

Apostille As A Mechanism For The Recognition Of Foreign Official Documents In The Republic Of Uzbekistan

Allaberganova Nodira Maxmud qizi

Lecturer, Tashkent State University of Law, Uzbekistan

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Abstract: This article analyzes the apostille system as a key element of international legal circulation of documents, with specific reference to the Republic of Uzbekistan. The study examines the legal nature and functions of the apostille under the Hague Convention of 1961, emphasizing its role in replacing consular legalization with a simplified authentication mechanism. Particular attention is given to the division of responsibilities between the state of origin and the state of destination of official documents. The article also explores the national implementation of the Convention in Uzbekistan, including institutional arrangements and administrative practice. Special focus is placed on recent developments related to electronic apostilles. The study concludes that the apostille system enhances legal certainty while facing ongoing technological and coordination challenges.

Keywords: Apostille, Hague convention of 1961, consular legalization of documents, recognition of foreign official documents, international legal circulation, international law, Republic of Uzbekistan, electronic apostille, document authentication.

Introduction: In the context of globalization, there is often a need to use official documents such as birth certificates, diplomas, and commercial contracts outside national borders. Traditionally, this has been achieved through a process of consular legalization, which can be time-consuming and costly. However, due to the complexity and inconsistency of this process with the requirements for economic and social integration, many countries have abandoned it in favor of simpler procedures for verifying foreign documents' authenticity.

The first multilateral agreement of its kind was the Hague Convention, which eliminated the need to legalize foreign official documents (Apostille Convention, 1961). This convention, also known as the Apostille Convention of 1961, rightfully established itself as a universal international agreement that replaced the need for consular legalization with a simple, widely recognized certificate called the apostille.

The purpose of this convention was to simplify the process of legalizing documents by introducing a

universal, standardized method. This has made the convention a key instrument in private international law, regulating the use of documentary evidence. Its widespread adoption and practical effectiveness have ensured its continued relevance in today's globalized world.

The apostille system is based on the principle of subsidiarity in relation to the domestic laws of participating countries and aims to harmonize the international circulation of documents. It establishes a uniform standard for verifying the validity of documents for cross-border use, minimizing administrative barriers.

It is worth noting that the system has become one of the most effective tools for harmonizing international law in the area of administrative cooperation. The system clearly defines the roles of the country of origin and destination for a document. The authorities in the country of origin are responsible for the apostille process, while the country of destination, being a party to the system, recognizes such documents without additional formalities, granting them quasi-

extraterritorial validity in the context of contractual relations.

An apostille is a special stamp that is affixed to official documents for use abroad. It is in accordance with the model provided by the Convention. «The apostille serves to certify the authenticity of the signature on the document, as well as the authority of the person signing the document, and in some cases, the authenticity of any seals or stamps attached to the document» (Apostille Convention, 1961). An apostille can be understood as a certificate that confirms the origin and authenticity of a specific document, rather than its content or the facts it contains. It serves to confirm:

- The authenticity of the official's signature
- The legal status or competence of the signer
- And, if applicable, the genuineness or authenticity of any seals or stamps on the document

The purpose of an apostille is therefore to provide formal and attestation of these aspects, rather than to provide substantive information about the content of the document. This is essential for understanding its role in evidence law and its significance.

The apostille must be a square with sides of at least 9 centimeters in length. (See Annex 1 to the Hague Convention, October 5, 1961).

Since April 5, 2011, citizens of Uzbekistan have been able to benefit from international agreements that in some cases eliminate the need for legalization. This is due to the fact that the Republic of Uzbekistan joined the Hague Convention on October 5th, 1961. To be more precise, on January 27th, 2011, the Legislative Chamber of the Oliy Majlis passed a law on accession, and on March 25th, the Senate approved it (Qonun No. 174-II, 2011). The law went into effect on April 5th. On July 25, Uzbekistan deposited its instrument of accession with the Ministry of Foreign Affairs of the Netherlands, and the Convention entered into force in Uzbekistan on April 1st and 2nd (Status of Apostille Convention Table). Currently, 128 countries around the world are parties to this agreement (Apostilles Convention Status Table).

