Europe - CM(2018)169
- Commission Communication of 7 June 2016 on establishing a new partnership framework with third countries based on the European Migration Agenda (COM(2016)0385)
- Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, available on <https://www.hcch.net/en/instruments/specialised-sections/apostille>
- European Convention of 1968 on the abolition of the legalization requirement for documents prepared by diplomatic agencies and consular officials, adopted in London on June 7, 1968, and signed by Romania in Strasbourg on May 21, 2010, ratified by the Romanian Parliament by Law no. 114/2011, published in the Official Gazette of Romania, Part I, no. 470 of July 5, 2011, entered into force on April 2, 2012
- Electronic register (e-Register) implemented by the Romanian Ministry of Internal Affairs, which offers the possibility to check the apostilles issued for public administrative documents, after November 1, 2004, available to <http://www.apostila.mai.gov.ro/>
- EU Regulation no. 2016/1191 of the European Parliament and of the Council (6 July 2016) on promoting the free circulation of citizens by simplifying the requirements for the presentation of certain public documents in the European Union and amending EU Regulation no. 1024/2012, published in OJ L 200, 26.7.2016.
- The Law for Romania's accession to the Convention no.16 of the International Civil Status Commission, ratified by Law no.65 / 2012, published in the Official Gazette of Romania, Part I, no.277 of April 26, 2012.