

Dispute Resolution

Apostille Bill Passed in Parliament: Facilitating Cross-Border Use of Public Documents

Introduction

Notwithstanding the COVID-19 pandemic, the world remains intensively globalised, with cross-border transactions and movements continuing to take place. These often require public documents (such as court documents and official certificates, including marriage certificates, educational certificates, and identity documents like passports and birth certificates) issued by one State to be relied on for use in another State.

Ordinarily, States will require foreign public documents to undergo the process of legalisation, whereby the signature, seal, or stamp on the document in question is certified as authentic by a series of public officials in order to be recognised by the foreign State of destination. The formalities involved in the multi-stage process of legalisation can be cumbersome and often costly.

The Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents ("**Apostille Convention**") facilitates the use of public documents by replacing legalisation with a simplified one-step process. On 2 November 2020, the Apostille Bill was passed by the Parliament of Singapore, which will give domestic effect to Singapore's obligations under the Apostille Convention once it comes into force.

We examine the new process provided for by the Apostille Bill below, as well as comment on its implications and potential scope for improvement by way of digitalisation.

Implementation of New Process

The Apostille Convention abolishes the need for legalisation of public documents between States who have acceded to the Apostille Convention ("**Contracting Parties**"). Instead, each Contracting Party will designate a Competent Authority which will be responsible for issuing certificates ("**apostilles**") to certify the origin of public documents produced by that Contracting Party. All Contracting Parties will accept apostilles as a sufficient verification of that document's origin.

Singapore's accession to the Apostille Convention was first proposed in 2018 by Murali Pillai SC, a Member of Parliament and a partner in Rajah & Tann Singapore's commercial litigation team. The resulting Apostille Bill gives effect to the process set out above, and applies to foreign public documents from Convention States (defined in the Apostille Bill as all Contracting Parties excepting those that either

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objected to Singapore's accession to the Apostille Convention, or those whose accession Singapore objected to) that are sought to be produced in Singapore for any purpose.

Singapore has designated the Singapore Academy of Law ("**SAL**") as its Competent Authority. Once the Apostille Convention enters into force, bearers of Singapore-issued public documents can approach SAL to have apostilles affixed to their documents.

At present, outgoing public documents will still require legalisation, which is currently carried out by the Ministry of Foreign Affairs. This function will be transferred to SAL for the convenience of users, noting that legalisation will be a continuing necessity for parties seeking to use Singapore-issued public documents in non-Convention States. More details on the transfer of this responsibility will be announced by the Ministry of Law in due course.

Singapore is anticipated to become a Contracting Party by next year, whereupon all other Contracting Parties will be obliged to waive the legalisation requirement for Singapore public documents, and vice versa. As of 2 November 2020, there are 119 Contracting Parties that have deposited their instruments of ratification, accession, acceptance, or approval, although the Apostille Convention has not yet come into force for a number of these States.

Commentary

While Singapore may be relatively late in adopting the apostille process, it has an opportunity to be a leader in its digitalisation, as raised in Parliament during the Second Reading of the Apostille Bill by Mr Pillai. Two suggestions on digitalisation were made: the implementation of an e-apostille system, allowing for online applications for e-apostilles, and an e-register system through which users can verify the authenticity of an apostille issued by the Competent Authority.

Mr Pillai further noted that the fees charged for the issuance of apostilles should be reasonable so as to ensure the process is kept cost-effective for applicants.

Concluding Remarks

The Apostille Bill will be greatly useful for parties seeking to use Singapore-issued public documents in other Convention States. Likewise, parties seeking to use foreign public documents in Singapore that are issued by other Convention States will also benefit from this simplified process, strengthening Singapore's attraction as a premier business and international dispute resolution hub.

Should you have any queries on the Apostille Convention or other matters, please feel free to approach our team below.

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