

GERMANY

Apostille Questionnaire 2021

The responses are reflected as provided by Contracting Parties subject to minor typographical corrections.

Joining the Apostille Convention	
1. Did you join the Convention after 2010?	[b] No.
2. Are foreign public documents exempted from legalisation by virtue of your internal law, practice, or any bilateral / multilateral agreements (excluding the Apostille Convention)?	<p>[b] Yes, under bilateral / multilateral agreements – <i>please specify:</i></p> <p><i>Bilateral agreements with:</i></p> <p>a) Belgium, Federal Law Gazette 1980 II page 813 b) Denmark, Federal Law Gazette 1936 II page 213; Federal Law Gazette 1953 II page 186 c) France, Federal Law Gazette 1974 I page 1074, 1100 d) Greece, Federal Law Gazette 1939 II page 848 e) Italy, Federal Law Gazette 1974 II page 1069 f) Austria, Federal Law Gazette 1924 II page 61 g) Switzerland, Federal Law Gazette 1907 page 411; Federal Law Gazette 1998 II page 71</p> <p><i>European Union law: Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012, Official Journal of the European Union L 200/1 of 26 July 2016</i></p>
Competent Authorities	
3. How many Competent Authorities have you designated under the Apostille Convention? <i>If unknown, please specify the reason for this and provide an approximate number.</i>	165
4. Do your diplomatic missions abroad play a role in the Apostille issuance process?	[d] No.
Substantive Scope	
5. Is the concept of ‘public document’ defined in your internal law?	<p>[a] Yes – please include definition, and reference to relevant law:</p> <p><i>Public records and documents are certification issued by a public authority or by persons publicly appointed to do so (notaries) regarding declarations made by third parties (section 415 of the Code of Civil Procedure (Zivilprozessordnung, ZPO), regarding declarations and decisions by public authorities (section 417 ZPO) and regarding perceptions (section 418 ZPO).</i></p>
6. Have you experienced any difficulties in characterising a ‘public document’ for the purposes of the Apostille Convention?	<p>[a] Yes – please specify which documents have led to difficulties, and how this has been addressed:</p> <ul style="list-style-type: none"> - TÜV/ISO certificates - private documents and certificates - recognisability of whether the document is original - translations of certificates - automatically produced documents that are valid without a signature - bundling together of private documents and public documents by persons in their private capacity - machine-generated printouts without a signature - merged documents

7. Has the exclusion of 'documents executed by diplomatic or consular agents' (Art. 1(3)(a)) from the scope of the Apostille Convention given rise to any difficulties?	[c] No. <i>Interpretation in accordance with the Special Commission's recommendation no. 10 of 2016 appears to be sufficient.</i>		
8. Do you think this Art. 1(3)(a) exclusion is justified in the context of the modern operation of the Convention?	[a] Yes. <i>As a rule, documents issued by consular officials are intended for use in the State of origin or State of destination and an Apostille need not be issued for this purpose. Should it be necessary in an individual case to use consular documents in a third country, their authenticity can be confirmed in a legalisation process by the authorities of the State of origin. The issuance of an Apostille by a mission abroad for documents it has executed itself should not be considered.</i>		
9. Has the exclusion of 'administrative documents dealing directly with commercial or customs operations' (Art. 1(3)(b)) from the scope of the Apostille Convention given rise to any difficulties?	[c] No.		
10. Do you think this Art. 1(3)(b) exclusion is justified in the context of the modern operation of the Convention?	[b] No. <i>Under the Act to Promote the Free Movement of EU Citizens and to Amend various aspects of International Adoption Law, Article 2 (4) of the Act on the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents is also applicable in Germany to administrative documents dealing directly with commercial or customs operations.</i>		
11. Do you issue (outgoing) or accept (incoming) Apostilles for any of the following categories of document?		Issue	Accept
	Certificates of origin	X	X
	Export licences	X	
	Import licences	X	
	Health and safety certificates issued by the relevant government authorities or agencies	X	
	Certificates of products registration	X	X
	Certificates of conformity	X	X
	End user certificates (i.e. documents certifying that the buyer is the end user of acquired goods)	X	
Commercial invoices	X		
Apostille Process			
Certification of Public Documents			
12. Do any of your public documents require some other intermediate certification before the issuance of an Apostille?	[a] Yes, an intermediate certification is required for some categories of public documents.		

