

Background Note on the e-APP

I. Introduction

- 1 The electronic Apostille Programme (e-APP) was launched in 2006 to promote and assist in the implementation of technology under the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention). It is designed to ensure the continued effective operation of the Convention through the issuance of electronic Apostilles (e-Apostilles) and the operation of electronic registers of Apostilles that can be accessed online by recipients to verify an Apostille they have received (e-Registers).
- 2 The Apostille Convention has over 120 Contracting Parties of which over 20 issue e-Apostilles and over 40 have implemented an e-Register. In addition, there are a number of Contracting Parties which are actively developing one or both elements.
- 3 This document is intended to provide a brief history and overview of the e-APP, providing context for those unfamiliar with the programme.

II. History

- 4 In 2003, the Special Commission on the practical operation of the Apostille, Evidence and Service Conventions recognised that “the spirit and letter of the Conventions do not constitute an obstacle to the usage of modern technology and that their application and operation can be further improved by relying on such technologies.”¹ These findings were subsequently endorsed by the First International Forum on e-Notarization and e-Apostilles,² the first meeting of what has become the International Forum on the e-APP.
- 5 With this support, the HCCH and the National Notary Association of the United States of America (NNA) launched the electronic Apostille Pilot Programme in April 2006 at the Special Commission on General Affairs and Policy of the HCCH, now the Council on General Affairs and Policy (CGAP).³ Following the success of the programme, the use of the word “pilot” was discontinued in 2012.
- 6 The International Forum on the e-APP continues to meet and discuss best practices and experiences. There have been 12 meetings of the Forum, with the most recent held in October 2021. At the 10th meeting, convened in The Hague in 2016, Conclusions & Recommendations (C&R) from previous meetings were compiled into a single omnibus.⁴ Any developments on the e-APP continue to be reported to and overseen by CGAP, together with other developments in the Apostille portfolio.
- 7 In light of discussions at the 11th meeting of the Forum, held in 2019, CGAP mandated the establishment of an Experts’ Group on the use of new technologies in implementing the e-APP.⁵ In 2021, the Special Commission asked the PB to organise, in addition to meetings of the Forum, more frequent opportunities for informal dialogue relating to e-APP implementation.⁶ These

¹ See C&R No 4 of 2003 SC.

² See C&R No 1 of the First (Las Vegas) Forum.

³ See Prel. Doc. No 10 of March 2006 for the attention of the Special Commission of April 2006 on General Affairs and Policy of the Conference.

⁴ Available on the HCCH website at www.hcch.net under “Apostille” then “Previous e-APP Meetings”.

⁵ See C&R No 9 of the Eleventh (Fortaleza) Forum and C&D No 33 of the 2020 meeting of CGAP.

⁶ See C&R No 25 of the 2021 SC.

developments confirmed the integral role of the e-APP in the practical operation of the Apostille Convention.

III. Overview

A. e-Apostilles

- 8 An e-Apostille is an Article 3(1) Certificate issued in electronic form. It is signed by electronic signature with a digital certificate. e-Apostilles may be issued on electronic documents or on paper documents that have been scanned into electronic form.
- 9 As public documents are increasingly executed electronically, the e-Apostille provides a mechanism to authenticate them in their original form. By offering a solution for apostillising electronic public documents, e-Apostilles ensure security, efficiency, and ease of transmission.
- 10 The formalities required under the Convention remain the same for e-Apostilles as they are for paper Apostilles. This includes certifying 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 it bears.⁷ The e-Apostille must be issued by a Competent Authority of the State from which the document emanates,⁸ must be attached to the underlying public document – though the method of attachment will evidently be different than on a paper Apostille – and must follow the model annexed to the Convention.⁹
- 11 Validly issued e-Apostilles must be accepted by all other Contracting Parties.¹⁰ That is, an e-Apostille may not be refused on the sole ground that it was issued in electronic form. This does not, however, compel States of destination to accept an underlying public document in electronic form.
- 12 Previously, in understanding the different systems used for e-Apostilles, a classification of dynamic and static has been used.¹¹ Under the dynamic system, the electronic file containing the e-Apostille and the electronic public document is transmitted electronically from the State of origin to the State of destination. The e-Apostille can then be verified separately in the e-Register of the Competent Authority. The dynamic system is used in the majority of Contracting Parties that issue e-Apostilles. Under the static system, the electronic file containing the e-Apostille and the electronic public document is stored in a repository of the Competent Authority (usually, its e-Register) and is not transmitted. The file can then be viewed by the applicant and / or recipient by accessing the Competent Authority's repository.

B. e-Register

- 13 An e-Register is an Article 7(1) register maintained in a publicly accessible, electronic form. This allows any interested person to verify their Apostille online. While many Contracting Parties maintain an electronic register, the publicly accessible element is what determines its classification as an e-Register. An e-Register may include the details of both paper Apostilles and e-Apostilles.

⁷ Art. 3(1).

⁸ Art. 3(1).

⁹ Art. 4(1).

¹⁰ See C&R No 30 of the 2021 SC.

¹¹ See C&R Nos 7 and 8 of the Tenth (The Hague) Forum.

- 14 An e-Register must record the information listed in Article 7:
- a. the number and date of the certificate; and
 - b. the name of the person signing the public document and the capacity in which they have acted, or in the case of unsigned documents, the name of the authority which has affixed the seal or stamp.

This is the minimum amount of information that must be available to be verified by a user.

- 15 While the uniform resource locator (URL) of an e-Register is public, only the recipient of an Apostille has the information required to access and use the e-Register to verify an Apostille. In some cases, quick response (QR) codes are used rather than a public URL.
- 16 Previously, the PB used three categories for the different models of e-Register.¹² As technology has improved, allowing for the development of more robust systems, this has been phased out.

IV. Implementing the e-APP

- 17 The e-APP was neither intended nor designed to favour any specific technology and Contracting Parties retain discretion as to if and how they implement the e-Apostille and e-Register components. This has resulted in a variety of software being used and developed.
- 18 The Special Commission provides advice on the operation of the Convention that also applies to the implementation and operation of the e-APP. This has included a set of [Key Principles and Good Practices](#),¹³ offering non-binding advice on e-APP infrastructure and services, issuing and accepting e-Apostilles, and operating an e-Register.
- 19 Participation in the e-APP does not require a formal agreement nor does it require a binding commitment to the programme. There is also no requirement to have the PB approve or otherwise endorse the implementation of the e-APP before it becomes operational.
- 20 In an effort to increase the acceptance of e-Apostilles and the use of e-Registers, the PB [issues notifications](#) to all Contracting Parties on new and updated implementation of e-APP components. Contracting Parties are encouraged to inform the PB of new developments for this purpose.¹⁴
- 21 Contracting Parties participate in and sponsor promotional activities, including hosting meetings of the e-APP Forum. They also regularly share practical experience and, in some cases, provide bilateral technical support. This active engagement from Contracting Parties and their authorities has proven essential to the continuing success of the e-APP.

¹² See C&R No 28 of the Tenth (The Hague) Forum.

¹³ See C&R No 23 of the 2021 SC.

¹⁴ See C&R No 26 of the 2021 SC.