

Title	1961 Apostille Convention: Updates from 2021
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Objective	To report on events in 2021, including the Apostille Special Commission and the 12 th e-APP Forum.
Action to be Taken	For Decision <input type="checkbox"/> For Approval <input type="checkbox"/> For Discussion <input type="checkbox"/> For Action / Completion <input checked="" type="checkbox"/> For Information <input type="checkbox"/>
Annexes	Annex I: Report from the Chair on the Experts' Group on the e-APP and New Technologies Annex II: Updates from the 12 th e-APP Forum Annex III: C&R of the 2021 Special Commission on the practical operation of the Apostille Convention
Related Documents	Prel. Doc. No 10B of December 2021: 1961 Apostille Convention: Draft Practical Handbook on the Operation of the Apostille Convention (Second Edition)

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1961 Apostille Convention: Updates from 2021

I. Introduction

- 1 In 2021, there were a number of important developments in relation to the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention).
- 2 First, with the accession of Singapore, the Apostille Convention reached the milestone of 120 Contracting Parties. It is the first of the HCCH Conventions to do so. Secondly, in May 2021, the Experts' Group on the electronic Apostille Programme (e-APP) and New Technologies met for the first time. Thirdly, the PB hosted the 12th meeting of the International Forum on the electronic Apostille Programme (e-APP Forum). Finally, the Special Commission (SC) on the practical operation of the Apostille Convention was convened for its fifth meeting. This coincided with the 60th anniversary of the Convention, and also witnessed Indonesia become the 121st Contracting Party.
- 3 The following is a summary of these events and their respective outcomes.

II. Experts' Group on the e-APP and New Technologies

- 4 Following an invitation from the 11th e-APP Forum, CGAP invited the PB to convene an Experts' Group to further explore whether broader use of new technologies, including distributed ledger technology (DLT), may further enhance the e-APP, in particular in relation to e-Registers, with the findings to inform the work of the SC.¹
- 5 The Experts' Group met from 3 to 6 May 2021 via videoconference. It was attended by over 100 participants representing 28 Members, and members of the PB. Ms Vesna Bratušek of the Ministry of Justice of the Republic of Slovenia was elected as Chair of the Group.
- 6 The Group discussed the current use of the e-APP, future possible solutions, and methods for further guidance and information-sharing. It made three recommendations to the SC, all of which were accepted. The report from the Chair is included as Annex I and provides an overview of discussion.
- 7 While the Group did not explicitly consider the matter of possible future meetings, in light of the outcomes of the meetings of the e-APP Forum and SC, the PB does not consider there to be a need for another meeting at this time. This does not exclude the possibility of a future meeting of the Group.

III. 12th e-APP Forum

- 8 On 4 October, the PB hosted the 12th e-APP Forum. This was held immediately preceding the SC meeting, following CGAP's preference for meetings of the e-APP Forum to be held in conjunction with SC meetings.² The Forum was held via videoconference, with sessions scheduled across the day in an effort to make the event more accessible for all Members and Contracting Parties. Each session was attended by over 100 participants.
- 9 Fourteen Contracting Parties presented their e-APP solutions and discussed topics such as the e-APP as an e-Government solution, coordination among government authorities during the

¹ C&D No 33 of CGAP 2020.

² C&R No 35 of CGAP 2019. See also C&D No 32 of CGAP 2020; C&D No 37 of CGAP 2021. In practice, this occurs only when the Forum and SC meetings are planned in the same year.

implementation process, the progressive implementation of the e-APP components, and the future of document authentication in light of new technologies.

10 The discussion was summarised in Prel. Doc. No 5 of October 2021 for the attention of the SC and is included as Annex II.

11 The PB remains open to discussing the location and timing of the 13th e-APP Forum. Members interested in hosting a future meeting of the Forum are invited to contact the PB.

IV. Special Commission

A. Fifth Meeting

12 Following the advice of CGAP,³ the SC on the practical operation of the Apostille Convention convened for the fifth time. In light of the COVID-19 pandemic, exceptionally and without setting a precedent for future meetings, CGAP mandated the SC meeting to be held online.⁴

13 The SC met online from 5 to 8 October 2021 and was attended by over 350 participants. Mr Luke Tang of the Ministry of Law of the Republic of Singapore was elected as Chair.