<p><i>For Parties that answered yes to Q12.</i> 12.1. What categories of public document require intermediate certification and why?</p>	<p>Category of public document</p>	<p>Why certification is required</p>
	<p>Some translations</p>	<p>Intermediate certification (confirmation of authorisation); statement certifying that the translator has been included in the list of translators</p>
	<p>Federal documents</p>	<p>When the signatory of the document has to be confirmed internally because the Federal Office of Administration (Bundesverwaltungsamt, BVA) does not have a specimen signature</p>
	<p>Local court documents in the respective court districts (judgments, decisions, etc.)</p>	<p>Only the signatures of the directors are available at the local courts.</p>
	<p>Medical certificates</p>	<p>Only medical associations or dental associations can examine whether medical practitioners are authorised to sign.</p>
	<p>Education and training</p>	<p>School reports: there are a large number of authorised signatories and changes in the signatories (specimen signatures are not always available or are only available to the education department) Office for provisional certification at universities, universities of applied science etc. Administrative regulation on the certification of domestic public documents for use abroad Not all signatures of authorised signatories are available To ensure documents are up-to-date</p>
	<p>Documents from public corporations</p>	<p>Large number of authorised signatories and changes in the signatories (specimen signature is not always available) Administrative regulation on the certification of domestic public documents for use abroad Only defined group of persons are authorised</p>
	<p>Registry office documents</p>	<p>Adoption (physicians and psychologists must be certified or confirmed) Provisional certification by authorised signatories of the relevant tax office, district commissioner, lord mayor, specialised minister – not all staff have the relevant authorisation</p>

	Documents of foundations			
	Financial administration documents	Only defined group of persons are authorised		
	Export certificates	Chamber of Commerce		
Requesting an Apostille (Outgoing)				
13. How can an Apostille be requested?	[a] In person. [b] By post. [c] By email.			
14. When issuing an Apostille, do you enquire about the State of destination?	[a] Yes, in the application form. [b] Yes, the enquiry is made orally. [c] Sometimes – please specify: <i>Enquiry by mail/letter</i>			
15. How long does it take for an Apostille to be issued?		In-person request (paper Apostille)	Other requests (from the time of receipt) (paper Apostille)	e-Apostille requests
	On the spot	<i>In some cases</i>		
	On the same day		<i>In some cases</i>	
	On the following working day			
	Within five working days	<i>In some cases</i>	<i>In some cases</i>	
	Other – please specify	<i>Up to 14 days in exceptional cases</i>	<i>Up to 21 days in exceptional cases</i>	
16. Does your Competent Authority impose a fee for issuing an Apostille?	[b] Yes, but the price is dependent on, for example, the category of public document(s), the Competent Authority, or the type of application – <i>please specify amount and conditions:</i> <i>Usually €25, in some cases between €10 and €50</i>			
Issuing an Apostille (Outgoing)				
17. How is the origin of a public document verified for the purpose of issuing an Apostille (i.e. verification of the authenticity of the signature, the capacity of the signer, and the identity of the seal / stamp (Art. 5(2))?	[b] Multiple Competent Authorities: [v] Multiple separate databases of sample signatures / seals / stamps, some in paper form, some electronic.			
18. How does a Competent Authority address situations where it is unable to verify the origin of the public document?	[a] The Competent Authority will contact the issuing authority to confirm authenticity, issue the Apostille, and then add the new signature, stamp or seal to the database. [b] The Competent Authority will contact the issuing authority to confirm authenticity but will not issue the Apostille until the new signature, stamp or seal is added to the database. [c] The Competent Authority rejects the document (if option [b] is not possible).			

19. In what language(s) are the 10 standard items of your Apostilles available?	[c] In three languages – <i>please specify: German, English (in some cases), French (in a few cases)</i>
20. In what language(s) are the blank fields of your Apostilles filled in?	[a] In one language – <i>please specify: German</i>
21. How are the blank fields of your Apostilles filled in?	[a] By hand. [b] Using computer software – <i>please specify: MS Word template</i>
Apostille Registers	
22. How is your Apostille register, required by Article 7, maintained?	[b] Multiple Competent Authorities: [v] A separate register for each Competent Authority, some in paper form, some electronic.
23. What particulars are contained in your Apostille register?	[a] Number and date of the Apostille (required). [b] Name and capacity of the person signing the document and / or the name of authority whose seal or stamp is affixed (required). [c] Name and / or type of underlying document. [d] Description of the contents of underlying document (in most cases). [e] Name of the applicant (in most cases). [f] State of destination (in most cases) [g] Copy of the Apostille (in rare cases). [h] Copy of the underlying document (occasionally).
24. Is there a limit to how long records can be retained on the Apostille register?	[c] Yes, other – <i>please specify: Usually between 1 and 50 years</i> [d] No <i>In a few cases.</i>
25. If your register is <i>not</i> publicly accessible, how frequently do your Competent Authorities receive requests to verify an Apostille they have issued in the register?	[e] More than 20 times per year.

