

OUTLINE HAGUE APOSTILLE CONVENTION



Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (“Apostille Convention”)

Purpose of the Convention

The Apostille Convention facilitates the circulation of public documents executed in one State party to the Convention and to be produced in another State party to the Convention.¹ It does so by replacing the cumbersome and often costly formalities of a full legalisation process (chain certification) with the mere issuance of an Apostille (also called Apostille Certificate or Certificate). The Convention has also proven to be very useful for States that do not require foreign public documents to be legalised or that do not know the concept of legalisation in their domestic law: the citizens in these States enjoy the benefits of the Convention whenever they intend to produce a domestic public document in another State party which, for its part, requires authentication of the document concerned.

Public documents

The Convention applies only to public documents. These are documents emanating from an *authority or official connected with a court or tribunal* of the State (including documents issued by an administrative, constitutional or ecclesiastical court or tribunal, a public prosecutor, a clerk or a process-server); *administrative documents*; *notarial acts*; and *official certificates* which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures. The main examples of public documents for which Apostilles are issued in practice include birth, marriage and death certificates; extracts from commercial registers and other registers; patents; court rulings; notarial acts and notarial attestations of signatures; academic diplomas issued by public institutions;² etc. Apostilles may also be issued for a certified copy of a public document. On the other hand, the Convention neither applies to documents executed by diplomatic or consular agents nor to administrative documents dealing directly with commercial or customs operations (this latter exception is to be interpreted narrowly).

Who may issue an Apostille and how to verify the origin of an Apostille?

Apostilles may only be issued by a *Competent Authority* designated by the State from which the public document emanates (for more information, including the list of Competent Authorities designated by the Contracting States, contact details of Competent Authorities and other practical information such as the price for an Apostille, see the “[Apostille Section](#)” of the Hague Conference website). *The Permanent Bureau (Secretariat) of the Hague Conference on Private International Law does not issue Apostilles*. The Apostille is placed by

¹ The Apostille Convention only applies as between States parties. For a comprehensive and updated list of Contracting States, see the “Updated list of Contracting States (status table)”, which is available on the “Apostille Section” of the Hague Conference website at < www.hcch.net >. Among all Hague Conventions, the Apostille Convention has attracted the highest number of ratifications and accessions with over 100 Contracting States. The Convention is applied millions of times a year.

² Diplomas issued by private institutions may not be apostilled directly; a ‘private’ diploma may, however, bear an official certificate issued by a notary, solicitor, agency or any other person or authority competent under the law of the State of origin of the diploma to authenticate the signature on the diploma. This official certificate is a public document under the Convention and thus may be apostilled. In such a case the Apostille does not relate to the diploma itself; instead it certifies the authenticity of the certificate on the diploma.

the Competent Authority on the public document itself or on an *allonge*. The Apostille should conform as closely as possible to the Model annexed to the Convention. In addition, each Competent Authority is required to keep a Register in which it records the Apostilles it has issued. The Registers, which may be accessed by any interested person, are an essential tool to combat fraud and verify the origin of an Apostille in case of doubt.

The effects of an Apostille

The only effect of an Apostille is to certify the authenticity of the signature, the capacity in which the person signing the document has acted, and where appropriate, the identity of the seal or stamp which the document bears. The Apostille does not relate to the content of the underlying document itself (*i.e.*, the apostilled public document).

Monitoring of the Convention

The practical operation of the Apostille Convention is regularly reviewed by Special Commission meetings convened by the Permanent Bureau of the Hague Conference. The 2009 Special Commission confirmed the “very wide use and effectiveness” of the Convention, as well as the “absence of any major practical obstacle”. The Special Commission further reiterated that the spirit and letter of the Convention ‘do not constitute an obstacle to the usage of modern technology’ and that the Convention’s application and operation can be further improved by relying on such technology. This finding was confirmed by recent International Fora on the e-APP.

The e-APP (electronic Apostille Program)

In April 2006, the HCCH and the National Notary Association of the United States of America (NNA) officially launched the (then) *electronic Apostille Pilot Program*. The aim of the e-APP is to promote and assist with the implementation of low-cost, operational and secure software technology for (i) the issuance of electronic Apostilles (e-Apostilles) and (ii) the operation of electronic Registers of Apostilles that can be accessed online by recipients to verify the origin of (both paper and electronic) Apostilles they have received (e-Registers).³ In light of the success of the Program, the word pilot was removed from the title of the e-APP in January 2012.

The e-APP is an effective tool to further enhance the secure and effective operation of the Apostille Convention; it dramatically increases security and offers a very powerful and effective deterrent to fraud. The e-APP is technology neutral and it does not privilege the use of one specific technology over another. The e-APP (the e-Apostille and/or e-Register component) has been implemented in several States around the globe, with others actively pursuing or considering implementation. For more information on the e-APP (including current status of implementation), visit the “[Apostille Section](#)” of the Hague Conference website at < www.hcch.net >.

For any further information on the Apostille Convention, please visit the Hague Conference website at < www.hcch.net > or contact the Permanent Bureau of the Hague Conference at: secretariat@hcch.net.

³ An e-Register under the e-APP allows for easy online queries by recipients of Apostilles who wish to verify the origin of an Apostille without Competent Authorities having to answer these queries individually by phone, email or otherwise. This being said, an e-Register as suggested under the e-APP does not allow for “fishing expeditions” – persons do not have unlimited access to all the information stored in an e-Register but should only be in a position to verify whether or not an Apostille they have been presented with has really been issued by the Competent Authority whose name appears on the Apostille. To access the relevant e-Register, a person must provide at least the date and the number of the Apostille he or she has been presented with.