14 A ceremony was held on the first day to celebrate the 60th anniversary of the Convention. The SC witnessed the deposit of the Republic of Indonesia's instrument of accession to the Convention. The SC also heard updates from States on their plans to join the Convention and remarks from Contracting Parties on the continued relevance and utility of the Convention.

15 Throughout the week, the SC discussed matters relating to the scope and operation of the Convention, including the results from the Apostille Questionnaire 2021,⁵ the impact of the COVID-19 pandemic, plans for the second edition of the Apostille Handbook,⁶ and the operation of the e-APP. There was an emphasis on the increasing use of technology during the discussions, including in issuing electronic public documents as well as the e-APP, as the Convention continues to adapt to the modern era.

16 Thanks to the generous contributions of Australia, Germany, Mexico, Spain, and the United States, all documents were translated into Spanish and Spanish interpretation was available throughout the meeting. This resulted in an increased participation among Contracting Parties.

B. Conclusions & Recommendations

17 The SC developed a set of Conclusions & Recommendations (C&R) to reflect discussions from the meeting. These are included as Annex III.

18 The C&R also include a consolidated list of restated C&Rs from previous SC meetings to ensure that advice remains contemporary, in particular in the context of preparing the second edition of the Apostille Handbook.

19 In line with the C&R, the PB recirculated the Apostille Questionnaire 2021,⁷ uploaded multilingual Model Apostille Certificates to the HCCH website,⁸ and has begun development on an online platform for exchange (expected to be launched in early 2022).⁹

³ C&R No 35 of CGAP 2019. See also C&D No 36 of CGAP 2020; C&D No 37 of CGAP 2021.

⁴ C&D No 37 of CGAP 2021.

⁵ C&R No 36 of CGAP 2019.

⁶ See Prel. Doc. No 10B of December 2021.

⁷ C&R No 7 of Apostille SC 2021.

⁸ C&R No 16 of Apostille SC 2021.

⁹ C&R No 24 of Apostille SC 2021.

V. Proposal for CGAP

- 20 The PB invites CGAP to endorse the C&R of the 2021 meeting of the SC on the Apostille Convention and to consider the timing of the next meeting of the SC at CGAP 2024.

ANNEXES

Annex I

Report from the Chair on the Experts' Group on the e-APP and New Technologies

- 1 At its meeting of 3 to 6 March 2020, the Council on General Affairs and Policy (CGAP) of the HCCH invited the Permanent Bureau (PB) to convene an Experts' Group to further explore whether the broader use of new technologies, including distributed ledger technology (DLT), may further enhance the electronic Apostille Programme (e-APP), in particular in relation to e-Registers. CGAP further noted that the findings of the Experts' Group would inform the work of the meeting of the Special Commission on the practical operation of the Apostille Convention, to be held in October 2021.¹
- 2 The Group met from 3 to 6 May 2021 via videoconference. It was attended by over 100 participants representing 28 Members, and members of the PB.
- 3 Ms Vesna Bratušek of the Ministry of Justice of the Republic of Slovenia was proposed as Chair of the Group and was elected without opposition.
- 4 This Report, prepared by the Chair, provides a short overview of the main points of discussion.
- 5 States introduced e-APP components currently used by their Competent Authorities and reported on components in development or future implementation plans. Delegations expressed an interest in better understanding how other systems operate and the challenges faced by States.
- 6 Delegations were invited to make presentations on DLT-based use cases, including local, regional, and global solutions. These presentations provided context when discussing whether there are opportunities for new technologies to further enhance the e-APP.
- 7 The Group discussed the value of developing further guidance to assist Contracting Parties with the implementation of the e-APP. The Group emphasised that any such guidance must be non-binding and technology neutral to maintain the flexibility afforded to Contracting Parties by the Convention and the e-APP.
- 8 The PB presented a non-paper for discussion that proposed some key principles and good practices for the implementation of the e-APP. The Group welcomed the document and made suggestions for its amendment. The document, as adopted by the Group, will be submitted to the Special Commission for endorsement.
- 9 Other solutions discussed include a universally available system and smaller-scale cross-border solutions. The Group considered the best way forward was to continue with the current flexible approach whereby Contracting Parties are encouraged to explore their own solutions while increasing efforts to share information and experience.
- 10 Experts suggested the development of an online forum to facilitate intersessional discussion and information-sharing, including in relation to best practices, between meetings of the Special Commission and the International Forum on the e-APP. The Group invited the PB to assess what

¹ C&D No 33 of CGAP 2020.

form this may take, noting it should be accessible to technical and legal experts from Members and Contracting Parties, enable exchange of resources, and facilitate ongoing dialogue.

