Authenticating the Origin of Public Documents in the Digital Age – is There a Need?

The Apostille Convention and Technology: Pragmatic approaches to evolving a global program with enabling solutions

PANELISTS:

Chris Jackson
CEO
Paradigm Corp

Mayela Celis
Principal Legal Officer
HCCH
(Hague Conference on Private International Law)

Rick Torres
CEO
National Student Clearinghouse
Discussion Segments

- Defining the electronic Apostille Program (e-APP)
- Practical approaches in applying technology within the existing framework
- Next steps: Laying the ground work toward a tech enabled disruption for the future
The Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, the Apostille Convention, or the Apostille Treaty is an international treaty drafted by the Hague Conference on Private International Law.

It specifies the modalities through which the origin of a public document issued in one Contracting Party can be certified for use in another Contracting Party.

Such a certification is called an Apostille (French: a marginal note).
APOSTILLE
(Convention de La Haye du 5 octobre 1961)

1. Country: New Zealand
   This public document
   has been signed by N/A
   in the capacity of N/A
   and recorded at
   the Registrar of Births, Deaths & Marriages, New Zealand.

2. Certified
   by: The Authentication Unit
   on:
   29 November 2012
   at 10:40:07

3. Address of Certification:

4. To verify the Apostille certificate go to: www.dia.govt.nz/apostille and click on the e-Register.
   For written Apostille certificates, visit www.dia.govt.nz/apostille and click on the e-Register.
   The apostille certificate is only a certificate of authenticity and does not mean that the contents of the document are correct or that the Authentication Unit of the Department of Internal Affairs endorses the contents.

   Signature: [Signature]

   Note:
   This certificate is only for authentication purposes and should not be used for decision-making or legal purposes.
115 Contracting States

NB: Boundaries on this map are based upon those used by the UN Cartographic Section. The number of States reflects the Parties as recorded by the Depositary (NL MFA). Neither should be taken to imply official endorsement or acceptance.
... and many others considering joining

Partner States of the East African Community:
- Canada
- Qatar
- Iran
- Philippines
- Singapore

... and many others considering joining

NB: Boundaries on this map are based upon those used by the UN Cartographic Section. The number of States reflects the Parties as recorded by the Depositary (NL MFA). Neither should be taken to imply official endorsement or acceptance.
Some Apostille Treaty tenets

164 In some States, an educational document may be considered to be a public document for the purposes of the Apostille Convention by virtue of the status of the issuing educational institution as either an administrative authority or accredited institution. In other States, the educational document may be considered a private document, in which case it will need to be certified before an Apostille is issued.

3 Effect of an Apostille issued for an educational document

166 As with any other public document, the effect of an Apostille issued for an educational document is limited to verifying the origin of the document, not its content. Thus, if an

168 Many States have expressed concerns about fake academic credentials issued by “diploma mills”, which may benefit from the Apostille process through notarisation. If a notarial certificate issued for a fraudulent educational document is valid, then there is nothing in the Convention to prevent an Apostille from being issued for the notarial certificate, although

At a minimum confusing and the apostille does not even validate content
Diplomas in paper

1. Request to school; mailing of a paper version
2. Arranging intermediate certification, if needed (MoE, notaries)
3. Request for an Apostille to Competent Authority
4. Receipt of apostilled documents; mailing of documents to the recipient

Diploma or education document is produced in the State of Destination

Diploma or education document executed in the State of Origin

This procedure may be required each time a diploma or other education document must be produced abroad

STATE OF ORIGIN

STATE OF DESTINATION

18-20 April
The Age of Opportunity:
Privacy, Trust and Learner Mobility
### Pro’s and Con’s of existing process

<table>
<thead>
<tr>
<th><strong>Pro’s</strong></th>
<th><strong>Con’s</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Broad world wide acceptance</td>
<td>• Tremendous burden on student</td>
</tr>
<tr>
<td>• Source of income for many public administrators (hard to let go)</td>
<td>• Time (takes too long)</td>
</tr>
<tr>
<td></td>
<td>• Does not validate content</td>
</tr>
<tr>
<td></td>
<td>• Embedded behaviors (hard to change)</td>
</tr>
<tr>
<td></td>
<td>• Expensive mailing costs</td>
</tr>
<tr>
<td></td>
<td>• Need to request several paper versions of the same document</td>
</tr>
<tr>
<td></td>
<td>• Risk of document loss</td>
</tr>
<tr>
<td></td>
<td>• Low security</td>
</tr>
</tbody>
</table>
Discussion Segments

• Defining the electronic Apostille Program (e-APP)

• Practical approaches in applying technology within the existing framework

• Next steps: Laying the ground work toward a tech enabled disruption for the future
Practical approaches in applying technology within the existing framework

- Innovations in e-Apostille
- Melding of issuer and apostille
- Using Digital exchange multi country networks
Electronic Apostille Program (e-APP): The First Decade

<table>
<thead>
<tr>
<th>Year</th>
<th>2006 Launch e-APP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competent Authorities</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>10 (10)</td>
</tr>
<tr>
<td>2011</td>
<td>62 (62)</td>
</tr>
<tr>
<td>2018</td>
<td>over 200 (200)</td>
</tr>
<tr>
<td>Contracting Parties having implemented one or both components of the e-APP</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>9 (9)</td>
</tr>
<tr>
<td>2011</td>
<td>12 (12)</td>
</tr>
<tr>
<td>2018</td>
<td>33 (33)</td>
</tr>
</tbody>
</table>
e-APP BENEFITS FOR ELECTRONIC PUBLIC DOCUMENTS

171 By implementing the e-Apostille component of the e-APP, Competent Authorities may issue electronic Apostilles (e-Apostilles) for electronic public documents in their original format, thereby allowing the user to retain the benefits of electronic documents in terms of their improved security and transmittability.