The word "Apostille" originates from the French verb "apostiller", which itself is derived from the older French term "postille", meaning "annotation". This word dates back to the late 16th century in France and was included in the first edition of the Dictionary of the French Academy in 1794. There are two lines about apostilles in the text. Apostilles are insertions of side comments into written documents. Ambassador's telegrams were apostilled by the minister, which means that an apostille consists of a note on the

margins or bottom of the document. The definition of "apostille", as described above, is still valid today (according to the French dictionary Petit Robert from 2004) (Руководство по апостилю, 2013).

According to Appendix 1 of Resolution No. 732 of the Cabinet of Ministers of the Republic of Uzbekistan, dated December 3, 2021, an apostille is a special stamp that is affixed to official documents to be used in foreign countries (Qaror No. 732, 2021). An apostille confirms the authenticity of a person's signature on a document, as well as their authority to sign it, and the authenticity of any seals or stamps used to certify the document. In accordance with these regulations, the execution of the functions of an apostille can only be carried out through the affixation process provided for in the national administrative procedure.

Affixing an apostille is a formal procedure established by regulations during which a state body verifies the authenticity of an official's signature and confirms their authority. The corresponding seal or stamp is also authenticated. This procedure provides the document with legal force for use outside Uzbekistan and complies with international document management standards and the requirements of the Hague Convention.

According to the Hague Convention, the replacement of consular legalization with an apostille applies only to official documents issued by participating countries. Article 1 of the Convention contains an exhaustive list of official documents.

- a) Documents issued by an authority or official under the jurisdiction of the state, including documents issued by the prosecutor's office, the court registrar, or the bailiff.
- b) Administrative documents.
- c) Notarial acts.
- d) Official stamps, such as registration stamps and visas, confirming a certain date or certification of signatures on documents not certified by a notary (Apostille Convention, 1961).

However, there is no specific legislative definition of "official document" in Uzbek law. The concept of "official documents" has different meanings in different branches of law in Uzbekistan. The Hague Convention on the Abolition of the Requirement of Legalization for Foreign Public Documents of 5 October 1961 provides for exceptions, which do not apply to certain categories of documents.

- a) Documents prepared by diplomatic or consular representatives.
- b) Administrative documents related to commercial or customs activities (Apostille Convention, 1961).

Therefore, the Hague Convention applies to documents related to education, civil status, work experience, birth certificates, certificates, power of attorney, court decisions, and documents on civil, family and administrative matters. However, this convention does not cover administrative documents related to commercial activities. In Uzbekistan, apostilles are not applied to certain categories of documents.

Identity documents of citizens of the Republic of Uzbekistan, including a civilian passport, identification card, and military identification card (in accordance with Resolution No. 732 of the Cabinet of Ministers of December 3, 2021, paragraph 1), are covered by the Convention. These documents are commonly used in private international affairs, rather than in government or commercial transactions, according to the Convention.

It should be emphasized that, as stated in paragraph 2 of Article 5, the purpose of an apostille is to confirm the authenticity of a signature, the authority of the signatory, and, if necessary, the identity of a seal or stamp on a document. An apostille does not serve as proof of the content of a main document. This limitation is important for understanding the role of an apostille and has been confirmed by special committees of the Hague Conference on Private International Law to avoid misunderstandings among users.

In the context of Central Asian countries, studies on the implementation of the apostille system in Uzbekistan have shown both achievements and ongoing challenges. The apostille attestation process is attributed to the authority of the country where the document was issued, in accordance with the Convention. Each state party to the Convention determines a list of these authorities and notifies the Ministry of Foreign Affairs of the Netherlands, based on Article 6 of the Convention of 1961.

According to the Decree of the President of Uzbekistan PQ-1566, dated July 5, 2011, "On Measures to Implement the Provisions of the Convention on the Abolition of the Need for the Legalization of Foreign Documents" (Hague, October 5, 1991), these authorities provide the state service for apostille attestation in Uzbekistan.

