



OPEN SUMMARY*: DISTRIBUTION

UK AD-HOC QUERY ON RECOGNITION OF PROXY MARRIAGES UNDER DOMESTIC LAWS

Requested by UK EMN NCP 18.02.15

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This summary adapted for NO from UK closed summary

Responses from Austria, Belgium, Bulgaria, Czech Republic, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovak Republic, Sweden, plus Norway (19 in Total)

Disclaimer: The following summary has been based on the responses which were provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is 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.

1. Background Information

A proxy marriage is one where an appointed substitute (or proxy) stands in for a party to the marriage at the ceremony. In some cases proxies stand in for both parties.

The laws of the United Kingdom do not allow for marriages to be contracted by proxy within the UK. However, the current position is that this type of marriage must be accepted if marriage by proxy is recognised by the national laws of the country in which it was contracted.

Current evidence suggests this form of marriage is an increasing source of abuse for applicants applying for EEA residence documentation. We are reviewing our position as a result of this abuse, part of this review is to gather information on the approach of other Member States to this issue.

2. Highlights (adapted from summary from UK) / Norway's practice in relation to others

1) Does your Member State recognise proxy marriage certificates for applications for residence cards issued to non-EU family members of Union citizens under Article 10 of Directive 2004/38/EC?

Most of the member states who responded recognise proxy marriage certificates in applications for residence cards:

- Fifteen out of nineteen member states do recognise proxy marriages in some circumstances (although there are varying degrees of restrictions attached to this) (BE, CZ, DE, FI, FR, HU, IE, IT, LV, NL, PT, SK, UK, NO*, SE*)
- Four member states do not recognise proxy marriage certificates in any circumstances (AT, BG, LU, RO).
- *Norway and Sweden indicate that proxy marriages would only be recognised in exceptional circumstances. Sweden amended their national law in 2014 to generally disallow recognition of proxy marriage certificates as they were deemed to facilitate forced marriage.

2) If you do recognise proxy marriages do you recognise them in all circumstances?

- The predominant view from Member States who accepted proxy marriage certificates in applications for residence cards, was that certificates for proxy marriage would be recognised as long as proxy marriages were legal in the country where they had been contracted (this was mentioned by BE, FI, FR, DE, HU, IE, LT, NL, SK, UK).
- The circumstances which made the proxy marriage necessary were generally not deemed relevant, although one MS mentioned that further consideration may be given to cases whereby an illness may raise questions over consent.

3) If you do recognise proxy marriage certificates for applications for residence cards, do you?

- a) automatically request additional information from the applicants about their relationship? (yes/no)

Out of the 15 Member States where proxy marriage certificates are recognised in applications for residence cards, only Finland indicated that they would always ask for additional information.

b)if no to 3a, in what circumstances would you request more information? Concern about the genuineness of the marriage was the primary concern:

- Nine Member States (BE,CZ,FR,DE,HU,IE,LV,NL,UK) explicitly indicated that they would ask for further information if they had suspicions about the genuineness of the marriage(if it is being suspected of being a marriage of convenience/sham marriage).
- A couple of MS also indicated that they would ask for more information if it was suspected that the marriage was forced.

4) If you do not recognise proxy marriage certificates for applications for residence cards, is this because of your national legislation or for other reasons (if other reasons please give details)?

The four Member States who did not recognise proxy marriage certificates in any circumstances, indicated that proxy marriages were not accepted in their national legislation.

- Austria, Bulgaria and Romania indicated it was against the principles of marriage in their Member State whereby consent must be given freely in front of witnesses.

Sweden and Norway also indicated that the general rule disallowing proxy marriages was in their national legislation.

5. Are your own nationals permitted to engage in proxy marriages (either inside or outside your member states) under your national legislation (yes/no)?

- Just over half of the member states (10 out of 18 who responded) indicated that their own nationals were permitted to engage in proxy marriages(BE, CZ, FI, DE, HU, IE, IT, NL, SK, UK). Some of these member states report that such marriage could not be contracted in the member state itself, but would be accepted if conducted elsewhere (BE, FI, DE, IE, UK).
- Eight Member States indicated that their own nationals were not permitted to engage in proxy marriages (AT, BG, FR, LV, LU, RO, SE, NO)

6a) Please provide any information on any trends in the use of proxy marriage certificates for applications for residence cards since 2010.

Member States were not able to report any trends in the use of proxy marriage certificates for applications for residence cards.

6b) Are you aware of any abuse of this route?

With regard to the abuse of immigration system, all member states who responded indicated that this was not an issue that they were aware of; with the exception of UK who explained that intelligence suggests it is a source of abuse.