- 11 In an effort to raise awareness of the e-APP and prevent rejections of e-Apostilles, the Group also invited the PB to formalise a notification system to inform Contracting Parties of the implementation of e-APP components, as well as continue to offer assistance to Contracting Parties as requested.
- 12 Other subjects that were raised throughout the meeting, which may be considered for further discussion at future meetings of the Special Commission and the International Forum on the e-APP include compliance with data protection laws and the right to be forgotten; reference to international standards (e.g., from the International Organization for Standardization (ISO)); and licensing and third-party accreditation.
- 13 The Group, recognising that further work of the e-APP is best enhanced through information-sharing, recommends that the Special Commission:
 - a. Approve the “The e-APP: Key Principles and Good Practices” as endorsed by the Experts’ Group.
 - b. Invite the PB to develop an online forum which enables the exchange of information, experience, and best practices, facilitating ongoing dialogue.
 - c. Note the notification system whereby the PB informs Contracting Parties of the implementation of e-APP components.
- 14 A Preliminary Document will be prepared by the PB, in consultation with the Group if necessary, to assist the Special Commission in consideration of sub-paragraph (b).

Annex II

Updates from the 12th e-APP Forum

I. Introduction

- 1 On 4 October 2021, the PB hosted the 12th meeting of the International Forum on the electronic Apostille Programme (e-APP). The Forum was held via videoconference for the first time, divided into four sessions in time zones that were accessible to all HCCH Members. Over 300 participants registered, with each session attended by over 100 participants.
- 2 The Forum is primarily an opportunity to exchange information and experience in relation to the e-APP. Fourteen Contracting Parties,¹ at various stages of the e-APP implementation process, gave presentations on the status of e-APP in their country and participated in panel discussions canvassing a variety of subjects.
- 3 The PB would like to thank all the speakers who were involved for their contributions.
- 4 The following is a summary of the presentations, panels, and questions from participants.

II. Summary of Discussion

- 5 A number of speakers noted the effects of the COVID-19 pandemic on the operation of the Apostille Convention and, in turn, the e-APP. Specifically, the number of (e-)Apostilles that were requested and issued decreased. Front-facing services were impeded by restrictions, encouraging a transition to online services. Contracting Parties that had already implemented the e-APP, specifically the e-Apostille component, reported lesser disruptions.
- 6 Relatedly, there has been a transition towards “digital by default” as more domestic systems adopt e-Government solutions. However, moving from paper to electronic format requires a significant shift of mindset for both users and authorities. Within the e-APP, this shift will hopefully lead to increased automation, by which an e-Apostille is issued when an underlying electronic public document has a digital signature that can be automatically authenticated.
- 7 Almost all speakers noted the benefits of engaging with Contracting Parties that had already implemented the e-APP. This sharing of policy and technical experience occurs bilaterally and through the e-APP Forum, facilitating the development of e-APP components. As an increasing number of public services are offered online, Competent Authorities can take advantage of already digitised services at the domestic level and the expertise of other government agencies.
- 8 Noting that Contracting Parties have taken a variety of approaches to the matter, there were comments on the benefits of a harmonised approach when there are multiple Competent Authorities within a Contracting Party. Specifically, having a coordinated e-Register for all Apostilles, a single model certificate, and one interface for requesting apostillisation.
- 9 Implementation of the e-APP may require internal legislation or policy frameworks to be introduced or revised. Contracting Parties should consider domestic requirements, and limitations, first to

¹ Armenia, Bulgaria, Chile, Guatemala, India, Israel, Luxembourg, Peru, Philippines, Turkey, United Kingdom, United States of America, Uzbekistan, and Venezuela.

ensure that they are able to develop the e-APP, and secondly to account for the necessary changes in planning. Naturally, this necessitates the requisite political and financial support from across government.

10 If a full implementation of the e-APP may not be achieved at once, some speakers encouraged a gradual approach, as developing specific elements of a solution is still a positive and meaningful step. This is also evidenced by those Contracting Parties which have implemented the e-Register in advance of the e-Apostille.

11 The Permanent Bureau, Contracting Parties, and the Special Commission should continue to promote global awareness of e-Apostilles and work towards ensuring their acceptance.