- According to official documents issued by the judicial authorities and civil registration authorities of the Republic of Karakalpakstan, including the Ministry of Justice and the Department of Justice for the regions and the city of Tashkent,

- In accordance with official court documents of the Supreme Court of Uzbekistan,

- As stated in official prosecutorial documents from the Prosecutor General's Office,

- Based on official educational and scientific institutions, such as the State Inspection of Education Quality under the Cabinet of Ministers,

Other official sources include the Ministry of Foreign Affairs.

This multidisciplinary structure, although comprehensive, raises questions about consistency and interagency coordination. Uzbek legal scholars emphasize that, while many competent authorities provide comprehensive coverage, enhanced coordination mechanisms are needed to ensure the uniform application of the Convention's standards.

The research conducted by the legal community in Uzbekistan raises a number of practical issues regarding the implementation of international authentication standards within the transitional legal system of the country.

Dynamics of the apostille system development

The apostille system has undergone significant transformations since its inception. In 1961, only 13 countries signed the convention. Currently, more than 128 countries are contracting parties, representing approximately two-thirds of the UN member states (HCCH, 2024a).

Several million apostilles are issued worldwide each year. In the United States, it is estimated that over one million apostilles were issued annually (United States Department of State, 2019). The introduction of an electronic application has been a significant step towards improving the efficiency and security of the apostille process. As of 2009, 56 contracting parties had already implemented at least one component of an electronic system (HCCH, 2024b).

Countries that use both electronic apostilles and electronic registries report a number of significant advantages, such as shorter document processing times, lower costs, better prevention of fraudulent activities through digital signatures, and increased accessibility. New Zealand was the first jurisdiction to fully implement both electronic application components in 2009. It issued its first electronic apostille in May and launched an electronic registry in April (New Zealand issues first e-Apostille).

However, implementing an electronic system is not without its challenges. Initial investments in technological infrastructure and legislative amendments are required to implement electronic apostilles. Additionally, there are concerns regarding cybersecurity, data protection, and the digital divide, which could negatively affect users without internet

access or digital literacy.

Analysis of research results: Effectiveness and Challenges

The findings of the study suggest that the Apostille system has largely met its primary goal of simplifying the process of authenticating international documents. Compared to the complex legalization procedures that existed prior to the implementation of the convention, the Apostille has reduced time and financial expenses for users while maintaining a high level of security against potential fraud. However, there are still some unresolved issues.

Firstly, both official representatives and the public often lack a full understanding of the functions and limitations of the Apostille process. Many users mistakenly believe that an Apostille certifies the content of a document when in fact, its primary purpose is to authenticate signatures and seals.

Secondly, the proliferation of forged documents continues to be a concern. Although the apostille can confirm the authenticity of a signature and seal on a document, it cannot detect fraudulent content if the original document was properly executed. Strengthening cooperation between competent authorities and institutions involved in issuing certificates can help strengthen fraud prevention measures.

Third, differences in technology between contracting parties create a two-tier system where users in digitally advanced countries benefit from faster electronic apostille services, while users in less developed jurisdictions continue to face lengthy delays due to paper-based procedures.

In the course of discussions about apostille systems, there are a number of different viewpoints. Some people believe that it is important to strictly follow the provisions of the convention, and they warn against making any changes to the system without official approval. They argue that if an electronic system is developed based on recommendations from the High Contracting Parties, it will not have a solid legal basis.

Another group of people, including the author, argues that the convention is flexible enough to allow for the use of electronic apostilles. They believe that Article 3 of the convention can be interpreted to include electronic documents as long as they are attached to the main document. This view is known as the "pragmatic" approach.

The recognition by the Special Commission in 2021 that electronic apostilles issued legally should be treated the same as paper apostilles provides strong grounds for this interpretation (HCCH, 2021b). The author

argues that although it is desirable to introduce formal amendments to an international treaty in order to ensure legal certainty, it is not necessary in practice and could lead to negative consequences. Instead, a more flexible and inclusive approach would be the organic evolution of apostille practice based on the recommendations of the special commission.

Current challenges in apostille practice

Currently, apostille practice faces a number of related problems that require a holistic approach to solving them.