Technology & the e-APP																									
26. Under your internal law, do you recognise electronic / digital signatures as functionally equivalent to handwritten signatures (i.e. can a public document be signed electronically)?	<p>[a] Yes – <i>please specify</i>:</p> <p>[i] The provisions or implementing legislation, and the date of entry into force.</p> <p><i>In some cases [sections 130b, 298a, 317 of the Code of Civil Procedure (Zivilprozessordnung, ZPO), sections 32a, 32b, 110c of the German Code of Criminal Procedure (Strafprozessordnung, StPO), section 52a of the Code of Procedure for Fiscal Courts (Finanzgerichtsordnung, FGO), sections 65a, 137 of the Social Courts Act (Sozialgerichtsgesetz, SGG), section 46c of the Labour Courts Act (Arbeitsgerichtsgesetz, ArbGG), section 126a of the Civil Code (Bürgerliches Gesetzbuch, BGB), section 39a of the Law on Attestations (Beurkundungsgesetz, BeurkG), section 14 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit, FamFG), section 5a of the Court Costs Act (Gerichtskostengesetz, GKG), section 9 of the Commercial Code (Handelsgesetzbuch, HGB), section 1a of the Cost Regulation (Kostenordnung, KostO), section 4b of the Act on Judicial Remuneration and Compensation (Justizvergütungs- und -entschädigungsgesetz, JVEG), section 12b of the Act on the Remuneration of Lawyers (Rechtsanwaltsvergütungsgesetz, RVG), sections 3a, 37 of the Administrative Procedure Act (Verwaltungsverfahrensgesetz, VwVfG), sections 55a, 55b, 117, 118, 119 of the Code of Administrative Court Procedure (Verwaltungsgerichtsordnung, VwGo)]</i></p> <p>[ii] The scope and any exclusions of the legislation. <i>For documents issued by courts (judgments, decisions, etc.)</i></p>																								
27. Under your internal law, are public documents executed, or able to be executed, in electronic form (whether or not they are to be used abroad under the Convention)?	[a] Yes, in some cases.																								
<p><i>For Parties that answered yes to Q27.</i></p> <p>27.1. What categories of public documents are executed, or able to be executed, in electronic form (whether or not they are to be used abroad under the Convention)?</p>	<table border="1"> <tbody> <tr> <td>[a] All public documents.</td> <td></td> </tr> <tr> <td>[b] Civil status documents (e.g. birth, death and marriage certificates) and certificates of non-impediment.</td> <td></td> </tr> <tr> <td>[c] Other administrative documents (including decisions from administrative tribunals or decision-making bodies).</td> <td style="text-align: center;">X</td> </tr> <tr> <td>[d] Extracts from commercial registers and other registers.</td> <td style="text-align: center;">X</td> </tr> <tr> <td>[e] Notarial authentications of signatures.</td> <td style="text-align: center;">X</td> </tr> <tr> <td>[f] Other notarial acts.</td> <td></td> </tr> <tr> <td>[g] Diplomas and other education documents.</td> <td></td> </tr> <tr> <td>[h] Court documents, including judgments.</td> <td style="text-align: center;">X</td> </tr> <tr> <td>[i] Patents or other documents pertaining to intellectual property rights.</td> <td></td> </tr> <tr> <td>[j] Documents relating to adoptions.</td> <td style="text-align: center;">X</td> </tr> <tr> <td>[k] Translations.</td> <td></td> </tr> <tr> <td>[l] Medical or health certificates.</td> <td></td> </tr> </tbody> </table>	[a] All public documents.		[b] Civil status documents (e.g. birth, death and marriage certificates) and certificates of non-impediment.		[c] Other administrative documents (including decisions from administrative tribunals or decision-making bodies).	X	[d] Extracts from commercial registers and other registers.	X	[e] Notarial authentications of signatures.	X	[f] Other notarial acts.		[g] Diplomas and other education documents.		[h] Court documents, including judgments.	X	[i] Patents or other documents pertaining to intellectual property rights.		[j] Documents relating to adoptions.	X	[k] Translations.		[l] Medical or health certificates.	
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	[m] Criminal records.	X
	[n] Import or export licences.	
	[o] Certificates of origin.	
	[p] Certificates of conformity.	
	[q] Other.	
<i>For Parties that answered yes to Q27.</i> 27.2. Approximately what percentage of your public documents are originally executed in electronic form (whether or not they are to be used abroad under the Convention)?	Cannot be determined.	
28. Do you issue e-Apostilles?	[b] No – <i>please specify:</i> [i] We are studying the use of e-Apostilles and plan to implement the e-Apostille component	
<i>For Parties that answered no to Q28.</i> 28.1. What challenges are you facing that may prevent you from implementing the e-Apostille?		
<i>For Parties that answered no to Q28.</i> 28.2. How do you issue an Apostille for a public document executed in electronic form?		
29. Are your authorities equipped to accept incoming e-Apostilles?	[c] No – <i>please explain why not:</i> <i>There is no legal basis, e-APP/infrastructure is not available/known/required.</i>	
30. Do you maintain an e-Register?	[b] No – <i>please specify:</i> [i] We are studying the use of an e-Register and plan to implement the e-Register component	
<i>For Parties that answered no to Q30.</i> 30.1. What challenges are you facing that may prevent you from implementing the e-Register?		
31. Have you been in contact with other Competent Authorities that operate an e-APP component and exchanged information and / or relevant experience?	[b] No.	
Issues with Apostilles		
32. Has an Apostille <i>issued</i> by your Competent Authority ever been refused by the authorities of another Contracting Party on the following grounds:	[a] Form requirements (e.g. square-shaped, sides of at least nine centimetres, border, ink, etc).	X
	[b] The manner in which the Apostille was affixed / attached to the underlying document. <i>Broken seal; objection raised to attachment of the Apostille to the back of the document.</i>	X
	[c] The Apostille was not signed.	X
	[d] One or more of the standard informational items were not filled in.	
	[e] The Apostille was in electronic form (<i>an e-Apostille</i>).	
	[f] The underlying public document was in electronic form.	

