

Title	Summary of Responses to the Apostille Questionnaire 2021
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Annexes	Annex I: List of Responding Parties
Related Documents	Prel. Doc. No 1 of January 2021

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Summary of Responses to the Apostille Questionnaire 2021

I. Introduction

- 1 Pursuant to the mandate of the Council on General Affairs and Policy (CGAP) at its 2019 meeting,¹ in January 2021 the Permanent Bureau circulated a Questionnaire on the practical operation of the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (the Apostille Convention).²
- 2 The Questionnaire covered topics including the scope and operation of the Convention, practical aspects of the Apostille issuance process, the electronic Apostille Programme (e-APP), and data and statistics relating to the Convention. These responses helped inform the agenda for the upcoming meeting of the Special Commission on the practical operation of the Apostille Convention and will also be taken into account in the development of the 2nd edition of the Apostille Handbook.
- 3 The Questionnaire was circulated to 130 interested parties, including all HCCH Members and Contracting Parties to the Apostille Convention. The deadline for responses was 26 March 2021. A list of Parties that responded to the Questionnaire is available in Annex I, and individual responses are available on the Apostille section of the HCCH website.
- 4 This document summarises the findings of the Questionnaire for Contracting Parties. Responses from non-Contracting Parties are used for ongoing promotional and bilateral engagement efforts.

II. Background

- 5 As of 31 July 2021, the Apostille Convention has 120 Contracting Parties. The Permanent Bureau received 75 responses to the Questionnaire, including from 70 Contracting Parties and 5 from non-Contracting Parties.³ This is a response rate of 58% of Contracting Parties.
- 6 The information provided in this document is based on responses as submitted. It is only as accurate as the information that the Permanent Bureau received.
- 7 Percentages are rounded to the nearest whole number. For each question, there were a number of Contracting Parties that did not provide a response.
- 8 References to 2016 statistics are from the Questionnaire circulated ahead of the last meeting of the Special Commission.⁴

III. Competent Authorities⁵

- 9 The majority of responding Contracting Parties have a single Competent Authority that has multiple offices. There are a small number of Contracting Parties, generally those with federal systems, that have over 150 discrete Competent Authorities. This reflects the flexibility of the Convention, which allows a Contracting Party to determine the number and identity of Competent Authorities.
- 10 Twenty per cent of Contracting Parties have diplomatic missions involved in the Apostille issuance process, either issuing Apostilles or acting as an intermediary between the applicant and

¹ See C&R No 36, "Conclusion & Recommendations adopted by Council (5-8 March 2019)" available on the HCCH website at < www.hcch.net > under "Governance" then "Council on General Affairs and Policy".

² See Prel. Doc. No 1 of March 2021, "Questionnaire relating to the *HCCH Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention)" (hereinafter, the "Apostille Questionnaire 2021").

³ The People's Republic of China submitted Contracting and non-Contracting Party responses, as the Convention applies in the Special Administrative Regions of Hong Kong and Macao.

⁴ See Prel. Doc. No 1 of April 2016, "Questionnaire of April 2016 relating to the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention)".

⁵ Apostille Questionnaire 2021, questions 3-4.

Competent Authority. This has increased significantly since 2016, when only two Contracting Parties (3%) involved diplomatic missions in the apostillisation process.

IV. Scope of the Convention

A. Public Documents⁶

11 Sixty-four per cent of responding Contracting Parties define “public document” in internal law with 31% indicating that they do not have a definition. Despite this difference, 80% of responding Contracting Parties have reported that the characterisation of “public document” does not pose any difficulties in practice.

B. Article 1(3) Exclusions⁷

12 Regarding the Article 1(3)(a) exclusion on documents executed by diplomatic or consular agents, roughly 87% of responses indicated that this exclusion does not present any difficulties in the operation of the Convention. When asked if the Article 1(3)(a) exclusion is justified in the modern context of the operation of the Convention, 65% agreed and 20% disagreed.

13 A slightly lower proportion of responses (72%) indicated that the exclusion in Article 1(3)(b) on administrative documents dealing directly with commercial or customs operations does not present any difficulties in the operation of the Convention. Approximately 55% of respondents consider that the exclusion is justified in the modern context of the Convention, while 25% do not.

14 Thus, while the majority of respondents in both instances did not report difficulties related to the Article 1(3) exclusions, a minority do not consider the exclusions justified in the modern operation of the Convention.