The first group of challenges relates to technological aspects. While electronic apostilles offer numerous benefits, their implementation necessitates the availability of suitable technical infrastructure, legal frameworks governing the use of digital signatures, data security measures, and compatibility standards to guarantee the recognition of apostilles issued in one country in others.

A second concern is capacity building in developing nations and economies in transition. Many nations lack the resources required to establish sophisticated technological infrastructures or comprehensive training programs. However, some international organizations, such as HCCHN, provide technical assistance. Limited resources hinder many countries' capacity to invest in essential infrastructure.

Third, the COVID-19 pandemic has highlighted the vulnerabilities of traditional paper apostille systems and the importance of digital alternatives. During quarantine, many government agencies have faced difficulties in maintaining their operations, leading to significant delays in processing documents. This experience has not only spurred interest in the use of electronic applications, but has also emphasized the need for robust cybersecurity and data protection measures to ensure the smooth operation of remote verification processes.

CONCLUSION

Based on the research conducted, we have had the opportunity to thoroughly study the mechanism of Apostilles in the context of international legal regulation of document management. We examined the history, origin, and development of Apostilles, as well as their current state and future prospects. The studies conducted in Uzbekistan and Russia demonstrate both the challenges and prospects of implementing the Convention in different legal and administrative environments.

Firstly, the 1961 Apostille Convention is one of the most successful multilateral treaties in private international law, receiving almost universal recognition from

countries actively involved in international affairs. Currently, more than 128 contracting parties participate in the convention, issuing several million Apostilles annually. This significantly facilitates document authentication and provides reliable protection against fraud.

Secondly, the transition to electronic apostilles via a mobile app represents a significant shift in how the system functions. Electronic apostilles offer several benefits, including increased security through digital signatures, reduced processing times and costs, as well as improved accessibility and streamlined verification processes through online registries.

However, implementing this system presents challenges due to technical infrastructure needs, legislative adaptation requirements, limited resources, and the digital divide. To effectively implement the Convention, it is essential that competent authorities are clearly identified, adequately resourced, provided with standardized training programs, and equipped with coordination mechanisms and quality control measures.

Fourth, fraud prevention continues to be an important aspect that requires closer cooperation between competent authorities and document issuing organizations. Risk-based checks should be implemented for high-risk categories of documents, and mechanisms for information exchange should be developed to identify fraudulent schemes.

Fifth, this study supports a pragmatic approach to interpreting the Convention, which allows the use of electronic apostilles without the need for formal changes to international agreements. A special committee concluded in 2021 that all parties to a contract should treat electronic apostilles in the same way as paper apostilles, establishing clear principles for interpretation. Based on this, the following recommendations are proposed:

1. The parties to the agreement should prioritize the implementation of the electronic application. Developed countries should provide technical and financial assistance to developing countries through bilateral assistance programs, regional cooperation initiatives, and coordinated capacity building organized by the HCCHN.

2. The Ministry of Justice of the Republic of Uzbekistan should continue to develop guidelines for the implementation of the electronic system while maintaining the independence of parties in selecting appropriate technologies and administrative mechanisms. These guidelines should address emerging issues such as the use of blockchain technology, AI for document verification, and

integration with digital identity systems.

3. Public authorities should pay more attention to educating the public about the functions and limitations of apostilles. It is important to inform citizens that an apostille only confirms the authenticity of a document's origin, not its contents. This will help prevent misunderstandings and misuse of apostilles.

4. Cooperation between competent authorities and organizations responsible for issuing documents should be strengthened to combat fraudulent activities. Exchanging information about suspicious schemes, developing protocols for verifying high-risk documents, and establishing coordination mechanisms for fraud cases are essential to increase security in this area.

5. Research should continue to explore new methods for the apostille process. This could involve the use of artificial intelligence to validate documents, the integration of block chain technology with apostille registers, and the connection of apostille systems to large-scale digital identification systems.

The apostille process is an example of international collaboration in the legal sphere to address practical issues faced by individuals and organizations today. Its success after more than sixty years demonstrates that carefully crafted multilateral instruments can adjust to changing conditions and provide tangible benefits.

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