

Apostille Convention

Overview

The Apostille Convention, also known as the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, is an international agreement simplifying how public documents are authenticated for the purposes of using it in a foreign country. The term “apostille” itself comes from a French word “apostiller”, which means “to annotate” or “to certify”. It aims to remove the lengthy and expensive legalization process by effectively reducing the processing time and standardizing the process as it issues a single Apostille certificate by a competent authority from the country of origin.

In the mid-20th century, the convention was formed as a result of complex authentication process that needs to be completed to submit a document issued in one country to another country. The convoluted process involves obtaining a most recently issued document in some countries followed by a notarization then an authentication by the issuing country’s foreign ministry and finally being legalized by the receiving country’s consulate or embassy. These lengthy steps posed significant challenges for international businesses, legal proceedings, and day to day administrative tasks.

During a diplomatic conference in The Hague, Netherlands, on 5 October 1961, the Apostille Convention was formed to address these challenges. The purpose of the convention is to create a streamlined and universally recognized process for authenticating public documents. It was proposed and drafted under the supervision of the Hague Conference on Private International Law, an intergovernmental organization dedicated to harmonizing international legal instruments. Although the Apostille Convention was adopted on 5 October 1961, it only took effect on 24 January 1965 and it has since been ratified by several countries. There were only 12 original contracting countries to the Apostille Convention when it was formed: Belgium, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Switzerland, Turkey



and United Kingdom. However, as of July 2023, there are currently 125 contracting countries with China and Canada acceding to the convention most recently.

The convention introduces a simplified authentication process where a competent authority in the country of issuance can affix an “apostille” to certifying the document’s authenticity. This apostille is a standardized certificate that includes important information such as the country of origin, issuing authority information, and the signature of the competent authority. Once an apostille is affixed to a document, it will be recognized and accepted by all participating countries of the convention without the need to complete any further legalization procedures. It is important to note that the apostille process only applies to countries that have ratified the Hague Convention. Not all countries are party to the Convention, so it is essential to verify whether the destination country accepts apostilled documents or still requires traditional legalization.

The Apostille Convention has significantly facilitated international communication and the recognition of public documents globally. It simplifies procedures for various purposes, including validating birth certificates, marriage certificates, educational degrees, business documents, and more. By streamlining the authentication process, the convention enhances legal certainty and promotes international cooperation in various fields.



Apostille Process

Obtaining an apostille normally has a manual process component where some steps may not be completed online. The process and requirements would be different depending on country combinations: where the document is issued and where the document will be used.

Below is a high-level overview of the generic steps in obtaining an apostille:

- 1) **Document Procurement:** The document that needs the apostille such as a birth certificate, marriage certificate, educational qualification, power of attorney or any other public document issued by a government authority must first be obtained if not readily available.
- 2) **Notarization:** In most cases, the document must be notarized by a notary public or an authorized official.
- 3) **Authentication:** Once the notarization is complete, the document is submitted to the competent authority in the country of issuance. The competent authority is usually the ministry or department responsible for external affairs, foreign affairs, or justice. Their responsibility is to verify the signature and seal of the notary or other authorized official to prove its authenticity.
- 4) **Issuance of Certificate:** The Apostille Certificate will be affixed to the document by the competent authority once the document has been authenticated. It will include information on origin country, issuing authority information and competent authority's signature.
- 5) **Return of Document:** After the apostille certificate has been attached to the document, it will be returned to the applicant. The document will then be valid to be used in a country that is a contracting member of the Apostille Convention.

While the apostille process requires manual submission of physical documents in most contracting countries to the Apostille

Convention, more countries are exploring and implementing electronic apostille system to further streamline the authentication of documents.

It is essential to check with the relevant authorities in the country where the document was issued or the country where the apostille is needed to understand the specific requirements and procedures.

Difference Between Apostille, Notarization and Legalization

In this section, we will discuss these three different processes used in verifying the authenticity of documents. Each of this process has its distinct purpose and is recognized in different contexts.

Here's a breakdown of the key differences between them:

1) Apostille:

- An apostille is streamlined form of authenticating documents to be used in contracting countries to the Apostille Convention.
- It helps validate the authenticity of public documents such as birth certificates, marriage certificates, educational degrees, and official government-issued documents.





- competent authority in the issuing country verifies the document and the signature of the issuing authority.
 - It is a standard certificate that will include information about the document, its origin country, issuing authority information and competent authority's signature.
 - The document with an apostille affixed to it will be valid for use and recognized in all member countries of the Apostille convention and it does not need any additional authentication or legalization.
- 2) Notarization:
- A notarization requires a document to be reviewed by a notary public or a qualified individual authorized by the government to witness and verify signatures on documents.
 - The notary public's responsibility is to confirm that the person signing on the document is doing it voluntarily and comprehending its contents entirely.

- This process is normally utilized for several legal documents, powers of attorney, affidavits and other personal or business-related documents.
- Notarization procedures would be different depending on the laws of the country or state. Generally speaking, the notary will normally affix a stamp or seal and sign the document.
- The notarized document can typically be used locally in the country of issuance. If it will be used in another country, a notarized document will require additional steps such as an apostille or legalization.

3) Legalization:

- Legalization process is the authentication of a document that will have to be used in another country that is not a member of the Apostille Convention or if a document will be used for a purpose that is not within scope of the convention.
- This is a multi-layered authentication process which involves notarization, certification of the issuing country's foreign ministry and it usually requires another verification process to be conducted by the consulate of embassy where the document will be used.
- Specific requirements and steps for legalization varies from country to country and is normally time-consuming.

These processes are all different methods of verifying the authenticity of documents. Apostille is a standardized process of authentication for member countries of the Apostille Convention. Notarization is the process of obtaining the signature on a document by a notary public. Legalization is a lengthy and comprehensive process of verifying the document's authenticity specifically for countries that are not a contracting party of the Convention or if the purpose is beyond the convention's scope.



Summary

The Apostille Convention has simplified the authentication process of public documents to be utilized in another contracting country. It cuts down the processing time in validating and verifying the authenticity of a document by appointing a competent authority that signs off on the document making it valid for use without having to go through additional procedural layers of review. Given the document will only have to go through the notarization process and through the competent authority, this process effectively reduces administrative costs that is normally incurred when a document has to go through the legalization process.

Further, it fosters international cooperation by streamlining the exchange of public documents. The process includes verification of the signature and seal on the document, which helps deter fraudulent documents from being accepted and used internationally. The standardization of the authentication process minimizes potential disputes on the validity of the documents used in another contracting country of the Apostille Convention.

It is currently an efficient solution for authenticating documents for international use. However, in this global technological world, further streamlining of the process should be expected as more participating countries implement the electronic apostille and online systems.