



## OPEN Summary of EMN Ad-Hoc Query No. [2019.73]

### AHQ regarding Process of checking breeder documents

Launched on 23<sup>rd</sup> of July 2019, prepared by NL EMN NCP

#### 1. KEY POINTS TO NOTE

- ★ For most Member States, the diplomatic representation in the country of origin plays a large part in the process of checking breeder documents.
- ★ Most Member States have to rely on the cooperation of the issuing authorities in the country of origin in order to carry out an assessment on the authenticity of breeder documents. **CZ, HR, LT** and **PO** have reported that making contact with the issuing authority occurs on a common basis, but its effectiveness depends on the quality and cooperation of the authorities of the country of origin.
- ★ The practical implications of the Hague Convention of 1965 which introduced the use of Apostille stamps in the process of legalizing documents have proven to be successful in the process of checking breeder documents. Member States have indicated that the Apostille stamp has made it easier and faster to check the authenticity of documents.

#### 2. BACKGROUND AND CONTEXT

Breeder documents are crucial elements when applications for residence permits are assessed. Based on the contents of such documents third country nationals are admitted (or not). For example, when lodging an application for family reunification applicants have to submit different breeder documents (i.e. marriage certificates and birth certificates).

In total, eighty countries worldwide are not part of the Apostille convention. This means that citizens coming from those countries have to have their breeder documents legalized by the authorities in the country of origin and the authorities of the country of destination before they can be used for applications.

The legalization process of third country breeder documents to be used in the Netherlands is as follows:

1. Third country nationals should let their breeder documents be checked by the relevant authorities, such as (local) authority, provincial authority and national authorities, before they can use these documents in their application procedure.
2. All the relevant authorities have to put a stamp on the breeder document to certify that it is a genuine document.
3. The final step in the legalization process is carried out by the Dutch Ministry of Foreign Affairs. Third country nationals need to go to the Dutch embassy, where the document is checked and legalized.

In the Netherlands, the ministry of Foreign Affairs is reducing its involvement in the legalization process in certain countries. Currently the Netherlands is reviewing how to deal with the process of checking breeder documents going forward. The Netherlands would like to know how other Member States check if breeder documents of (potential) third country nationals in legal migration cases are genuine. This relates to third country nationals of countries that are not a party of the Apostille convention.

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<sup>1</sup> How documents are assessed in asylum cases does not fall in the scope of this ad-hoc query.

### 3. MAIN FINDINGS

*Question 1. Are breeder documents required in legal migration processes in your Member State (for example during family reunification) to check/approve the identity of the third country applicant? Yes/no, please give an example of a legal migration process in which breeder documents are required and explain how these documents are used.*

**Most Member States (BE, BG, CZ, CY, DE, ES, GR, HR, HU, IT, LT, LV, LU, NL, NO and SK)** report that besides a type of travel documentation, additional breeder documents are required in the legal migration processes to approve the identity of the third country applicant, but may vary depending on the purpose of the application. In the case of family reunification, most additional breeder documents required are those that prove a relationship between applicants such as marriage certificates, family statuses and/or adoption certificates. Other additional breeder documents that were often mentioned were birth certificates and diplomas.

In **France**, in the procedure for legal migration, the mechanism for establishing the applicants identity does not vary depending on the type of residence permit or visa requested.

In **Sweden**, passports also serve as the primary document in order to verify the applicant's identity. Therefore, breeder documents are not used. In case the applicant is not able to provide a passport, a residence permit can be obtained by proving one's identity in other ways (such as proving a biological relationship for parents whose children have lived outside Sweden).

**EE** and **PO** did not provide information concerning this question.

*Question 2. What process is carried out by the competent authority/authorities to check the authenticity of the breeder documents provided by the third country applicant? Please also explain which elements of the documents are checked during this process and by which authority.*

In most of the Member States (e.g. **BE, BG, CZ, EE, ES, GR, HR, IT, LT, LV, LU<sup>2</sup>, PO** and **SK**) the process of authenticating breeder documents depends on whether the document in question has been stamped with an Apostille stamp, or whether bilateral treaties on the recognition of documents apply between the

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<sup>2</sup> As a side note, **Luxembourg** has added to their response that their possibility to verify documents often depends on the possibilities of the Member State which represents the interests of **Luxembourg** in the country of origin.

Member State and the country of origin. Once the authenticity of the documents has been verified and legalized, they are recognized by the respective Member States. In case the country of origin is not part of the Hague Convention and when no such bilateral treaties are in place, breeder documents have to be legalized by the Member State. This is mostly done by the diplomatic representation in the country of origin.

In case of suspicion of the authenticity of the breeder document, further inspection is carried out by the diplomatic representations of the Member State.

The diplomatic representation plays a large role in the process of checking the authenticity of the breeder documents in the cases of **BE, BG, DE, ES, GR, HR, HU, IT, LT, LU, LV, NL, NO** and **PO**. Besides the check by the diplomatic representation, **HU, LU** and **NO** have indicated that in some cases the Special Service for National Security (**HU**) and the police (**LU** and **NO**) are involved in the procedure of checking the breeder documents.