15 Respondents were asked if guidance on the interpretation of Article 1(3) exclusions has assisted in resolving difficulties around their interpretation. On the 1(3)(a) exclusion, one respondent indicated there has been some difficulty because the guidance has not been universally adopted by Contracting Parties. However, another response noted that while there have been issues in the past, the guidance that has been published has alleviated some of those issues and assisted Contracting Parties in finding creative solutions with respect to the exclusion.

16 The responses were similar for the Article 1(3)(b) exclusion. For example, one respondent noted that the interpretation guidelines have not been clear, and there is a lack of uniformity because each Contracting Party, in accordance with its internal law, determines whether legalisation of these documents is required.

⁶ Apostille Questionnaire 2021, questions 5-6.

⁷ Apostille Questionnaire 2021, questions 7-11.

- 17 The variation in interpretation is reflected in the categories of documents which Contracting Parties issue and accept under the Convention:

	Issue	Accept
Certificates of origin	49%	45%
Export licenses	46%	40%
Import licenses	46%	38%
Health and safety certificates	69%	58%
Certificates of products registration	56%	52%
Certificates of conformity	48%	48%
End user certificates	44%	40%
Commercial invoices	41%	31%

V. Apostille Process

A. Intermediate Certification of Public Documents⁸

- 18 For public documents requiring intermediate certification, responses were evenly divided between Contracting Parties that require intermediate certification for some categories of documents (46%) and those that do not (48%).
- 19 For those that require intermediate certification, the most commonly cited reasons were to prevent fraud, an inability to verify signatures of all potential issuing authorities, and domestic law requirements.
- 20 The most common types of documents that require intermediate certification are education certificates / qualifications, notarial documents, judicial documents, and documents issued by public health authorities.

B. Requesting an Apostille⁹

- 21 Responses show the most common ways to request an Apostille remain the traditional in-person (86%) and postal (52%) services. However, there has been a notable change since 2016 on the use of electronic means:

	2021	2016
In person	86%	95%
By post	52%	57%
By email	15%	9%
Through a website	34%	17%

⁸ Apostille Questionnaire 2021, questions 12-12.1.

⁹ Apostille Questionnaire 2021, question 13-16.

22 When issuing an Apostille, the majority of respondents reported enquiring about the State of destination (80%). This figure rises to 88% when including Contracting Parties that indicated they “Sometimes” enquire about the State of destination.

23 The time required to issue an Apostille varies based on the form of request:

	In-person request	Other request	e-Apostille request ¹⁰
On the spot	25%	8%	26%
On the same day	15%	14%	22%
On the following working day	6%	16%	4%
Within five working days	18%	36%	13%
Other	23%	26%	35%

24 For Contracting Parties that answered “Other”, the most common response was within 2-3 working days. However, some respondents reported that requests can take up to 10 working days, with others noting that the COVID-19 pandemic has resulted in exceptional delays.

25 A majority of respondents (52%) reported that their Competent Authority charges a single fee for all Apostilles issued, while 30% reported charging a variable fee, and 15% do not charge a fee. Examples of a variable fee include a difference in fee depending on the Competent Authority issuing the Apostille (in jurisdictions that have multiple Competent Authorities), differing fees for commercial vs non-commercial documents, or differing fees according to the category of public document to be apostilled.

C. Issuing an Apostille¹¹

26 Contracting Parties were asked how the origin of a public document is verified for the purpose of issuing an Apostille. The majority of responding Contracting Parties (56%) have a single Competent Authority that carries out this duty, whereas 41% have multiple Competent Authorities. Across the two systems, 68% use an electronic database of sample signatures / seals / stamps, a significant increase from 22% in 2016.

27 A single Competent Authority with an electronic database of sample signatures / seals / stamps is the most popular form of verification:

A paper-based database of sample signatures / seals / stamps	19%
An electronic database of sample signatures / seals / stamps	39%
Automatic digital verification (no database)	0%
Other	7%

28 For respondents that answered “Other”, the most common response was a combination of paper-based and electronic databases.

¹⁰ Percentage calculated against Contracting Parties that issue e-Apostilles.

¹¹ Apostille Questionnaire 2021, questions 17-21.

