



Republic of Turkey
Ministry of Transport, Maritime Affairs
and Communications



7th International Forum on the e-APP

14-15 June 2012 – Izmir, Turkey

CONCLUSIONS & RECOMMENDATIONS

On 14-15 June 2012, approximately 120 experts from 31 countries gathered in Izmir (Turkey) to attend the 7th *International Forum on the electronic Apostille Program (e-APP)*. The Forum was held under the auspices of the Ministry of Transport, Maritime Affairs and Communications of the Republic of Turkey and organised in collaboration with the Permanent Bureau of the Hague Conference on Private International Law, with the IT Law Institute of the Istanbul Bilgi University, Yaşar University, the Internet Board of Turkey and the Information and Communication Technologies Authority of Turkey as co-hosts.

The participants warmly thanked the co-hosts and organisers and acknowledged that this seventh Forum – the first in this series of international fora to be held in Eurasia – once more allowed for a very valuable exchange of information and experience regarding the e-APP in general, and more specifically the issuance of e-Apostilles and operation of e-Registers.

The participants unanimously reached the following conclusions and made the following recommendations:

The electronic Apostille Program (e-APP) in general

1. The participants noted with great satisfaction that since January 2012, the word “pilot” has been removed from the title of the e-APP, reflecting the success of the program and the fact that the e-APP has in fact become a reality in many parts of the world. The participants congratulated the many Competent Authorities – now numbering over 140 from 14 Contracting States – that have already implemented one or both components of the e-APP.¹ They particularly welcomed the jurisdictions that have joined the e-APP since the 6th International Forum on the e-APP (held in Madrid in June 2010), namely Costa Rica, the Dominican Republic, Peru, Spain (43 Competent Authorities), the Russian Federation (83 Competent Authorities), and the U.S. states of California, Colorado, North Carolina, Washington and West Virginia. The participants noted that interest in the e-APP continues to grow in all regions of the world and applauded the efforts of several States and jurisdictions in

¹ Andorra, Belgium, Bulgaria, Colombia, Costa Rica, Dominican Republic, Georgia, Mexico, New Zealand, Peru, Republic of Moldova, Spain, the Russian Federation, California, Colorado, Kansas, North Carolina, Rhode Island, Texas, Washington and West Virginia (all USA).

actively pursuing implementation of one or both components of the e-APP. Participants also noted with interest that new Contracting States are increasingly taking the e-APP into account in their efforts to join the Convention.

2. The participants noted with satisfaction that the implementation of the Spanish e-APP system, which consists of one centralised e-Register and the possibility to issue e-Apostilles across the country, has almost been completed (the system also allows for a more efficient issuance of paper Apostilles). The Competent Authorities of Spain have already issued more than 200,000 Apostilles using the new system; most remarkably, almost 7,000 were e-Apostilles. The participants further noted that the total number of e-Apostilles issued by Competent Authorities around the world since the start of the e-APP keeps growing (with Colombia alone registering approximately 1 million e-Apostilles per year in its e-Register).

3. The participants encouraged all Contracting States to the Apostille Convention to actively consider implementing the e-APP as an effective tool to further enhance the secure and effective operation of the Apostille Convention. The participants also encouraged Competent Authorities that are interested in implementing either or both components of the e-APP to consult with other Competent Authorities that have already implemented the relevant component(s). The participants recognised the benefits of establishing a dialogue between Competent Authorities with regard to the implementation of the e-APP (*e.g.*, the ongoing cooperation between the Competent Authorities of Spain and Uruguay), which will facilitate the development of good practices and enhance awareness among State authorities of the different e-APP systems in operation around the world.

Implementation of the e-APP in Turkey

4. The participants noted with great interest the preparatory work that has been undertaken by the Government of the Republic of Turkey with a view to implementing both components of the e-APP (*i.e.*, the issuance of e-Apostilles and operation of an e-Register). The participants acknowledged that these efforts build on the impressive innovations already put in place by Turkey in the area of e-government, including by the General Directorate of the Turkish Post (PTT). It is envisaged that e-Apostilles will also be issued for public documents that have been executed in paper form and subsequently digitalised.

e-Apostilles

5. The participants noted that the issuance of electronic public documents is increasing at a rapid pace. At the same time, Competent Authorities that have not yet implemented the e-Apostille component are unable to issue Apostilles for these documents in their original format. The participants noted that e-Apostilles offer the only solution for apostillising electronic public documents, thereby maintaining the advantages of these documents in terms of security, efficiency and ease of transmission.

6. The participants noted that the majority of States have adopted legislation recognising that electronic signatures are functionally equivalent to handwritten signatures. The participants further recalled that as Apostilles do not have an expiration date, e-Apostilles continue to be valid even after the digital certificate of the person signing the e-Apostille expires, provided that the digital certificate was valid when the e-Apostille was issued. Participants invited Competent Authorities to take this situation into account when selecting and using digital certificates to issue

e-Apostilles, noting the availability of Long Term Signatures that remain valid beyond the expiry of the digital credential, such as “Advanced Electronic Signatures” for PDF (PAdES) and HML (XAdES-T).

7. Forum participants reaffirmed the good practice of applying high standards to the issuance and management of digital credentials for use in applying digital signatures to e-Apostilles. This includes choosing a Certificate Authority that is well recognised in providing digital certificates which run on all major browsers and suit the document format chosen by the Competent Authority.

