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# Mutual Recognition of Civil Status Certificates

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# I. Introduction

- The debate concerning mutual recognition of civil status certificates is just at the very beginning.
  - Family law is determined by strong traditional, cultural and regional influences.
  - This explains the unanimity requirement for secondary legislation.
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## II. What does mutual recognition mean?

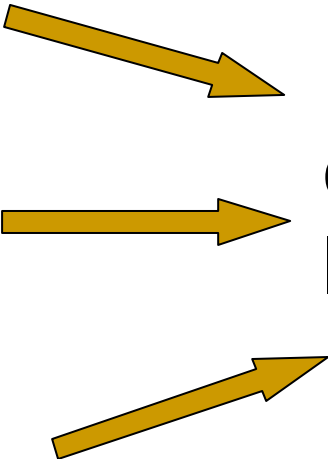
Mutual recognition could stand for

- recognition of the authenticity of civil status certificates
  - acceptance of the content of civil status certificates without further legal examination.
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# III. Two preconditions for a serious debate

- All problems have to be revealed at first.
  - Why not harmonise the rules that determine the applicable law?
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# IV. Consequences of harmonised private international law from a Belgian perspective

- Marriage in Belgium
  - Marriage in Germany
  - Marriage in Switzerland
- community law
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graph LR; A[Marriage in Belgium] --> B[community law]; C[Marriage in Germany] --> B; D[Marriage in Switzerland] --> B;
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# V. Consequences of mutual recognition from a Belgian perspective

- Marriage in Belgium → national law
  - Marriage in Germany → community law (mutual recognition)
  - Marriage in Switzerland → national law
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## VI. Further regulation inevitable to avoid contradictions with party's interest

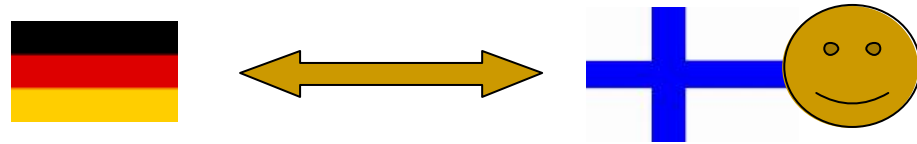
A German couple spends their vacation in Finland. Their son is born earlier than expected in Finland. A Finnish birth certificate is issued. Upon return to Germany, the couple refuses to accept their son's name on the Finnish birth certificate.

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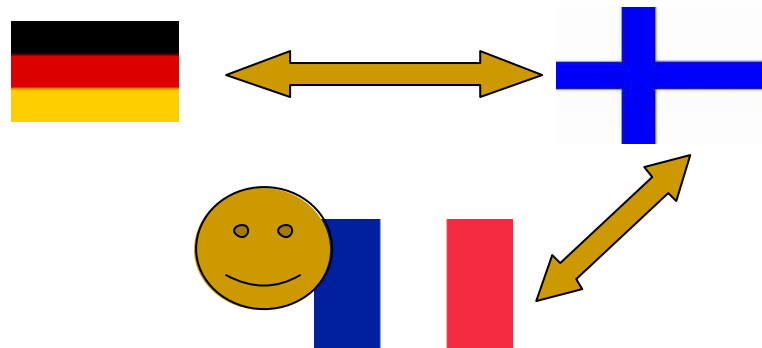
# VII. The challenge of defining the country of origin

a) What happens to a German citizen born in Finland who receives in Finland another name than in Germany?

Is Germany obliged to recognise the Finnish name and *vice versa*?

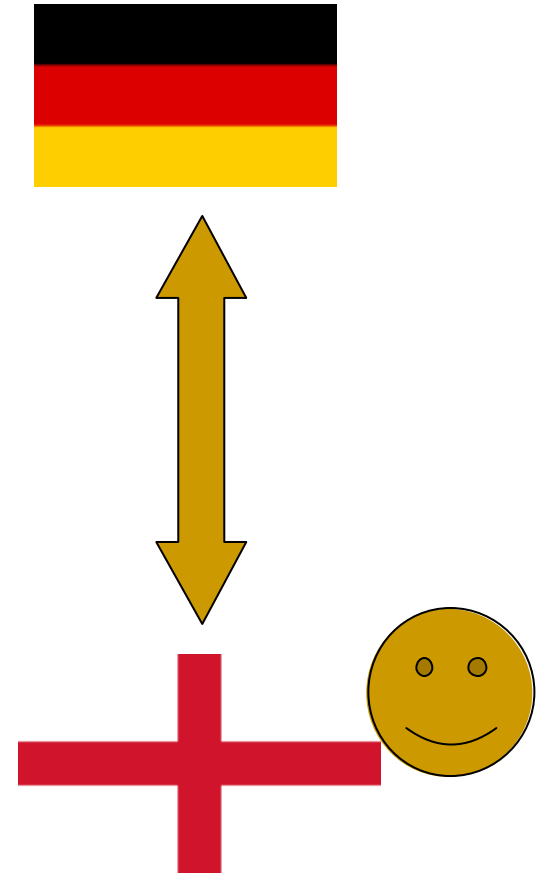


b) This situation turns out to be even more complicated, if France has to decide whether it recognises the German or the Finnish certificate.



# VIII. High risk of abuse

A German citizen who refuses to accept German name law just needs to execute the intended name change in England.



# IX. Mutual recognition requires limitations

- a) Wrongful establishment of status in the country of origin.
  - b) Legal examination only in the country of origin?
  - c) The issue of ordre public
    - same sex marriage
    - surrogate motherhood: some member states treat surrogate mothers as intended mothers
    - under age and *post mortem* marriages
    - women who carry their husbands' last names.
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# X. Summary

- 1. The need for further debate is quite evident.
  - 2. As a starting point, the term 'mutual recognition' needs to be defined.
  - 3. Possibilities to simplify the authenticity examination could be researched. Relying upon the contributions of the *Commission Internationale de l'Etat Civil* (CIEC), common models and a waiver of legislation have to be considered.
  - 4. Acceptance of the content of civil status certificates is charming at first sight. A closer look however unveils problems such as
    - a fragmentation of law
    - frictions with national legal systems and other unresolved problems.
  - 5. Maybe an ambitious harmonisation of private international law is even more rewarding in the long run? This would provide at least a solid legal foundation for the acceptance of the content of civil status certificates.
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