III. Looking Forward

12 The Secretary General spoke about the momentum that has been building in the space, and encouraged all Contracting Parties to consider implementing the e-APP. He noted that, based on the most recent Apostille Questionnaire,² approximately 10% of all Apostilles issued are e-Apostilles, and this figure is continuing to increase.

13 A number of Contracting Parties reported plans to begin issuing e-Apostilles and / or operating an e-Register in the near future. As such, it is likely there will be a greater number of e-Apostilles circulating within the next few years, underlying the importance of all Contracting Parties having systems in place to accept e-Apostilles.

14 The PB remains open to discuss the location and timing of the 13th meeting of the International Forum, noting the request from Contracting Parties to continue holding the Forum on a regular basis.

IV. Proposal for the Special Commission

15 The SC is invited to note the update and encourage Contracting Parties to implement both components of the e-APP.

² See Prel. Doc. No 1 of January 2021; Prel. Doc. No 2 of August 2021.

Annex III

Conclusions & Recommendations (C&R)

- 1 The Special Commission (SC) on the practical operation of the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention) met online from 5 to 8 October 2021. It was attended by over 350 delegates, representing HCCH Members, non-Member Contracting Parties, and Observers from non-Member States, intergovernmental and international non-governmental organisations, as well as members of the Permanent Bureau (PB).
- 2 This Fifth Meeting of the SC was held on the occasion of the 60th Anniversary of the Convention, following meetings in 2003, 2009, 2012, and 2016.¹
- 3 The SC witnessed the deposit of the instrument of accession to the Apostille Convention by the Republic of Indonesia. Delegates welcomed the accession and congratulated Indonesia on becoming the 121st Contracting Party to the Convention.
- 4 The SC also welcomed the eight accessions since its last meeting in 2016 and the resulting increased global coverage.² The SC noted the updates from the People’s Republic of China and the Islamic Republic of Iran of their plans to accede to the Convention.
- 5 The SC recalled that the entry into force of the Convention between two Contracting Parties cannot prejudice the position of States that have objected, including based on the issue of statehood, to the accession of one of them.³

I. Promotion and Post-Convention Monitoring

- 6 Noting the use of public documents under the *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Adoption Convention) and *Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters* (Judgments Convention), and that such documents are not exempt from legalisation requirements, the SC encouraged Contracting Parties to both the Adoption and Judgments Conventions to join the Apostille Convention.
- 7 The SC noted the results of the Apostille Questionnaire 2021. It called upon Contracting Parties which have not yet done so to answer the Questionnaire by the end of 2021.

¹ At the meetings in 2003 and 2009, the Apostille Convention was reviewed in conjunction with other HCCH Conventions on legal cooperation.

² Guatemala (19 January 2017), Tunisia (10 July 2017), Bolivia (6 September 2017), Guyana (30 July 2018), Philippines (12 September 2018), Palau (17 October 2019), Jamaica (2 November 2020), and Singapore (18 January 2021).

³ Over 20 States have objected to the accession of Kosovo, including on the basis of statehood and with reference to *United Nations Security Council Resolution 1244 of 10 June 1999*, under Article 12 or in a formal declaration to the Depositary. In this context, see also C&R No 4 of CGAP 2016, which reads as follows:
 “New ratifications / accessions: role of the Depositary and the Permanent Bureau

4. The Council took note of the different views expressed on the subject matter. It recalled the relevance of the Vienna Convention of 1969 on the Law of Treaties, in particular its Articles 76(2) and 77 on the functions of depositaries, and the provisions and requirements of the relevant Hague Convention. When, following the deposit of an instrument of ratification, approval, or accession, the Depositary subsequently receives an objection from a Contracting State, including based on the issue of statehood, the Depositary brings the matter to the attention of all Contracting States to the Convention concerned.”

- 8 The SC welcomed the report on PB Convention assistance, noting the continued availability of the PB to assist with promotional and operational activities. The SC further encouraged information sharing between Contracting Parties, as well as engagement with non-Contracting Parties preparing to join the Convention.
- 9 The SC noted the report on the status of previous C&R and the work underway to action outstanding items.