8. The participants encouraged Contracting States to inform other Contracting States when they begin issuing e-Apostilles. It is recommended to do so by notifying the Depositary of the Convention (*i.e.* the Ministry of Foreign Affairs of the Netherlands) and by also informing the Permanent Bureau of the Hague Conference.

9. Participants reaffirmed Conclusion & Recommendation No 6 of the 6th e-APP Forum (Madrid), which reads as follows:

“[T]he Forum participants again emphasised the fundamental principle of the Convention according to which an Apostille validly issued in one State Party must be accepted in other States Party; the Forum participants stressed that this principle also applies to e-Apostilles issued in accordance with domestic law of the issuing State. Not extending this basic principle to e-Apostilles would provide receiving States with more power in the electronic environment than they have in the paper environment. Such a double standard would be very unsatisfactory as the use of e-Apostilles offers a far higher security standard than paper Apostilles. This recognition of foreign e-Apostilles is further supported by the fact that the majority of States have adopted legislation to the effect that electronic signatures are the functional equivalent of manuscript (holographic) signatures. Finally, Forum participants stressed the great advantage of the parallel use of an e-Register if and when a Competent Authority issues e-Apostilles; the possibility to also verify the origin of an e-Apostille in the relevant e-Register should provide recipients of e-Apostilles with all the necessary assurance.”

e-Registers

10. The participants noted with great satisfaction that e-Registers continue to lead to a far more frequent verification of the origin of Apostilles (both in paper and in electronic form) and are thus an essential and effective tool to combat fraud.

11. Building on Conclusion & Recommendation No 6 of the 6th e-APP Forum (Madrid), the participants recommended that the following practices should also be considered when implementing an e-Register:

- a) Like registers in paper form, e-Registers must comply with the requirements set out in Article 7 of the Apostille Convention. Accordingly, an e-Register must record the following particulars: (i) the number and date of the Apostille; and (ii) the name of the person signing the public document and the capacity in which he has acted, or in the case of unsigned documents, the name of the authority which has affixed the seal or stamp. The e-Register must also allow the recipient of the Apostille (whether a paper Apostille or e-Apostille) to verify each of the above particulars.

- b) Thus, basic e-Registers (Category 1 e-Registers) that simply confirm whether or not an Apostille matching the number and date entered by the user has been issued do not allow the relevant Competent Authority to discharge its obligations under Article 7 of the Apostille Convention, as it does not allow the recipient to verify the name of the person who has signed the public document and the capacity in which that person has acted, or in the case of unsigned documents, the name of the authority which has affixed the seal or stamp.
- c) Furthermore, Category 1 e-Registers do not provide the assurance that the relevant Apostille is indeed being used with the underlying public document for which it was originally issued. Competent Authorities are therefore encouraged to operate e-Registers that provide at least a basic description and/or image of the Apostille and/or of the underlying public document (Category 2 e-Registers) or which also provide for a digital verification of the Apostille and/or of the underlying public document (Category 3 e-Registers). Participants recalled, however, that the full display of the Apostille and/or the underlying public document is subject to data protection laws of the jurisdiction operating the e-Register (*e.g.*, an image of an Apostille in the e-Register may or may not contain the Apostille's signature).
- d) With a view to preventing "fishing expeditions" (*i.e.*, attempts by users of an e-Register to collect information about Apostilles that they have not received), the use of e-Registers should require the entry of unique information associated with an Apostille received; the most efficient means to accomplish this goal is for Competent Authorities to number Apostilles non-sequentially (or otherwise randomly) and for the e-Register to request the recipient to enter this unique identifier in the e-Register, together with the date of issuance of the Apostille. If Apostilles are numbered sequentially, it is recommended to include a code on the Apostille (ideally alphanumeric and generated electronically) outside the area containing the 10 standard informational items of the Apostille and to request the recipient to enter this code together with the number and date of the Apostille to access the e-Register.
- e) e-Registers are increasingly requiring users to enter a randomly generated word and/or number to ensure that the user is a person and not a computer. This practice is to be encouraged as it helps avoiding spam. The participants noted that relevant technology is evolving and that other means can produce the same results.
- f) Participants also noted with great interest that at least one Competent Authority is exploring the possibility of adding to its paper Apostilles a Quick Response (QR) code, which allows the recipient to access the Competent Authority's e-Register by scanning the code. This practice is to be encouraged (in conjunction with Extended Validation SSL Certificates, see below g).
- g) Participants noted the importance of protecting the online integrity of e-Registers, particularly against the risk of third party websites fraudulently assuming the identity of a Competent Authority to offer false information about Apostilles. Competent Authorities are thus encouraged to follow the best practice set by New Zealand and Peru and use Extended Validation (EV) SSL Certificates (indicated by a green colour in the URL bar of the web browser) or similar technology to provide assurance to users about the identity of the website operator.

8th International Forum on the e-APP

12. The participants warmly welcomed the announcement by Ms Silvana Montes de Oca, Director of Consular Affairs of the Ministry of Foreign Affairs of Uruguay, that the 8th International Forum on the e-APP will be organised by the Ministry of Foreign Affairs of Uruguay, in collaboration with the Permanent Bureau, and will be held in the course of 2013. This will be the first e-APP Forum to be held in Latin America and indeed the first e-APP Forum in the Southern Hemisphere. Participants congratulated the Ministry of Foreign Affairs of Uruguay for its initiative and recognised the importance and value of considering geographic and legal diversity when choosing a venue for an e-APP Forum.

The participants thanked the main sponsors, co-sponsors and supporters of the Forum for their generous contribution to the event.

