Recognition of Civil Status in the EU and Switzerland

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“Linking” Schematic

Definition of Civil Status
The Legal Identity of a Natural Person – based on his Life Events – for the State.

Three Dimensions
Personal scope:
- Person-specific status

Horizontal connection:
- Inter-personal connection

Vertical connection:
- Inter-generational connection

Issues
- Common to all:
  - “Linking”
  - Private and Public Law conflict
  - Human Rights Tests
  - Orde Public + Abus de droit

- Examples of Civil Status Specific Issues:
  - Multiple nationalities
  - Different marriage ceremonies/kinds
  - Non-existence of a Partnership
  - Procedural reasons for non-recognition of divorce and adoption
  - Extended “pater est” principle of parentage
  - Double/noble names, foreign orthography, singular name change

Secondary Recognition

Options
International Level:
- Pro: not restricted to EU/EEA
- Con: ratification requirement – no common judicial practice

Supranational Level:
- Pro: direct common application – common judicial practice
- Con: difficult legal basis – unanimity requirement

National Level:
- Pro: possibly more generous
- Con: possibly more restrictive – still chaotic

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