29 Among Contracting Parties that have multiple Competent Authorities, the method of verification varies:

A single, centralised, database of sample signatures / seals / stamps, maintained in paper form	6%
A single, centralised, database of sample signatures / seals / stamps, maintained in electronic form	6%
Multiple separate databases of sample signatures / seals / stamps, all in paper form	3%
Multiple separate databases of sample signatures / seals / stamps, all in electronic form	1%
Multiple separate databases of sample signatures / seals / stamps, some in paper form, some electronic	21%
Automatic digital verification (no database)	0%
Other	3%

30 Regarding the Apostille Certificate itself, the responses were evenly distributed across authorities that provide the 10 numbered standard informational items in one (32%), two (23%), and three (32%) languages. English was reported as the most widely used language (68% of responses), followed by French, then Spanish. The responses indicated that bilingual certificates are generally in English and the official language of the Contracting Party, and trilingual certificates are generally in English, French and the official language of the Contracting Party.

31 When filling out the blank fields of the Apostille Certificate, the majority of responding Contracting Parties do so in one language (69%). The most popular language is English, followed by Spanish.

32 Finally, Contracting Parties were asked how they fill in the blank fields:

By hand	11%
Using computer software	72%
Other	14%

33 For respondents that answered “Other”, most reported using a combination of filling in by hand and using computer software.

VI. Apostille Registers¹²

34 Respondents were asked how they maintain their Article 7 register. The majority of responding Contracting Parties (59%) have a single Competent Authority maintaining their Article 7 register, with the remainder (38%) having registers maintained by multiple Competent Authorities. These figures largely correspond with the verification databases.¹³

¹² Apostille Questionnaire 2021, questions 22-25.

¹³ See paras 26 et seq.

35 Across both single and multiple registers, nearly 35% of respondents reported maintaining their Article 7 register as an e-Register. Including all registers that are maintained electronically (*i.e.*, not just e-Registers) this figure rises to 61%, a majority of respondents.

36 Among the respondents, the most popular form of Article 7 register is an e-Register maintained by a single Competent Authority:

Electronic form, publicly accessible online (e-Register)	28%
Electronic form, not publicly accessible online	15%
Paper form	10%
Other	4%

37 For registers maintained by multiple Competent Authorities, the variance is (predictably) greater:

A single, national register in electronic form, publicly accessible online (e-Register)	6%
A single, national register in electronic form, not publicly accessible online	3%
A separate register for each Competent Authority, all in electronic form and all publicly accessible online (e-Register/s)	1%
A separate register for each Competent Authority, all in electronic form, but not all publicly accessible online	7%
A separate register for each Competent Authority, some in paper form, some electronic	13%
Other	8%

38 Regarding information that is contained in Article 7 registers all responding Contracting Parties record the number and date of the Apostille as required by Article 7. However, there are a number (7%) that reported they do not record the name and capacity of the person signing the document and / or the name of authority whose seal or stamp is affixed. Although small, this figure is concerning as Article 7 requires that this information also be recorded. A number of respondents also reported retaining a copy of the underlying public document itself (24%) within the register, which may carry implications for data protection and / or other privacy schemes.

39 Contracting Parties were also asked how long information is retained in their Article 7 register. Though the Convention does not specify a particular amount of time the data should be retained, as an Apostille has no expiration, records should be kept for as long as possible. The majority of responding Contracting Parties do not have a limit on how long records are kept (59%). Six per cent retain documents for up to 5 years, and 8% between 5 and 10 years.

40 Finally, respondents were asked how often their Competent Authorities receive requests to verify an Apostille against their Article 7 register. Given the purpose of this register is to establish supervision in an effort to detect and combat fraud, the numbers are concerningly low (noting these figures *do not* include Contracting Parties that maintain a publicly accessible e-Register):

Never	7%
Once per year	8%
Between 2 and 10 times per year	15%
Between 10 and 20 times per year	2%
More than 20 times per year	4%
Unknown	15%

VII. Technology & the e-APP

A. Electronic documents¹⁴

41 A majority of responding Contracting Parties, under their internal law, accept electronic / digital signatures as the equivalent of handwritten signatures (68%) and execute public documents in electronic form (69%). While the former figure is consistent, there has been an increase in the use of electronic public documents since 2016 (when 48% executed public documents in electronic form). These figures support the increasing need for e-Apostilles to ensure security of documents from the point of their execution through to apostillisation and presentation.

42 The types of public document responding Contracting Parties execute in electronic form varies:¹⁵

All public documents	22%
Civil status documents and certificates of non-impediment	47%
Other administrative documents	24%
Extracts from commercial registers and other registers	47%
Notarial authentications of signatures	16%
Other notarial acts	10%
Diplomas and other education documents	33%
Court documents, including judgments	24%
Patents or other documents pertaining to intellectual property rights	20%
Documents relating to adoptions	16%
Translations	22%

¹⁴ Apostille Questionnaire 2021, questions 26-27.2.