II. Operation and Scope of the Convention

- 10 Noting the importance of Apostille services for individuals and businesses, the SC called on Contracting Parties to ensure the continued availability of Apostille services in challenging circumstances, such as those experienced as a result of the COVID-19 pandemic. It emphasised the benefits of e-Apostilles and online services in addressing many difficulties arising in this context.
- 11 The SC noted that some Contracting Parties have applied the Convention to COVID-19 vaccination certificates, while others found that technological means are best suited for ensuring the authenticity of such certificates. The SC concluded that no further guidance was required in this regard.
- 12 Recalling that the purpose of the Convention is to simplify the process of authentication, the SC encouraged Contracting Parties to eliminate, to the extent possible, intermediate certification of a public document prior to the issuance of an Apostille.
- 13 The SC noted the value of diplomatic missions in the Apostille process and invited Contracting Parties to consider involving their diplomatic missions, either as Competent Authorities or intermediaries for applicants, subject to legal requirements and practical limitations.
- 14 The SC recalled that the exclusions in Article 1(3) should be construed extremely narrowly and called for flexibility amongst Contracting Parties, encouraging recipients to accept Apostilles issued for documents that would otherwise be excluded under this Article. The SC further noted:
- a. with reference to Article 1(3)(a), that the exclusion does not preclude Contracting Parties from requesting authentication of documents which are not executed but retrieved or merely issued by diplomatic or consular agents; and
 - b. with reference to Article 1(3)(b), the importance of facilitating the circulation of administrative documents dealing directly with commercial or customs operations in international trade and commerce.

III. Publications and Resources

- 15 The SC approved, in principle, the draft of the second edition of the Apostille Handbook, noting amendments will be made to the text to reflect the comments made by delegations and the C&R as adopted at this meeting. It recommended that the Council on General Affairs and Policy (CGAP) approve the Apostille Handbook for publication.
- 16 Noting that the inclusion of additional languages on an Apostille Certificate is at the discretion of individual Competent Authorities, the SC encouraged the use of multilingual certificates to facilitate the use of Apostilles. It endorsed the multilingual Model Apostille Certificates prepared by the PB for publication on the HCCH website.
- 17 The SC encouraged Contracting Parties to provide the PB with regular updates on information relating to Competent Authorities. This may take the form of a hyperlink to the website of the Competent Authority containing relevant practical information, including sample Apostilles.

Delegates emphasised that the accessibility to such sample Apostilles does not diminish the verification mechanism required by Article 7, in particular where an e-Register is available.

IV. Electronic Apostille Programme (e-APP)

18 Recognising the importance of the e-APP in supporting the secure and effective operation of the Convention, the SC encouraged Contracting Parties to implement both the e-Apostille and the e-Register components of the e-APP. It noted the positive experience of information sharing between Contracting Parties during the implementation process and encouraged these exchanges as an ongoing practice.

A. Developments on the e-APP

19 The SC welcomed the "[Updates from the 12th International Forum on the e-APP](#)".

20 The SC welcomed updates from Contracting Parties on new implementations of e-APP components or progress made toward implementation.

21 The SC invited the PB to continue to organise meetings of the e-APP Forum, preferably every second year. In doing so, the SC encouraged the PB to take into account universality and geographic representation, as well as the possibility of holding the Forum in conjunction with the SC where applicable.

B. Experts' Group on the e-APP and New Technologies

22 The SC noted the report from the Chair of the Experts' Group and thanked Ms Vesna Bratušek of Slovenia for her stewardship.

23 The SC approved "[The e-APP: Key Principles and Good Practices](#)" and noted its value for Contracting Parties when implementing the e-APP.

24 With a view to further enhancing the exchange of information, experience, and best practices amongst interested parties, the SC invited the PB to make available an online platform using its existing software. Based on the success of this online platform, there may be later consideration of developing a more tailored solution.

25 The SC asked the PB to organise, subject to available resources, more frequent opportunities for informal dialogue relating to e-APP implementation. This will be in addition to the meetings of the International Forum on the e-APP.

26 The SC welcomed the notification system whereby the PB informs Contracting Parties of new and updated implementation of e-APP components. It invited Contracting Parties to inform the PB of such developments in a timely manner to ensure this system works effectively.

C. Operation of the e-APP

27 Noting the increasing use of electronic public documents, the SC recognised that e-Apostilles offer the optimal solution to preserve the integrity of such documents when issuing an Apostille, and reiterated the need for Contracting Parties to implement the e-Apostille component of the e-APP.

28 The SC welcomed the initiative of a number of Contracting Parties to increase automation and transition to comprehensive digital services, with a view to facilitating the Apostille process, including by enabling online requests and the automatic verification of digital signatures.