Furthermore, **Hungary** has reported that, in case of suspicion of the authenticity of the breeder documents, the Hungarian diplomatic representation shall contact the issuing authority in order to check the authenticity or it seeks help from document advisers within the diplomatic representation or diplomatic representations from other Schengen states.

**The Netherlands** reported that after the legalization process at the diplomatic representation, the breeder documents can be used at the actual application at the Immigration and Naturalisation Service (IND). The IND checks the stamp acquired from the Dutch Ministry of Foreign Affairs, the physical appearance of the documents, its contents, the picture and the signature. When doubts exist, further research of the breeder documents can be conducted by the IND.

In **France**, the authenticity check is conducted within various administrative levels. An identity check is carried out at the diplomatic representation as part of the visa application. An identity document check is performed at the border by the police. Another identity check is performed at the prefectural level as part of the residence permit application and a final document check is performed by the French Immigration and Integration Office (OFII). Therefore, several ministries and other administrative departments carry out the identification process.

In **Italy**, documentation issued in third countries - where no international laws or agreements providing for its exemption are applied - is legalised by the Consular Office on the basis of the specimen signatures of the local authorities acquired in its own acts (art. 63, comma 1 of the Legislative Decree no.

71/2011) or on the basis of an "interim assessment" which consists in the prior verification and/or legalisation of the foreign document under examination, by the local Ministry of Foreign Affairs (art.63, comma 2 of the Legislative Decree no. 71/2011).

**CY** and **SK** have not mentioned which authorities check the authenticity of breeder documents.

*Question 3. What tools are used in order to check the authenticity of the breeder document?*

In the majority of the Member States (**BE, BG, DE, EE, ES, FR, HU, IT, LT, LV, NL, PO** and **SK**), the diplomatic representation is the first line in checking the authenticity of breeder documents. Not much tools have been mentioned in order to check the authenticity of the breeder documents. The most common tools used are specimen of stamps and personal documents in order to confirm the authenticity of a stamp and document and to detect a possible fraudulent document. Also, ultra violet lights are used to check the physical appearance of the document.

**Spain** has mentioned that in cases where serious doubts exist, a DNA test can be suggested to visa applicants in order to determine whether they are the person corresponding with the documents.

**Belgium** has mentioned that in cases of serious doubt, the Immigration Office may ask the Belgian diplomatic representation to verify the contents of the documents in the country of origin. Interrogating local authorities, central authorities and persons that attended the event described in the act (e.g. a civil marriage) can be part of this process.

In **Luxembourg**, a special unit of the police is in charge of checking the breeder documents by checking different databases such as the DISCS-Database.

**BE, CZ, HR, LT** and **PO** have reported that in cases where the authenticity of the breeder documents have been called into question, the issuing authority will be contacted to clarify the authenticity of the breeder documents.

In Greece authorities are obliged to check 5% of the submitted documents issued by Greek public authorities, in order to verify the accuracy of the data included there in, according to Law no 4250/14 (art.1 par.2).

*Question 4. Does the competent authority have the possibility to verify the content stated on the breeder documents in the country of origin of the third country nationals (for example by looking at the official registration in churches and schools)?*

**BE, DE, GR, HU, LU**<sup>3</sup> and **NO** have indicated that they do have the possibility to verify the breeder documents in the country of origin of the third country national. This is mostly done by contacting the issuing authority. In the cases of **BE, GR, HU, LU** the diplomatic representation located in the country of origin of the applicant plays a large role in this process. **DE** has stated that for the authentication of breeder documents they work with persons or companies who are known to be trustworthy (such as an attorney) and who is commissioned by the German diplomatic representation.

In general, most member states (**CZ, CY, EE, FR, HR, LT, LV, PO** and **SK**) report that the verification procedures of breeder documents in the country or origin is deemed difficult or impossible. Therefore, for most Member States (and in **NL**), an attempt to verify the breeder documents is done in situations where suspicion has arisen of the authenticity of the breeder document. As **ES, NL, NO** and **SK** have stated, the possibility of verifying breeder documents strongly relies on the cooperation of the authorities of the country of origin.

**BG** and **IT** have not answered this question.

**EMN NCPs participating:** Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway Poland, Slovak Republic, Spain, Sweden (22 in total). Austria and Ireland have requested that their answers are not disseminated further. Therefore, their answers are not included in this summary.

**Disclaimer:** The responses of the Member States regarding this ad-hoc query have been provided primarily for the purpose of information exchange among the EMN National Contact Points (NCPs) in the framework of the EMN. The contributing EMN NCPs have provided information that is (to the best of their knowledge) up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State. The responses are interpreted by the EMN to write this summary.

<sup>3</sup> As a side note, **Luxembourg** has added to their response that their possibility to verify documents often depends on the possibilities of the MS which represents the interests of **Luxembourg** in the country of origin.