¹⁵ Percentage calculated against Contracting Parties that answered “Yes” to public documents being capable of being executed in electronic form under internal law.

Medical or health certificates	22%
Criminal records	47%
Import or export licences	18%
Certificates of origin	18%
Certificates of conformity	18%

43 Respondents were asked what percentage of public documents are originally executed in electronic form. There was a wide range of answers (from 5 to 90%) with an average of approximately 25%. It should be noted, however, that most respondents reported that Competent Authorities do not collect this type of data and were therefore unable to respond to the question.

B. e-Apostilles¹⁶

44 Thirty-one per cent of responding Contracting Parties now issue e-Apostilles. Among those Contracting Parties that do not issue e-Apostilles, 67% are currently studying them with a view to implementation.

45 For responding Contracting Parties that have not yet implemented the e-Apostille component, challenges related to implementation is the greatest impediment (52%). Collaboration with Contracting Parties who issue e-Apostilles, as well as participation in the e-APP Forum, may provide assistance in overcoming some of these challenges. Other reported challenges to implementation varied:

Internal law limitations	26%
Judicial or administrative structure	11%
Implementation challenges	52%
Cost	37%
System interoperability / compatibility	26%
Security concerns	28%
Other	20%

46 For responding Contracting Parties that issue electronic public documents but not e-Apostilles, 43% issue a paper Apostille on a hard copy of the electronic public document. This practice should be discouraged as the security of an electronic public document may be compromised when printed. Several respondents also described a practice of certifying and signing the hard copy of the electronic document before affixing the Apostille.

¹⁶ Apostille Questionnaire 2021, questions 28-29.

47 Among responding Contracting Parties that issue e-Apostilles, there is some flexibility on what is considered a public document:

Electronic public documents	73%
Paper public documents that have been scanned by a public official	68%
Paper public documents that have been scanned by applicants	27%

48 Responding Contracting Parties that issue e-Apostilles were evenly divided in the technology they use to apply electronic or digital signatures to their e-Apostilles, with 50% using a government-built certificate, and 41% using technology from a commercial provider.

49 Respondents identified two main approaches to affixing / associating an e-Apostille with the underlying public document. First, some Contracting Parties merge the Apostille with the public document in a single PDF (or equivalent) file which is affixed with a digital signature. Secondly, the e-Apostille and the electronic public document are “associated” through software, meaning the two are interlinked, and stored in a register (generally the e-Register) which can then be viewed by recipients.

50 e-Apostilles are then transmitted via email (23%) or via an online government platform (36%).¹⁷

51 Regardless of whether they issue e-Apostilles, 44% of respondents indicated that their authorities are able to accept all e-Apostilles issued, with an additional 18% able to process e-Apostilles under certain conditions (generally verification against an e-Register).

52 Twenty-three per cent of respondents’ authorities are not equipped to accept incoming e-Apostilles, with the main reasons being internal law limitations and lack of infrastructure. This number is particularly concerning as it is a fundamental principle under the Apostille Convention that Contracting Parties must accept a validly issued Apostille, including e-Apostilles.

C. e-Registers¹⁸

53 Fifty-five per cent of respondents reported maintaining an e-Register, with 64% actively studying implementation.

54 Similar to the e-Apostille component, for responding Contracting Parties that have not yet implemented the e-Register component, challenges related to implementation is the greatest impediment (46%). Collaboration with Contracting Parties who maintain an e-Register, as well as participation in the e-APP Forum, may provide assistance in overcoming some of these challenges. Other reported challenges to implementation varied:

Internal law limitations	18%
Judicial or administrative structure	7%
Implementation challenges	46%
Cost	36%
System interoperability / compatibility	29%

¹⁷ Percentage calculated against Contracting Parties that answered “Yes” to issuing e-Apostilles.

¹⁸ Apostille Questionnaire 2021, questions 30-31.

Security concerns	25%
Other	18%

55 In terms of technology used to maintain e-Registers, a majority of respondents (72%) reported using government-built platforms as opposed to technology from a commercial provider (13%).¹⁹

56 Importantly, we see that among responding Contracting Parties that have implemented an e-APP component, or are in the process of doing so, 44% have been in contact and exchanged information with other Contracting Parties. This collaboration has undoubtedly been an asset to those Contracting Parties that have encountered difficulties in the process of implementing and / or maintaining an e-APP component.