29 Noting that the PB is not appropriately placed to establish a digital certificate authority and reiterating the importance of technology neutrality and maintaining flexibility for all Contracting Parties, the SC recognised the good practice of using digital certificates with high standards, that

are well-recognised and frequently used, and invited Contracting Parties to inform the PB about the certificate technology used to issue e-Apostilles.

- 30 The SC recalled the fundamental principle that, irrespective of format, an Apostille validly issued by one Contracting Party in accordance with the Convention must be accepted by all other Contracting Parties for which the Convention is in force. In this spirit, it encouraged Contracting Parties to take active steps to ensure the acceptance of incoming e-Apostilles.

V. Other Matters

- 31 The SC invited Contracting Parties to continue to share with each other, and the PB, challenges that have arisen in the context of privacy and data protection, together with any practices or procedures that have been implemented to resolve them, and noted that no further guidance was required on this matter.
- 32 The SC noted concerns with issuing Apostilles on translations, in paper form, of electronic public documents and invited Contracting Parties to continue to exchange experiences.
- 33 The SC recommended that CGAP, at its meeting in 2024, consider the timing of the next meeting of the SC on the Apostille Convention, subject to further developments in the practical operation of the Convention.

VI. Restated C&R from Previous SC Meetings⁴

A. Promotion

- 34 The SC noted the widespread use and effectiveness of the Convention and encouraged Contracting Parties to promote the Convention. Members of the HCCH which are not already party are strongly encouraged to consider joining the Convention.

See C&R No 2 of the 2012 SC

- 35 The SC recognised the educational outreach work of Competent Authorities, National Organs, and the PB, noting the value of programmes aimed at increasing the acceptance of Apostilles.

See C&R No 17 of the 2016 SC

B. Scope

- 36 With a view to ensuring that as many documents as possible benefit from the simplified procedure of the Convention, the SC encouraged a broad interpretation of the term “public document”.

See C&R No 72 of the 2009 SC, C&R No 12 of the 2012 SC

- 37 The SC noted that the law of the State of origin determines the capacity of the person executing a public document and the procedure for its execution. Similarly, the law of the State of origin determines the public nature of a document for the purpose of issuing an Apostille. An Apostille may not be rejected on the sole basis that the underlying public document is not considered a public document in the State of destination.

See C&R No 72 of the 2009 SC, C&R No 75 of the 2009 SC, C&R No 12 of the 2012 SC, C&R No 14 of the 2012 SC, C&R No 7 of the 2016 SC

- 38 The SC noted that the law of the State of destination determines the admissibility and probative value of the underlying public document.

⁴ The following compiles C&R adopted by previous meetings of the SC which the Fifth Meeting also considers relevant to the contemporary operation of the Convention.

See C&R No 82 of the 2009 SC, C&R No 14 of the 2012 SC

- 39 The SC recalled the limited effect of an Apostille under Article 5(2); that is, an Apostille only certifies the origin of the public document to which it relates and not the reliability or accuracy of its content.

See C&R No 82 of the 2009 SC, C&R No 13 of the 2012 SC

- 40 The SC recognised that nothing in the Convention precludes its application to documents relating to extradition, including extradition requests.

See C&R No 16 of the 2012 SC, C&R No 8 of the 2016 SC

C. Competent Authorities

- 41 The SC noted that it is for each Contracting Party to determine the organisation of its Competent Authority structure, including the number and identity of Competent Authorities and the extent of their competence.

See C&R No 78 of the 2009 SC

- 42 The SC welcomed the efforts of Contracting Parties to decentralise the provision of Apostille services, increasing efficiency and facilitating widespread access for the public.

See C&R No 18 of the 2012 SC

- 43 The SC recalled that the fundamental role of Competent Authorities is to verify the origin of all public documents prior to issuing an Apostille. The SC emphasised that it is not the responsibility of Competent Authorities to verify the content of public documents prior to issuing an Apostille. Similarly, when requested to issue an Apostille for a notarial certificate, Competent Authorities should not assess the content of the document to which the notarial certificate relates. Competent Authorities may, however, take steps outside the Apostille issuance process to address instances of fraud or other violations of domestic law.

See C&R No 80 of the 2009 SC, C&R No 83 of the 2009 SC

- 44 While an Apostille may be used in all Contracting Parties for which the Convention is in force, the SC noted that it may be useful for Competent Authorities to enquire about the intended State of destination when a request for an Apostille is submitted to ensure the Convention applies.

