

THE APOSTILLE HASSLE

It's not as bad as it used to be

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Dealing with governments is often exasperating, like playing a deviously rigid and asinine game in which only the other player knows the rules. When you first encounter an Apostille requirement, it certainly seems like a bureaucratic hassle specifically designed to torment law-abiding citizens.

What is an Apostille?

An Apostille is an international certificate that authenticates the origin of a public document. The word "Apostille" means "certification" in French. You need an Apostille, or in some cases another legalization process, if you have a public document issued in the United States, such as a birth certificate, marriage certificate, or court judgment, and you want that document to be recognized in another country. Likewise, foreign public documents will require an Apostille in order to be recognized in the United States.

Why is it annoying?

The Apostille is annoying because it is a certificate that certifies another certificate. For example, if you order a birth certificate in the United States, the county clerk in the county in which you were born will issue a "Certificate of Live Birth." The birth certificate will bear the signature and seal of the county clerk. It will look indisputably official. Nevertheless, it will be insufficient to prove your birth to the officials of another country. You will need to prove that the county clerk's signature and seal are valid. To do this, you will need an Apostille.

In the United States, the Secretary of State of the state in which you were born, is responsible for issuing Apostilles for birth certificates. You must send the birth certificate to the Secretary of State with the required fee, and they will return it to you about two weeks later with an Apostille attached bearing the signature and seal of the Secretary of State. The Apostille authenticates the signature and seal of the county clerk that issued the birth certificate.

The process is slightly more cumbersome for federal documents such as United States naturalization certificates. After receiving the naturalization certificate from the US Department of Homeland Security (DHS), you need to schedule an appointment with the US Citizenship and Immigration Services (USCIS) office to obtain a certified true copy. On the date of your appointment, you bring the original and one copy of your naturalization certificate to the USCIS office where they will attach a Form G-24 to the copy. The Form G-24 certifies that the copy is a "certified true copy" and bears the signature of the district director and the seal of the DHS. Once again, though it looks official, it is nevertheless insufficient to prove your naturalization to the officials of another country. You need to prove that the signature and seal are valid by obtaining an Apostille.

Note that the US Department of State, not the Secretary of State, is responsible for issuing Apostilles for naturalization certificates. You must send the certified true copy with the attached Form G-24 to the US Department of State in Washington, DC. The US Department of State will return the certified true copy to you with an Apostille attached bearing the seal of the Department of State and the signature of the authentication officer. The Apostille authenticates the signature of the District Director and seal of the Department of Homeland Security.

Do we also need to authenticate the Apostille?

You may be wondering which entity authenticates the Secretary of State and Department of State signatures and seals to make the Apostilles valid. A never-ending chain of certified signatures is not outside the realm of possibility and would be just the kind of torment you might expect. However, you are in luck. Since the Hague Convention of 5 October 1961, no further authentication will be necessary. The documents bearing the Apostilles will be accepted by the governments of the countries that are members of the Hague Convention of 5 October 1961.

Which Countries Joined the Treaty?

At present, 72 States/Regional Economic Integration Organizations are Members of the Hague Conference on Private International Law. The list of Members includes the USA, Canada, Mexico, European Union, Germany, France, UK, and more. The complete list is available online at www.hcch.net.

Naturally, if you are dealing with a country that is not a Member of the Hague Convention, the Apostille is not necessarily effective and you will have to follow the legalization procedures for that country. Brazil, for example, requires that US documents must be notarized by a notary public and then sent to the Consulate of Brazil for authentication. China, on the other hand, outlines slightly different procedures for federal, state and notarized documents. As an example, US birth certificates must be first authenticated by the Secretary of State of the state in which the birth certificate is issued, then by the US Department of State, and finally by the consulate in the US.

Is the Apostille Convention an improvement?

The Apostille Convention is considered an improvement upon the prior legalization methods. Before 1961, the legalization of public documents was generally more cumbersome, time-consuming and expensive. Legalization consisted of a chain of individual authentications involving officials of the country in which the document was issued as well as the foreign embassy or consulate of the country where the document was to be used.

In 1961, a large number of countries agreed to simplify the process, and they signed a treaty called the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents, also known as the Apostille Convention. The Apostille Convention requires the issuance of only one certification by the authority designated by the country where the document was issued.

Why do both the Secretary of State and the Department of State issue Apostilles?

While some countries designate only one “competent authority” to issue Apostilles, the US has designated separate competent authorities for the federal government and for each state. The Department of State in Washington DC is responsible for issuing Apostilles for federal documents such as naturalization certificates. The Secretary of State is responsible for issuing Apostilles for documents issued in that state such as birth, marriage or death certificates.

Does the Apostille mean my document is accurate?

Obtaining an Apostille does not mean your document is accurate. An Apostille only certifies the origin of the public document to which it relates. It certifies the authenticity of the signature or seal of the person or authority that signed or sealed the public document and the capacity in which this was done. It does not certify the content of the public document.

Therefore, the certification of a public document and the Apostille serve different purposes. The former certifies the content and the latter certifies the authenticity of the signature and seal.

What types of documents can be certified under the Apostille Convention?

In addition to birth, marriage, death and naturalization certificates, the Apostille applies to public documents such as court documents; notarial acts and notarial acknowledgements of signatures; and school and university diplomas issued by public institutions.



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For more information:

Hague Conference on Private International Law
www.hcch.net

US Department of State
Office of Authentications
<http://www.state.gov/m/a/auth/index.htm>

California Secretary of State
<http://www.sos.ca.gov/business/notary/authentication.htm>