173 In some countries, an electronic copy of a public document (done by scanning the original) may also be considered itself to be a public document for the purposes of the Convention.
The e-Apostille Component

- An electronic file that has been digitally signed (usually using Adobe® PDF technology)
- transmitted by electronic means, such as email or otherwise made available
- for the purpose of download or viewing from a website

Electronic file contains an Apostille with either an electronic public document, or a paper document which has been subsequently scanned

- e-Apostilles are issued in 11 Contracting Parties: Austria, Belgium, Bahrain, Chile, Colombia, Estonia, New Zealand, Moldova, Slovenia, Spain, one state in the United States of America

- Low number of rejections worldwide
Diplomas in electronic form

PARTY OF ORIGIN

Diploma or education document
executed in Party of origin

Executed in electronic format

Executed in paper then scanned*

*Subject to domestic law

PARTY OF DESTINATION

Diploma or education document
ready to be produced electronically in the Party of destination

A link to a Diploma Register is sent by e-mail to CA

In other cases – (If needed) duly certified by authority or notarised electronically

Simplified Process

(1) e-Apostille

Electronic

APOSTILLE issued by Competent Authority (CA) in Party of Origin

Verification of APOSTILLE using Register kept by Competent Authority

(2) e-Register

Electronic

An electronic file may be reproduced multiple times and may be presented in multiple jurisdictions

A link to a Diploma Register is sent by e-mail to CA

In other cases – (If needed) duly certified by authority or notarised electronically

*Subject to domestic law

Partnership of Parties: 18-20 April 2018
Practical approaches in applying technology within the existing framework

- Innovations in e-Apostille
- Melding of issuer and Apostille
- Using Digital exchange multi country networks
Embrace

GOVERNMENT

$
1...2 STEPS

Issuing Authority

Issuance of Apostille

Transmission & Receipt

eApostille

State Government

eApostille
Where the Pain Begins…

Issuing Authority

The Johns Hopkins University

[Certificate Image]

State Government

[Stamp Image]
And Where the Pain can Stop!

Issuing Authority

State Government
Practical approaches in applying technology within the existing framework

- Innovations in e-Apostille
- Melding of issuer and apostille
- Using Digital exchange multi country networks
The apostille requirement can be bilaterally removed by nations

**Goal of the NSC pilot**: Bilateral national agreements to provisionally accept a digital document emanating through a trusted exchange network or eco-system as a valid proof of authenticity of the document.

Demonstrate reliability, efficacy and veracity of educational electronic documents issued at the educational source…

*paving the way to bilateral releases of the Apostille requirements when trusted, validated electronic exchange systems are involved.*
Pilot participant goals

Dominican Republic Ministry of Education

MESCyT is a central validation point for ALL incoming and outgoing electronic education credentials.

Receives transcripts from 40 different schools in Puerto Rico alone today.

Will now provisionally accept students through NSC’s USA Connect service exchange.
1. Test electronic veracity
2. Improving competitiveness of schools and students
   1. Expedite internal admissions process
   2. Reduce time, cost and admin burden for Dominican students seeking external transfers

MESCyT: veracity, costs and competitiveness AND eliminate apostille requirement
Pilot participant goals

Mexico Ministry of Education &
Several Public Private Universities

The Ministry of Education in Mexico (SEP) is looking to develop a more systemic transfer system for students in and out of Mexico. Schools are independent in their ability to decide to participate in any Ministry led activity so the business case needs to be articulated. Several publics and private universities have also very recently indicated their willingness to participate.

1. Test electronic veracity
2. Improving competitiveness of schools and students
   1. Expedite internal admissions process
   2. Reduce time, cost and admin burden for Mexican students seeking external transfers in particular to meet aggressive US-Mexico education goals

SEP: veracity, competitiveness, cooperation building
Universities: Costs and competition
Pilot participant goals

American Universities

Goals: Improving document flow and timing of decision process for PR schools opening the door to a higher international acceptance rate of their students.

1. Improving competitiveness of schools and students
   1. Expedite internal admissions process
   2. Reduce time, cost and admin burden for Puerto Rican students seeking external transfers outside the USA

Universities in PR: veracity, costs and competitiveness AND eliminate apostille burden.
Discussion Segments

- Defining the electronic Apostille Program (e-APP)
- Practical approaches in applying technology within the existing framework
- Next steps: Laying the ground work toward a tech enabled disruption for the future
Next Steps – Moving the process forward

• The e-APP is an effective tool to further enhance the secure and effective operation of the Apostille Convention

• Best to embrace versus try to eliminate the Apostille requirement.
  – Too many stakeholders involved with embedded processes
  – Understanding the existing eco-system and recognizing the prerequisites for creating a digitalized process
  – **Intent**: Offering secure, efficient and budget minded solutions which will lead to increased adoption.

• Tracking the continued development of new technologies applied to apostille network and related education documents
  – electronic diplomas (US and New Zealand), etc.

• Improve security and reliability of the existing eco-system and where appropriate, seek bilateral agreements to eliminate the Apostille requirement.
Thank you

We will shoot to reconvene in Mexico at GDN 2019 to continue the discussion and showcase progress to date.