See C&R No 81 of the 2009 SC

- 45 The SC noted that Competent Authorities may decline to issue an Apostille on a certified copy of a document on the grounds of public policy.

See C&R No 11 of the 2003 SC

D. Apostille Certificates and Issuance

- 46 The SC recalled the use of the Model Apostille Certificate annexed to the Convention and recommended that Apostilles should conform as closely as possible to this Model Certificate.

See C&R No 13 of the 2003 SC

- 47 Noting that Apostilles are designed for use abroad, the SC encouraged Contracting Parties to consider filling out the 10 numbered standard informational items in an additional language to that of the issuing Competent Authority, such as English, French, or a language of the State of destination.

See C&R No 90 of the 2009 SC

- 48 The SC encouraged Competent Authorities to consider adding text outside the area containing the 10 numbered standard informational items on the Apostille Certificate. This additional text may be used to recall the limited effect of an Apostille under Article 5(2); provide information about Apostille verification; inform users that the Apostille has no effect in the State of origin; or clarify the distinction and procedures in the case of certificates used as both Apostilles and for non-Convention authentications. Any additional text should not interfere with the integrity of the Apostille; for example, it should be placed outside the frame, if applicable.
See C&R No 85 of the 2009 SC, C&R No 86 of the 2009 SC, C&R No 23 of the 2012 SC, C&R No 14 of the 2016 SC
- 49 The SC emphasised the importance of completing all 10 numbered standard informational items. Where an item is not applicable, this should be clearly indicated rather than being left blank.
See C&R No 21 of the 2012 SC
- 50 The SC confirmed that an Apostille, which is clearly identifiable as such, should not be rejected because of variations in size, shape, or form; additional text placed outside the area containing the 10 numbered standard informational items; or non-compliance with formalities or practices of the State of destination.
See C&R No 13 of the 2003 SC, C&R No 92 of the 2009 SC
- 51 The SC affirmed that the validity of the signature on an Apostille is determined by the law applicable to the issuing Competent Authority.
See C&R No 22 of the 2012 SC
- 52 For documents with multiple pages or bundles of documents with a single certification, the SC recommended that Competent Authorities affix the Apostille to the signature page of the document, or if using an allonge, to the front or back of the document.
See C&R No 17 of the 2003 SC
- 53 The SC recalled Article 4 and the requirement that Apostilles, whether paper or electronic, must be attached to, or logically associated with, the underlying public document. Recognising the diverse practices amongst Contracting Parties, the SC encouraged the use of tamper-evident methods in this regard.
See C&R No 91 of the 2009 SC, C&R No 24 of the 2012 SC
- 54 The SC noted the practice in some Contracting Parties of using a single certificate both as an Apostille and for non-Convention authentications.
See C&R No 15 of the 2016 SC

E. Other Operational Matters

- 55 The SC recalled the obligation of Contracting Parties, under Article 9, to take all necessary steps to prevent the performance of legalisations by their diplomatic or consular agents in cases where the Convention provides for exemption. The SC firmly rejected practices where an Apostille is required to be legalised between Contracting Parties.
See C&R No 69 of the 2009 SC, C&R No 93 of the 2009 SC
- 56 Noting that any fees charged for issuing Apostilles should be reasonable, the SC encouraged Contracting Parties to consider a single, reduced fee to issue an Apostille for a bundle of related documents.
See C&R No 20 of the 2003 SC

- 57 Recognising that Apostilles do not expire, the SC encouraged issuing Competent Authorities to retain Apostille records in their Article 7 register for as long as possible, subject to legal requirements and practical limitations.
See C&R No 21 of the 2003 SC
- 58 The SC emphasised that authorities of the State of destination may not subject the acceptance of an Apostille to any confirmation of procedures from the issuing Competent Authority and encouraged Contracting Parties which receive such requests to resolve these issues bilaterally.
See C&R No 27 of the 2012 SC, C&R No 16 of the 2016 SC
- 59 The SC encouraged Contracting Parties that have made objections under Article 12 to periodically consider whether it may be appropriate to withdraw their objections.
See C&R No 67 of the 2009 SC, C&R No 7 of the 2012 SC
- 60 The SC encouraged Contracting Parties to inform the PB of instances where non-Contracting Parties are issuing certificates purporting to be Apostilles or are giving effect to Apostilles issued in Contracting Parties.
See C&R No 13 of the 2016 SC