VIII. Issues with Apostilles²⁰

57 Contracting Parties were asked if an Apostille issued or received by their Competent Authorities had ever been refused. For issued Apostilles, 67% either did not answer, or answered no or unknown, and for received Apostilles, 77% either did not answer, or answered no or unknown. As such, the data is not sufficiently reliable to comment upon trends.

IX. Statistics on Apostilles²¹

58 Contracting Parties were asked for the three categories of public document which are the most apostilled. In order, these are:

1	Civil status documents (e.g., birth, death and marriage certificates) and certificates of non-impediment
2	Diplomas and other education documents
3	Notarial authentications of signatures

59 Following a steady increase since 2016, 2020 saw a marked decrease in the number of Apostilles issued during the year, likely attributable to the COVID-19 pandemic. The following table illustrates the trend over the last five years:

	Responses	Total
2016	54	7,244,372
2017	57	8,570,013
2018	61	12,879,193
2019	62	12,945,885
2020	62	8,254,391

¹⁹ Percentage calculated against Contracting Parties that answered “Yes” to maintaining an e-Register.

²⁰ Apostille Questionnaire 2021, questions 32-34.

²¹ Apostille Questionnaire 2021 (Data & Statistics), questions 1-7.

60 Notably, even with the large decline in 2020, levels remained at a number comparable to 2017. This can be compared to the number of outgoing legalisations from Contracting Parties, which was steadily decreasing, even before the pandemic:

	Responses	Total
2016	44	2,918,126
2017	44	2,448,455
2018	46	2,289,668
2019	46	2,483,407
2020	46	1,749,487

61 Similarly, although 2020 saw a marked decrease in the number of e-Apostilles issued, the total was comparable to 2018 levels. The following table illustrates the trend over the last five years:

	Responses	Total
2016	7	1,309,889
2017	9	1,885,131
2018	11	2,232,005
2019	15	3,557,879
2020	19	2,193,080

62 The decline in the issuance of e-Apostilles was comparably less than the decline in total Apostilles, likely due to an increase in the number of Contracting Parties issuing e-Apostilles between 2019 and 2020. It may also be related to the greater ease of digital access during the period in which many in-person operations were suspended.

63 Much like the issuance of Apostilles and e-Apostilles, verifications against an e-Register also saw a decline in 2020. These figures are most comparable to verifications against non-e-Registers, as described in paragraph 40. Apostilles from Contracting Parties with a non-public Article 7 register are verified at a tiny fraction of those with e-Registers. This shows e-Registers are undeniably increasing the security of Apostilles.

64 The following table illustrates the trend over the last five years:

	Responses	Total
2016	7	2,045,108
2017	8	5,081,056
2018	8	4,961,005
2019	9	3,205,474
2020	10	1,068,003

- 65 Interestingly, e-Register verifications saw the greatest proportional decline of the three categories for which data was requested. Consultations dropped to their lowest level of the past five years, while issuance of Apostilles (in both forms) were more robust against COVID-19-related declines.

ANNEXES

Annex I: Responses to the Apostille Questionnaire

I. Contracting Parties

1. Albania	26. Guatemala	52. Portugal
2. Andorra	27. Guyana	53. Romania
3. Argentina	28. Honduras	54. Russian Federation
4. Armenia	29. Hungary	55. Serbia
5. Australia	30. Ireland	56. Singapore
6. Austria	31. Israel	57. Slovakia
7. Azerbaijan	32. Italy	58. Slovenia
8. Bahrain	33. Jamaica	59. South Africa
9. Belgium	34. Japan	60. Spain
10. Bolivia	35. Korea, Republic of	61. Sweden
11. Brazil	36. Kosovo	62. Switzerland
12. Bulgaria	37. Lithuania	63. Tajikistan
13. Chile	38. Luxembourg	64. Trinidad and Tobago
14. China (Hong Kong SAR)	39. Malta	65. Turkey
China (Macao SAR)	40. Mauritius	66. United Kingdom
15. Colombia	41. Morocco	67. United States of America
16. Costa Rica	42. Moldova, Republic of	68. Uruguay
17. Cyprus	43. Namibia	69. Uzbekistan
18. Czech Republic	44. New Zealand	70. Venezuela
19. Denmark	45. Nicaragua	
20. Ecuador	46. Norway	
21. European Union	47. Panama	
22. Finland	48. Paraguay	
23. France	49. Peru	
24. Georgia	50. Philippines	
25. Germany	51. Poland	

II. Non-Contracting Parties

1. Canada

2. China, People's Republic of

3. Iran

4. Lebanon

5. Viet Nam
