

Mobility: Immigration alert

September 2023

Canada

Canada joins Apostille Convention

Executive summary

On 16 May 2023, Global Affairs Canada announced that Canada has formally joined the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, known as the Apostille Convention. The Apostille Convention will come into effect in Canada on 11 January 2024. This is a positive development and should save clients both time and cost by reducing the burden of an otherwise complex administrative process.

Background

For many countries, immigration-related applications require applicants to provide foreign government-issued or other public documents as part of the application process. In order to validate that such documents are authentic and genuine, applicants are often required to get their documents “authenticated” by the issuing country and “legalized” at a consulate of the destination country, prior to submitting the immigration-related application. This can be a very time-consuming, costly and frustrating process.

The international treaty drafted by the Hague Conference on Private International Law is intended to simplify and facilitate the use of public documents abroad by providing authority to member states to issue an authenticity certificate called an “Apostille”. Apostilles are only authorized to be issued by the 124 countries that are signatories to the Apostille Convention. The Apostille Convention has been in existence for many years, so it is welcome news that Canada has now signed onto the agreement and Canadian

issued “public documents” will no longer need to be legalized once this process comes into effect in early 2024.

Key developments

The Apostille Convention applies to “public documents”. The term is not expressly defined, however the public nature of a document is determined by the law of the place where the document originates. Most commonly, public documents used in an immigration application include documents such as police certificates, birth and marriage certificates, education diplomas and degrees, and notarial acts. Apostilles can be issued in electronic or paper form by a designated “competent authority” in accordance with Article 6 of the Apostille Convention. These authorities, which may change at any time, perform three fundamental functions: verifying the authenticity (origin) of public documents; issuing Apostilles; and recording issued Apostilles in their register, to facilitate, at the request of a recipient, the verification of an Apostille. As of the writing of this Alert, the Government of Canada has designated the following authorities to issue Apostilles in early 2024:

- ▶ The Federal department of Foreign Affairs, Trade and Development
- ▶ The Ministry of the Attorney General of British Columbia
- ▶ The Ministry of Justice of Alberta
- ▶ The Ministry of Justice and Attorney General of Saskatchewan



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► The Ministry of Public and Business Service Delivery of Ontario

What this means

In Canada, individuals, families, and commercial operators will soon be able to benefit from the stream-lined process of obtaining an Apostille to authenticate public documents.

More information about the changes will be made available prior to the Apostille Convention coming into effect. Until then, Global Affairs Canada has advised that Canadian documents will continue to be authenticated according to the specific legalization requirements of the document holder’s destination country and the procedures currently in place.

Key Steps

EY will continue to monitor these developments. Should you have any questions, please do not hesitate to contact your EY Law LLP professional.

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