	[g] The underlying public document had expired / was not issued within a certain timeframe.	X
	[h] The underlying document was not a public document under the law of the destination.	X
	[i] Other.	
	[j] Unknown.	X
	[k] No / Not applicable.	
For Parties that answered other than "No" to Q32. 32.1. If an Apostille was rejected, what action did you take?	[a] The Apostille was reissued.	X
	[b] Contacted the receiving authority.	
	[c] Contacted the Competent Authority of the place of destination.	
	[d] Contacted nearest diplomatic mission of the place of destination.	
	[e] Contacted own diplomatic mission accredited to the place of destination.	
	[f] Contacted the Permanent Bureau.	
	[g] No action taken.	X
	[h] Other. <i>Applicant contacted; Ministry of Justice informed</i>	X
	[i] Unknown.	X
33. Has your Competent Authority ever been requested by external Competent Authorities to certify or confirm your procedure for issuing Apostilles?	[a] Yes – please specify: <i>Signature sent by fax, preparation of specimen signatures by signatories (President and representatives)</i>	
34. Has an Apostille received by your authorities ever been refused on the following grounds:	[a] The issuing State was not a Contracting Party to the Apostille Convention.	
	[b] Form requirements (e.g. square-shaped, sides of at least nine centimetres, border, ink, etc).	
	[c] The manner in which the Apostille was affixed / attached to the underlying document.	
	[d] The Apostille was not signed.	
	[e] One or more of the standard informational items were not filled in.	
	[f] The Apostille was in electronic form (an e-Apostille).	
	[g] The underlying public document was in electronic form.	

	[h] The underlying public document had expired / was not issued within a certain timeframe.	
	[i] The underlying document was not a public document under the law of the destination.	
	[j] Other.	
	[k] Unknown.	
	[l] No / Not applicable.	X
Miscellaneous		
35. Would you be interested in attending the 2021 meeting of the Special Commission on the practical operation of the Apostille Convention?	[b] Yes, via videoconference.	
36. Have you encountered any persistent difficulties, issues, or challenges in the operation of the Apostille Convention that you would like discussed at the 2021 Special Commission? <i>If yes, would you like your answer to this question to be published without reference to your authority or State?</i>	[a] Yes – please specify: <i>Need to regulate e-Apostilles</i>	
37. Do you have any suggestions that could assist in the promotion, implementation, or operation of the Apostille Convention? <i>If yes, would you like your answer to this question to be published without reference to your authority or State?</i>	[a] Yes – please specify: <i>- In further negotiations, possibilities for implementation within a federalist structure must be upheld. Experience at EU level has shown that international IT systems are often planned for centralised states, providing for only one competent authority, for example. - Regulation (EU) 2016/1191 should be highlighted as a clear signal vis-à-vis the EU States parties due to a lack of acceptance in practice - Regulation (EU) 2016/1191 should be made better known in EU Member States and their diplomatic missions.</i>	
38. Would you be interested in attending the 12 th International Forum on the e-APP (to be held in conjunction with the meeting of the Special Commission)?	[b] Yes, via videoconference.	
39. Are there any specific topics or practical issues that you would like discussed at the e-APP Forum? <i>If yes, would you like your answer to this question to be published without reference to your authority or State?</i>	[b] No.	
40. The Permanent Bureau is in the process of drafting a 2 nd edition of the Apostille Handbook. Are there any specific topics, suggestions for presentation or formatting, or any other proposals for inclusion? <i>Please note that answers to this question will not be incorporated into the first draft of the 2nd edition. The PB will take them into account in preparing subsequent drafts. If yes, would you like your answer to this question to be published without reference to your authority or State?</i>	[a] Yes – please specify: <i>It appears urgently necessary to set out binding rules for e-Apostilles and to explain them in more detail in the handbook.</i>	